

DEPARTMENT OF STATE LANDS

DIVISION 142

RULES GOVERNING THE ESTABLISHMENT AND MANAGEMENT OF MARINE RESERVES AND MARINE 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 and marine protected areas in the Territorial Sea.
- (2) Describes uses that the Department may authorize within areas designated as a marine reserve or marine protected 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 or marine protected 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) "Extractive Activity" means any human effort to remove or attempt to remove any living or non-living marine resource.
- (4) "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).]
- (5) "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.
- (6) "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.
- (7) "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).

(8) "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.

(9) "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.

(10) "State Land" as provided in ORS 273.006(8) means public land controlled by the Department.

(11) "Structure" means anything placed, constructed, or erected in, on, under or over state-owned submerged and submersible land.

(12) "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.

(13) "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.

(14) "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.

(15) "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 or marine protected area.

(2) Applicants for an authorization within a marine reserve or marine protected 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 the agreement referenced in OAR 635-041-0500 and 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 or marine protected 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 or marine protected 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 or marine protected 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 or marine protected area.

141-142-0025

Establishing a Marine Reserve or Marine Protected Area

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

Areas Established As Marine Reserves Or Marine Protected 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.