

DEPARTMENT OF FISH AND WILDLIFE

DIVISION 12

MARINE RESERVES AND MARINE PROTECTED AREAS IN THE TERRITORIAL SEA

635-012-0020

Purpose

The purpose of the regulations in this section are to implement ORS 196.540 through 196.555 and Oregon Senate Bill 1510 (2012) by regulating activities in areas of Oregon's Territorial Sea designated as marine reserves or protected areas.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0030

Definitions

For the purposes of OAR 635, division 012 the following definitions apply:

- (1) "Bank" means from the mainland or island shore or from docks physically attached to the shore.
- (2) "Commission" means the Oregon Fish and Wildlife Commission.
- (3) "Department" means the Oregon Department of Fish and Wildlife.
- (4) "Fish species" means any animal over which the Commission has jurisdiction, pursuant to ORS 506.036.
- (5) "Fishing gear" means any appliance or device intended for or capable of being used to take fish species.
- (6) "Groundfish" has the meaning given in OAR 635-004-0215.
- (7) "Hook-and-line" has the meaning given in OAR 635-004-0215.
- (8) "Net gear" means any type of fishing gear defined in OAR 635-004-0215 that employs a net.
- (9) "Take" means to fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.
- (10) "Trawl gear" has the meaning given in OAR 635-004-0215.
- (11) "Troll" has the meaning given in OAR 635-004-0215.
- (12) "Wildlife species" means all wild birds, amphibians, reptiles, and wild mammals.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0040

Marine Reserve and Marine Protected Area Boundaries

(1) Otter Rock Site:

- (a) The Otter Rock Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0030.
- (b) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(2) Redfish Rocks Site:

- (a) The Redfish Rocks Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0035.
- (b) The Redfish Rocks Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0040.
- (c) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(3) Cape Perpetua Site:

- (a) The Cape Perpetua Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0045.
- (b) The Cape Perpetua North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0050.
- (c) The Cape Perpetua South-East Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0055.
- (d) The Cape Perpetua Seabird Protection Area encompasses the area bounded by the points described in OAR 141-142-0060.
- (e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(4) Cascade Head Site:

- (a) The Cascade Head Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0065.
- (b) The Cascade Head North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0070.
- (c) The Cascade Head South Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0075.
- (d) The Cascade Head West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0080.
- (e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(5) Cape Falcon Site:

- (a) The Cape Falcon Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0085.

(b) The Cape Falcon West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0090.

(c) The Cape Falcon Shoreside Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0095.

(d) The rules provided in OAR 635-012 for this site are effective January 1, 2016.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0050

Marine Reserve Prohibitions and Allowances

(1) Except as specified in section 3 below, the following activities are prohibited within the Otter Rock, Redfish Rocks, Cape Perpetua, Cascade Head and Cape Falcon marine reserve areas: Take, including fishing or hunting, of any fish or wildlife species.

(2) Take of fish species from the ocean, using hook-and-line from the bank shoreward of a marine reserve, unless specifically authorized, is prohibited.

(3) Notwithstanding the prohibitions in sections (1) and (2) above, person(s) may:

(a) Remove fishing gear from within the marine reserve boundary, provided that the retrieving vessel operator must notify the Oregon State Police at 1-800-452-7888 and receive permission before retrieving the gear and no fish or wildlife species from the retrieved gear shall be retained. Specific to commercial crab pots:

(A) If the pot(s) do not belong to the retrieving vessel, the vessel operator must follow the retrieval requirements set forth in OAR 635-005-0490.

(B) If the pot(s) do belong to the retrieving vessel, the vessel operator may re-set the pot(s) outside of the reserve area pursuant to the requirements set forth in OAR 635-005-0490.

(b) Take fish and wildlife species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(c) Have catch onboard while transiting or anchoring in the marine reserve area. Except as allowed by subsection (3)(b) above, fishing gear shall not be deployed in the water at any time within the marine reserve.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0060

Redfish Rocks Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Redfish Rocks marine protected areas:

Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries otherwise authorized by Commission rule.

(b) Commercially or recreationally take crab in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0070

General Protected Area Prohibitions and Allowances

(1) The prohibitions and allowances specified in this section apply to all areas of Oregon's Territorial Sea designated as marine protected and seabird protection areas. Notwithstanding the area-specific prohibitions and allowances, person(s) may:

(a) Take fish species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(b) Have catch onboard while transiting or anchoring in the marine protected or seabird protection area. Except as allowed by OAR 635-012-0060, 635-012-0080 through 635-012-0150 or by subsection (1)(a) above, fishing gear shall not be deployed in the water at any time within a marine protected or seabird protection area.

