Fiscal Impacts of Proposed Rule Changes to the Ocean Fishing Pier License and Ocean Fishing Pier Blanket Coastal Recreational Fishing License to Reflect Statutory Changes Implemented in Session Law 2013-360

Rule Amendments: 15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS AND COMMERCIAL FISHING VESSEL REGISTRATIONS 15A NCAC 03O .0106 DISPLAY OF LICENSES AND REGISTRATIONS 15A NCAC 03O .0113 OCEAN FISHING PIER BLANKET COASTAL RECREATIONAL FISHING LICENSE

Name of Commission: N.C. Marine Fisheries Commission

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Impact Summary: State government: No Local government: No Federal government: No Substantial impact: No

Authority: Session Law 2013-360, Section 14.8(j); § 113-169.4.

Necessity: In accordance with Session Law 2013-360, the proposed rule changes combine two separate ocean pier licenses into one Ocean Fishing Pier License with the same net cost as the previous two licenses combined. The rule changes are necessary to remove rule references to the Ocean Fishing Pier Coastal Recreational Fishing License (CRFL), which was eliminated by the recent statutory changes.

I. Summary

The proposed rule changes eliminate rule references to the Ocean Fishing Pier CRFL to reflect recent legislation and statutory changes combining the Ocean Fishing Pier License with the Ocean Fishing Pier Blanket CRFL into one license at the same net cost of the two previous licenses. These changes are expected to streamline the licensing process for ocean fishing pier operations.

II. Introduction and Purpose of Rule Changes

Ocean fishing piers open to the public have been required to obtain a license from the North Carolina Division of Marine Fisheries (NCDMF) since the 1997 Fisheries Reform Act. The fee for an Ocean Fishing Pier License was initially set and has remained at

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$0.50 per foot of linear length of the pier. Legislation authorizing the CRFL enacted on January 1, 2007 provided for a voluntary Ocean Fishing Pier Blanket CRFL for a cost of $4.00 per foot of linear length of the pier. This license authorized any patron of the pier who did not hold a CRFL to engage in recreational fishing while on the pier. If a pier owner opted not to purchase this license, each patron would need to hold his or her own individual Coastal Recreational Fishing License.

Currently, there are approximately 20 ocean fishing piers along the North Carolina coast open to the public. Each of these piers has been purchasing both the Ocean Fishing Pier License and the Ocean Fishing Pier Blanket CRFL each year, for a combined cost of $4.50 per foot of linear length. The Ocean Fishing Pier License is based on a fiscal year, while the Ocean Fishing Pier Blanket CRFL is effective for one year from date of purchase. The new Ocean Fishing Pier License, authorizing all pier patrons to engage in recreational fishing, will remain on a fiscal year cycle and cost $4.50 per foot of linear length of the pier. Combining these two licenses makes administrative sense as it eliminates one license and aligns the date for renewal. The proposed rule changes reflect the recent statutory changes combining the two pier licenses by eliminating references to the Ocean Fishing Pier Blanket CRFL.

III. Costs

There are no expected costs associated with the proposed rule changes. The rule changes remove references to the Ocean Fishing Pier Blanket CRFL, which was eliminated as part of Session Law 2013-360. The new Ocean Fishing Pier License combines the privileges and costs associated with the two licenses into one license.

IV. Benefits

The proposed rule changes are expected to streamline the licensing process for ocean fishing pier operations. Ocean fishing pier operations will need to obtain one license from NCDMF instead of two licenses for their pier. Furthermore, removing references in rule to the Ocean Fishing Pier Blanket CRFL will maintain rule clarity, as this license was eliminated via a statutory change and no longer exists.
Appendix I: Proposed Rule Changes

NOTE: CHANGES TO 15A NCAC 03O .0101 INCLUDE BOTH CHANGES FOR OCEAN FISHING PIER LICENSING AND CHANGES FOR FOR-HIRE LICENSING WHICH IS CONVERED IN A SEPARATE ANALYSIS.