(2) It is *unlawful* to take any legal fish species in a marine protected or seabird protection area while possessing onboard any species not allowed to be taken in the marine protected or seabird protection area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0080

Cape Perpetua North Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Perpetua North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take fish species using hook-and-line from the bank in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0090

Cape Perpetua South-East Marine Protected Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The following activities are prohibited within the Cape Perpetua South-East Marine Protected Area:

(a) Use of trawl gear to take any fish species.

(b) Take of the following species, used as seabird forage:

(A) Pacific herring;

(B) Pacific sardine (pilchard);

(C) Anchovies;

(D) Smelt as defined by OAR 635-004-0215;

(E) Pacific sand lance;

(F) Market squid.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0100

Cape Perpetua Seabird Protection Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) Take of the following species, used as seabird forage, are prohibited within the Cape Perpetua Seabird Protection Area:

(a) Pacific herring;

(b) Pacific sardine (pilchard);

(c) Anchovies;

(d) Smelt as defined by OAR 635-004-0215;

(e) Pacific sand lance.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0110

Cascade Head North Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take groundfish using hook-and-line from private, non-chartered, boats in fisheries authorized specifically for this area by Commission rule.)

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0120

Cascade Head South Marine Protected Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The use of net gear to take any fish species is prohibited within the Cascade Head South Marine Protected Area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0130

Cascade Head West Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head West Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0140

Cape Falcon West Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon West Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(A) Gravel bed areas shall be delineated by the Department and participants in the commercial ocean Dungeness crab fishery shall voluntarily avoid setting crab pots in the gravel beds.

(B) The Department and Oregon State Police shall periodically monitor the voluntary compliance within the delineated gravel beds and consider proposing regulatory requirements if voluntary compliance is low.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0150

Cape Falcon Shoreside Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon Shoreside Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may: Recreationally take fish species using hook-and-line from the bank in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0160

Untitled

(1) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of Siletz Indians of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0500, defining specified tribal hunting, fishing, trapping and gathering rights by the Siletz Tribe and its members.

(2) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of the Grand Ronde Community of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0600, defining specified tribal hunting, fishing, trapping and gathering rights by the Grand Ronde Tribe and its members.

(3) Nothing in OAR 635-012 rules alters or supersedes the rights of any federally recognized Indian Tribe.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State. Terms and Conditions of Use

DEPARTMENT OF STATE LANDS

DIVISION 142

RULES GOVERNING THE ESTABLISHMENT AND MANAGEMENT OF MARINE RESERVES AND PROTECTED AREAS IN THE TERRITORIAL SEA

141-142-0010 Purpose and Applicability

This division:

- (1) Governs the State Land Board establishment and Department of State Lands (Department) management of marine reserves, marine protected areas and seabird protection areas in the Territorial Sea.
- (2) Describes uses that the Department may authorize within areas designated as a marine reserve, marine protected area, or seabird protection area.
- (3) Identifies areas of state-owned submerged and submersible land in the Territorial Sea managed by the Department that the State Land Board has designated as a marine reserve, marine protected area, or seabird protection area.

141-142-0015 Definitions

As used in this division, unless the context requires otherwise:

- (1) **“Authorization”** means a lease, registration, short-term access authorization, temporary use authorization, public facility license, easement or other authorization the Department grants that allows a person to use, or place a structure in, on, under or over state-owned submerged land, state-owned submersible land, or both in the Territorial Sea.
- (2) **“Department”** means the Department of State Lands.
- (3) **“Disturbance”** means the extraction of living organisms and non-living materials, or human induced changes to the environment.
- (4) **“Extractive Activity”** means any human effort to remove or attempt to remove any living or non-living marine resource.
- (5) **“Extreme Low Water”** or **“ELWL”** [means the lowest elevation reached by the sea as recorded by a water level gauge during a given period. Extreme low water is generally seaward of the “line of ordinary low water” as defined in ORS 274.005(3).]
- (6) **“Marine Protected Area”** means any area of the marine environment within Oregon’s Territorial Sea that has been reserved by the state to provide lasting protection for part or all of the natural and cultural resources therein.
- (7) **“Marine Reserve”** is an area within Oregon's Territorial Sea or adjacent rocky intertidal area that is protected from all extractive activities, including the removal

- or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors.
- (8) **“Mean High Water”** or **“MHWL”** is a tidal datum. It is the average of all the high water heights observed over the National Tidal Datum Epoch. For stations with shorter series, comparison of simultaneous observations with a control tide station is made in order to derive the equivalent datum of the National Tidal Datum Epoch. For purposes of the Department’s jurisdiction, Mean High Water corresponds generally with the “line of ordinary high water” as defined in ORS 274.005(3).
 - (9) **“National Tidal Datum Epoch”** means the specific 19-year period adopted by the National Ocean Service as the official time segment over which tide observations are taken and reduced to obtain mean values (e.g., mean lower low water, etc.) for tidal datums. It is necessary for standardization because of periodic and apparent secular trends in sea level. The present National Tide Datum Epoch is 1983 through 2001 and is actively considered for revision every 20-25 years. Tidal datums in certain regions with anomalous sea level changes are calculated on a Modified 5-Year Epoch.
 - (10) **“Removal-Fill Permit”** means an authorization granted by the Department governing the removal, fill, alteration, or any combination thereof of material within the waters of the State of Oregon as provided in ORS 196.668 to 196.692 and ORS 196.800 to ORS 196.990.
 - (11) **“Seabird Protection Area”** is an area within Oregon’s Territorial Sea that has been reserved by the state for the protection of seabirds.
 - (12) **“State Land”** as provided in ORS 273.006(8) means public land controlled by the Department.
 - (13) **“Structure”** means anything placed, constructed, or erected in, on, under or over state-owned submerged and submersible land.
 - (14) **“Submerged Land”** as provided in ORS 274.005(7), means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal, except as provided in ORS 274.705.
 - (15) **“Submersible Land”** as provided in ORS 274.005(8), means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal, except as provided in ORS 274.705.
 - (16) **“Territorial Sea”** as provided in ORS 196.405(5), means the waters and seabed extending three nautical/geographical miles seaward from the coastline in conformance with federal law.
 - (17) **“Territorial Sea Plan”** as provided in ORS 196.405(6), means the plan for Oregon’s Territorial Sea. In addition to the Territorial Sea as defined in section (15), the scope of the Territorial Sea Plan includes the “ocean shore” as defined in ORS 390.605.

141-142-0020 General Provisions

- (1) The Department will only grant an authorization or a removal-fill permit for a regulated removal-fill activity if the use, or removal, fill or alteration of material is necessary to study, monitor, evaluate, enforce or protect or otherwise further the studying, monitoring, enforcement and protection of the marine reserve, marine protected area or seabird protection area.
- (2) Applicants for an authorization within a marine reserve, marine protected area or seabird protection area must provide evidence suitable to the Department and other reviewing agencies that their proposed use meets the requirements of OAR 141-142-0020(1) and the management plan adopted and in force for the area at the time the application is submitted.
- (3) The Department will honor the terms and conditions of any valid authorization (including any provisions providing for a right of renewal) previously granted by the Department for a use existing within an area designated as a marine reserve, marine protected area, or seabird protection area at the time of its designation if the holder of the authorization is, and continues to be in full compliance with the terms and conditions of the authorization.
- (4) The Department will condition any authorization to use or place a structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine protected area or seabird protection area to require that the holder receive all other authorizations required by the Department (such as a Removal-Fill Authorization under ORS 196.800 to 196.990) and other local, state, and federal entities before using the area.
- (5) Any person applying to the Department for an authorization to place any structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine protected area, or seabird protection area must describe in the application how they will remove the structure pursuant to the requirements of the Territorial Sea Plan.
- (6) Notwithstanding the provisions of ORS 274.885 to ORS 274.895, no person may harvest or remove any kelp or other seaweed for any purpose within an area designated as a marine reserve or marine protected area unless expressly authorized by the Department to do so in order to study, monitor, evaluate, enforce or otherwise further the purpose of the marine reserve, marine protected area or seabird protection area.

141-142-0025 Establishing a Marine Reserve, Marine Protected Area and Seabird Protection Area

In order to be established, marine reserves, marine protected areas and seabird protection areas must be approved by the adoption of an amendment to this division by the State Land Board.