15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS AND COMMERCIAL FISHING VESSEL REGISTRATIONS

(a) To obtain any Marine Fisheries licenses, endorsements, commercial fishing vessel registrations except Recreational Fishing Tournament Licenses to Sell Fish and Land or Sell Licenses, the following information is required for the application by the licensee, a responsible party or person holding a power of attorney:

(1) Full name, physical address, mailing address, date of birth, and signature of the licensee on the application. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature on the application shall be notarized;

(2) Current picture identification of licensee or responsible party; acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card) or passport or if purchased by mail, a copy thereof;

(3) Certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years, except Blanket Coastal Recreational Fishing Licenses;

(4) Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted;

(5) Current articles of incorporation and a current list of corporate officers when purchasing a license or commercial fishing vessel registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the master of that vessel shall also be specified. It is unlawful to fail to notify the Morehead City Office of the Division of Marine Fisheries within five days of change of the master specified for that vessel;

(6) An affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessel(s) used in the operation in accordance with G.S. 113-168.6 when purchasing a commercial fishing vessel registration with a for-hire endorsement.

(6)(7) If a partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when purchasing a license, endorsement or commercial fishing vessel registration in a partnership name;
For nonresidents, certification of the state of residency;

In addition to the information required in G.S. 113-169.4, linear length of pier when purchasing an Ocean Fishing Pier License;

In addition to the information required in G.S. 113-171.1, current aircraft registration and list of operator(s) when purchasing a Spotter Plane License;

In addition, for fish dealers licenses, the physical address of the established location where business is conducted and, if different, the address where records are kept;

When purchasing a Fish Dealer License with clam or oyster categories or a consolidated license, the applicant shall provide valid certification as a North Carolina certified shellfish dealer;

In addition, for the Ocean Fishing Pier Blanket Coastal Recreation Fishing License, a valid Ocean Fishing Pier License issued in the name of the applicant or copy thereof.

In addition, for the For Hire Blanket Coastal Recreation Fishing License (CRFL), the applicant shall provide:

- A valid certification from the United States Coast Guard (USCG) that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers; and
- Valid documentation papers or current motor boat registration or copies thereof for the vessel engaged as for hire. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

In addition, for the Blanket For-Hire Vessel CRFL or the Non-Blanket For-Hire Vessel License, valid documentation papers or current motor boat registration or copies thereof for the vessel engaged as for-hire. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

To qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:

- have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina; and
- have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
(C) hold a valid Standard or Retired Standard Commercial Fishing License or valid
Land or Sell License.

(2) It is lawful for a person to hold Licenses to Land Flounder from the Atlantic Ocean equal
to the number of vessels that he owns that individually met the eligibility requirements of
Parts (b)(1)(A) and (b)(1)(B) of this Rule.

(3) The License to Land Flounder from the Atlantic Ocean is only valid when used on the
vessel specified at the time of license issuance.

(4) At the time of issuance, the applicant for the License to Land Flounder from the Atlantic
Ocean shall specify the name of the master of the vessel for each License to Land
Flounder from the Atlantic Ocean issued.

(5) Applicants for a License to Land Flounder from the Atlantic Ocean shall complete an
application form provided by the Division of Marine Fisheries and submit it to the
Morehead City Office of the Division of Marine Fisheries for processing.

(6) It is unlawful for the holder of the License to Land Flounder from the Atlantic Ocean to
fail to notify the Morehead Office of the Division of Marine Fisheries within five days of
change as to the master identified on the license.

(7) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year
and expire on June 30.

(c) To obtain a Recreational Fishing Tournament License to Sell Fish, the tournament organizer shall apply
with the Division of Marine Fisheries at least 30 days prior to the starting date of the tournament with the
following required information:

(1) Full name, physical address, mailing address, date of birth, signature of the tournament
organizer, name of tournament, and dates of tournament on the license application. If the
licensee is not appearing before a representative of the Division, the licensee's signature
shall be notarized on the application.

(2) Current picture identification of tournament organizer; acceptable forms of picture
identification are driver's license, state identification card, military identification card, or
passport, or if purchased by mail, a copy thereof.

(d) To obtain a Land or Sell License, the following information is required for a proper application:

(1) Full name, physical address, mailing address, date of birth, and signature of the
responsible party or master for the vessel on the license application. If the licensee is not
appearing before a representative of the Division, the licensee's signature on the
application shall be notarized on the application;

(2) Current picture identification of responsible party or master; acceptable forms of picture
identification are driver's license, state identification card, military identification card, or
passport or if applying by mail, a copy thereof;
Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

Fees shall be based on the vessel's homeport as it appears on the U.S. Coast Guard documentation papers or the State in which the vessel is registered.

(e) Proof of residency in North Carolina for:

(1) Standard Commercial Fishing License or Retired Standard Commercial Fishing License shall require a notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4); and

(A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident; or

(B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or

(C) military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.

(2) All other types of licenses:

(A) North Carolina voter registration card; or

(B) Current North Carolina Driver's License; or

(C) Current North Carolina Certificate of Domicile; or

(D) Current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or

(E) Military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.