Areas Established As Marine Reserves, Marine Protected Areas or Seabird Protection Areas

141-142-0030 Otter Rock Marine Reserve

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Otter Rock Marine Reserve:
 - (a) Beginning at a point at the northwest corner of Gull Rock at Latitude 44° 45.175' (44° 45' 10.5" N), Longitude -124° 04.53' (124° 4' 31.8" W) (Point A);
 - (b) Then east to Latitude 44° 45.175' (44° 45' 10.5" N), Longitude -124° 3.8583' (124° 3' 51.5" W) (Point B) at approximately the MHWL;
 - (c) Then following the MHWL to Latitude 44° 44.7933' (44° 44' 47.6" N), Longitude -124° 3.7833' (124° 3' 47" W) (Point C);
 - (d) Then following longitude -124° 3.7833' (124° 3' 47" W) south to Latitude 44° 44.7283' (44° 44' 43.7" N) (Point D) at approximately the ELWL;
 - (e) Then following the ELWL to Latitude 44° 43.315' (44° 43' 18.9" N), Longitude -124° 3.6567' (124° 3' 39.4" W) (Point E);
 - (f) Then west to Latitude 44° 43.315' (44° 43' 18.9" N), Longitude -124° 4.2' (124° 4' 12" W) described as the southwest corner of Whale Back Rock (Point F);
 - (g) Then in a northerly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0035 Redfish Rocks Marine Reserve

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Redfish Rocks Marine Reserve:
 - (a) Beginning from a point at Latitude 42° 42.54' (42° 42' 32.4" N), Longitude -124° 29.64' (124° 29' 38.4" W) (Point A);
 - (b) Then east to Latitude 42° 42.96' (42° 42' 57.6" N), Longitude -124° 27.78' (124° 27' 46.8" W) (Point B) at approximately the ELWL;
 - (c) Then following the ELWL south to Latitude 42° 41.52' (42° 41' 31.2" N), Longitude -124° 27.18' (124° 27' 10.8" W), described as a point near the middle of Coal Point (Point C);
 - (d) Then west to Latitude 42° 41.16' (42° 41' 9.6" N), Longitude -124° 28.86' (124° 28' 51.6" W) (Point D);
 - (e) Then in a northerly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0040 Redfish Rocks Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Redfish Rocks Marine Protected Area:
 - (a) Beginning from a point at Latitude 42° 41.90' (42° 41' 54" N), Longitude -124° 32.50' (124° 32' 30" W) (Point A);
 - (b) Then east to Latitude 42° 42.54' (42° 42' 32.4" N), Longitude -124° 29.64' (124° 29' 38.4" W) (Point B);
 - (c) Then south to Latitude 42° 41.16' (42° 41' 9.6" N), Longitude -124° 28.86' (124° 28' 51.6" W) (Point C);
 - (d) Then west to Latitude 42° 40.25' (42° 40' 15" N), Longitude -124° 32.50' (124° 32' 30" W) (Point D);
 - (e) Then in a generally northerly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0045 Cape Perpetua Marine Reserve

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua Marine Reserve:
 - (a) Beginning from a point at Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 6.73' (124° 6' 42" W) (Point A);
 - (b) Then south along the ELWL to Latitude 44° 16.82' (44° 16' 49.2" N), Longitude -124° 6.69' (124° 6' 41.4" W) (Point B);
 - (c) Then south along the MHWL to Latitude 44° 16.15' (44° 16' 9" N), Longitude -124° 6.56' (124° 6' 33.6" W) (Point C);
 - (d) Then south along the ELWL to Latitude 44° 15.81' (44° 15' 48.6" N), Longitude -124° 6.62' (124° 6' 37.2" W) (Point D);
 - (e) Then south along the MHWL to Latitude 44° 14.67' (44° 14' 40.2" N), Longitude -124° 6.84' (124° 6' 50.4" W) (Point E);
 - (f) Then south along the ELWL to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 6.74' (124° 6' 44.4" W) (Point F);
 - (g) Then west to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 11.00' (124° 11' 0" W) (Point G);
 - (h) Then north to Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 11.00' (124° 11' 0" W) (Point H);
 - (i) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0050 Cape Perpetua North Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua North Marine Protected Area:
 - (a) Beginning from a point at Latitude 44° 20.00' (44° 20' 0" N), Longitude -124° 6.04' (124° 6' 2.4" W) (Point A);
 - (b) Then south along the MHWL to Latitude 44° 18.60' (44° 18' 36" N), Longitude -124° 6.37' (124° 6' 22.2" W) (Point B);
 - (c) Then south to Latitude 44° 18.33' (44° 18' 19.8" N), Longitude -124° 6.39' (124° 6' 23.4" W) (Point C);
 - (d) Then south along the MHWL to Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 6.73' (124° 6' 42" W) (Point D);
 - (e) Then west to Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 10.50' (124° 10' 30" W) (Point E);
 - (f) Then north to Latitude 44° 20.00' (44° 20' 0" N), Longitude -124° 10.50' (124° 10' 30" W) (Point F);
 - (g) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0055 Cape Perpetua South-East Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua South East Marine Protected Area:
 - (a) Beginning from a point at Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 6.74' (124° 6' 44.4" W) (Point A);
 - (b) Then south along the ELWL to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 7.53' (124° 7' 31.8" W) (Point B);
 - (c) Then west to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 8.60' (124° 8' 36" W) (Point C);
 - (d) Then north to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 8.00' (124° 8' 0" W) (Point D);
 - (e) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0060 Cape Perpetua Seabird Protection Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua Seabird Protection Area:

- (a) Beginning from a point at Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 8.00' (124° 8' 0" W) (Point A);
 - (b) Then south to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 8.60' (124° 8' 36" W) (Point B);
 - (c) Then west to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 11.62' (124° 11' 37.2" W) (Point C);
 - (d) Then north to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 11.00' (124° 11' 0" W) (Point D);
 - (e) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0065 Cascade Head Marine Reserve

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cascade Head Marine Reserve:
- (a) Beginning from a point at Latitude 45° 2.00' (45° 2' 0" N), Longitude -124° 0.52' (124° 0' 31.2" W) (Point A);
 - (b) Then west along the ELWL to Latitude 45° 1.98' (45° 1' 58.8" N), Longitude -124° 0.65' (124° 0' 39" W) (Point B);
 - (c) Then south along the MHWL to Latitude 45° 1.53' (45° 1' 31.8" N), Longitude -124° 0.74' (124° 0' 44.4" W) (Point C);
 - (d) Then south along the ELWL to Latitude 44° 59.25' (44° 59' 15" N), Longitude -124° 0.89' (124° 0' 53.4" W) (Point D);
 - (e) Then west to Latitude 44° 59.25' (44° 59' 15" N), Longitude -124° 4.50' (124° 4' 30" W) (Point E);
 - (f) Then north to Latitude 45° 2.00' (45° 2' 0" N), Longitude -124° 4.50' (124° 4' 30" W) (Point F);
 - (g) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0070 Cascade Head North Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cascade Head North Marine Protected Area:
- (a) Beginning from a point at Latitude 45° 5.00' (45° 5' 0" N), Longitude -124° 0.40' (124° 0' 24" W) (Point A);
 - (b) Then south along the MHWL to Latitude 45° 2.85' (45° 2' 51" N), Longitude -124° 0.69' (124° 0' 41.4" W) (Point B);
 - (c) Then south along the ELWL to Latitude 45° 2.00' (45° 2' 0" N), Longitude -124° 0.52' (124° 0' 31.2" W) (Point C);

- (d) Then west to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point D);
 - (e) Then north to Latitude $45^{\circ} 5.00'$ ($45^{\circ} 5' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point E);
 - (f) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0075 Cascade Head South Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cascade Head South Marine Protected Area:
- (a) Beginning from a point at Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 0.89'$ ($124^{\circ} 0' 53.4''$ W) (Point A);
 - (b) Then south along the ELWL to Latitude $44^{\circ} 56.50'$ ($44^{\circ} 56' 30''$ N), Longitude $-124^{\circ} 1.47'$ ($124^{\circ} 1' 28.2''$ W) (Point B);
 - (c) Then west to Latitude $44^{\circ} 56.50'$ ($44^{\circ} 56' 30''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point C);
 - (d) Then north to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point D);
 - (e) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0080 Cascade Head West Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cascade Head West Marine Protected Area:
- (a) Beginning from a point at Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 4.50'$ ($124^{\circ} 4' 30''$ W) (Point A);
 - (b) Then south to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 4.50'$ ($124^{\circ} 4' 30''$ W) (Point B);
 - (c) Then west to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point C);
 - (d) Then north to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point D);
 - (e) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0085 Cape Falcon Marine Reserve