(f) Applications submitted without complete and required information shall be deemed incomplete and shall not be considered further until resubmitted with all required information.

(g) It is unlawful for a license or registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of address.

(h) Licenses are available at Offices of the Division or by mail from the Morehead City Office, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at Wildlife Service Agents who have been designated as agents of the Department.
(i) To renew any Marine Fisheries licenses, endorsements, and commercial fishing vessel registration, except Recreational Commercial Gear Licenses, the following is required for the renewal application by the licensee, a responsible party or person holding a power of attorney:

1. The information required in Subparagraphs (a)(4), (a)(5), and (a)(6) of this Rule are only required if a change has occurred since the last issuance of license, endorsement or commercial fishing vessel registration.

2. Certification that articles of incorporation and list of corporate officers, if incorporated, written partnership agreement, if written partnership, or documentation papers or motor boat registration previously provided for initial license purchase are still valid and current for renewal.

3. Current and valid state driver's license or state identification picture identification numbers and expiration dates shall be verified on mail license renewal applications or any other electronic license renewal process, otherwise the licensee shall provide a photocopy for renewal by mail or visit a Division License Office and present a current and valid picture identification pursuant to Subparagraph (a)(2) of this Rule.

4. The licensee's or responsible party's signature on the application shall certify all information as true and accurate. Notarization of signature on renewal applications is not required.

5. The Division of Marine Fisheries may require current copies of documentation for licenses, endorsements, commercial fishing vessel registration on renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.

6. If the linear length of the pier has not changed for the Ocean Fishing Pier License renewal, the responsible party shall certify that the length is accurate; otherwise, a Marine Patrol Officer's signature is required to certify the linear length before the license can be renewed.

7. Certification that shellfish dealer certification by North Carolina previously provided for issuance of Fish Dealer License with clam or oyster categories or consolidated license is still valid and current for renewal.

Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169; 113-169.2-5; 113-171.1; 113-174.3; 113-174.4; 143B-289.52

NOTE: CHANGES TO 15A NCAC 03O .0106 INCLUDE BOTH CHANGES FOR OCEAN FISHING PIER LICENSING AND CHANGES FOR FOR-HIRE LICENSING WHICH IS CONVERED IN A SEPARATE ANALYSIS.

15A NCAC 03O .0106 DISPLAY OF LICENSES AND REGISTRATIONS

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(a) It is unlawful:
   
   (1) For any person to use a vessel required to be registered under the provisions of G.S. 113-168.6 in a commercial fishing operation without a current commercial fishing vessel registration decal mounted on an exterior surface so as to be plainly visible when viewed from the port side; and
   
   (2) To display any commercial fishing vessel registration decal not issued for the vessel displaying it.

(b) It is unlawful to fail to display any fish dealer's licenses required by G.S. 113-169.3, ocean fishing pier license required by G.S. 113-169.4, or Ocean Fishing Pier Blanket Coastal Recreational Fishing License (CRFL) pursuant to G.S. 113-174.4 G.S. 113-169.4 in prominent public view in each location subject to licensing.

(c) It is unlawful to fail to display a current For-Hire License decal on the exterior surface of the vessel so as to be visible when viewed from the port side while engaged in for-hire recreational fishing.

Authority G.S. 113-168.6; 113-169.3; 113-169.4; 113-174.4; 143B-289.52

15A NCAC 03O .0113 OCEAN FISHING PIER BLANKET—COASTAL—RECREATIONAL FISHING LICENSE REPORTING REQUIREMENTS

(a) The length of the pier used to determine the license fee for an Ocean Fishing Pier Blanket Coastal Recreational Fishing License shall be obtained from the Ocean Fishing Pier License.

(b) It is unlawful for the responsible party of the Ocean Fishing Pier Blanket Coastal Recreational Fishing License to fail to provide to the Division by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a paper form provided by the Division or via electronic mail.

Authority G.S. 113-134; 113-169.4; 113-174.1; 113-174.4; 143B-289.52
Appendix II: Excerpt from Session Law 2013-360, Section 14.8 (j):

"§ 113-169.4. Licensing of ocean fishing piers; fees.
(a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.
(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-168.1(h).
(c) Pier licenses are issued upon payment of fifty cents (50¢) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.
(d) The manager who secures the pier license shall be the individual with the duty of executive-level supervision of pier operations.
(e) The pier license issued under this section authorizes any individual who does not hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter to engage in recreational fishing while on the pier."