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Falcon Marine Reserve:
- (a) Beginning from a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -123° 58.10' (123° 58' 6" W) (Point A);
 - (b) Then south along the ELWL to Latitude 45° 46.80' (45° 46' 48" N), Longitude -123° 58.17' (123° 58' 10.2" W) (Point B);
 - (c) Then south along the MHWL to Latitude 45° 45.79' (45° 45' 47.4" N), Longitude -123° 58.41' (123° 58' 24.6" W) (Point C);
 - (d) Then south along the ELWL to Latitude 45° 45.44' (45° 45' 26.4" N), Longitude -123° 58.03' (123° 58' 1.8" W) (Point D);
 - (e) Then south along the MHWL to Latitude 45° 44.62' (45° 44' 37.2" N), Longitude -123° 57.82' (123° 57' 49.2" W) (Point E);
 - (f) Then south along the ELWL to Latitude 45° 44.00' (45° 44' 0" N), Longitude -123° 56.77' (123° 56' 46.2" W) (Point F);
 - (g) Then west to Latitude 45° 44.00' (44° 44' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point G);
 - (h) Then north to Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point H);
 - (i) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0090 Cape Falcon West Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Falcon West Marine Protected Area:
- (a) Beginning from a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point A);
 - (b) Then south to Latitude 45° 44.00' (45° 44' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point B);
 - (c) Then west to Latitude 45° 44.00' (45° 44' 0" N), Longitude -124° 3.19' (124° 3' 11.4" W) (Point C);
 - (d) Then northwest to Latitude 45° 44.31' (44° 44' 18.6" N), Longitude -124° 3.50' (124° 3' 30" W) (Point D);
 - (e) Then north to Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 3.50' (124° 3' 30" W) (Point E);
 - (f) Then in a generally easterly direction back to the point of beginning (Point A).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0095 Cape Falcon Shoreside Marine Protected Area

- (1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Falcon Shoreside Marine Protected Area:
 - (a) Beginning from a point at Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-123^{\circ} 58.10'$ ($123^{\circ} 58' 6''$ W) (Point A);
 - (b) Then south along the ELWL to Latitude $45^{\circ} 46.80'$ ($45^{\circ} 46' 48''$ N), Longitude $-123^{\circ} 58.17'$ ($123^{\circ} 58' 10.2''$ W) (Point B).
- (2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

PARKS AND RECREATION DEPARTMENT

Division 29

MARINE RESERVE AND MARINE PROTECTED AREA RULES

736-029-0010

Purpose

(1) This division governs the use of portions of the ocean shore as well as areas adjacent to state parks that the State Land Board has designated as a Marine Reserve or Marine Protected Area (OAR chapter 141, division 142). The Fish and Wildlife Commission has adopted prohibitions and allowances on harvest of fish and wildlife resources (OAR chapter 635, division 12). The Department of State Lands (DSL) has adopted rules regarding authorized uses within the marine reserves and marine protected areas.

(2) This division shall go into effect on June 30, 2011 to coincide with the effective date of Oregon Department of Fish and Wildlife (ODFW) prohibitions and allowances.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.635; 390.660, 2009 Or Laws, ch 847

Hist.

736-029-0030

Definitions

For purposes of this division, unless the context requires otherwise, the following definitions apply:

(1) "Commission" means the State Parks and Recreation Commission.

(2) "Department" means the State Parks and Recreation Department, known as Oregon Parks and Recreation Department (OPRD).

(3) "Director" means the State Parks and Recreation Director.

(4) "Marine Reserve" means the area established by the State Land Board and identified in OAR chapter 141, division 142.

(5) "Marine Protected Area" means the area established by the State Land Board and identified in OAR chapter 141, division 142.

(6) "Natural Product" means living or non-living natural products on the ocean shore, including but not limited to marine plants, minerals, shells, rocks, and sand.

(7) “Personal Use” means use that is directly by the individual for purposes other than monetary reward and not involving sale, barter, resale, or exchange for money.

(8) “Ocean Shore” as provided in ORS 390.605(2), means the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland.

“Ocean shore” does not include an estuary as defined in ORS 196.800.

(9) “Ocean Shore Permit” means: a permit under ORS 390.640 for a structure, appurtenance or other addition, modification or alteration, including habitat restoration, constructed, placed or made on the ocean shore; a permit under ORS 390.715 for a pipeline, cable line, or conduit placed or made across or under the ocean shore; or a permit under ORS 390.725 for the removal of products from the ocean shore.

(10) “Salvage” or “Salvageable Object” means any object, thing or material, exclusive of drift logs, which is not in its natural state, and is not a “natural product of the ocean shore”, which is washed up or deposited on the ocean shore.

(11) “Souvenirs” include a small quantity of agates, driftwood, and similar non-living items collected for non-commercial personal use.

Stat. Auth.: [ORS 390.124](#) & 390.660

Stats. Implemented: [ORS 390.635](#), 390.660, 390.725(4), 2009 Or Laws, ch 847

Hist.:

736-029-0040

General Restrictions

(1) In addition to all other regulations pertaining to the ocean shore, within an area designated as a Marine Reserve or Marine Protected Area, a person may not:

(a) Collect, pick, cut, mutilate or remove living or non-living natural products from the ocean shore except as allowed under section (6);

(b) Give or offer food items to any wildlife;

(c) Pursue, injure, or molest any wildlife or disturb their habitats;

(d) Dig up or remove any soil, sand, rock, or fossil materials; or

(e) Disturb or remove any archaeological, cultural, or historical material.

(2) In addition to all other regulations pertaining to the ocean shore, within an area designated as a Marine Protected Area, a person may not engage in any activity prohibited in section (1) except as expressly allowed in the rules establishing and regulating the Marine Protected Area.

(3) The Director may issue a written permit to a person to engage in one or more activities prohibited under section (1) or (2):

(a) If the person seeks to engage in a prohibited activity for scientific research or monitoring purposes that are consistent with the purposes of the Marine Reserve or Marine Protected Area;

(b) If the person seeks to engage in a prohibited activity to enforce prohibitions necessary to the purposes of the Marine Reserve or Marine Protected Area;

(c) If the person seeks to engage in a prohibited activity to provide for public education consistent with the purposes of the Marine Reserve or Marine Protected Area;

(d) If the person is a tribal member of a federally recognized Indian Tribe in Oregon collecting as part of their traditional cultural heritage in accordance with procedures established by the Department and in state rules, including OAR 635-041-0500.

(e) If the person seeks to engage in activity prohibited under subsection (1)(e) that is:

(A) Otherwise consistent with the purposes of the Marine Reserve or Marine Protected Area, and

(B) Authorized by a permit issued by the Department under ORS 390.235.

(4) Pursuant to ORS 390.725(4), the Department will not issue any permits for the collection of natural products within a Marine Reserve or Marine Protected Area for the purpose of trade, sale or resale.

(5) In addition to regulations regarding “salvage” and “salvageable objects,” the Department will consider consistency with the purposes of the Marine Reserve or Marine Protected Area in taking any action under OAR chapter 736, division 27 within such area(s).

(6) The Director or designee may allow periodic and emergency removal of driftwood, beached marine mammals, marine and upland debris, and other items; and removal of souvenirs; if the Director determines the removal is:

(a) Necessary to assure the protection of natural resources or the safety of, access to, or recreational use of the ocean shore, and

(b) Otherwise consistent with the scientific research, monitoring, enforcement or protection of the Marine Reserve or Marine Protected Area.

(7) Any valid preexisting Ocean Shore Permit granted by the Department as provided in OAR chapter 736, division 20 within an area designated as a Marine Reserve or Marine Protected Area

shall remain in effect if the holder of that permit is and continues to be in full compliance with the terms and conditions of the permit. The Department will consider consistency with the purposes of the Marine Reserve or Marine Protected Area in addition to the standards provided in OAR chapter 736, division 20, in considering an ocean shore permit modification application, including but not limited to repairs and extensions.

(8) The Department will consider consistency with the purposes of the Marine Reserve or Marine Protected Area in addition to the standards under OAR chapter 736, division 20, including but not limited to review by other state and federal agencies under OAR 736-020-0003(11), in reviewing any conditional Ocean Shore Permit within or adjacent to a Marine Reserve or Marine Protected Area.

Stat. Auth.: [ORS 390.124](#) & 390.660

Stats. Implemented: [ORS 390.635](#), 390.660, 390.725(4), 2009 Or Laws, ch 847

Hist.:

736-029-0050

Penalties

A violation of OAR 736-029-0040 is as an ocean shore violation subject to fines as provided in OAR 736-021-0050.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.050](#) & [ORS 390.124](#)

Hist.: