

## Oregon Parks and Recreation Commission

January 25, 2012

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Agenda Item:      Item 9a      Action

Topic:              Request to go to rulemaking for OAR Chapter 736-017; Veterans and War Memorial Grant Program

Presented by:      Wayne Rawlins

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### **Background:**

The 76<sup>th</sup> Legislative Assembly in 2011 passed Senate Bill 342 relating to new provisions and amendments governing the use of the Parks and Natural resources fund moneys.

In relation to the Veterans and War Memorial Grant Program, the administrative rules need to be updated to reflect those changes. In particular, the statute only changed who may apply for grant funds. Previously, just veterans' non-profit organization could apply for grant funds for construction or restoration of veteran or war memorial projects located on government-owned properties.

Now to be an eligible applicant, one must be a local or regional governmental entity and they must demonstrate a cooperative effort with a non-profit veterans' organization. There are no other administrative rule changes being considered.

Since the rule change is non-discretionary and not open to interpretation, staff will not convene a Rulemaking Advisory Committee as is our normal process, but will, subject to the approval of the Commission, instead file the proper documentation with the Secretary of State.

Staff will then return to the Commission at their April meeting seeking adoption of the proposed rules.

**Action Requested:** Staff request Commission approval to begin the rulemaking process for OAR 736-017 regarding the Veterans' and War Memorial Grant Program.

**Attachments:** A - Senate Bill 342  
B - Draft of proposed rule amendments – Showing draft changes  
C - Proposed Rules with changes accepted

**Prior Action by Commission:** None.

**Prepared by:** Wayne Rawlins

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

**Enrolled**

**Senate Bill 342**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

CHAPTER .....

AN ACT

Relating to the use of Parks and Natural Resources Fund moneys; creating new provisions; amending ORS 390.134, 390.180, 541.351, 541.360, 541.370, 541.371, 541.373, 541.375, 541.376, 541.377, 541.379, 541.392, 541.397, 541.401 and 805.256; repealing ORS 541.378, 541.379, 541.397 and 541.399 and section 276, chapter \_\_\_, Oregon Laws 2011 (Enrolled Senate Bill 242); appropriating money; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**PARKS AND NATURAL RESOURCES FUND**

**SECTION 1.** ORS 541.377 is amended to read:

541.377. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Parks and Natural Resources Fund to be administered by the Oregon Department of Administrative Services. All moneys transferred from the State Lottery Fund and all other moneys authorized to be transferred to the Parks and Natural Resources Fund from whatever source are appropriated continuously for the public purposes of restoring and protecting Oregon's parks, beaches, watersheds and [critical] native fish and wildlife habitats. Fifteen percent of the net proceeds from the Oregon State Lottery shall be deposited in the Parks and Natural Resources Fund created under this subsection.

*[(2) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount for the public purpose of financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas. The State Treasurer may invest and reinvest the moneys in the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.]*

*[(3) All moneys in the Parks Subaccount for financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas shall be allocated to the State Parks and Recreation Department. Such moneys shall be deposited into the State Parks and Recreation Department Fund established under ORS 390.134 and shall be used for the following purposes:]*

*[(a) Maintaining, constructing, improving, developing, managing and operating state park and recreation facilities, programs and areas.]*

*[(b) Acquiring real property, or interest therein, deemed necessary for the creation and operation of state parks, ocean shores, public beach access areas, recreation areas and historic sites or because of natural, scenic, cultural, historic and recreational values.]*

*[(c) Operating grant programs for local government entities deemed necessary to accomplish the public purposes of the Parks and Natural Resources Fund.]*

*[(4) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be deposited into a Restoration and Protection Subaccount for the public purpose of financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality*

in Oregon. The State Treasurer may invest and reinvest the moneys in the Restoration and Protection Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the Restoration and Protection Research Fund created under ORS 541.378.]

*[(5) The moneys in the Restoration and Protection Subaccount for financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality shall be administered by the Oregon Watershed Enhancement Board and shall be used for all of the following purposes:]*

*[(a) Restoration and protection of watersheds and fish, wildlife, riparian and native species and for habitat conservation activities, including but not limited to planning, coordination, assessment, implementation, restoration, inventory, information management and monitoring activities.]*

*[(b) Watershed and riparian education efforts.]*

*[(c) Development and implementation of watershed and water quality enhancement plans.]*

*[(d) Entering into agreements to obtain from willing owners determinate interests in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land or water or conservation easements.]*

*[(e) Enforcement of fish and wildlife and habitat protection laws and regulations.]*

*[(6) Of the moneys deposited into the Restoration and Protection Subaccount from the Oregon State Lottery, the Oregon Watershed Enhancement Board shall deposit:]*

*[(a) Sixty-five percent of the funds into the Watershed Improvement Grant Fund established under ORS 541.397 to be used only for funding capital expenditure projects; and]*

*[(b) Thirty-five percent of the funds into the Watershed Improvement Operating Fund established under ORS 541.379 to be used for the purposes set forth in ORS 541.379 (1).]*

**[(7)] (2) The Legislative Assembly [shall] may not limit expenditures from the Parks and Natural Resources Fund. The Legislative Assembly may appropriate other moneys or revenues to the Parks and Natural Resources Fund.**

## **PARKS SUBACCOUNT**

**SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS chapter 390.**

**SECTION 3. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount. The State Treasurer may invest and reinvest the moneys in the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the Parks Subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.**

**(2) Moneys deposited from the Oregon State Lottery to the Parks Subaccount may be used only for:**

**(a) Maintaining, constructing, improving, developing, managing and operating state parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and recreation areas;**

**(b) Acquiring real property, or interests in real property, that has significant natural, scenic, cultural, historic or recreational value for the creation or operation of state parks, ocean shores, public beach access areas, outdoor recreation areas and historic sites; and**

**(c) Providing grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas.**

**(3) All moneys in the Parks Subaccount shall be transferred to the State Parks and Recreation Department Fund and used to carry out the purposes described in subsection (2) of this section by achieving each of the following:**

**(a) Providing additional public parks, natural areas or outdoor recreation areas to meet the needs of current and future residents of this state.**

**(b) Protecting natural, cultural, historic and outdoor recreational resources of statewide or regional significance.**

**(c) Managing public parks, natural areas and outdoor recreation areas to ensure the long-term ecological health of those parks and areas and to provide for the enjoyment of those parks and areas by current and future residents of this state.**

**(d) Providing diverse and equitable opportunities for residents of this state to experience nature and to participate in outdoor recreational activities in state, regional, local or neighborhood public parks and recreation areas.**

## STATE PARKS AND RECREATION DEPARTMENT FUND

**SECTION 4.** ORS 390.134 is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

**(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to**

acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. **Notwithstanding ORS 192.230 to 192.250**, the director shall make the report in a form and manner as the committee may prescribe.

(12) **On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.**

**Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.**

**SECTION 5.** ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, and section 47, chapter 11, Oregon Laws 2009, is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from

recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

**(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.**

**(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.**

**(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.**

**[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.**

**(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.**

**SECTION 6.** ORS 390.180 is amended to read:

390.180. (1) The State Parks and Recreation Director shall adopt rules that:

(a) Establish the standards the State Parks and Recreation Department shall use when that department:

- (A) Performs comprehensive statewide recreational planning; or
  - (B) Disburses any moneys to **regional or** local governments or other state agencies under programs established under state or federal law.
  - (b) Establish a process for the development of a master plan for each state park, including public participation and coordination with affected local governments.
  - (c) Establish a master plan for each state park, including an assessment of resources and a determination of the capacity for public use and enjoyment of each park, that the State Parks and Recreation Department shall follow in its development and use of each park.
  - (d) Make state funding assistance available to **regional or local governments that demonstrate cooperation with nonprofit veterans' organizations for the construction and restoration of memorials honoring veterans and war memorials located on public property.**
- (2) The State Parks and Recreation Director shall submit an adopted state park master plan to the local government with land use planning responsibility for the subject park.

## NATURAL RESOURCES DEFINITIONS

### SECTION 7. ORS 541.351 is amended to read:

541.351. As used in ORS 541.351 to 541.415:

- (1) "Adaptive management" means applying management or practices over time and across the landscape to achieve site specific resource goals using an integrated and science based approach that results in changes over time in response to feedback or monitoring.
- (2) "Associated uplands" includes those lands of a watershed that are critical to the functioning and protection of a riparian area.
- (3) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.360.
- [(4) "Capital expenditures" means direct expenses related to:]
- [(a) Personal property of a nonexpendable nature including items that are not consumed in the normal course of operations, can normally be used more than once, have a useful life of more than two years and are for use in the enforcement of fish and wildlife and habitat protection laws and regulations; or]
- [(b) Projects that restore, enhance or protect fish and wildlife habitat, watershed functions, native salmonid populations or water quality, including but not limited to:]
- [(A) Expenses of assessment, research, design or other technical requirements for the implementation of a project;]
- [(B) The acquisition of determinate interests, including fee and less than fee interests, in land or water in order to protect watershed resources, including appraisal costs and other costs directly related to such acquisitions;]
- [(C) Development, construction or implementation of a project to restore, enhance or protect water quality, a watershed, fish or wildlife, or riparian or other habitat;]
- [(D) Technical support directly related to the implementation of a project; and]
- [(E) Monitoring or evaluation activities necessary to determine the actual effectiveness of a project.]
- [(5)] (4) "Independent Multidisciplinary Science Team" means the scientific team of recognized experts in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricultural management created under ORS 541.409.
- [(6)] (5) "Native" means indigenous to Oregon and not introduced.
- (6) "**Oregon Conservation Strategy**" means the comprehensive wildlife conservation strategy for this state adopted by the State Fish and Wildlife Commission.
- (7) "Oregon Plan" means the guidance statement and framework described in ORS 541.405.
- (8) "Protect" or "protection" means to minimize or mitigate adverse effects on [*salmonid and*] **native fish or wildlife** habitat to the maximum extent practicable given the anticipated duration, geographic scope and primary purpose of proposed activities.
- (9) "Restore" or "restoration" means to take actions likely to achieve sustainable population levels of native fish or wildlife and their habitats.
- (10) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream.
- (11) "Soil and water conservation district" means a political subdivision of the state as described in ORS 568.550.

(12) “Stewardship” means the careful and responsible management of the environment.

(13) “Tribe” means a federally recognized Indian tribe in Oregon.

(14) “Watershed” means the entire land area drained by a stream or system of connected streams such that all streamflow originating in the area is discharged through a single outlet.

(15) “Watershed council” means a voluntary local organization, designated by a local government group convened by a county governing body, to address the goal of sustaining natural resource and watershed protection, restoration and enhancement within a watershed.

## NATURAL RESOURCES SUBACCOUNT

**SECTION 8.** Sections 9 and 10 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

**SECTION 9.** (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Natural Resources Subaccount for the public purpose of financing the restoration and protection of native fish and wildlife, watersheds and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Natural Resources Subaccount as provided in ORS 293.701 to 293.820.

(2) Moneys in the Natural Resources Subaccount shall be used to accomplish each of the following:

(a) Protecting and improving water quality in the rivers, lakes and streams of this state by restoring natural watershed functions or stream flows;

(b) Securing long-term protection for lands and waters that provide significant habitats for native fish and wildlife;

(c) Restoring and maintaining habitat needed to sustain healthy and resilient populations of native fish and wildlife;

(d) Maintaining the diversity of plants, animals and ecosystems in this state;

(e) Involving people in voluntary actions to protect, restore and maintain the ecological health of lands and waters in this state; and

(f) Remedying the conditions that limit the health of fish and wildlife, fish and wildlife habitats and watershed functions that are in the greatest need of conservation.

(3) Except as provided in subsections (4) and (5) of this section, of the moneys deposited into the Natural Resources Subaccount from the Oregon State Lottery:

(a) Sixty-five percent of the moneys shall be deposited into the Watershed Conservation Grant Fund established under section 12 of this 2011 Act to be used by the Oregon Watershed Enhancement Board for the purposes set forth in section 13 of this 2011 Act; and

(b) Thirty-five percent of the moneys shall be deposited into the Watershed Conservation Operating Fund established under section 16 of this 2011 Act.

(4) If the amount transferred from the Oregon State Lottery to the Parks and Natural Resources Fund during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, except as provided in subsection (5) of this section, the State Treasurer shall, during the next following biennium, deposit from the Natural Resources Subaccount to the Watershed Conservation Grant Fund the amount described in subsection (3)(a) of this section plus an amount equal to the difference between the amount deposited from the subaccount to the Watershed Conservation Grant Fund during the preceding biennium and 70 percent of the moneys received by the subaccount from the Oregon State Lottery during the preceding biennium.

(5) The requirements in subsections (3) and (4) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the Natural Resources Subaccount moneys to be deposited into the Watershed Conservation Grant Fund. The Legislative Assembly may not authorize the percentage of Natural Resources Subaccount moneys deposited into the Watershed Conservation Grant Fund in a biennium to be less than the percentage required to be deposited under subsections (3) and (4) of this section.

**SECTION 10.** Each state agency that receives moneys from the Natural Resources Sub-account created under section 9 of this 2011 Act shall submit a report to the Legislative Assembly each biennium regarding the use of the moneys by the agency. The report shall include, but need not be limited to, a description of the measurable biennial and cumulative results of the activities and programs for which the agency expended the moneys. Reports required by this section are in addition to any audit report supplied by the Secretary of State under ORS chapter 297.

## WATERSHED CONSERVATION GRANT FUND

**SECTION 11.** Sections 12 and 13 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

**SECTION 12.** (1) The Watershed Conservation Grant Fund is established separate and distinct from the General Fund. The Watershed Conservation Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Conservation Grant Fund are continuously appropriated to the Oregon Watershed Enhancement Board for grants to fund projects described in ORS 541.401 that use grant moneys as provided under section 13 of this 2011 Act. Interest accruing to the Watershed Conservation Grant Fund shall be credited to the fund. Watershed Conservation Grant Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Grant Fund.

(2) The board also may accept gifts and grants from any public or private source for the purpose of providing the grants described in this section.

**SECTION 13.** The purpose of the Watershed Conservation Grant Fund is to provide funding for grants to achieve the purposes and uses described in section 9 of this 2011 Act and to implement the mission of the Oregon Plan, including but not limited to grants to further the Oregon Conservation Strategy and the watershed health and native fish recovery programs of this state. Moneys appropriated to the fund shall be used only for the following activities:

(1) Acquiring from willing owners interests in land or water that will protect or restore native fish or wildlife habitats. The interests may include, but need not be limited to, fee interests, conservation easements or leases.

(2) Projects to protect or restore native fish habitat or wildlife habitat.

(3) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

(4) Resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for carrying out subsections (1) to (3) of this section.

**SECTION 14.** ORS 541.401 is amended to read:

541.401. The Oregon Watershed Enhancement Board may award funds from the Watershed *[Improvement]* Conservation Grant Fund only for *[the purposes listed in ORS 541.399]* activities described in section 13 of this 2011 Act. Any project that the board approves for funding shall comply with the following criteria:

(1) There is a matching contribution from other program funds, in-kind services or other investment in the project;

(2) The project to be funded is reviewed and approved by a technical committee established in accordance with ORS 541.370 *[(3)]*; and

(3) The project provides a public benefit *[through]* by supporting improved:

(a) Water quality;

(b) Native fish or wildlife habitat; or Enrolled Senate Bill 342 (SB 342-C) Page 9

(c) *[Public information or education on a]* Watershed or ecosystem function.

**SECTION 15.** ORS 541.399 is repealed.

## WATERSHED CONSERVATION OPERATING FUND

**SECTION 16.** (1) The Watershed Conservation Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Conservation Operating Fund shall consist of all moneys placed in the fund as provided by law. The purpose of the fund is to carry out activities that support all of the purposes described in section 9 of this 2011 Act. Moneys in the Watershed Conservation Operating Fund shall be used for each of the following:

(a) To develop, implement or update state conservation strategies or plans to protect or restore native fish or wildlife habitats or to protect or restore natural watershed or ecosystem functions to improve water quality or stream flows;

(b) To develop, implement or update regional or local strategies or plans that are consistent with state strategies or plans described in paragraph (a) of this subsection;

(c) To develop, implement or update state strategies or plans to prevent, detect, control or eradicate invasive species that threaten native fish or wildlife habitats or that impair water quality;

(d) To support local delivery, including but not limited to delivery by watershed councils, soil and water conservation districts and other community-based organizations, of watershed education activities and other programs or projects that protect or restore native fish or wildlife habitats, watersheds or ecosystems;

(e) To pay the Oregon Watershed Enhancement Board costs of administering the Watershed Conservation Grant Fund;

(f) To enforce fish and wildlife laws and regulations and fish and wildlife habitat protection laws and regulations; and

(g) To reimburse the Secretary of State as described in ORS 297.230 for the costs of audits performed by the Secretary of State under section 4c, Article XV of the Oregon Constitution.

(2) Interest accruing to the Watershed Conservation Operating Fund shall be credited to the fund. Watershed Conservation Operating Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Operating Fund.

(3) Any public or private source may make gifts or grants to the Watershed Conservation Operating Fund.

**SECTION 17.** ORS 541.373 is amended to read:

541.373. (1) The Governor may receive gifts, grants, bequests, endowments and donations of moneys from public and private sources, including the federal government, for the purpose of implementing the Oregon Plan, as described in ORS 541.405, **and the Oregon Conservation Strategy.**

(2) **If requested by the source, the Governor shall deposit moneys received under this section into the Watershed Conservation Grant Fund for use as provided under section 13 of this 2011 Act.** The Governor shall deposit **all other** moneys received under this section in the State Treasury to the credit of the Watershed [Improvement] Conservation Operating Fund established under *[ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b)]* **section 16 of this 2011 Act.**

**SECTION 18.** ORS 541.371 is amended to read:

541.371. (1) In addition to the duties set forth in ORS 541.370, in carrying out the provisions of ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board:

(a) Shall establish a framework for a locally based integrated watershed planning and management process designed to assist watershed councils, *[and]* soil and water conservation districts **and other partners** and to support the efforts of watershed councils, *[and]* soil and water conservation districts **and other partners** to work within the requirements of state and federal laws without duplication of planning effort. The framework shall include all of the following:

(A) Guidance and protocols for watershed assessments to encourage consistent assessment methods across all watersheds and agencies, including assessment of cumulative effects. At a minimum, such guidance shall address the following plan components:

(i) A description of the watershed;

(ii) An assessment of current watershed conditions and the distribution and condition of habitat; and

(iii) Identification of conditions preventing watershed restoration.

(B) Guidance on how to prepare watershed action plans. At a minimum, such guidance shall address the following plan components:

(i) Applicable water quality standards and native salmonid and habitat recovery objectives;

(ii) Proposed measures needed to restore watershed health;

(iii) Timeline and budget estimates for implementation of action measures in priority order; and

(iv) Monitoring and evaluation systems.

(b) May review plans, actions and rules of state agencies pertaining to restoration and protection grants for the purpose of coordinating the board's grant program with other ongoing grant programs.

(c) Shall establish statewide and regional goals and priorities that shall become the basis for funding decisions by the board. In adopting such goals and priorities, the board shall adopt priorities for grant funding based on the Oregon Plan, **the Oregon Conservation Strategy, the watershed health and native fish recovery programs of this state** and *[on]* measurable goals. In carrying out this function, the board shall consider local economic and social impacts among the criteria.

(d) Shall support development and implementation of a system that enables standardized collection, management and reporting of natural resources information in Oregon, including water data, geographic information system data and information on native fish and wildlife and habitat.

(e) Shall promote the availability of information on the effects of watershed enhancement.

(f) May not have regulatory or enforcement authority except for the fiscal responsibilities described in ORS 541.351 to 541.415.

(2) In addition to *[the uses of grant funds described in ORS 541.399, in allocating grant funds under ORS 541.351 to 541.415 that are derived from the Restoration and Protection Subaccount, the board:]* **any other expenditures consistent with section 16 of this 2011 Act, moneys in the Watershed Conservation Operating Fund may be expended in the form of grants or allocations:**

(a) *[May allocate funds to be used for staff for]* To soil and water conservation districts and watershed councils<sup>[.]</sup> **for costs of employing staff to further the development and implementation of activities, projects and programs for the purposes described in section 16 of this 2011 Act; or**

(b) *[May award funds]* For a specific project or program application or for implementation of an approved action plan.

(3) To the maximum extent practicable, soil and water conservation districts and watershed councils shall share technical staff.

**SECTION 19.** ORS 805.256 is amended to read:

805.256. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the *[Oregon Watershed Enhancement Board established under ORS 541.360 and are continuously appropriated to the board]* **Watershed Conservation Operating Fund** for activities under *[ORS 541.379]* **section 16 of this 2011 Act** related to the restoration and protection of *[native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to activities under the Oregon Plan]* **watersheds, native fish and wildlife and water quality; and**

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, “the cost of administration of the salmon registration plate program” is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates.

## **OREGON WATERSHED ENHANCEMENT BOARD**

**SECTION 20.** ORS 541.360 is amended to read:

541.360. (1) The Oregon Watershed Enhancement Board is created. The board shall consist of 17 members as set forth in subsection (2) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2)(a) The 11 voting members of the board shall be knowledgeable about natural resource issues, represent all geographic regions of this state and include at least one representative of a tribe. The board shall consist of the following:

(A) Each of the following boards or commissions shall designate one member of their board or commission to serve on the Oregon Watershed Enhancement Board:

- (i) The Environmental Quality Commission;
- (ii) The State Fish and Wildlife Commission;
- (iii) The State Board of Forestry;
- (iv) The State Board of Agriculture; and
- (v) The Water Resources Commission; and

(B) Six public members appointed by the Governor and confirmed by the Senate in accordance with ORS 171.562 and 171.565. Each public member shall serve for a term of four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive terms.

(b) In addition to the voting members, the director of the *[agricultural extension service of]* Oregon State University **Extension Service**, or the director’s designee, shall serve as a nonvoting member of the board and shall participate as needed in the activities of the board.

(c) In addition to the voting and nonvoting members designated in paragraphs (a) and (b) of this subsection, representatives of the following federal agencies shall be invited to serve as additional nonvoting members of the board:

(A) A representative of the United States Forest Service.

(B) A representative of the United States Bureau of Land Management.

(C) A representative of the Natural Resources Conservation Service of the United States Department of Agriculture.

(D) A representative of the United States Environmental Protection Agency.

(E) A representative of the National Marine Fisheries Service of the United States Department of Commerce.

(3) The voting members of the board shall select a chairperson from among the voting members of the board.

(4) At least eight voting members of the board must be present to take action to award grant funds under ORS 541.370. If three or more voting members object to an award of grant funds, the board shall reject the proposal and direct the applicant to revise the proposal to comply with the requirements of ORS [541.397, 541.399 and 451.401] **541.401 and sections 12 and 13 of this 2011 Act** and resubmit the proposal.

**SECTION 21.** ORS 541.370 is amended to read:

541.370. (1) In carrying out the watershed enhancement program **described in ORS 541.365**, the Oregon Watershed Enhancement Board shall:

(a) Coordinate the board's funding of enhancement projects with the activities of the Natural Resources Division staff and other agencies, especially those agencies working together through a system of coordinated resource management planning.

(b) Use the expertise of the appropriate state agency according to the type of enhancement project.

(c) Provide educational and informational materials to promote public awareness and involvement in the watershed enhancement program.

(d) Coordinate and provide for or arrange for assistance in the activities of persons, agencies or political subdivisions developing local watershed enhancement projects funded by the board.

(e) Grant funds for the support of watershed councils in assessing watershed conditions, developing action plans, implementing projects and monitoring results and for the implementation of watershed enhancement projects from such moneys as may be available to the board therefor.

(f) Develop and maintain a centralized repository for information about the effects of watershed enhancement and education projects.

(g) Give priority to proposed watershed enhancement projects receiving funding or assistance from other sources.

(h) Identify gaps in research or available information about watershed health and enhancement.

(i) Cooperate with appropriate federal entities to identify the needs and interests of the State of Oregon so that federal plans and project schedules relating to watershed enhancement incorporate the state's intent to the fullest extent practicable.

(j) Encourage the use of nonstructural methods to enhance the riparian areas and associated uplands of Oregon's watersheds.

(k) Determine criteria for utilizing the private sector, both not-for-profit and for-profit organizations, to provide landowners with technical assistance to help develop and implement conservation easements and resource improvement projects.

(2) In accordance with ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board shall administer a watershed *[improvement]* **conservation** grant program using funds from the Watershed *[Improvement]* **Conservation** Grant Fund established under *[ORS 541.397]* **section 12 of this 2011 Act**, from the *[Restoration and Protection]* **Natural Resources** Subaccount established under *[ORS 541.377]* **section 9 of this 2011 Act** and from the Flexible Incentives Account established under ORS 541.381.

(3) To aid and advise the board in the performance of the functions of the board, the board may establish such advisory and technical committees as the board considers necessary. These committees may be continuing or temporary. The board shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The chairperson is ex officio a member of each committee.

**SECTION 22.** ORS 541.375 is amended to read:

541.375. (1)(a) *[Any person, tribe, watershed council, soil and water conservation district, community college, state institution of higher education, independent not-for-profit institution of higher education or political subdivision of this state that is not a state agency]* **The following entities** may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415[.]:

**(A) A person;**

**(B) An Indian tribe;**

**(C) A watershed council;**

**(D) A soil and water conservation district;**

**(E) A community college;**

**(F) A state institution of higher education;**

**(G) An independent not-for-profit institution of higher education; or**

**(H) A political subdivision of this state that is not a state agency.**

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with *[one of the other eligible entities]* **an entity described in paragraph (a) of this subsection.**

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Oregon Watershed Enhancement Board, **regardless of the anticipated funding source for the project.**

(3) The board may establish a grant program through soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local implementation of watershed enhancement, education and monitoring efforts.

(4) The board may fund implementation of action plans based on a watershed assessment that addresses water quality and aquatic resources of the watershed.

(5) A project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a willing owner, watershed assessments, landowner incentives and action plan development, implementation and monitoring.

(6) The actions of a soil and water conservation district carried out pursuant to a grant program established by the board under subsection (3) of this section shall not be subject to review and approval by the Natural Resources Division under ORS 561.400.

(7) *[The Oregon Watershed Enhancement Board shall approve for funding only those projects that:]* **If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:**

(a) *[Are]* **Is** based on sound principles of native fish or wildlife habitat conservation or watershed management;

(b) *[Use]* **Uses** methods most adapted to the project locale;

(c) *[Meet]* **Meets** the criteria established by the board under ORS 541.396; and

(d) *[Contribute]* **Contributes** to either:

(A) The improved health of a stream, lake or reservoir and toward the achievement of standards that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended; or

(B) The *[restoration of wildlife, habitat or native fish]* **conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.**

(8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of lands and waters, or interests therein from willing sellers, for the purpose of maintaining or restoring watersheds, *[habitat and native salmonids]* **and habitat for native fish or wildlife.** Interests in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and trusts, state institutions of higher education, independent not-for-profit institutions of higher education or political subdivisions of this state, as long as the entity continues to use the land or water for the purposes specified under section 4b, Article XV of the Oregon Constitution.

(10) If the Oregon Watershed Enhancement Board approves funding for a project under this section *[that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body]*, the board *[shall]* **may not disburse [any] funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body** until the applicant presents evidence that the agency has granted the permit or license.

**SECTION 23.** ORS 541.376 is amended to read:

541.376. (1) Land purchased through a grant agreement with the Oregon Watershed Enhancement Board shall be subject to title restrictions **that are consistent with the conservation purposes of the grant and** give the board the authority to approve, approve with conditions or deny the sale or transfer of the land. *[Specifically,]* The board may require conditions on the sale or transfer to:

(a) Ensure consistency with the intent of the original grant;

(b) Ensure the ability of the party receiving the land through the sale or transfer to carry out the obligations under the grant agreement; and

(c) Address the disposition of proceeds from the sale or transfer, including any provisions for repayment, with interest, of any grant funds.

(2) The board may not allow a sale or transfer that results in any profit to any person.

(3) The board shall, by rule, define “profit” for the purpose of not allowing sales or transfers and shall specify the process and criteria that the board will use in considering whether to approve, approve with conditions or deny a sale or transfer.

**SECTION 24.** ORS 541.392 is amended to read:

541.392. *[(1)]* The Oregon Watershed Enhancement Board shall report biennially to the Legislative Assembly on the implementation of the management program under ORS 541.384 and grants awarded under [ORS 541.399] **section 13 of this 2011 Act**. The report shall include but need not be limited to:

*[(a)]* (1) An explanation of the effectiveness and workability of the partnership process described in ORS 541.384;

*[(b)]* (2) A description of any modifications to the process that have been instituted; and

*[(c)]* (3) Recommendations concerning the need for future legislative action.[]; and]

*[(d)]* *Information about the use of moneys received by and distributed by the board under section 4b, Article XV of the Oregon Constitution.*]

*[(2)]* *The board shall include with each report under subsection (1) of this section a copy of each audit completed pursuant to section 4c, Article XV of the Oregon Constitution.*]

## RESTORATION AND PROTECTION RESEARCH FUND

**SECTION 25. ORS 541.378 is repealed. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Operating Fund moneys to the credit of the Watershed Improvement Operating Fund. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Grant Fund moneys to the credit of the Watershed Improvement Grant Fund.**

## WATERSHED IMPROVEMENT OPERATING FUND

**SECTION 26.** ORS 541.379 is amended to read:

541.379. (1) The Watershed Improvement Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Improvement Operating Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Operating Fund are continuously appropriated for the following purposes:

(a) Operational activities of the Oregon Watershed Enhancement Board **for carrying out this section;**

(b) Activities of state and local agencies and other public entities **for which funding was approved by the board prior to the effective date of this 2011 Act and that are** related to the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to activities under the Oregon Plan;

(c) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are not capital expenditures; and

(d) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are capital expenditures.

(2) Interest accruing to the Watershed Improvement Operating Fund shall be credited to [the Restoration and Protection Research Fund created under ORS 541.378] the fund. Funds appropriated and not expended by the completion of a biennium shall remain in the Watershed Improvement Operating Fund.

(3) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Operating Fund.

(4) [In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399,] The board [also] may accept gifts and grants from any public or private source for the purposes described in subsection (1) of this section.

**SECTION 27. ORS 541.379 is repealed on July 1, 2013. The State Treasurer shall transfer any balance of the Watershed Improvement Operating Fund remaining available and unexpended on July 1, 2013, to the credit of the Watershed Conservation Operating Fund.**

## WATERSHED IMPROVEMENT GRANT FUND

**SECTION 28.** ORS 541.397 is amended to read:

541.397. (1) The Watershed Improvement Grant Fund is established separate and distinct from the General Fund. The Watershed Improvement Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Grant Fund are continuously appropriated to fund watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes that were issued prior to the effective date of this 2011 Act.** Interest accruing to the Watershed Improvement Grant Fund shall be credited to *[the Restoration and Protection Research Fund created under ORS 541.378]* **the fund.** Funds appropriated and not expended by the completion of a biennium shall remain in the Watershed Improvement Grant Fund.

(2) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Grant Fund and provide grants from the fund *[for the purposes described in ORS 541.399 and 541.401 in the manner described under ORS 541.399 and 541.401]* **as described in subsection (1) of this section.**

(3) *[In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399,]* The board *[also]* may accept gifts and grants from any public or private source for the purpose of *[providing]* funding the grants described in subsection *[(2)]* (1) of this section.

**SECTION 29. ORS 541.397 is repealed on July 1, 2015. The State Treasurer shall transfer any balance of the Watershed Improvement Grant Fund remaining available and unexpended on July 1, 2015, to the credit of the Watershed Conservation Grant Fund.**

#### MISCELLANEOUS

**SECTION 30. (1) Section 9 of this 2011 Act and the amendments to ORS 541.377 by section 1 of this 2011 Act are intended to change the name of the “Restoration and Protection Sub-account” to the “Natural Resources Subaccount.”**

**(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Restoration and Protection Subaccount,” wherever they occur in statutory law, other words designating the “Natural Resources Subaccount.”**

**SECTION 30a. If Senate Bill 242 becomes law, section 276, chapter \_\_\_, Oregon Laws 2011 (Enrolled Senate Bill 242) (amending ORS 541.375), is repealed and ORS 541.375, as amended by section 22 of this 2011 Act, is amended to read:**

541.375. (1)(a) The following entities may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415:

- (A) A person;
- (B) An Indian tribe;
- (C) A watershed council;
- (D) A soil and water conservation district;
- (E) A community college;
- (F) A [state institution of higher education] public university listed in ORS 352.002;
- (G) An independent not-for-profit institution of higher education; or
- (H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with an entity described in paragraph (a) of this subsection.

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Oregon Watershed Enhancement Board, regardless of the anticipated funding source for the project.

(3) The board may establish a grant program through soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local implementation of watershed enhancement, education and monitoring efforts.

(4) The board may fund implementation of action plans based on a watershed assessment that addresses water quality and aquatic resources of the watershed.

(5) A project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a willing owner, watershed assessments, landowner incentives and action plan development, implementation and monitoring.

(6) The actions of a soil and water conservation district carried out pursuant to a grant program established by the board under subsection (3) of this section shall not be subject to review and approval by the Natural Resources Division under ORS 561.400.

(7) If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:

- (a) Is based on sound principles of native fish or wildlife habitat conservation or watershed management;
- (b) Uses methods most adapted to the project locale;
- (c) Meets the criteria established by the board under ORS 541.396; and
- (d) Contributes to either:

(A) The improved health of a stream, lake or reservoir and toward the achievement of standards that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended; or

(B) The conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.

(8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of lands and waters, or interests therein from willing sellers, for the purpose of maintaining or restoring watersheds and habitat for native fish or wildlife. Interests in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and trusts, *[state institutions of higher education]* **public universities listed in ORS 352.002**, independent not-for-profit institutions of higher education or political subdivisions of this state, as long as the entity continues to use the land or water for the purposes specified under section 4b, Article XV of the Oregon Constitution.

(10) If the Oregon Watershed Enhancement Board approves funding for a project under this section, the board may not disburse funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body until the applicant presents evidence that the agency has granted the permit or license.

**SECTION 30b. The amendments to ORS 541.375 by section 30a of this 2011 Act become operative on January 1, 2012.**

#### **CAPTIONS**

**SECTION 31. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.**

#### **EMERGENCY CLAUSE**

**SECTION 32. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on July 1, 2011.**

**Passed by Senate June 23, 2011**

**Repassed by Senate June 29, 2011**

**Passed by House June 28, 2011**

**Received by Governor:**

**Filed in Office of Secretary of State:**

1 ▶The Oregon Administrative Rules contain OARs filed through November 15, 2011 ◀

2  
3  
4 **PARKS AND RECREATION DEPARTMENT**

5  
6 **DIVISION 17**

7 **VETERANS AND WAR MEMORIAL GRANTS**

8  
9 **736-017-0000**

10 **Purpose**

11 The purpose of this division is to establish the procedures and criteria that the Oregon Parks and  
12 Recreation Department (OPRD) will use in recommending Veterans and War Memorial Grants for  
13 funding to the commission pursuant to ORS 390.180(1)(d).

14 Stat. Auth.: ORS 390.124

15 Stats. Implemented: ORS 390.180(1)(d)

16 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

17 **736-017-0005**

18 **Definitions**

19 As used in this division, unless the context requires otherwise, the following definitions apply:

20 (1) "Agreement" means the formal contract between OPRD and the Project Sponsor describing the  
21 terms and conditions associated with any granting of funds. Also called "Grant Agreement."

22 (2) "Commission" means the Oregon Parks and Recreation Commission.

23 (3) "Committee" means the Veterans and War Memorial Grant Review Committee described in OAR  
24 736-017-0010.

25 (4) "Department" means the Oregon Parks and Recreation Department (OPRD).

26 (5) "Construction" means the creation of a new memorial on public property.

27 (6) "Director" means the director of the Oregon Parks and Recreation Department.

28 (7) "Eligible Project" means a construction or restoration undertaking which satisfies the requirements  
29 of the Veterans and War Memorial Grant Program.

- 30 (8) "Governmental Entity" means a body of government, whether district, local, ~~or regional state, or~~  
31 ~~federal~~, that owns or leases the property on which the project is to reside.
- 32 (9) "Grant" means an award from the Veterans and War Memorial Grant Program.
- 33 (10) "Grant Application" means the form and its format as developed by the OPRD that an applicant  
34 uses to request a grant.
- 35 (11) "Match" means project sponsor's budgeted funds, donated funds, value of equipment, materials,  
36 labor, planning, or any combination thereof.
- 37 (12) "Maintenance" means the continuation or preservation of a memorial. It includes the routine  
38 maintenance of or around a memorial such as landscaping, power washing, general cleaning, dusting,  
39 or removal of trash.
- 40 (13) "Memorial" means a monument or place designed to commemorate or preserve the memory of  
41 wars involving the United States of America or to honor veterans of the Armed Forces of the United  
42 States of America.
- 43 (14) "Nonprofit Veterans' Organization" means a group that:
- 44 (a) Is a nonprofit group that represents veterans of the Armed Forces of the United States, or is  
45 established for the purpose of supporting or recognizing such veterans;
- 46 (b) Has an established membership, that includes officers, and bylaws; and
- 47 (c) Is physically located in Oregon or has a chapter that is physically located in Oregon.
- 48 (d) Is also called a "Veterans' Nonprofit Organization".
- 49 (e) Is recognized as an existing non-profit status by the Internal Revenue Service.
- 50 (15) "OPRD" means the Oregon Parks and Recreation Department.
- 51 (16) "Planning" means the research, design, engineering, environmental, and site survey of any  
52 Memorial construction or restoration project.
- 53 (17) "Project Completion" means satisfaction of all requirements of a grant agreement as determined  
54 after review or inspection by OPRD.
- 55 (18) "Project Authorization" means the Agreement that authorizes the project as signed by the director  
56 and the Project Sponsor.
- 57 (19) "Project Sponsor" means the recipient of the grant funds and the responsible party for  
58 implementation of the project.
- 59 (20) "Public Property" means public lands, premises and buildings, including but not limited to any  
60 building used in connection with the transaction of public business or any lands, premises or buildings

61 | owned or leased by ~~the federal government, this state or any political subdivision therein~~ [a local or](#)  
62 | [regional government](#).

63 | (21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an existing  
64 | memorial. It does not include routine maintenance.

65 | (22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared by the OPRD  
66 | containing state policies, procedures, instructions and grant criteria to assist applicants and Project  
67 | Sponsors wishing to participate in the Veterans and War Memorial Grant Program.

68 | Stat. Auth.: ORS 390.124  
69 | Stats. Implemented: ORS 390.180(1)(d)  
70 | Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

71 | **736-017-0010**

72 | **Veterans and War Memorial Grant Review Committee**

73 | (1) The Veterans and War Memorial Grant Review Committee shall be composed of 12 members. The  
74 | committee shall include:

75 | (a) The Local Government Grant Advisory Committee described in OAR 736-006-0145; and

76 | (b) Two people appointed by the director to four-year terms that represent either a veterans'  
77 | organization or a governmental agency responsible for the administration of law relating to veterans.

78 | (2) The director shall appoint the chair from the committee membership, considering the  
79 | recommendations of the committee.

80 | (3) The committee shall meet upon the call of the director.

81 | (4) The Veterans and War Memorial Grant Review Committee shall follow grant application review  
82 | procedures as provided in this division.

83 | Stat. Auth.: ORS 390.124  
84 | Stats. Implemented: ORS 390.180(1)(d)  
85 | Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

86 | **736-017-0015**

87 | **Director Authority**

88 | (1) In addition to those considered by the committee, the director may recommend eligible projects to  
89 | the commission for grant funding. The director may recommend grants for construction and  
90 | restoration.

91 | (2) The director may recommend funding eligible projects either in whole or in part.

92 | (3) The director may establish minimum or maximum grant award amounts each funding cycle.

93 (4) The director may establish funding priorities or other criteria for each funding cycle.

94 Stat. Auth.: ORS 390.124

95 Stats. Implemented: ORS 390.180(1)(d)

96 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

97 **736-017-0020**

98 **Eligibility**

99 (1) The department may consider a grant application from any ~~nonprofit veterans' organization~~ local or  
100 regional government that meets the requirements of this section.

101 (2) Site. To be eligible for a grant, a memorial must be placed on public property owned or controlled  
102 by a ~~governmental entity~~ local or regional government.

103 (3) The ~~governmental entity~~ project sponsor must agree in writing to:

104 (a) having ~~Having~~ the memorial sited and maintained for not less than 20 years from completion of the  
105 project. ~~The agreement between the government entity and the project sponsor must identify the party~~  
106 ~~or parties responsible for maintenance of the memorial;~~

107 ~~(a) For a construction project, an applicant must demonstrate that the governmental entity or entities~~  
108 ~~that owns or controls the public property will accept the memorial on that site. For a restoration, an~~  
109 ~~applicant must demonstrate that the governmental entity or entities that owns or controls the public~~  
110 ~~property will authorize restoration activities on the memorial;~~

111 (b) An applicant must provide in their grant application:

112 (A) General description of the intended construction or restoration project;

113 (B) Documentation that ~~establishes the project sponsor is a nonprofit veterans' organization, including,~~  
114 ~~but not limited, proof of existing non-profit status as recognized by the Internal Revenue~~  
115 ~~Service~~ demonstrates cooperation with a non-profit veterans' organization assisting in the construction  
116 or restoration of a memorial;

117 (C) Location of project with site maps;

118 (D) Conceptual design drawings, engineering plans, or both.

119 (E) Description of project time period including proposed beginning and completion dates;

120 (F) Roles and responsibilities of the project sponsor and ~~government entity~~ veterans' organization  
121 including post-project completion responsibilities;

122 (G) Description of financing plan for eligible projects, including sources of funds and match;

123 (H) Summary of proposed budget for the eligible project;

124 (I) Allowance by the state for any audits.

125 (4) Matching Requirements. The Veterans and War Memorial Grant program provides, subject to the  
126 availability of funds, for up to 80 percent funding assistance with a minimum of 10 percent cash  
127 match. The project sponsor shall provide a minimum 10 percent cash match. The project sponsor may  
128 provide the remaining match by planning work done prior to project authorization or planning,  
129 construction, or restoration work performed following project authorization.

130 (5) Ineligible costs for grant:

131 (a) Overhead -- The regular operating expenses of either the applicant or the governmental entity  
132 receiving the memorial such as rent, building upkeep, utilities, and all fixed costs associated with the  
133 daily operations of a business, agency or group;

134 (b) Overtime;

135 (c) Expenses for equipment or materials used outside the scope of this project;

136 (d) Costs or expenses incurred prior to a Grant Agreement except planning work done prior to project  
137 authorization under section (4) above.

138 Stat. Auth.: ORS 390.124

139 Stats. Implemented: ORS 390.180(1)(d)

140 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

141 **736-017-0025**

## 142 **Application Process**

143 (1) When the commission has Veterans and War Memorial Grant Program funds to award, the director  
144 will announce through a variety of media the availability of, application procedures for, deadlines and  
145 other information for applying for a grant, including whether the director has established funding  
146 priorities for that funding cycle.

147 (2) Applicants must submit a grant application to the department. Applicants may use the "*Veterans  
148 and War Memorial Grant Instruction Manual*" for guidance in preparing and submitting a grant  
149 application to the department.

150 (3) A grant application that contains multiple work items must be structured so that the commission  
151 may award partial funding to a specific work item proposed in the grant application.

152 [ED. NOTE: Forms referenced are available from the agency.]

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

154 Stat. Auth.: ORS 390.124

155 Stats. Implemented: ORS 390.180(1)(d)

156 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

157 **736-017-0030**

158 **Evaluation of Applications**

159 (1) The department will review eligible applications that the department receives by the announced  
160 deadline for completeness. The department will provide all complete, eligible applications to the  
161 committee.

162 (2) The committee will rank applications based on the following criteria:

163 (a) Whether the application meets the director's funding priorities for that funding cycle;

164 (b) Whether the application has demonstrated the need for the project;

165 (c) Whether the applicant has demonstrated that adequate budget and financial controls are in place to  
166 properly administer the grant; and

167 (d) Any other criteria determined by the director prior to the announcement of the availability of grant  
168 funding, and which are contained in that announcement.

169 (3) The committee recommends funding grants up to the amount of funds that may be available in the  
170 program that biennium. The committee may also rank several alternates in priority order that may be  
171 funded if any of the recommended grants are not awarded.

172 Stat. Auth.: ORS 390.124

173 Stats. Implemented: ORS 390.180(1)(d)

174 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

175 **736-017-0035**

176 **Award of Grants**

177 (1) Grants will be subject to binding grant agreements between the OPRD and the Project Sponsor.  
178 The grant agreement will specify the terms and conditions of the grant, generally including:

179 (a) The total project costs, the match to be provided by the Project Sponsor, and the amount of the  
180 grant;

181 (b) A statement of the work to be accomplished;

182 (c) When the grant-assisted project may begin and a schedule for accomplishing work, reporting on  
183 progress, delivering products, and project completion.

184 (2) If grant funds remain or become unobligated, the department may reallocate such funds to other  
185 department grant programs.

186 Stat. Auth.: ORS 390.124

187 Stats. Implemented: ORS 390.180(1)(d)

188 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

189 **736-017-0040**

190 **Disbursement of Grant Funds**

191 (1) All grant funds shall be disbursed to project sponsors on a reimbursable basis after submission of  
192 billings on approved schedules specified in grant agreements. Project sponsor shall supply information  
193 substantiating billings if requested by the department.

194 (2) Under certain conditions such as reduction or increase of these funds an emergency procedure for  
195 awarding or canceling grants may be initiated at the discretion of the director.

196 (3) In implementing the emergency procedure, the director shall consider the availability of funds; the  
197 scope and need of projects available for funding; and the urgency and statewide importance of  
198 prospective projects. The director may propose projects to the commission for funding under this  
199 section and the commission may waive other requirements of these rules for the purpose of obligating  
200 funds in a timely manner.

201 Stat. Auth.: ORS 390.124  
202 Stats. Implemented: ORS 390.180(1)(d)  
203 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

204 **736-017-0050**

205 **Recovery of Grant Funds**

206 (1) Project sponsors that fail to complete approved projects to the department's satisfaction shall return  
207 all unexpended grant funds.

208 (2) Project sponsors shall maintain records adequate for audit purposes for a period of not less than  
209 five years after project completion and shall reimburse the department for any costs questioned in  
210 audit findings.

211 Stat. Auth.: ORS 390.124  
212 Stats. Implemented: ORS 390.180(1)(d)  
213 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

1 ▶The Oregon Administrative Rules contain OARs filed through November 15, 2011 ◀

2  
3  
4 **PARKS AND RECREATION DEPARTMENT**

5  
6 **DIVISION 17**

7 **VETERANS AND WAR MEMORIAL GRANTS**

8  
9 **736-017-0000**

10 **Purpose**

11 The purpose of this division is to establish the procedures and criteria that the Oregon Parks and  
12 Recreation Department (OPRD) will use in recommending Veterans and War Memorial Grants for  
13 funding to the commission pursuant to ORS 390.180(1)(d).

14 Stat. Auth.: ORS 390.124

15 Stats. Implemented: ORS 390.180(1)(d)

16 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

17 **736-017-0005**

18 **Definitions**

19 As used in this division, unless the context requires otherwise, the following definitions apply:

20 (1) "Agreement" means the formal contract between OPRD and the Project Sponsor describing the  
21 terms and conditions associated with any granting of funds. Also called "Grant Agreement."

22 (2) "Commission" means the Oregon Parks and Recreation Commission.

23 (3) "Committee" means the Veterans and War Memorial Grant Review Committee described in OAR  
24 736-017-0010.

25 (4) "Department" means the Oregon Parks and Recreation Department (OPRD).

26 (5) "Construction" means the creation of a new memorial on public property.

27 (6) "Director" means the director of the Oregon Parks and Recreation Department.

28 (7) "Eligible Project" means a construction or restoration undertaking which satisfies the requirements  
29 of the Veterans and War Memorial Grant Program.

- 30 (8) "Governmental Entity" means a body of government, whether district, local or regional that owns  
31 or leases the property on which the project is to reside.
- 32 (9) "Grant" means an award from the Veterans and War Memorial Grant Program.
- 33 (10) "Grant Application" means the form and its format as developed by the OPRD that an applicant  
34 uses to request a grant.
- 35 (11) "Match" means project sponsor's budgeted funds, donated funds, value of equipment, materials,  
36 labor, planning, or any combination thereof.
- 37 (12) "Maintenance" means the continuation or preservation of a memorial. It includes the routine  
38 maintenance of or around a memorial such as landscaping, power washing, general cleaning, dusting,  
39 or removal of trash.
- 40 (13) "Memorial" means a monument or place designed to commemorate or preserve the memory of  
41 wars involving the United States of America or to honor veterans of the Armed Forces of the United  
42 States of America.
- 43 (14) "Nonprofit Veterans' Organization" means a group that:
- 44 (a) Is a nonprofit group that represents veterans of the Armed Forces of the United States, or is  
45 established for the purpose of supporting or recognizing such veterans;
- 46 (b) Has an established membership, that includes officers, and bylaws; and
- 47 (c) Is physically located in Oregon or has a chapter that is physically located in Oregon.
- 48 (d) Is also called a "Veterans' Nonprofit Organization".
- 49 (e) Is recognized as an existing non-profit status by the Internal Revenue Service.
- 50 (15) "OPRD" means the Oregon Parks and Recreation Department.
- 51 (16) "Planning" means the research, design, engineering, environmental, and site survey of any  
52 Memorial construction or restoration project.
- 53 (17) "Project Completion" means satisfaction of all requirements of a grant agreement as determined  
54 after review or inspection by OPRD.
- 55 (18) "Project Authorization" means the Agreement that authorizes the project as signed by the director  
56 and the Project Sponsor.
- 57 (19) "Project Sponsor" means the recipient of the grant funds and the responsible party for  
58 implementation of the project.
- 59 (20) "Public Property" means public lands, premises and buildings, including but not limited to any  
60 building used in connection with the transaction of public business or any lands, premises or buildings  
61 owned or leased by a local or regional government.

62 (21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an existing  
63 memorial. It does not include routine maintenance.

64 (22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared by the OPRD  
65 containing state policies, procedures, instructions and grant criteria to assist applicants and Project  
66 Sponsors wishing to participate in the Veterans and War Memorial Grant Program.

67 Stat. Auth.: ORS 390.124  
68 Stats. Implemented: ORS 390.180(1)(d)  
69 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

#### 70 **736-017-0010**

#### 71 **Veterans and War Memorial Grant Review Committee**

72 (1) The Veterans and War Memorial Grant Review Committee shall be composed of 12 members. The  
73 committee shall include:

74 (a) The Local Government Grant Advisory Committee described in OAR 736-006-0145; and

75 (b) Two people appointed by the director to four-year terms that represent either a veterans'  
76 organization or a governmental agency responsible for the administration of law relating to veterans.

77 (2) The director shall appoint the chair from the committee membership, considering the  
78 recommendations of the committee.

79 (3) The committee shall meet upon the call of the director.

80 (4) The Veterans and War Memorial Grant Review Committee shall follow grant application review  
81 procedures as provided in this division.

82 Stat. Auth.: ORS 390.124  
83 Stats. Implemented: ORS 390.180(1)(d)  
84 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

#### 85 **736-017-0015**

#### 86 **Director Authority**

87 (1) In addition to those considered by the committee, the director may recommend eligible projects to  
88 the commission for grant funding. The director may recommend grants for construction and  
89 restoration.

90 (2) The director may recommend funding eligible projects either in whole or in part.

91 (3) The director may establish minimum or maximum grant award amounts each funding cycle.

92 (4) The director may establish funding priorities or other criteria for each funding cycle.

93 Stat. Auth.: ORS 390.124  
94 Stats. Implemented: ORS 390.180(1)(d)  
95 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

96 **736-017-0020**

97 **Eligibility**

98 (1) The department may consider a grant application from any local or regional government that meets  
99 the requirements of this section.

100 (2) Site. To be eligible for a grant, a memorial must be placed on public property owned or controlled  
101 by a local or regional government.

102 (3) The project sponsor must agree in writing to:

103 (a) Having the memorial sited and maintained for not less than 20 years from completion of the  
104 project.

105 (b) An applicant must provide in their grant application:

106 (A) General description of the intended construction or restoration project;

107 (B) Documentation that demonstrates cooperation with a non-profit veterans' organization assisting in  
108 the construction or restoration of a memorial;

109 (C) Location of project with site maps;

110 (D) Conceptual design drawings, engineering plans, or both.

111 (E) Description of project time period including proposed beginning and completion dates;

112 (F) Roles and responsibilities of the project sponsor and veterans' organization including post-project  
113 completion responsibilities;

114 (G) Description of financing plan for eligible projects, including sources of funds and match;

115 (H) Summary of proposed budget for the eligible project;

116 (I) Allowance by the state for any audits.

117 (4) Matching Requirements. The Veterans and War Memorial Grant program provides, subject to the  
118 availability of funds, for up to 80 percent funding assistance with a minimum of 10 percent cash  
119 match. The project sponsor shall provide a minimum 10 percent cash match. The project sponsor may  
120 provide the remaining match by planning work done prior to project authorization or planning,  
121 construction, or restoration work performed following project authorization.

122 (5) Ineligible costs for grant:

123 (a) Overhead -- The regular operating expenses of either the applicant or the governmental entity  
124 receiving the memorial such as rent, building upkeep, utilities, and all fixed costs associated with the  
125 daily operations of a business, agency or group;

126 (b) Overtime;

127 (c) Expenses for equipment or materials used outside the scope of this project;

128 (d) Costs or expenses incurred prior to a Grant Agreement except planning work done prior to project  
129 authorization under section (4) above.

130 Stat. Auth.: ORS 390.124

131 Stats. Implemented: ORS 390.180(1)(d)

132 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

133 **736-017-0025**

#### 134 **Application Process**

135 (1) When the commission has Veterans and War Memorial Grant Program funds to award, the director  
136 will announce through a variety of media the availability of, application procedures for, deadlines and  
137 other information for applying for a grant, including whether the director has established funding  
138 priorities for that funding cycle.

139 (2) Applicants must submit a grant application to the department. Applicants may use the "*Veterans  
140 and War Memorial Grant Instruction Manual*" for guidance in preparing and submitting a grant  
141 application to the department.

142 (3) A grant application that contains multiple work items must be structured so that the commission  
143 may award partial funding to a specific work item proposed in the grant application.

144 [ED. NOTE: Forms referenced are available from the agency.]

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

146 Stat. Auth.: ORS 390.124

147 Stats. Implemented: ORS 390.180(1)(d)

148 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

149 **736-017-0030**

#### 150 **Evaluation of Applications**

151 (1) The department will review eligible applications that the department receives by the announced  
152 deadline for completeness. The department will provide all complete, eligible applications to the  
153 committee.

154 (2) The committee will rank applications based on the following criteria:

- 155 (a) Whether the application meets the director's funding priorities for that funding cycle;
- 156 (b) Whether the application has demonstrated the need for the project;
- 157 (c) Whether the applicant has demonstrated that adequate budget and financial controls are in place to  
158 properly administer the grant; and
- 159 (d) Any other criteria determined by the director prior to the announcement of the availability of grant  
160 funding, and which are contained in that announcement.

161 (3) The committee recommends funding grants up to the amount of funds that may be available in the  
162 program that biennium. The committee may also rank several alternates in priority order that may be  
163 funded if any of the recommended grants are not awarded.

164 Stat. Auth.: ORS 390.124  
165 Stats. Implemented: ORS 390.180(1)(d)  
166 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

167 **736-017-0035**

168 **Award of Grants**

169 (1) Grants will be subject to binding grant agreements between the OPRD and the Project Sponsor.  
170 The grant agreement will specify the terms and conditions of the grant, generally including:

171 (a) The total project costs, the match to be provided by the Project Sponsor, and the amount of the  
172 grant;

173 (b) A statement of the work to be accomplished;

174 (c) When the grant-assisted project may begin and a schedule for accomplishing work, reporting on  
175 progress, delivering products, and project completion.

176 (2) If grant funds remain or become unobligated, the department may reallocate such funds to other  
177 department grant programs.

178 Stat. Auth.: ORS 390.124  
179 Stats. Implemented: ORS 390.180(1)(d)  
180 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

181 **736-017-0040**

182 **Disbursement of Grant Funds**

183 (1) All grant funds shall be disbursed to project sponsors on a reimbursable basis after submission of  
184 billings on approved schedules specified in grant agreements. Project sponsor shall supply information  
185 substantiating billings if requested by the department.

186 (2) Under certain conditions such as reduction or increase of these funds an emergency procedure for  
187 awarding or canceling grants may be initiated at the discretion of the director.

188 (3) In implementing the emergency procedure, the director shall consider the availability of funds; the  
189 scope and need of projects available for funding; and the urgency and statewide importance of  
190 prospective projects. The director may propose projects to the commission for funding under this  
191 section and the commission may waive other requirements of these rules for the purpose of obligating  
192 funds in a timely manner.

193 Stat. Auth.: ORS 390.124  
194 Stats. Implemented: ORS 390.180(1)(d)  
195 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

196 **736-017-0050**

### 197 **Recovery of Grant Funds**

198 (1) Project sponsors that fail to complete approved projects to the department's satisfaction shall return  
199 all unexpended grant funds.

200 (2) Project sponsors shall maintain records adequate for audit purposes for a period of not less than  
201 five years after project completion and shall reimburse the department for any costs questioned in  
202 audit findings.

203 Stat. Auth.: ORS 390.124  
204 Stats. Implemented: ORS 390.180(1)(d)  
205 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

## Oregon Parks and Recreation Commission

January 25, 2011

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Agenda Item: 9b

Action

Topic: Request to adopt Oregon Administrative Rules - OAR 736-004 – ATV Program

Presented by: Wayne Rawlins, Grants Division Manager

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### **Background**

The 2011 Oregon Legislative Assembly Regular Session passed HB 2329 and the Governor signed it on June 16, 2011. The laws go into effect on January 1, 2012. The bill provides clarification of ATV classes I, II and III and adds a new classification - Class IV.

In addition, three new positions were added to the ATV Advisory Committee; a representative of a Class IV user group, a person who represents persons with disabilities, and a representative of the Oregon Department of Fish and Wildlife. The bill also directs OPRD to adopt rules to provide for Class IV safety education courses, equivalency examinations, and issuance of Class IV permits.

The current Administrative Rules needed to be modified in order to incorporate the changes prescribed in HB 2329. A Rulemaking Advisory Committee was formed consisting of stakeholders including members from Bureau of Land Management, county park directors, U.S. Forest Service Law Enforcement personnel, county sheriffs, private citizens, Oregon State Marine Board, and land managers. They met on September 27, 2011 and reviewed the rules for modifications, additions, and deletions.

Additionally, three public hearings were held on November 29th in Salem, November 30th in Bend, and December 1st in Medford. Written comments were accepted until December 9<sup>th</sup>. No oral or written public comments were received. As such, we are submitting the proposed rules for adoption as drafted.

### **Prior Action by Commission:**

- Request to go to Rulemaking: approved by Commission September 21, 2011.

**Action Requested:** Staff request the Commission to adopt Oregon Administrative Rules Chapter 736, Division 4 and have them filed with the Secretary of State.

**Prepared by:** Wayne Rawlins

### **Attachment:**

- Exhibit A – HB 2329
- Exhibit B – Proposed Rules for OAR 736-004 – Showing draft changes
- Exhibit C – Proposed Rules with changes accepted
- Exhibit D – Record of comments

**Enrolled**

**House Bill 2329**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Transportation for All-Terrain Vehicle Advisory Committee)

CHAPTER .....

AN ACT

Relating to all-terrain vehicles; creating new provisions; and amending ORS 390.550, 390.555, 390.560, 390.565, 390.580, 646.913, 801.190, 801.193, 801.194, 802.125, 803.030, 803.305, 806.020, 807.020, 811.210, 811.745, 815.110, 815.300, 821.055, 821.165, 821.170, 821.172, 821.174, 821.190, 821.191, 821.202, 821.203, 821.280, 821.291, 821.292 and 821.295.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 801.190 is amended to read:

801.190. "Class I all-terrain vehicle" means a motorized, off-highway recreational vehicle **that:**

(1) **Is 50 inches or less in width [with];**

(2) **Has a dry weight of [800] 1,200 pounds or less [that];**

(3) **Travels on three or more [low pressure] pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less[, has a saddle or seat for the operator and];**

(4) **Uses handlebars for steering;**

(5) **Has a seat designed to be straddled for the operator; and**

(6) **Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain.**

**SECTION 2.** ORS 801.193 is amended to read:

801.193. "Class II all-terrain vehicle" means any motor vehicle that:

(1) **Weighs more than or is wider than a Class I all-terrain vehicle;**

(2) **Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain; [and]**

(3) **Is actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191; and**

(4) **Is not a Class IV all-terrain vehicle.**

**SECTION 3.** ORS 801.194 is amended to read:

801.194. "Class III all-terrain vehicle" means [an off-highway] a motorcycle [with a dry weight of 600 pounds or less] that travels on two tires **and that is actually being operated off highway.**

**SECTION 4. Sections 5 and 6 of this 2011 Act are added to and made a part of the Oregon Vehicle Code.**

**SECTION 5. "Class IV all-terrain vehicle" means any motorized vehicle that:**

(1) **Travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less;**

(2) **Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;**

(3) **Has nonstraddle seating;**

(4) **Has a steering wheel for steering control;**

(5) **Has a dry weight of 1,800 pounds or less; and**

(6) **Is 65 inches wide or less at its widest point.**

**SECTION 6. (1) A person commits the offense of operation of a Class IV all-terrain vehicle without driving privileges if the person operates a Class IV all-terrain vehicle on public lands and the person does not hold a valid driver license issued under ORS 807.040.**

**(2) This section does not apply to a child under the age of 16 if:**

**(a) The child's age complies with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle;**

**(b) The child is accompanied by a person who is at least 18 years of age, who holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 or section 6b of this 2011 Act and who is able to provide immediate assistance and direction to the child; and**

**(c) The child holds a Class IV all-terrain vehicle operator permit issued under section 6b of this 2011 Act.**

**(3) This section does not apply if:**

**(a) The vehicle is used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; or**

**(b) The vehicle is being used on land owned or leased by the owner of the vehicle.**

**(4) The offense described in this section, operation of a Class IV all-terrain vehicle without driving privileges, is a Class C traffic violation.**

**SECTION 6a. Section 6b of this 2011 Act is added to and made a part of ORS 390.550 to 390.590.**

**SECTION 6b. (1) The State Parks and Recreation Department shall issue or provide for issuance of a Class IV all-terrain vehicle operator permit to any person who has taken a Class IV all-terrain vehicle safety education course established under this section and has been found qualified to operate a Class IV all-terrain vehicle.**

**(2) The department shall adopt rules to provide for Class IV all-terrain vehicle safety education courses, equivalency examinations and the issuance of Class IV all-terrain vehicle operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:**

**(a) The courses must be given by instructors designated by the department as qualified to conduct the courses and issue the permits.**

**(b) The instructors may be provided and permits issued through public or private local and state organizations meeting qualifications established by the department.**

**(c) The department may collect a fee of not more than \$5 from each participant in a course established under this section.**

**SECTION 6c. (1) Sections 6a and 6b of this 2011 Act become operative on July 1, 2012.**

**(2) The State Parks and Recreation Department may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the department by section 6b of this 2011 Act.**

**SECTION 7. ORS 390.550 is amended to read:**

390.550. As used in this chapter:

**(1) "Class I all-terrain vehicle" has the meaning given that term in ORS 801.190.**

**(2) "Class II all-terrain vehicle" has the meaning given that term in ORS 801.193.**

**(3) "Class III all-terrain vehicle" has the meaning given that term in ORS 801.194.**

**(4) "Class IV all-terrain vehicle" has the meaning given that term in section 5 of this 2011 Act.**

**SECTION 7a. ORS 390.555 is amended to read:**

390.555. The All-Terrain Vehicle Account is established as a separate account in the State Parks and Recreation Department Fund, to be accounted for separately. Interest earned by the All-Terrain Vehicle Account shall be credited to the account. After deduction of expenses of collection, transfer and administration, including the expenses of establishment and operation of Class I, **Class III and Class IV** all-terrain vehicle safety education courses and examinations under ORS 390.570 and *[Class III all-terrain vehicle safety education courses and examinations under ORS]* 390.575 **and section 6b of this 2011 Act**, the following moneys shall be transferred to the account:

**(1) Fees collected by the State Parks and Recreation Department for issuance of operating permits for all-terrain vehicles under ORS 390.580 and 390.590.**

**(2) Fees collected by the department from participants in the Class I, *[and]* Class III and Class IV all-terrain vehicle safety education courses under ORS 390.570 and 390.575 and section 6b of this 2011 Act.**

**(3) The moneys transferred from the Department of Transportation under ORS 802.125 that represent unrefunded fuel tax.**

**SECTION 8. ORS 390.560 is amended to read:**

390.560. Moneys in the All-Terrain Vehicle Account established under ORS 390.555 shall be used for the following purposes only:

(1) In each 12-month period, no less than 10 percent of the moneys described in ORS 390.555 that are attributable to Class I all-terrain vehicles shall be transferred to the Department of Transportation for the development and maintenance of snowmobile facilities as provided in ORS 802.110;

(2) Planning, promoting and implementing a statewide all-terrain vehicle program, including the acquisition, development and maintenance of all-terrain vehicle recreation areas;

(3) Education and safety training for all-terrain vehicle operators;

(4) Provision of first aid and police services related to all-terrain vehicle recreation;

(5) Paying the costs of instigating, developing or promoting new programs for all-terrain vehicle users and of advising people of possible usage areas for all-terrain vehicles;

(6) Paying the costs of coordinating between all-terrain vehicle user groups and the managers of public lands;

(7) Paying the costs of providing consultation and guidance to all-terrain vehicle user programs;

(8) Paying the costs of administration of the all-terrain vehicle programs, including staff support provided under ORS 390.565 as requested by the All-Terrain Vehicle Advisory Committee;

(9) Paying the costs of law enforcement activities related to the operation of [Class I and Class III] all-terrain vehicles. The State Parks and Recreation Department shall determine the amount required for law enforcement activities and the intervals at which the moneys shall be distributed. The funds available shall be apportioned according to the terms of an intergovernmental agreement entered into between the State Parks and Recreation Department and a city, the Department of State Police or the sheriff of a county; and

(10) Control and eradication of invasive species related to all-terrain vehicle recreation.

**SECTION 9.** ORS 390.565 is amended to read:

390.565. (1) The All-Terrain Vehicle Advisory Committee is established. The committee shall consist of *[eleven]* **14** voting members and one nonvoting member appointed by the State Parks and Recreation Commission for a term of four years. Members are eligible for reappointment *[for a second term]* and vacancies may be filled by the commission. A majority of members constitutes a quorum for the transaction of business. *[Recommendations under subsection (4)(a) of this section on allocation of moneys in the All-Terrain Vehicle Account must receive an affirmative vote from at least six of the voting members of the committee.]*

(2) Of the voting members of the committee:

(a) One shall be a representative of a Class I all-terrain vehicle user organization.

(b) One shall be a representative of a Class II all-terrain vehicle user organization.

**(c) One shall be a representative of a Class III all-terrain vehicle user organization.**

**(d) One shall be a representative of a Class IV all-terrain vehicle user organization.**

*[(c)]* **(e)** One shall be an all-terrain vehicle dealer.

*[(d)]* **(f)** One shall be an at-large all-terrain vehicle user.

*[(e)]* One shall be a representative of a Class III all-terrain vehicle user organization.]

*[(f)]* **(g)** One shall be a representative of the United States Forest Service **who is knowledgeable about all-terrain vehicle recreation areas on federal lands.**

*[(g)]* **(h)** One shall be a representative of the Bureau of Land Management **who is knowledgeable about all-terrain vehicle recreation areas on federal lands.**

*[(h)]* **(i)** One shall be a representative of the Department of Transportation who is knowledgeable about transportation safety.

*[(i)]* **(j)** One shall be a representative of the State Forestry Department who is knowledgeable about all-terrain vehicle recreation areas on state lands.

*[(j)]* **(k)** One shall be a representative of the Department of Human Services who is knowledgeable about public health and safety.

*[(k)]* **(L)** One shall be a representative of a law enforcement agency **who is knowledgeable about and active in enforcement of all-terrain vehicle laws.**

**(m) One shall be a representative of the State Department of Fish and Wildlife who is knowledgeable about all-terrain vehicle activities and the use of all-terrain vehicles in hunting and fishing.**

**(n) One shall be a person who represents persons with disabilities.**

(3) One representative from the State Parks and Recreation Department shall be a nonvoting member of the committee.

(4) The committee shall:

*[(a) Advise the State Parks and Recreation Department on the allocation of moneys in the All-Terrain Vehicle Account established by ORS 390.555.]*

[(b)] (a) Review accidents and fatalities resulting from all-terrain vehicle recreation and make recommendations to the State Parks and Recreation Commission.

[(c)] (b) Review changes to statutory vehicle classifications as necessary for safety considerations and make recommendations to the commission.

[(d)] (c) Review safety features of all classes of off-highway vehicles and make recommendations to the commission.

[(e)] (d) Recommend appropriate safety requirements to protect child operators and riders of off-highway vehicles to the commission.

(5)(a) A subcommittee **of the All-Terrain Vehicle Advisory Committee, titled the All-Terrain Vehicle Grant Subcommittee**, shall be established consisting of the following [voting] members:

(A) The representative of a Class I all-terrain vehicle user organization.

(B) The representative of a Class II all-terrain vehicle user organization.

(C) The representative of a Class III all-terrain vehicle user organization.

**(D) The representative of a Class IV all-terrain vehicle user organization.**

[(D)] (E) The at-large all-terrain vehicle user.

[(E)] (F) The representative of a law enforcement agency.

**(G) The representative of persons with disabilities.**

(b) The [subcommittee] **All-Terrain Vehicle Grant Subcommittee** shall:

**(A) Advise the State Parks and Recreation Department on the allocation of moneys in the All-Terrain Vehicle Account established by ORS 390.555; and**

**(B) Review grant proposals and make recommendations to the commission as to which projects should receive grant funding.**

(c) Recommendations under this subsection on grant proposals must receive an affirmative vote from at least [three] **four** of the members of the subcommittee.

(6) The State Parks and Recreation Department shall provide staff support for the committee and shall provide for expansion of programs for all-terrain vehicle users.

**SECTION 10.** ORS 390.580 is amended to read:

390.580. (1)(a) An all-terrain vehicle off-road operating permit issued under this section is a decal that authorizes use of the all-terrain vehicle for which it is issued on trails and in areas designated for such use by the appropriate authority.

(b) An all-terrain vehicle decal issued under this section must be permanently affixed to the vehicle and displayed in a clearly visible manner. The State Parks and Recreation Department shall prescribe by rule the manner in which the decal shall be displayed.

(2) The department shall issue an all-terrain vehicle off-road operating permit to any person who completes the application described in subsection (4) of this section and pays the fee specified in subsection (5) of this section.

(3) The department shall specify by rule the form of the permit and the information to be contained on the permit.

(4) Application for an all-terrain vehicle off-road operating permit for a Class I, Class II, [or] Class III **or Class IV** all-terrain vehicle shall be in a form furnished by the department. The application shall include:

(a) The name and address of the owner of the all-terrain vehicle; and

(b) The make and body style of the all-terrain vehicle for which application is made.

(5) The department shall establish by rule a fee for a permit issued or renewed under this section. The fee shall be designed to cover the costs to the department for issuing or renewing permits under this section but shall not exceed \$10.

(6) Permits issued under this section are valid for two years. A permit may be renewed upon submission of an application that contains the information specified in subsection (4) of this section and payment of the renewal fee specified in subsection (5) of this section.

(7) The department may appoint agents to issue permits for all-terrain vehicles. The department shall prescribe the procedure for the issuance of the permits. Agents appointed under this subsection shall issue permits in accordance with the prescribed procedure and shall charge and collect the fees prescribed in this section for the permits.

**SECTION 11.** ORS 646.913 is amended to read:

646.913. (1) Except as provided in subsection (5) of this section, a retail dealer, nonretail dealer or wholesale dealer may not sell or offer for sale gasoline unless the gasoline contains 10 percent ethanol by volume.

(2) Gasoline containing ethanol that is sold or offered for sale meets the requirements of this section if the gasoline, exclusive of denaturants and permitted contaminants, contains not less than 9.2 percent by volume of

agriculturally derived, denatured ethanol that complies with the standards for ethanol adopted by the State Department of Agriculture.

(3) The department shall adopt standards for ethanol blended with gasoline sold in this state. The standards adopted shall require that the gasoline blended with ethanol:

- (a) Contains ethanol that is derived from agricultural or woody waste or residue;
- (b) Contains ethanol denatured as specified in 27 C.F.R. parts 20 and 21;
- (c) Complies with the volatility requirements specified in 40 C.F.R. part 80;
- (d) Complies with or is produced from a gasoline base stock that complies with ASTM International specification D 4814;
- (e) Is not blended with casinghead gasoline, absorption gasoline, drip gasoline or natural gasoline after the gasoline has been sold, transferred or otherwise removed from a refinery or terminal; and
- (f) Contains ethanol that complies with ASTM International specification D 4806.

(4) The department may review specifications adopted by ASTM International, or equivalent organizations, and federal regulations and revise the standards adopted pursuant to this section as necessary.

(5) A retail dealer, nonretail dealer or wholesale dealer may sell or offer for sale gasoline that is not blended with ethanol if the gasoline has an octane rating, as defined in ORS 646.945, of 91 or above or if the gasoline is for use in:

- (a) An aircraft:
  - (A) With a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles; or
  - (B) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is intended for use in motor vehicles;
- (b) An aircraft that has been issued an experimental certificate, described in 14 C.F.R. 21.191, by the Federal Aviation Administration and that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (c) A light-sport aircraft, as defined in 14 C.F.R. 1.1, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (d) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;
- (e) An antique vehicle, as defined in ORS 801.125;
- (f) A Class I all-terrain vehicle, as defined in ORS 801.190;
- (g) A Class III all-terrain vehicle, as defined in ORS 801.194;
- (h) A Class IV all-terrain vehicle, as defined in section 5 of this 2011 Act;**
- [(h)]* **(i)** A racing activity vehicle, as defined in ORS 801.404;
- [(i)]* **(j)** A snowmobile, as defined in ORS 801.490;
- [(j)]* **(k)** Tools, including but not limited to lawn mowers, leaf blowers and chain saws; or
- [(k)]* **(L)** A watercraft.

**SECTION 12.** ORS 802.125 is amended to read:

802.125. The Department of Transportation shall transfer to the State Parks and Recreation Department that portion of the amount paid to the Department of Transportation as motor vehicle fuel tax under ORS 319.020 and 319.530 that is determined by the department to be tax on fuel used by Class I, Class II, *[and]* Class III **and Class IV** all-terrain vehicles in off-highway operation and that is not refunded. The Department of Transportation shall determine the amount of moneys to be transferred under this section at quarterly intervals.

**SECTION 13.** ORS 803.030 is amended to read:

803.030. This section establishes exemptions from the requirements under ORS 803.025 to obtain title issued by this state. The exemptions are subject to ORS 803.040. The exemptions are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be titled by this state are not prohibited from being titled by this state if titling is permitted under ORS 803.035. The exemptions are partial or complete as provided in the following:

- (1) Title from this state is not required for a vehicle unless the vehicle is operated on a highway in this state.
- (2) Title from this state is not required unless a vehicle is operated under a registration number of this state.
- (3) Snowmobiles~~,]~~ **and Class I**, *[all-terrain vehicles and]* **Class III and Class IV** all-terrain vehicles are not subject to the requirements under ORS 803.025. The requirements and procedures for titling snowmobiles are as provided under ORS 821.060 and 821.070.
- (4) Road rollers, farm tractors and traction engines are exempt from the requirements for title.
- (5) Trolleys are exempt from the requirements for title.

(6) Bicycles are exempt from the requirements for title.

(7) United States Government owned and operated motor vehicles and trailers are exempt from the requirements for title.

(8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from the requirements for title. (9) Except as provided in subsection (23) of this section, fixed load vehicles are exempt from the requirements for title while operated within the immediate construction project, as described in the governmental agency contract, in the construction or reconstruction of state or county roads, highways or city streets.

(10) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from requirements for title while:

(a) Owned, leased, contracted or requisitioned by the State Forester, State Board of Forestry, their contractors under ORS chapter 477, or the federal government; and

(b) Being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute, including movement of the vehicles to and from the work area.

(11) Farm trailers are exempt from requirements for title when the operation or movement of the vehicle upon the highways is incidental to its use in an agricultural operation.

(12) Golf carts operated under an ordinance adopted under ORS 810.070 are exempt from requirements for title.

(13) Golf carts or similar vehicles are exempt from requirements for title when:

(a) They have not less than three wheels in contact with the ground;

(b) They have an unloaded weight of less than 1,300 pounds;

(c) They are designed to be and are operated at not more than 15 miles per hour; and

(d) They are operated by persons with disabilities.

(14) The nonresident owners of vehicles currently registered and titled in any other country, state or territory may operate such vehicles over the highways of this state without complying with the titling requirements under ORS 803.025. All of the following apply to this subsection:

(a) This subsection only provides an exemption so long as the owner satisfactorily shows that the owner is not a resident of this state or has been a resident of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets the residency requirements described in ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005, unless otherwise provided under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the titling requirements under ORS 803.025 in the same manner as required of nontitled vehicles. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 826.007, and according to the procedures established under ORS 826.009 or 826.011.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemptions from titling requirements are in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicle dealers issued certificates under ORS 822.020 may use and operate untitled vehicles as provided under ORS 822.040.

(16) Towing businesses issued certificates under ORS 822.205 may tow untitled vehicles as provided under ORS 822.210.

(17) Vehicle transporters issued certificates under ORS 822.310 may transport untitled vehicles as provided in ORS 822.310.

(18) Untitled vehicles may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from the requirements for title.

(20)(a) Vehicles that are registered under the proportional registration provisions of ORS chapter 826 and are titled in a jurisdiction other than Oregon are exempt from the requirements for title.

(b) A trailer that is registered under the proportional registration provisions of ORS chapter 826 and titled in a jurisdiction other than Oregon shall remain exempt from the requirements for title in Oregon if the trailer is registered when the other jurisdiction removes its exception to proportional registration requirements for the trailer.

(21) Converter dollies and tow dollies are exempt from the requirements for title.

(22) Electric personal assistive mobility devices are exempt from the requirements for title.

(23) Road machinery that is operated at the direction of a road authority is exempt from the requirements for title. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation.

**SECTION 14.** ORS 803.305 is amended to read:

803.305. This section establishes exemptions from the requirements under ORS 803.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be registered by this state are not prohibited from being registered by this state if registration is permitted under ORS 803.310. The following are exempt, either partially or completely as described, from the registration requirements under ORS 803.300:

(1) Road rollers, farm tractors, trolleys and traction engines are exempt from registration.

(2) Bicycles are exempt from registration.

(3) A vehicle is exempt from registration if it has registration issued for the vehicle by the Armed Forces of the United States where the registration is issued in a foreign country to a vehicle owned by a member of the Armed Forces. The exemption granted by this subsection applies only for a period of 45 days from the time the vehicle is returned to the United States.

(4) A vehicle is exempt from registration if it is not operated on the highways of this state.

(5) A trailer is exempt from registration if it is equipped with pneumatic tires made of elastic material and is not operated in this state with a loaded weight of more than 1,800 pounds. A trailer for hire, travel trailer or camper is not exempt by this subsection.

(6) Vehicles owned and operated by the United States Government are exempt from registration.

(7) Snowmobiles are subject to the requirements for registration provided under ORS 821.080 to 821.110.

(8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from registration.

(9) Road graders, farm tractors and farm trailers on highways are exempt from registration when the operation of the vehicle upon the highway is incidental to its use in an agricultural operation.

(10) Except as provided in subsection (26) of this section, fixed load vehicles are exempt from registration while the vehicles are operated:

(a) In the construction or reconstruction of state or county roads, highways or city streets; and

(b) Within the immediate construction projects, as described in the governmental agency contract under which the work is being performed.

(11) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from registration while being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute. The exemption under this subsection applies to the vehicles or equipment described while being moved to or from the work area. The exemption under this subsection only applies to vehicles or equipment owned, leased, contracted for or requisitioned by the State Forester or State Board of Forestry, a contractor of the State Forester or State Board of Forestry under ORS chapter 477 or the United States Government.

(12) Vehicles being used for the purposes of forest protection and fire suppression are exempt if the vehicles are necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute. The exemption under this subsection also applies to the vehicles described being moved to or from the work area.

(13) Golf cart exemptions from registration are as provided in ORS 820.210.

(14) Vehicles currently registered and titled in any other country, state or territory are not required to be registered by this state. All of the following apply to this subsection:

(a) This subsection only provides an exemption as long as the owner of the vehicle satisfactorily shows that the owner is not a resident of this state or has been a resident of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets

the residency requirements described in ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005 unless otherwise provided for under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the registration requirements under ORS 803.300 in the same manner as vehicles owned by persons in this state. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 826.007 and according to the procedures established under ORS 826.009 and 826.011.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemption from registration requirements is in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicles operated or used by vehicle dealers may be operated or used without registration as provided under ORS 822.040.

(16) Vehicles towed by towing businesses may be towed without registration as provided under ORS 822.210.

(17) Vehicles without registration may be transported by vehicle transporters as provided under ORS 822.310.

(18) Vehicles that are not registered may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) If trailers that are part of a fleet of trailers for hire are properly registered in this state under an agreement entered into pursuant to ORS 802.500, all trailers that are identified as being a part of the same fleet and that are currently registered in any state, territory, province, country or the District of Columbia shall be permitted to operate in this state in both interstate and intrastate commerce without being registered by this state.

(20) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from registration.

(21) Tow dollies and converter dollies are exempt from registration.

(22) Class I, **[and]** Class III **and** Class IV all-terrain vehicles are exempt from registration.

(23) Motor assisted scooters are exempt from registration.

(24) Electric personal assistive mobility devices are exempt from registration.

(25) A racing activity vehicle that is being operated for the purposes of a test drive within a 30-mile radius of the location where the vehicle is manufactured is exempt from registration.

(26) Road machinery that is operated at the direction of a road authority is exempt from registration. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation.

**SECTION 15.** ORS 806.020 is amended to read:

806.020. This section provides exemptions from the necessity for compliance with or proof of compliance with financial responsibility requirements in accident reports under ORS 811.725, when applying for vehicle registration under ORS 803.370 or 803.460 and for operating a vehicle under ORS 806.010. The owner or operator of a vehicle is exempt, as provided by this section, from financial responsibility requirements if the vehicle involved in the accident, sought to be registered or operated is any of the following:

(1) An antique motor vehicle issued permanent registration under ORS 805.010.

(2) A farm trailer.

(3) A farm tractor.

(4) An implement of husbandry.

(5) A motor vehicle of special interest that is maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(6) A snowmobile[,], or a Class I, [or] Class III or Class IV all-terrain vehicle.

(7) Any motor vehicle not operated on any highway or premises open to the public in this state.

(8) A motor assisted scooter.

(9) An electric personal assistive mobility device.

**SECTION 16.** ORS 807.020 is amended to read:

807.020. A person who is granted a driving privilege by this section may exercise the driving privilege described without violation of the requirements under ORS 807.010. A grant of driving privileges to operate a motor vehicle under this section is subject to suspension and revocation the same as other driving privileges granted under the vehicle code. This section is in addition to any exemptions from the vehicle code under ORS 801.026. The following persons are granted the described driving privileges:

(1) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person holds a current out-of-state license issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. To qualify under this subsection, the person must have the out-of-state license or driver permit in the person's possession. A person is not granted driving privileges under this subsection:

(a) If the person is under the minimum age required to be eligible for driving privileges under ORS 807.060;

(b) During a period of suspension or revocation by this state or any other jurisdiction of driving privileges or of the right to apply for a license or driver permit issued by this state or any other jurisdiction; or

(c) That exceed the driving privileges granted to the person by the out-of-state license or driver permit.

(2) A person in the Armed Forces of the United States may operate a motor vehicle without an Oregon license or driver permit if the person is operating a motor vehicle in the course of the person's duties in the Armed Forces.

(3) A person without a license or driver permit may operate a road roller or road machinery that is not required to be registered under the laws of this state.

(4) A person without a license or driver permit may temporarily operate, draw, move or propel a farm tractor or implement of husbandry.

(5) A person without a license or driver permit may operate a motor vehicle to demonstrate driving ability during the course of an examination administered under ORS 807.070 for the purpose of qualifying for a license or driver permit. This subsection only applies when an authorized examiner is in a seat beside the driver of the motor vehicle.

(6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.

(7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170.

(8) Driving privileges for Class III all-terrain vehicles are exclusively as provided in ORS 821.172.

**(9) Driving privileges for Class IV all-terrain vehicles are exclusively as provided in section 6 of this 2011 Act.**

*[(9)]* **(10)** A person without a license or driver permit may operate a golf cart in accordance with an ordinance adopted under ORS 810.070.

*[(10)]* **(11)** The spouse of a member of the Armed Forces of the United States on active duty who is accompanying the member on assignment in this state may operate a motor vehicle if the spouse has a current out-of-state license or driver permit issued to the spouse by another state in the spouse's possession.

*[(11)]* **(12)** A person who is a member of the Armed Forces of the United States on active duty may operate a motor vehicle if the person has a current out-of-state license or driver permit in the person's possession that is issued to the person by the person's state of domicile or by the Armed Forces of the United States in a foreign country. Driving privileges described under this subsection that are granted by the Armed Forces apply only for a period of 45 days from the time the person returns to the United States.

*[(12)]* **(13)** A person who does not hold a motorcycle endorsement may operate a motorcycle if the person is:

(a) Within an enclosed cab; or

(b) Operating a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour.

*[(13)]* **(14)** A person may operate a bicycle that is not an electric assisted bicycle without any grant of driving privileges.

*[(14)]* **(15)** A person may operate an electric assisted bicycle without a driver license or driver permit if the person is 16 years of age or older.

~~[(15)]~~ **(16)** A person may operate a motor assisted scooter without a driver license or driver permit if the person is 16 years of age or older.

~~[(16)]~~ **(17)** A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person is at least 15 years of age and has in the person's possession a current out-of-state equivalent of a Class C instruction driver permit issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. A person operating a motor vehicle under authority of this subsection has the same privileges and is subject to the same restrictions as a person operating under the authority of a Class C instruction driver permit issued as provided in ORS 807.280.

~~[(17)]~~ **(18)** A person may operate an electric personal assistive mobility device without any grant of driving privileges if the person is 16 years of age or older.

**SECTION 17.** ORS 811.210, as amended by section 10, chapter 30, Oregon Laws 2010, is amended to read:

811.210. (1)(a) Except as provided in ORS 811.215, a person commits the offense of failure to properly use safety belts if the person:

(A) Operates a motor vehicle on the highways of this state and is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(B) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class I, *[or]* Class II **or** Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(C) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(D) Operates a motor vehicle on the highways of this state with a passenger who is under 16 years of age and the passenger is not properly secured with a child safety system, safety belt or safety harness as required by subsection (2) of this section.

(E) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class I, *[or]* Class II **or** Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(F) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(G) Is a passenger in a privately owned commercial vehicle, as defined in ORS 801.210, that is designed and used for the transportation of 15 or fewer persons, including the driver, and the person is 16 years of age or older and is responsible for another passenger who is not properly secured with a child safety system as required under subsection (2)(a), (b) or (c) of this section.

(H) Is a passenger in a motor vehicle being operated on the highways of this state who is 16 years of age or older and who is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(b) As used in this subsection, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

(2) To comply with this section:

(a) A person who is under one year of age, regardless of weight, or a person who weighs 20 pounds or less must be properly secured with a child safety system in a rear-facing position.

(b) A person who weighs 40 pounds or less must be properly secured with a child safety system that meets the minimum standards and specifications established by the Department of Transportation under ORS 815.055 for child safety systems designed for children weighing 40 pounds or less.

(c) Except as provided in subsection (3) of this section, a person who weighs more than 40 pounds and who is four feet nine inches or shorter must be properly secured with a child safety system that elevates the person so that a safety belt or safety harness properly fits the person. As used in this paragraph, "properly fits" means the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck. The child safety system shall meet the minimum standards and specifications established by the Department of Transportation under ORS 815.055 for child safety systems designed for children who are four feet nine inches or shorter.

(d) A person who is taller than four feet nine inches must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(e) Notwithstanding paragraphs (b) and (c) of this subsection, a person who is eight years of age or older need not be secured with a child safety system but must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(3) If the rear seat of a vehicle is not equipped with shoulder belts, the requirements of subsection (2)(c) of this section do not apply provided the person is secured by a lap belt.

(4) The offense described in this section, failure to properly use safety belts, is a Class D traffic violation.

**SECTION 18.** ORS 811.745 is amended to read:

811.745. (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

(a) The reporting requirements for drivers under ORS 811.748.

(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.750.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of \$1,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than \$1,500 damage must report the accident in the manner specified under ORS 811.748.

(b) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(c) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the Portland-Salem Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest \$100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles[,] and Class I, [all-terrain vehicles or] Class III and Class IV all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or involved a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, port, school district, mass transit district, county or service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice; or

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop.

(5) The reporting requirements under this section are in addition to, and not in lieu of, the reporting requirements under ORS 811.720.

**SECTION 19.** ORS 815.110 is amended to read:

815.110. This section establishes requirements for ORS 815.115. The requirements under this section are in addition to any other requirements for lighting equipment provided by law. Except as specifically provided by an exemption under ORS 815.120, a person violates ORS 815.115 if the person does not comply with any of the following requirements:

(1) The following types of vehicles must display slow-moving vehicle emblems described under ORS 815.060:

(a) Vehicles or combinations of vehicles designed for customary use at speeds of less than 25 miles per hour.

(b) Golf carts or similar vehicles when operated by a person with a disability.

(c) Class I, [all-terrain vehicles and] Class II and Class IV all-terrain vehicles operated on a highway under ORS 821.191 (1).

(2) Slow-moving vehicle emblems must meet the requirements for such emblems established by the Department of Transportation by rule under ORS 815.060.

(3) Slow-moving vehicle emblems shall be displayed on the rear of the power unit. When a combination of vehicles is being operated in a manner that obscures the emblem mounted on the power unit, an additional emblem shall be displayed on the rear of the rearmost vehicle in the combination.

**SECTION 20.** ORS 815.300 is amended to read:

815.300. This section establishes exemptions from the requirements under ORS 815.295 to be equipped with a certified pollution control system. Exemptions established by this section are in addition to any exemptions established by ORS 801.026. The exemptions established in this section are also applicable to requirements for certification of pollution control equipment before registration under ORS 803.350 and 803.465. All of the following vehicles are exempt from the requirements under ORS 815.295:

- (1) Any vehicle that is not a motor vehicle.
- (2) Any vehicle unless the vehicle is registered within:
  - (a) The boundaries of the metropolitan service district formed under ORS chapter 268 for the metropolitan area, as defined in ORS 268.020, which includes the City of Portland, Oregon.
  - (b) Boundaries designated by the Environmental Quality Commission under ORS 468A.390.
- (3) Any new motor vehicle or new motor vehicle engine when the registration results from the initial retail sale thereof.
- (4) Any motor vehicle:
  - (a) Not registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year that predates by more than 20 years the year in which registration or renewal of registration is required; or
  - (b) Registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year of 1974 or earlier.
- (5) Motor vehicles that are registered as farm vehicles under ORS 805.300 or apportioned farm vehicles under ORS 805.300.
- (6) Special interest vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses but not used primarily for the transportation of persons or property.
- (7) Fixed load vehicles.
- (8) Vehicles that are proportionally registered under ORS 826.009 and 826.011 in accordance with agreements established under ORS 826.007.
- (9) Electric motor vehicles. This subsection does not exempt hybrid motor vehicles that use electricity and another source of motive power.
- (10) First response rescue units operated by political subdivisions of this state that are not used to transport persons who are ill or injured or who have disabilities.
- (11) A vehicle that is currently registered in Oregon at the time application for new registration is received by the Department of Transportation if the new registration is a result of a change in the registration or plate type and the application is received at least four months prior to the expiration of the existing registration.
- (12) Golf carts.
- (13) Any Class I, Class II, [or] Class III or Class IV all-terrain vehicle.
- (14) An original equipment manufacturer vehicle that is engineered, designed, produced and warranted to use natural gas as its only fuel source.
- (15) Racing activity vehicles.

**SECTION 21.** ORS 821.055 is amended to read:

821.055. Notwithstanding ORS 821.020, or any law requiring that vehicles be equipped in specified ways in order to operate on highways, Class I, Class II, [and] Class III and Class IV all-terrain vehicles may operate on any highway in this state that is open to the public and is not maintained for passenger car traffic.

**SECTION 22.** ORS 821.165 is amended to read:

821.165. As used in ORS 821.170, 821.172, 821.192, 821.291 and 821.292 **and sections 6 and 33 of this 2011 Act**, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

**SECTION 22a.** ORS 821.170 is amended to read:

821.170. (1) A person 16 years of age or older commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the person operates a Class I all-terrain vehicle on public lands and the person does not hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(2) A child under 16 years of age commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the child operates a Class I all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 **or section 6b of this 2011 Act** and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(c) The child must meet rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(3) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of Class I all-terrain vehicle without driving privileges, is a Class C traffic violation.

**SECTION 22b.** ORS 821.172 is amended to read:

821.172. (1) A person 16 years of age or older commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(2) A child under 16 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the child operates a Class III all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 **or section 6b of this 2011 Act** and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(3) A child under seven years of age may not operate a Class III all-terrain vehicle on public lands.

(4) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(5) The offense described in this section, operation of a Class III all-terrain vehicle without driving privileges, is a Class C traffic violation.

**SECTION 23.** ORS 821.174 is amended to read:

821.174. Notwithstanding any other provision of law, a person may not operate a Class I, *[allterrain vehicle or a]* Class III **or Class IV** all-terrain vehicle while the person's driving privileges are suspended or revoked. A person who violates this section is in violation of ORS 811.175 or 811.182, as appropriate.

**SECTION 24.** ORS 821.190 is amended to read:

821.190. (1) A person commits the offense of unlawful operation of an off-road vehicle on a highway or railroad if the person operates a vehicle described in subsection (2) of this section in any of the following described areas:

(a) On or across the paved portion, the shoulder, inside bank or slope of any highway, on or across the median of any divided highway or on or across any portion of a highway right of way under construction.

(b) On or across a railroad right of way.

(2) This section applies to:

(a) Snowmobiles.

(b) Class I all-terrain vehicles.

(c) Class II all-terrain vehicles that are not properly equipped for operation on a highway.

(d) Class III all-terrain vehicles.

**(e) Class IV all-terrain vehicles.**

(3) Exemptions from this section are established under ORS 821.200.

(4) In addition to penalties provided by this section, the operator or owner of a snowmobile<sup>[,]</sup> or Class I, Class II, *[or]* Class III **or Class IV** all-terrain vehicle may be liable as provided under ORS 821.310.

(5) The offense described in this section, unlawful operation of an off-road vehicle on a highway or railroad, is a Class B traffic violation.

**SECTION 25.** ORS 821.191 is amended to read:

821.191. (1) Notwithstanding any other provision of law, a person may operate a Class I, *[allterrain vehicle or a]* Class II **or Class IV** all-terrain vehicle that is not otherwise properly equipped for operation on a highway on the highways of this state if:

- (a) The person is using the all-terrain vehicle for transportation between ranching or farming headquarters, agricultural fields or pastures;
  - (b) The person holds a valid driver license;
  - (c) The person complies with posted speed limits, but in no event exceeds a speed of 20 miles per hour;
  - (d) The person operates the all-terrain vehicle as closely as is practicable to the right-hand edge of the highway, including shoulders, if any;
  - (e) The all-terrain vehicle is equipped with a lighted headlight and taillight; and
  - (f) The all-terrain vehicle displays a slow-moving vehicle emblem described under ORS 815.060.
- (2) A person commits the offense of unlawful operation of a Class I, *[all-terrain vehicle or a]* Class II **or** Class IV all-terrain vehicle used for agricultural purposes if the person operates a Class I, *[all-terrain vehicle or a]* Class II or Class IV all-terrain vehicle on a highway in violation of subsection (1) of this section.
- (3) The offense described in subsection (2) of this section, unlawful operation of a Class I, *[all-terrain vehicle or a]* Class II **or** Class IV all-terrain vehicle used for agricultural purposes, is a Class D traffic violation.

**SECTION 26.** ORS 821.202 is amended to read:

821.202. (1) A person commits the offense of failure of a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle operator or passenger to wear a motorcycle helmet if the person is under 18 years of age, operates or rides on a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle on premises open to the public and is not wearing a motorcycle helmet with a fastened chin strap.

(2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:

- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.
  - (b) Being used on land owned or leased by the owner of the vehicle.
  - (c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.
- (3) The offense described in this section, failure of a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle operator or passenger to wear a motorcycle helmet, is a Class D traffic violation.

**SECTION 27.** ORS 821.203 is amended to read:

821.203. (1) A person commits the offense of endangering a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle operator or passenger if:

(a) The person is operating a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle on premises open to the public and the person carries another person on the Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle who is under 18 years of age and is not wearing a motorcycle helmet with a fastened chin strap; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 18 years of age and the child operates or rides on a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle on premises open to the public without wearing a motorcycle helmet with a fastened chin strap.

(2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:

- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.
  - (b) Being used on land owned or leased by the owner of the vehicle.
  - (c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.
- (3) The offense described in this section, endangering a Class I, Class II, *[or]* Class III **or** Class IV all-terrain vehicle operator or passenger, is a Class D traffic violation.

**SECTION 28.** ORS 821.280 is amended to read:

821.280. (1) A person commits the offense of committing unlawful damage with a snowmobile*[,]* or Class I, *[or]* Class II **or** Class IV all-terrain vehicle if the person operates any snowmobile*[,]* or Class I, *[or]* Class II **or** Class IV all-terrain vehicle in any area or in such a manner so as to expose the underlying soil or vegetation or to injure, damage or destroy trees or growing crops.

(2) In addition to other penalties provided by this section, the owner or operator of a snowmobile*[,]* or Class I, *[or]* Class II **or** Class IV all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, committing unlawful damage with a snowmobile*[,]* or Class I, *[or]* Class II **or** Class IV all-terrain vehicle, is a Class B traffic violation.

**SECTION 29.** ORS 821.291 is amended to read:

821.291. (1) A person commits the offense of endangering a Class I all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, *[and]* the child operates a Class I all-terrain vehicle on public lands and **the child**:

- (a) Does not *[have]* possess a Class I all-terrain vehicle operator permit issued under ORS 390.570;
- (b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 or **section 6b of this 2011 Act** and is able to provide immediate assistance and direction to the child; *[and]* or
- (c) Is not in compliance with the rider fit guidelines established by the Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
  - (b) Being used on land owned or leased by the owner of the vehicle.
- (3) The offense described in this section, endangering a Class I all-terrain vehicle operator, is a Class C traffic violation.

**SECTION 30.** ORS 821.292 is amended to read:

821.292. (1) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child at least seven years of age but under 16 years of age, *[and]* the child operates a Class III all-terrain vehicle on public lands and **the child:**

- (a) Does not *[have]* possess a Class III all-terrain vehicle operator permit issued under ORS 390.575; *[and]* or
- (b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 or section 6b of this 2011 Act and is able to provide immediate assistance and direction to the child.

*[(2) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under seven years of age and the child operates a Class III all-terrain vehicle on public lands.]*

*[(3)]* (2) This section does not apply if the all-terrain vehicle is:

- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
- (b) Being used on land owned or leased by the owner of the vehicle.

*[(4)]* (3) The offense described in this section, endangering a Class III all-terrain vehicle operator, is a Class C traffic violation.

**SECTION 31.** ORS 821.295 is amended to read:

821.295. (1) A person commits the offense of operating a Class II, *[or]* Class III or Class IV all-terrain vehicle in a prohibited snow area if the person operates a Class II, *[or]* Class III or Class IV all-terrain vehicle on a groomed trail or a designated snowmobile or cross country ski trail or area during a designated snow use period.

(2) This section does not apply to emergency vehicles or to trail grooming equipment.

(3) The offense described in this section, operating a Class II, *[or]* Class III or Class IV all-terrain vehicle in a prohibited snow area, is a Class D traffic violation.

**SECTION 32.** Section 33 of this 2011 Act is added to and made a part of the Oregon Vehicle Code.

**SECTION 33.** (1) A person commits the offense of endangering a Class IV all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class IV all-terrain vehicle on public lands and the child:

(a) Does not possess a Class IV all-terrain vehicle operator permit issued under section 6b of this 2011 Act;

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 or section 6b of this 2011 Act and is able to provide immediate assistance and direction to the child;

(c) Is not in compliance with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle; or

(d) Is not in compliance with the rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

**(3) The offense described in this section, endangering a Class IV all-terrain vehicle operator, is a Class C traffic violation.**

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## Working Draft

## PARKS AND RECREATION DEPARTMENT

## DIVISION 4

## DISTRIBUTION OF ALL-TERRAIN VEHICLE FUNDS TO PUBLIC AND PRIVATELY OWNED LAND MANAGERS, ATV CLUBS AND ORGANIZATIONS

## 736-004-0005

## Purpose of Rule

This rule establishes the procedures and requirements used by the Oregon Parks and Recreation Department (OPRD) when allocating ATV Account monies to public and privately-owned land managers, ATV clubs and organizations; procedures for All-Terrain Vehicle (ATV) off-road operating permit; and implementation of safety and education requirements for Class I, ~~and Class-III, and IV~~ off-highway vehicles.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

## 736-004-0010

## Statutory Authority

(1) ORS 390.585 authorizes the Oregon Parks and Recreation Department to adopt rules and establish procedures to be used when OPRD allocates ATV Account money to public and privately-owned land managers, ATV clubs and organizations.

(2) OAR 736-004-0045 through 736-004-0070 are adopted pursuant to ORS 390.580, 390.585, and 390.590 which direct the Oregon Parks and Recreation Department to issue Class I, ~~and Class-III, and IV~~ Operating Permits to persons who satisfy the statutory requirements to ride on public property.

(3) OAR 736-004-0080 through 736-004-0115 are adopted pursuant to ORS 390.570 and 390.575 which direct the Oregon Parks and Recreation Department to issue or provide for issuance of Class I, ~~and Class-III, and IV~~ ATV operator permits to any person who has taken a Class I or ~~Class-III or IV~~ OPRD-approved ATV safety education course and has been found qualified to operate a Class I or ~~Class-III, or IV~~ all-terrain vehicle. These statutes require the Department to provide safety education course instruction through public or private local and state organizations meeting qualifications established by the Department.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

## 736-004-0015

## Definitions

For purposes of this division, the following definitions shall apply:

- 55 (1) "Acquisition" means the gaining of real property rights for public use by donation or purchase  
56 including, but not limited to, fee title or easements.  
57
- 58 (2) "Approved Course Provider" is any individual or organization who instructs or provides an OPRD-  
59 approved Class I or ~~Class III or IV~~ ATV safety course.  
60
- 61 (3) "ATV" or "All-Terrain Vehicle" means:  
62
- 63 (a) Class I ATV, as defined in ORS 801.190: a motorized, off-highway recreational vehicle 50 inches or  
64 less in width with a dry weight of ~~800-1,200~~ pounds or less that travels on three or more ~~low~~  
65 ~~pressure~~ pneumatic tires that are six inches or more in width and designed for use on wheels with rim  
66 diameter of 14 inches or less, uses a handlebar for steering, has a ~~saddle or~~ seat designed to be straddled  
67 by ~~for~~ the operator, and is designed for or capable of cross-country travel on or immediately over land,  
68 water, sand, snow, ice, marsh, swampland or other natural terrain.  
69
- 70 (b) Class II ATV, as defined in ORS 801.193: any motor vehicle that:  
71
- 72 (A) Weighs more than or is wider than a Class I ~~all-terrain vehicle;~~ and  
73  
74 (B) Is not a Class IV; and  
75  
76 (B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice,  
77 marsh, swampland or other natural terrain; and  
78  
79 (C) Is actually being operated off a highway or is being operated on a highway for agricultural purposes  
80 under ORS 821.191.  
81
- 82 (c) Class III ATV, as defined in ORS 801.194: ~~an off-highway~~ motorcycle ~~with a dry weight of 600~~  
83 ~~pounds or less~~ that travels on two tires and is actually being operated off highway.  
84
- 85 (d) Class IV ATV, as defined in ORS 801.194: means any motorized vehicle that:  
86  
87 (A) Travels on four or more pneumatic tires that are six inches or more in width and that are designed for  
88 use on wheels with a rim diameter of 14 inches or less;  
89  
90 (B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice,  
91 marsh, swampland or other natural terrain;  
92  
93 (C) Has nonstraddle seating;  
94  
95 (D) Has a steering wheel for steering controls;  
96  
97 (E) Has a dry weight of 1,800 pounds or less, and  
98  
99 (F) Is 65 inches wide or less at its widest point.  
100
- 101 ~~(e)~~ May also be referred to as an OHV or Off-Highway Vehicle.  
102
- 103 (4) "ATV-AC" means the fifteen-member All-Terrain Vehicle Advisory Committee established by ORS  
104 390.565 and appointed by the commission.  
105
- 106 (5) "ATV Account" means those moneys described in ORS 390.555 and deposited in a separate account in  
107 the State Parks and Recreation Department Fund. ATV Account may also be called "ATV grant funds."  
108
- 109 (6) "ATV Grant Instruction Manual" means a manual prepared by the OPRD containing state and federal  
110 policies, procedures, guidelines, and instructions to assist current and potential project sponsors.

111  
112 | (7) "ATV Grant Subcommittee" means the ~~five~~seven-member subcommittee established by ORS  
113 390.565(5)(a).

114  
115 (8) "ATV Operating Permit" means a permit (decal) issued through the OPRD and which is permanently  
116 affixed to the vehicle. The permit authorizes the use of ATV's on trails and within designated areas  
117 authorized by the appropriate authorities.

118  
119 (9) "ATV Operating Permit Agent" means a person, business or government agency to whom OPRD  
120 consigns ATV operating permits and decals for sale as a service to the general public.

121  
122 (10) "ATV Operator Permit" means the ATV Safety Education Card issued upon completion of an OPRD-  
123 approved ATV Safety Education course and passage of the minimum standards test of ATV Safety  
124 Education competency as established by OPRD.

125  
126 (11) "ATV Safety Checklist" is a document provided to a dealer, guide service, rental, or livery agent by  
127 the OPRD that consists of selected facts about Oregon ATV laws.

128  
129 (12) "ATV Safety Course" is any OPRD-approved course of instruction that is offered by an approved  
130 course provider and concludes with an examination.

131  
132 (13) "ATV Safety Education" means those grant projects that include but are not limited to training  
133 programs, media with information for the public, safe riding practices, environmental ethics, or any  
134 combination thereof.

135  
136 (14) "All-Terrain Vehicle Safety Education Card" is the ATV Operator's Permit required by ORS 390.570  
137 | and 390.575 and XXX.XXX.

138  
139 (15) "Certificate of Completion" is a certificate generated by OPRD indicating completion of the internet  
140 ATV Safety Course.

141  
142 (16) "Commission" means the State Parks and Recreation Commission.

143  
144 (17) "Conversion" means any real property acquisition or development that is later wholly or in part  
145 converted to another use other than its intended and stated use as described in the grant application and the  
146 grant agreement.

147  
148 | (18) "Correspondence Course and ~~Self-Test~~Self-Test" means either a Class I or ~~a-Class-III~~ or IV ATV  
149 safety course and examination provided by the OPRD that is taken at home without a proctor. This  
150 | correspondence course and ~~self-test~~self-test will satisfy minimum standard of ATV safety education  
151 competency only for those individuals who have qualified for hardship status.

152  
153 | (19) "Dealer" means any person or business duly certified under ORS 822.020 and 822.040 to sell Class I,  
154 | ~~or Class-III,~~ or IV ATVs.

155  
156 (20) "Development" means the planning, design, construction and improvement of ATV recreational  
157 facilities, trails, and riding areas.

158  
159 (21) "Director" means the director of the Oregon Parks and Recreation Department.

160  
161 (22) "Dry Weight" means the unloaded weight, absent of all fluids, passengers, and any materials such as  
162 ice, snow or mud.

163  
164 (23) "Emergency Medical Services" means medical services performed by certified personnel and the  
165 necessary items to perform their duties.

- 167 (24) "Endorsement Code" means an identifying color, text or mark on the ATV Safety Education Card that  
168 indicates the operator meets or exceeds OPRD's minimum standards in an approved hands-on ATV  
169 evaluation program.  
170
- 171 (25) "Equivalency Exam" means a comprehensive written examination created by the OPRD. The  
172 equivalency exam is intended to provide ~~either Class I, or Class-III~~ or IV operators, who are at least 16  
173 years of age and have five or more years operating a Class I, ~~or a Class-III~~ or IV vehicle, the opportunity to  
174 meet the minimum standard of ATV safety education competency.  
175
- 176 (26) "Evaluation Course" means a course that measures the ATV operator's ability to demonstrate control  
177 of an ATV.  
178
- 179 (27) "Grant Agreement" means an agreement between the OPRD and a project sponsor describing the  
180 terms and conditions of a project and its associated grant of funds.  
181
- 182 (28) "Grant Application" means the form and its format as developed by the OPRD that the project sponsor  
183 uses to request ATV grant funds.  
184
- 185 (29) "Hands-on Training" means any OPRD-approved evaluation course offered by an OPRD-approved  
186 course provider.  
187
- 188 (30) "Hardship Status" means a situation or condition that prevents an individual from taking the ATV  
189 safety internet course. A hardship situation may allow an individual to use a correspondence course and ~~self~~  
190 ~~test~~self-test provided by OPRD. An individual must submit a written request for hardship status. The  
191 OPRD Director or designee has the authority to grant or deny hardship status.  
192
- 193 (31) "Instruction Permit" is a provisional permit issued by OPRD to youth under the age of 16 upon  
194 successful completion of the OPRD internet course.  
195
- 196 (32) "Internet Course" means an OPRD-approved course of instruction that is offered through the internet.  
197
- 198 (33) "Law Enforcement Services" means law enforcement services performed by certified personnel and  
199 the necessary items to perform their duties.  
200
- 201 (34) "Minimum Standards of ATV Safety Education Competency" means a standard of proficiency  
202 established by OPRD that determines whether an applicant for either a Class I, ~~or Class-III,~~ or IV ATV  
203 Safety Education Card has met or exceeded the requirements of an ATV safety course.  
204
- 205 (35) "Notice to Proceed" means the notification from OPRD that the Director or designee and the project  
206 sponsor have signed the grant agreement authorizing the project.  
207
- 208 (36) "OHV" means Off Highway Vehicle, also called ATV.  
209
- 210 (37) "Operations and Maintenance" means the preservation, rehabilitation, restoration, operation and  
211 upkeep of the facilities, riding areas, and equipment, including the purchase of equipment necessary to  
212 perform these functions.  
213
- 214 (38) "OPRD" means the Oregon Parks and Recreation Department.  
215
- 216 (39) "Personal Property" means tangible property other than land: movable property including but not  
217 limited to items such as an ATV, trail repair equipment, or other movable property purchased through the  
218 ATV Grant Program.  
219
- 220 (40) "Planning" means the research, design, engineering, environmental, and site survey of ATV recreation  
221 areas, trails, or facilities.  
222

223  
224 (41) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation  
225 of the project.

226  
227 (42) "Public Lands" includes publicly and privately-owned land that is open to the general public for the  
228 use of all-terrain vehicles.

229  
230 (43) "Real Property" means immovable property: land together with all the property on it that cannot be  
231 moved, together with any attached rights.

232  
233 (44) "Rider Fit" means the minimum physical size requirements that a Class I ATV operator under 16 years  
234 of age must meet in relationship to the vehicle to be operated as established by OPRD and described in  
235 OAR 736-004-0115.

236  
237 (45) "Saddle" means any device attached to the vehicle which is used for seating.

238  
239 (46) "Successor" means a governmental entity that has agreed to accept the terms and conditions of the  
240 project sponsor's responsibilities as contained in the project sponsor's grant agreement and grant application  
241 should the project sponsor cease to exist; for example, if a club or non-profit organization should dissolve  
242 or disband. The successor shall agree to operate the project continuously for the public benefit and  
243 recreational purposes identified in the grant agreement and the grant application. If OPRD is a successor  
244 under OAR 736-004-0025(1)(c), OPRD may operate, sell, or qualify another successor to the project.

245  
246 (47) "Sustainability" means using, developing, protecting, and managing the resource in a manner that  
247 enables people to meet current and future generation needs from the multiple perspective of environmental,  
248 economic, and community objectives.

249  
250 (48) "Temporary ATV Safety Education Card" is a document issued by OPRD or an approved course  
251 provider allowing the bearer to operate a Class I, ~~or Class III~~, or IV ATV in Oregon for a period of time not  
252 to exceed 30 days.

253 Stat. Auth.: ORS 390.180, 390.585

254 Stats. Implemented: ORS 390.180

255 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
256 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

## 257 258 259 **ATV Grant Program**

### 260 261 **736-004-0020**

#### 262 263 **Apportionment of Monies**

264  
265 Monies in the All-Terrain Vehicle Account shall be used for the following purposes:

266  
267 (1) Planning, promoting and implementing a statewide all-terrain vehicle program including the  
268 acquisition, development and maintenance of all-terrain vehicle recreation areas;

269  
270 (2) Education and safety training for all-terrain vehicle operators;

271  
272 (3) Provision of first-aid and police services related to all-terrain vehicle recreation;

273  
274 (4) Paying the costs of instigating, developing, or promoting new programs for all-terrain vehicle users and  
275 of advising people of possible usage areas available for all-terrain vehicles;

276  
277 (5) Paying the costs of coordinating between all-terrain vehicle user groups and the managers of public  
278 lands;

- 279  
280 (6) Paying the costs of providing consultation and guidance to all-terrain vehicle user programs;  
281  
282 (7) Paying the costs of administration of the all-terrain vehicle programs including staff support provided  
283 under ORS 390.565 as requested by the All-terrain Vehicle Advisory Committee;  
284  
285 (8) Paying the cost of law enforcement activities related to the operation of ~~Class I and Class III~~ all-terrain  
286 vehicles; and  
287  
288 (9) Control and eradication of invasive species related to all-terrain vehicle recreation.  
289

290 Stat. Auth.: ORS 390.180, 390.585,

291 Stats. Implemented: ORS 390.180, 390.560

292 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert.  
293 ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

294  
295 **736-004-0025**

296  
297 **Grant Application Eligibility and Requirements**

298  
299 (1) Eligibility for funding assistance:

300  
301 (a) Public agencies: Federal land managers, state agencies, and local governments that have the  
302 responsibility, or are capable of, providing a service to ATV users;

303  
304 (b) Private land owners or managers: Private land owners or managers who offer public OHV recreation  
305 opportunities and will provide open public ATV recreation for a minimum prescribed period of daily or  
306 seasonal time and who will maintain the opportunity for a prescribed period of time as determined by  
307 OPRD;

308  
309 (c) Clubs and non-profit organizations: ATV clubs and non-profit organizations registered with the State of  
310 Oregon for a minimum of three consecutive years;

311  
312 (A) Clubs and non-profit organizations shall have in place, prior to receipt of any funding, a written  
313 agreement with a successor in which the successor agrees to operate the facility as described in the grant  
314 agreement and the grant application should the club or non-profit organization cease to exist, for example,  
315 due to disbanding or dissolution; or

316 (B) OPRD shall be listed on the title as successor to the property:

317  
318 (i) OPRD may sell the property and shall deposit the net revenue from the sale into the ATV Account;

319  
320 (ii) OPRD may operate the project; or

321  
322 (iii) OPRD may qualify and assign another successor to the project.  
323

324 (2) ATV projects or components not eligible for funding:

325  
326 (a) Overtime is generally not eligible for funding except for an identified emergency situation;

327  
328 (b) Overhead items such as office or building rent, insurance, depreciation and other fixed costs associated  
329 with the normal everyday operation of a business, agency or group;

330  
331 (c) ATV projects that have no way to measure completion or specific intent are not eligible;

332  
333 (d) Portions of projects completed prior to an ATV agreement or after the expiration of an ATV agreement;  
334

335 (e) ATV projects that do not meet the goals of the ATV Grant Program, OAR 736-004-0020 to 736-004-  
336 0030, or are not in the best interest of ATV recreation;  
337  
338 (f) Vehicle or other personal property usage unrelated to the scope of the ATV project.  
339  
340 (3) Requirements for Match:  
341  
342 (a) The minimum match required for eligible ATV projects is 20 percent of the total project cost except for  
343 land acquisitions;  
344  
345 (b) For land acquisitions and when unusual circumstances exist, public agencies may request a partial or  
346 full waiver of the 20 percent match requirement. Consideration for the waiver will be based upon the  
347 following criteria:  
348  
349 (A) The public agency is able to demonstrate due diligence was exercised in obtaining other funds and that  
350 the following limitations, among others, are present:  
351  
352 (i) Budget authority does not exist;  
353  
354 (ii) Budget appropriations cannot be obtained in a reasonable time yet public support does exist; and  
355  
356 (iii) No saleable assets, such as conservation easements, exist from which to generate the full cash match  
357 requirement.  
358  
359 (B) The public agency is able to demonstrate their ability to operate and maintain the project property for  
360 ATV recreational purposes:  
361  
362 (i) By having budgeted funds in place; or  
363  
364 (ii) Having identified other resources such as volunteers or contracted services.  
365  
366 (C) The public agency is able to demonstrate that time is of the essence:  
367  
368 (i) The seller of the real property has placed time limits in which the public agency can affect a purchase,  
369 such as the expiration of an Option to Purchase or a First Right of Refusal; or  
370  
371 (ii) The public agency can identify the possible loss of other existing matching funds such as grants from  
372 other entities that may have an expiration date.  
373  
374 (D) If a waiver to the required partial or full match is approved, the public agency shall be limited in all  
375 future grant requests to receiving ATV grant funds in an amount of 50 percent or less of the total costs for  
376 any development projects located on the acquired property.  
377  
378 (c) Match may include, but is not limited to, cash funds, labor, either force account or volunteer, materials,  
379 and equipment;  
380  
381 (d) Grants from other sources may be used as match provided the sponsor can certify the funds will be  
382 available within 120 days from the beginning date of the grant agreement;  
383  
384 (e) Eligible volunteer labor will require a log that includes the volunteer's name, date volunteer performed  
385 work, location volunteer performed work, the hours worked, and the hourly rate of compensation used for  
386 their contribution of labor.  
387  
388 (4) Conversions:  
389

390 (a) It is the intent of the ATV Grant Program that all real property acquisitions or easements shall be  
391 retained and used for the project's intended and stated use as described in both the grant application and the  
392 grant agreement;

393  
394 (b) The director has authority to disapprove conversion requests, reject proposed substitutions, or both;

395  
396 (c) The project sponsor shall submit requests for conversions to the OPRD in writing. The OPRD may  
397 consider the request if the following prerequisites are met:

398  
399 (A) All practical alternatives to a conversion have been evaluated and rejected on a sound basis;

400  
401 (B) The project sponsor has established the fair market value of the property to be converted and the  
402 property proposed for substitution is of at least equal fair market value as established by a state-approved  
403 appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of  
404 structures or facilities that will not directly enhance its ATV recreation utility;

405  
406 (C) The project sponsor proposes a replacement property that is of reasonably equivalent usefulness and  
407 location as that being converted.

408  
409 (d) If the project sponsor is unable to provide replacement property within 24 months of either the approved  
410 request for conversion or after the fact of conversion, the project sponsor shall pay the OPRD a current  
411 amount equal to the OPRD's original percentage of contribution to the project. As an example, if the OPRD  
412 provided an original grant of 80 percent for the project's acquisition costs, the project sponsor will be  
413 required to reimburse the OPRD 80 percent of the real property's value at the time of conversion or  
414 discovery of conversion, whichever is later;

415  
416 (e) In the case of development, rehabilitation, and equipment purchases, the project sponsor shall operate  
417 the improvements or equipment for its established useful life. Guidelines established by the IRS will be  
418 used by the project sponsor to define useful life per each item. If the facility is closed, service is terminated  
419 and the facility or equipment has not reached its useful life, it will be made available to other agencies or  
420 organizations. If a facility is closed, service is terminated, or land is closed, or the facility or equipment has  
421 not reached its useful life, a percentage of the allocated funds will be returned to the OPRD equal to the  
422 percentage of useful life remaining in the funded facility or equipment.

423  
424 Stat. Auth.: ORS 390.180, 390.585

425 Stats. Implemented: ORS 390.180

426 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
427 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

428  
429 **736-004-0030**

430  
431 **Project Administration**

432  
433 (1) Applications:

434  
435 (a) A current ATV grant application is required for consideration of ATV funding;

436  
437 (b) Information regarding application deadlines and public meetings will be provided through available  
438 media sources and on the OPRD -- ATV website;

439  
440 (c) Applicants must submit applications by published deadlines;

441  
442 (d) Applications will be reviewed by the OPRD and the ATV-Grant Subcommittee;

443  
444 (e) The ATV-Grant Subcommittee will recommend ATV project funding to the commission.  
445

446 (2) Agreements:  
447

448 (a) To authorize an ATV Project, OPRD requires a signed ATV Grant Agreement.  
449

450 (b) A project sponsor may not begin work on an ATV project without a Notice to Proceed.  
451

452 (c) OPRD, upon written request by the project sponsor, may approve, in writing, that some match may be  
453 considered and allowed prior to commencement of the project.  
454

455 (3) If funds are not available to fully fund a project, or partial funding has been recommended by the ATV-  
456 Grant Subcommittee, the project sponsor may be given the option of reducing the scope of the project.  
457

458 (4) If the project sponsor anticipates the project will not be completed by the expiration date of the ATV  
459 grant agreement, the project sponsor must make a timely written request for an extension of the ATV grant  
460 agreement prior to the expiration date of the project agreement. The time extension request shall include  
461 any reasons for delay of project completion and a new projected completion date.  
462

Stat. Auth.: ORS 390.180, 390.585  
463

Stats. Implemented: ORS 390.180  
464

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
465 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
466

467 **736-004-0035**  
468

469 **Establishment of the ATV Advisory Committee**  
470

471  
472 (1) The commission shall appoint the ATV-AC and the ATV-Grant Subcommittee established by ORS  
473 390.565. In appointing the first members to the ATV-AC, the commission shall specify the end of the term  
474 of office for each member consistent with Oregon Laws 2009, chapter 812, section 4(2).  
475

476 (2) The Director shall appoint the ATV-AC Chair and Vice Chair upon consideration of the committee's  
477 recommendations.  
478

479 (3) The Director shall appoint the ATV-Grant Subcommittee Chair and Vice Chair upon consideration of  
480 the subcommittee's recommendations.  
481

Stat. Auth.: ORS 390.180, 390.565  
482

Stats. Implemented: ORS 390.180, 390.565  
483

Hist.: PRD 20-2009, f. & cert. ef. 12-8-09  
484  
485

**ATV Operating Permit Agents**  
486

487  
488 **736-004-0045**  
489

**ATV Operating Permit Agent Application and Privileges**  
490

491  
492 (1) To become an ATV Operating Permit Agent an applicant shall:  
493

494 (a) Submit an application in a form provided by OPRD to become an ATV Operating Permit Agent;  
495

496 (b) ~~Submit a~~ OPRD reserves the right to require the Operating Permit Agent to obtain a ~~surety~~ bond in an  
497 amount determined by OPRD ~~when 250 or more permits are to be ordered at a time~~ if there is historical  
498 evidence of substandard performance by the Operating Permit Agent.  
499

500 (c) Enter into an OPRD agreement to be designated as an ATV Operating Permit Agent.  
501

502 (2) OPRD may consign ATV operating permits to an ATV Operating Permit Agent without prepayment.

503  
504 (3) OPRD will establish by policy an amount the ATV Operating Permit Agent may retain for each permit  
505 issued in addition to the regular costs of the permit, to cover the agent's costs to handle the permits.

506  
507 (4) ATV Operating Permit Agents shall legibly complete each ATV operating permit with the required  
508 information.

509 (5) OPRD may cancel an agent's authority to act as an ATV Operating Permit Agent at any time.

510  
511 Stat. Auth.: ORS 390.180, 390.585

512 Stats. Implemented: ORS 390.180

513 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
514 15-08

### 515 516 517 **ATV Operating Permits**

#### 518 519 **736-004-0060**

#### 520 521 **ATV Operating Permit**

522  
523 (1) An ATV operating permit shall be in the form of a decal valid for a two-year period from the date of  
524 issue to be placed on the vehicle as determined in OAR 736-004-0065. All ATV operating permits shall  
525 include on the decal:

526 (a) The distinctive number or characters assigned by OPRD to the vehicle;

527  
528 (b) The word "Oregon"; and

529  
530 (c) The expiration date.

531  
532 (2) The application for an ATV operating permit shall be in a form as prescribed by OPRD and shall  
533 include.

534  
535 (a) The name and address of the owner of the ATV; and

536  
537 (b) The make and body style of the ATV for which application is made.

538  
539 (3) To replace a permit that is lost, destroyed, or mutilated~~or needs to be replaced for any reason~~, the  
540 owner must:

541  
542 (a) Apply for a new permit in the same manner as for an original permit; and

543  
544 (b) Pay the fee for a replacement ATV Operating Permit.

545  
546 (4) The fee for an original or replacement ATV Operating Permit is \$10.00.

547  
548  
549 (5) OPRD at OPRD's discretion, may replace an ATV operating permit free of charge if legibility,  
550 adhesiveness, or other material effectiveness is lost due to production or manufacturer's defects.

551  
552 Stat. Auth.: ORS 390.180, 390.585

553 Stats. Implemented: ORS 390.180

554 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
555 15-08; PRD 20-2009, f. & cert. ef. 12-8-09

#### 556 557 **736-004-0062**

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**Ocean Shores ATV Operating Permit (Permit to operate a Class I ATV on the Ocean Shore)**

- (1) A person may not operate a Class I all-terrain vehicle on the ocean shore unless the person obtains an Ocean Shores ATV Operating Permit from OPRD.
- (2) The operator must have, in addition to the Ocean Shores ATV Operating Permit, a current ATV Safety Education Card issued under ORS 390.570 and the vehicle must have a current ATV operating permit (ATV decal affixed to the vehicle) issued under 390.580.
- (3) The Ocean Shores ATV Operating Permit is to be used only to meet the access needs of:
  - (a) Persons with disabilities, as defined by ORS 174.107; or who have proof of motor vehicle disabled placard, or both;
  - (b) Emergency response or emergency aid workers during the course of their work; or
  - (c) Biologists, wildlife monitors, or other natural resources workers during the course of their work.
- (4) Ocean Shores ATV Operating Permits issued under subsection (3)(a) will allow use in those areas open to motorized vehicle use. However, upon request from an individual with a disability, OPRD may issue such a permit for sections closed to motorized use if the Director or his designee determines that such use:
  - (a) Is a reasonable accommodation of the individual's access needs; and
  - (b) Does not significantly impact environmentally or culturally sensitive areas or create a safety hazard to the public.
- (5) Permits issued under this section shall specify length of time, area of operation and access points.
- (6) Class I ATV's shall not be operated in a careless manner on the Ocean Shore Recreation Area.
- (7) Unless otherwise posted Class I ATV's shall not be operated on the Ocean Shore in excess of 25 mph in open sections and 10 mph in closed sections.

Stat. Auth.: ORS 390.180 & 390.585  
Stats. Implemented: ORS 390.729  
Hist.: PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 10-2008, f. & cert. ef. 12-15-08; PRD 10-2009, f. & cert. ef. 6-18-09; PRD 20-2009, f. & cert. ef. 12-8-09

**736-004-0065**

**Placement of ATV Off-Road Operating Permit**

- (1) An ATV operating permit shall be in the form of a decal to be permanently affixed to the vehicle for which it is issued, and must be clearly visible.
- (2) Placement of the permit shall be as follows:
  - (a) For quads, three-wheelers, or vehicles of a similar design, the permit shall be displayed on the right-hand side of the vehicle in a visible location;
  - (b) For jeeps, pickups, passenger cars and similar vehicles, the permit shall be displayed in a manner that makes it visible from the rear of the vehicle, such as on the bumper or in the rear window;

613 (c) On sandrail vehicles (dune buggies) the permit shall be displayed in the middle of the rear rollbar and be  
614 visible from the rear of the vehicle; and  
615

616 (d) For vehicles that are similar in design to motorcycles and where it is not possible to display the permit  
617 as required in sections (2) or (3) of this rule, the permit shall be displayed:  
618

619 (A) On the front fork tube, on the opposite side of the vehicle from the brake, or in a location that is visible  
620 while the rider is on the vehicle; and  
621

622 (B) Be positioned either horizontally or vertically.  
623

624 Stat. Auth.: ORS 390.180, 390.585

625 Stats. Implemented: ORS 390.180

626 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
627 15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
628

### 629 **736-004-0070**

#### 630 **Reciprocity for Out-of-State ATV Operating Permits**

631 (1) An ATV operating permit issued by another state shall be honored in the State of Oregon if the issuing  
632 state also honors an Oregon ATV operating permit.  
633

634 (2) The ATV must have a resident state ATV operating permit; or  
635

636 (3) If an ATV operating permit is not required in the owner's home state, the operator must purchase a  
637 State of Oregon ATV operating permit to operate the ATV on designated ATV areas in Oregon.  
638

639 Stat. Auth.: ORS 390.180, 390.585

640 Stats. Implemented: ORS 390.180

641 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
642 15-08  
643

### 644 **736-004-0085**

#### 645 **ATV Safety Education Card (ATV Operator Permits)**

646 (1) To operate a Class I, ~~or Class III, or IV~~ ATV on public lands in Oregon, a person must obtain an ATV  
647 Safety Education Card (ATV operator permit).  
648

649 (2) The criteria for obtaining an ATV Safety Education Card are:  
650

651 (a) Attain a test score of at least 80 percent on an OPRD-approved internet safety course;  
652

653 (b) Attain a test score of at least 80 percent on a correspondence course and ~~self-test~~self-test provided by  
654 OPRD; or  
655

656 (c) Be at least 16 years of age and have five or more years of experience operating a Class I, ~~or Class III, or~~  
657 IV all-terrain vehicle and successfully pass an equivalency examination with a score of at least 80 percent.  
658

659 (d) Effective January 1, 2012, operators under 16 years of age must:  
660

661 (A) Successfully demonstrate ATV proficiency, and  
662

663 (B) Pass either an OPRD-approved:  
664  
665  
666  
667  
668

- 669 (i) Hands-on training course, or  
670  
671 (ii) Evaluation course.  
672  
673 (e) Effective January 1, 2012, a person under 16 years of age will receive a Certificate of Completion upon  
674 passing the ATV safety internet course. The certificate of completion will also be an Instruction Permit  
675 which shall be valid for 180 days.  
676  
677 (3) To obtain an ATV Safety Education Card, the applicant must provide to the OPRD a completed  
678 application on a form provided by the OPRD with the following information: the applicant's name, address,  
679 date of birth, hair color, eye color, gender, and, if applicable, years of experience. The applicant must also  
680 sign a statement declaring that the information is true and correct.  
681  
682 (4) ATV Safety Education Cards are not transferable.  
683  
684 (5) ATV Safety Education Cards shall contain a unique number and endorsement code that corresponds to  
685 the individual named on the permit.  
686  
687 (6) A person is considered in violation of the provisions of ORS 821.170 and 821.172 and subject to  
688 penalties prescribed by law when they:  
689  
690 (a) Provide a false statement or information or assist another person in giving a false statement or  
691 information on any application, affidavit, document or statement used to obtain an ATV Safety Education  
692 Card or replacement ATV Safety Education Card;  
693  
694 (b) Exhibit to a law enforcement officer an altered Oregon ATV Safety Education Card or any ATV Safety  
695 Education Card other than the one issued to them;  
696  
697 (c) Alter an ATV Safety Education Card or replacement card issued by the OPRD or its authorized agent;  
698  
699 (d) Produce or possess an unauthorized replica of an ATV Safety Education Card or replacement card; or  
700  
701 (e) Operate a Class I, ~~or Class-III,~~ of IV ATV on public lands without a valid ATV Safety Education Card  
702 in their possession.  
703  
704 (7) In addition to any penalties that may result from a violation of ORS 821.170 and 821.172, the ATV  
705 Safety Education Card is null and void for any person who provides a false statement or information or  
706 obtains a permit to which the person is not entitled.  
707  
708 (8) In accordance with ORS 821.174, when a person's driving privileges are suspended or revoked, the  
709 person may not operate a Class I, ~~or Class-III,~~ or IV all-terrain vehicle.

710 Stat. Auth.: ORS 390.570 & 390.575

711 Stats. Implemented: ORS 390.570, 390.575 & 821.174

712 Hist.: PRD 2-2001, f. & cert. ef. 2-23-01; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
713 15-08; PRD 20-2009, f. & cert. ef. 12-8-09

714

715  
716 **736-004-0090**

717

718 **Replacement ATV Safety Education Card**

719

720 (1) A person may apply for a replacement ATV Safety Education Card from the OPRD if:

721

722 (a) They legally change their name;

723

724 (b) The card is lost, stolen or destroyed;

725  
726 (c) Misinformation is printed on the card; or  
727

728 (d) The card has a printing error or physical defect.  
729

730 (2) To obtain a replacement card, an applicant must provide the OPRD with a completed application form  
731 provided by the OPRD which includes an affidavit signed by the applicant stating the circumstances that  
732 led to the replacement of the original card.  
733

734 Stat. Auth.: ORS 390.570 & 390.575

735 Stats. Implemented: ORS 390.570, 390.575 & 821.174

736 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
737

### 738 **736-004-0095**

#### 739 **Temporary ATV Safety Education Card**

740 (1) A person who successfully passes the OPRD safety education course may print from their computer a  
741 temporary ATV safety education card and may operate an ATV for no more than 30 days from date of  
742 issue provided the temporary ATV safety education card is in the possession of the operator.  
743  
744

745 (2) A person residing in Oregon who is required to possess an ATV Safety Education Card and is in  
746 possession of a certificate issued by another state or nation that is equivalent to Oregon's ATV Safety  
747 Education Card may use that certificate as a temporary Safety Education Card and may operate an ATV in  
748 Oregon for no more than 30 days ~~form~~from date of residency provided the document is in the possession of  
749 the operator.  
750

751 Stat. Auth.: ORS 390.570 & 390.575

752 Stats. Implemented: ORS 390.570, 390.575 & 821.174

753 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
754  
755

### 756 **736-004-0100**

#### 757 **ATV Safety Checklist**

758 (1) Any person who provides a Class I, ~~or Class III, or IV~~ ATV for rent in Oregon or offers guided tours for  
759 a client on either a Class I or Class III ATV must require that:  
760

761 (a) The operator(s) of the rental ATV show proof of possession of an ATV Safety Education Card before  
762 renting the person an ATV; or  
763

764 (b) If the operator does not possess an ATV Safety Education Card, the rental or tour agent must provide  
765 the operator with an ATV Safety Checklist provided by the OPRD;  
766

767 (c) The operator must review and mark the ATV Safety Checklist in the presence of the rental or tour agent  
768 before they may operate the ATV; and  
769

770 (d) The operator must retain the ATV Safety Checklist in their possession while operating the ATV.  
771

772 (2) A person who legally rents an ATV and is otherwise required to possess an ATV Safety Education Card  
773 may use the required ATV Safety Checklist as a temporary ATV Safety Education Card and may operate  
774 the rental ATV in Oregon for the term of the rental agreement but not longer than 30 days.  
775

776 (3) Any dealer who sells Class I, ~~or Class III, or IV~~ vehicles may offer to the buyer/operator a non-  
777 renewable ATV Safety Checklist provided by OPRD.  
778  
779

780 (a) The operator must review and mark the ATV Safety Checklist in the presence of the dealer before they  
781 operate the vehicle; and  
782

783 (b) The operator must retain the ATV Safety Checklist in their possession when operating the ATV.  
784

785 (c) A person who purchases an ATV and is otherwise required to possess an ATV Safety Education Card  
786 may use the ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the ATV  
787 in Oregon for not longer than 30 days from the date of purchase of the ATV.  
788

789 Stat. Auth.: ORS 390.570 & 390.575

790 Stats. Implemented: ORS 390.570, 390.575 & 821.174

791 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08  
792

793 **736-004-0105**  
794

795 **Exemptions**  
796

797 (1) Non-residents riding in Oregon are exempt from carrying a State of Oregon ATV Safety Education  
798 Card if they possess an ATV Safety Education Card or equivalent issued by their resident state or nation.  
799

800 (a) An ATV Safety Education Card issued in another state or nation shall be honored in the State of Oregon  
801 if the issuing state or nation also honors an Oregon ATV Safety Education Card.  
802

803 (b) The operator must have a State of Oregon ATV Safety Education Card if mandatory education is not  
804 required in their home state or nation to operate an ATV on public lands.  
805

806 (2) A person operating a Class I, ~~or Class-III,~~ or IV in a sanctioned competitive ATV event is not required  
807 to carry an ATV Safety Education Card.  
808

809 Stat. Auth.: ORS 390.570 & 390.575

810 Stats. Implemented: ORS 390.570, 390.575 & 821.174

811 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08  
812

813 **736-004-0110**  
814

815 **Fees**  
816

817 (1) There is no fee for issuance of the original ATV Safety Education Card.  
818

819 (2) There is no fee for issuance of an ATV Safety Education Card that adds an endorsement code.  
820

821 (3) The replacement fee for an ATV Safety Education Card is \$8.00.  
822

823 Stat. Auth.: ORS 390.570 & 390.575

824 Stats. Implemented: ORS 390.570, 390.575 & 821.174

825 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
826

827 **736-004-0115**  
828

829 **Rider Fit**  
830

831 (1) A Class I ATV operator under 16 years of age must meet all the following minimum physical size  
832 requirements in relationship to the vehicle:  
833

834 (a) Brake Reach: With hands placed in the normal operating position and fingers straight out, the first joint  
835 (from the tip) of the middle finger will extend beyond the brake lever and clutch;

- 836  
837 (b) Leg Length: While sitting and with their feet on the pegs, the knee must be bent at least 45 degrees;  
838  
839 (c) Grip Reach: While sitting upright on the ATV with hands on the handlebars and not leaning forward,  
840 there must be a distinct angle between the upper arm and the forearm; and  
841  
842 (d) The rider must be able to turn the handlebars from lock to lock while maintaining grip on the handlebars  
843 and maintaining the throttle and brake control.  
844  
845 (2) Disabled riders are allowed to use prosthetic devices or modified or adaptive equipment to achieve rider  
846 fit.  
847

848 Stat. Auth.: ORS 390.570 & 390.575

849 Stats. Implemented: ORS 390.570, 390.575 & 821.174

850 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

851  
852 **736-004-0120**

853  
854 **Minimum Training Standards**

- 855 | (1) Providers of a Class I, ~~or a Class-III,~~ or IV ATV evaluation or training course must evaluate ATV  
856 operators in their ability to control an ATV at or above OPRD minimum training standards under section  
857 (2) of this rule.  
858  
859 (2) OPRD will provide minimum ATV training or evaluation standards that will include:  
860  
861 (a) Prerequisite training requirements;  
862  
863 (b) Rider fit under OAR 736-004-0115;  
864  
865 (c) Familiarization of controls;  
866  
867 (d) Internet safety course review;  
868  
869 (e) Starting and stopping;  
870  
871 (f) Turns and weaves; and  
872  
873 (g) Navigating over and around obstacles.  
874  
875 (3) Participants in an ATV evaluation or training course must meet the following requirements:  
876  
877 (a) Rider must provide the eleven-digit card number from either their ATV Safety Education Card or their  
878 certificate of completion issued by OPRD;  
879  
880 (b) Rider under 16 years of age must be accompanied throughout the training by an adult at least 18 years  
881 of age; and  
882  
883 | (c) Rider must have a Class I, ~~or a Class-III,~~ or IV ATV. Three-wheeled vehicles are not allowed.  
884  
885 (4) Rider must wear the following while operating an ATV during evaluation or training:  
886  
887 (a) DOT (Department of Transportation) approved motorcycle helmet;  
888  
889 (b) Goggles (or helmet with face shield);  
890  
891 (c) Gloves;

892  
893 (d) Sturdy over-the-ankle shoes or boots;

894  
895 (e) Long-sleeved shirt or jacket; and

896  
897 (f) Long pants.

898  
899 Stat. Auth.: ORS 390.570 & 390.575  
900 Stats. Implemented: ORS 390.570, 390.575  
901 Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

902  
903 **736-004-0125**

904  
905 **ATV Training Course Approval by OPRD**

906  
907 (1) An ATV course provider shall submit a course approval request on an application form provided by  
908 OPRD.

909  
910 (2) OPRD will evaluate the course application under section (3) of this rule within 90 days of receipt of a  
911 complete application.

912  
913 (3) OPRD shall evaluate the sufficiency of the course to train or evaluate to OPRD's minimum ATV  
914 training standards under OAR 736-004-0120(2) and meet the participation and equipment requirements of  
915 OAR 736-004-0120(3) and (4).

916  
917 (4) OPRD course approval is valid for three years. An ATV course provider may submit a course approval  
918 renewal request on an application form provided by OPRD. OPRD will evaluate the course application  
919 renewal within 90 days of receipt of a completed application.

920  
921 (5) OPRD may periodically audit courses or contact students for the purposes of evaluation for adherence  
922 to OPRD ATV minimum training standards under OAR 736-004-0120(2) through (4).

923  
924 (6) If OPRD determines a course provider does not meet the ATV minimum training standards under OAR  
925 736-004-0120(2) ~~through~~[through](#) (4), OPRD may take one or more of the following actions:

926  
927 (a) Notify the course provider in writing of course deficiencies and allow the course provider until the next  
928 scheduled course, or 30 days (whichever is later) to enact changes to comply with OAR 736-004-0120(2)  
929 through (4);

930  
931 (b) Notify the course provider in writing that effective immediately no further courses are authorized by  
932 OPRD until required changes are made and determined to be in compliance with OAR 736-004-0120(2)  
933 through (4) by OPRD; or

934  
935 (c) Notify the course provider in writing that effective immediately no further courses are authorized by  
936 OPRD until a new application for approval has been made under section (1) and approved under section (3)  
937 of this rule.

938  
939 (7) Course providers are solely responsible for the oversight and management of course instructors.

940  
941 Stat. Auth.: ORS 390.570 & 390.575  
942 Stats. Implemented: ORS 390.570 & 390.575  
943 Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

Final Draft Showing Accepted Changes

PARKS AND RECREATION DEPARTMENT

DIVISION 4

DISTRIBUTION OF ALL-TERRAIN VEHICLE FUNDS TO PUBLIC AND PRIVATELY OWNED LAND MANAGERS, ATV CLUBS AND ORGANIZATIONS

736-004-0005

Purpose of Rule

This rule establishes the procedures and requirements used by the Oregon Parks and Recreation Department (OPRD) when allocating ATV Account monies to public and privately-owned land managers, ATV clubs and organizations; procedures for All-Terrain Vehicle (ATV) off-road operating permit; and implementation of safety and education requirements for Class I, III, and IV off-highway vehicles.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0010

Statutory Authority

(1) ORS 390.585 authorizes the Oregon Parks and Recreation Department to adopt rules and establish procedures to be used when OPRD allocates ATV Account money to public and privately-owned land managers, ATV clubs and organizations.

(2) OAR 736-004-0045 through 736-004-0070 are adopted pursuant to ORS 390.580, 390.585, and 390.590 which direct the Oregon Parks and Recreation Department to issue Class I, III, and IV Operating Permits to persons who satisfy the statutory requirements to ride on public property.

(3) OAR 736-004-0080 through 736-004-0115 are adopted pursuant to ORS 390.570 and 390.575 which direct the Oregon Parks and Recreation Department to issue or provide for issuance of Class I, III, and IV ATV operator permits to any person who has taken a Class I or III or IV OPRD-approved ATV safety education course and has been found qualified to operate a Class I or III, or IV all-terrain vehicle. These statutes require the Department to provide safety education course instruction through public or private local and state organizations meeting qualifications established by the Department.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

736-004-0015

Definitions

For purposes of this division, the following definitions shall apply:

(1) "Acquisition" means the gaining of real property rights for public use by donation or purchase including, but not limited to, fee title or easements.

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(2) "Approved Course Provider" is any individual or organization who instructs or provides an OPRD-approved Class I or III or IV ATV safety course.

(3) "ATV" or "All-Terrain Vehicle" means:

(a) Class I ATV, as defined in ORS 801.190: a motorized, off-highway recreational vehicle 50 inches or less in width with a dry weight of 1,200 pounds or less that travels on three or more pneumatic tires that are six inches or more in width and designed for use on wheels with rim diameter of 14 inches or less, uses a handlebar for steering, has a seat designed to be straddled by the operator, and is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain.

(b) Class II ATV, as defined in ORS 801.193: any motor vehicle that:

(A) Weighs more than or is wider than a Class I ; and

(B) Is not a Class IV; and

(C) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain; and

(D) Is actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191.

(c) Class III ATV, as defined in ORS 801.194: a motorcycle that travels on two tires and is actually being operated off highway.

(d) Class IV ATV, as defined in ORS 801.194: means any motorized vehicle that:

(A) Travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less;

(B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;

(C) Has nonstraddle seating;

(D) Has a steering wheel for steering controls;

(E) Has a dry weight of 1,800 pounds or less, and

(F) Is 65 inches wide or less at its widest point.

(e) May also be referred to as an OHV or Off-Highway Vehicle.

(4) "ATV-AC" means the fifteen-member All-Terrain Vehicle Advisory Committee established by ORS 390.565 and appointed by the commission.

(5) "ATV Account" means those moneys described in ORS 390.555 and deposited in a separate account in the State Parks and Recreation Department Fund. ATV Account may also be called "ATV grant funds."

(6) "ATV Grant Instruction Manual" means a manual prepared by the OPRD containing state and federal policies, procedures, guidelines, and instructions to assist current and potential project sponsors.

- 111 (7) "ATV Grant Subcommittee" means the seven-member subcommittee established by ORS  
112 390.565(5)(a).  
113
- 114 (8) "ATV Operating Permit" means a permit (decal) issued through the OPRD and which is permanently  
115 affixed to the vehicle. The permit authorizes the use of ATV's on trails and within designated areas  
116 authorized by the appropriate authorities.  
117
- 118 (9) "ATV Operating Permit Agent" means a person, business or government agency to whom OPRD  
119 consigns ATV operating permits and decals for sale as a service to the general public.  
120
- 121 (10) "ATV Operator Permit" means the ATV Safety Education Card issued upon completion of an OPRD-  
122 approved ATV Safety Education course and passage of the minimum standards test of ATV Safety  
123 Education competency as established by OPRD.  
124
- 125 (11) "ATV Safety Checklist" is a document provided to a dealer, guide service, rental, or livery agent by  
126 the OPRD that consists of selected facts about Oregon ATV laws.  
127
- 128 (12) "ATV Safety Course" is any OPRD-approved course of instruction that is offered by an approved  
129 course provider and concludes with an examination.  
130
- 131 (13) "ATV Safety Education" means those grant projects that include but are not limited to training  
132 programs, media with information for the public, safe riding practices, environmental ethics, or any  
133 combination thereof.  
134
- 135 (14) "All-Terrain Vehicle Safety Education Card" is the ATV Operator's Permit required by ORS 390.570  
136 and 390.575 and XXX.XXX.  
137
- 138 (15) "Certificate of Completion" is a certificate generated by OPRD indicating completion of the internet  
139 ATV Safety Course.  
140
- 141 (16) "Commission" means the State Parks and Recreation Commission.  
142
- 143 (17) "Conversion" means any real property acquisition or development that is later wholly or in part  
144 converted to another use other than its intended and stated use as described in the grant application and the  
145 grant agreement.  
146
- 147 (18) "Correspondence Course and Self-Test" means either a Class I or III or IV ATV safety course and  
148 examination provided by the OPRD that is taken at home without a proctor. This correspondence course  
149 and self-test will satisfy minimum standard of ATV safety education competency only for those individuals  
150 who have qualified for hardship status.  
151
- 152 (19) "Dealer" means any person or business duly certified under ORS 822.020 and 822.040 to sell Class I,  
153 III, or IV ATVs.  
154
- 155 (20) "Development" means the planning, design, construction and improvement of ATV recreational  
156 facilities, trails, and riding areas.  
157
- 158 (21) "Director" means the director of the Oregon Parks and Recreation Department.  
159
- 160 (22) "Dry Weight" means the unloaded weight, absent of all fluids, passengers, and any materials such as  
161 ice, snow or mud.  
162
- 163 (23) "Emergency Medical Services" means medical services performed by certified personnel and the  
164 necessary items to perform their duties.  
165

166 (24) "Endorsement Code" means an identifying color, text or mark on the ATV Safety Education Card that  
167 indicates the operator meets or exceeds OPRD's minimum standards in an approved hands-on ATV  
168 evaluation program.  
169

170 (25) "Equivalency Exam" means a comprehensive written examination created by the OPRD. The  
171 equivalency exam is intended to provide Class I, III or IV operators, who are at least 16 years of age and  
172 have five or more years operating a Class I, III or IV vehicle, the opportunity to meet the minimum  
173 standard of ATV safety education competency.  
174

175 (26) "Evaluation Course" means a course that measures the ATV operator's ability to demonstrate control  
176 of an ATV.  
177

178 (27) "Grant Agreement" means an agreement between the OPRD and a project sponsor describing the  
179 terms and conditions of a project and its associated grant of funds.  
180

181 (28) "Grant Application" means the form and its format as developed by the OPRD that the project sponsor  
182 uses to request ATV grant funds.  
183

184 (29) "Hands-on Training" means any OPRD-approved evaluation course offered by an OPRD-approved  
185 course provider.  
186

187 (30) "Hardship Status" means a situation or condition that prevents an individual from taking the ATV  
188 safety internet course. A hardship situation may allow an individual to use a correspondence course and  
189 self-test provided by OPRD. An individual must submit a written request for hardship status. The OPRD  
190 Director or designee has the authority to grant or deny hardship status.  
191

192 (31) "Instruction Permit" is a provisional permit issued by OPRD to youth under the age of 16 upon  
193 successful completion of the OPRD internet course.  
194

195 (32) "Internet Course" means an OPRD-approved course of instruction that is offered through the internet.  
196

197 (33) "Law Enforcement Services" means law enforcement services performed by certified personnel and  
198 the necessary items to perform their duties.  
199

200 (34) "Minimum Standards of ATV Safety Education Competency" means a standard of proficiency  
201 established by OPRD that determines whether an applicant for either a Class I, III, or IV ATV Safety  
202 Education Card has met or exceeded the requirements of an ATV safety course.  
203

204 (35) "Notice to Proceed" means the notification from OPRD that the Director or designee and the project  
205 sponsor have signed the grant agreement authorizing the project.  
206

207 (36) "OHV" means Off Highway Vehicle, also called ATV.  
208

209 (37) "Operations and Maintenance" means the preservation, rehabilitation, restoration, operation and  
210 upkeep of the facilities, riding areas, and equipment, including the purchase of equipment necessary to  
211 perform these functions.  
212

213 (38) "OPRD" means the Oregon Parks and Recreation Department.  
214

215 (39) "Personal Property" means tangible property other than land: movable property including but not  
216 limited to items such as an ATV, trail repair equipment, or other movable property purchased through the  
217 ATV Grant Program.  
218

219 (40) "Planning" means the research, design, engineering, environmental, and site survey of ATV recreation  
220 areas, trails, or facilities.  
221

222  
223 (41) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation  
224 of the project.

225  
226 (42) "Public Lands" includes publicly and privately-owned land that is open to the general public for the  
227 use of all-terrain vehicles.

228  
229 (43) "Real Property" means immovable property: land together with all the property on it that cannot be  
230 moved, together with any attached rights.

231  
232 (44) "Rider Fit" means the minimum physical size requirements that a Class I ATV operator under 16 years  
233 of age must meet in relationship to the vehicle to be operated as established by OPRD and described in  
234 OAR 736-004-0115.

235  
236 (45) "Saddle" means any device attached to the vehicle which is used for seating.

237  
238 (46) "Successor" means a governmental entity that has agreed to accept the terms and conditions of the  
239 project sponsor's responsibilities as contained in the project sponsor's grant agreement and grant application  
240 should the project sponsor cease to exist; for example, if a club or non-profit organization should dissolve  
241 or disband. The successor shall agree to operate the project continuously for the public benefit and  
242 recreational purposes identified in the grant agreement and the grant application. If OPRD is a successor  
243 under OAR 736-004-0025(1)(c), OPRD may operate, sell, or qualify another successor to the project.

244  
245 (47) "Sustainability" means using, developing, protecting, and managing the resource in a manner that  
246 enables people to meet current and future generation needs from the multiple perspective of environmental,  
247 economic, and community objectives.

248  
249 (48) "Temporary ATV Safety Education Card" is a document issued by OPRD or an approved course  
250 provider allowing the bearer to operate a Class I, III, or IV ATV in Oregon for a period of time not to  
251 exceed 30 days.

252 Stat. Auth.: ORS 390.180, 390.585

253 Stats. Implemented: ORS 390.180

254 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
255 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

## 256 257 258 **ATV Grant Program**

### 259 260 **736-004-0020**

#### 261 262 **Apportionment of Monies**

263  
264 Monies in the All-Terrain Vehicle Account shall be used for the following purposes:

265  
266 (1) Planning, promoting and implementing a statewide all-terrain vehicle program including the  
267 acquisition, development and maintenance of all-terrain vehicle recreation areas;

268  
269 (2) Education and safety training for all-terrain vehicle operators;

270  
271 (3) Provision of first-aid and police services related to all-terrain vehicle recreation;

272  
273 (4) Paying the costs of instigating, developing, or promoting new programs for all-terrain vehicle users and  
274 of advising people of possible usage areas available for all-terrain vehicles;

275  
276 (5) Paying the costs of coordinating between all-terrain vehicle user groups and the managers of public  
277 lands;

- 278  
279 (6) Paying the costs of providing consultation and guidance to all-terrain vehicle user programs;  
280  
281 (7) Paying the costs of administration of the all-terrain vehicle programs including staff support provided  
282 under ORS 390.565 as requested by the All-terrain Vehicle Advisory Committee;  
283  
284 (8) Paying the cost of law enforcement activities related to the operation of all-terrain vehicles; and  
285  
286 (9) Control and eradication of invasive species related to all-terrain vehicle recreation.  
287

288 Stat. Auth.: ORS 390.180, 390.585,

289 Stats. Implemented: ORS 390.180, 390.560

290 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert.  
291 ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

292  
293 **736-004-0025**

294  
295 **Grant Application Eligibility and Requirements**

296  
297 (1) Eligibility for funding assistance:

298  
299 (a) Public agencies: Federal land managers, state agencies, and local governments that have the  
300 responsibility, or are capable of, providing a service to ATV users;

301  
302 (b) Private land owners or managers: Private land owners or managers who offer public OHV recreation  
303 opportunities and will provide open public ATV recreation for a minimum prescribed period of daily or  
304 seasonal time and who will maintain the opportunity for a prescribed period of time as determined by  
305 OPRD;

306  
307 (c) Clubs and non-profit organizations: ATV clubs and non-profit organizations registered with the State of  
308 Oregon for a minimum of three consecutive years;

309  
310 (A) Clubs and non-profit organizations shall have in place, prior to receipt of any funding, a written  
311 agreement with a successor in which the successor agrees to operate the facility as described in the grant  
312 agreement and the grant application should the club or non-profit organization cease to exist, for example,  
313 due to disbanding or dissolution; or

314 (B) OPRD shall be listed on the title as successor to the property:

315  
316 (i) OPRD may sell the property and shall deposit the net revenue from the sale into the ATV Account;

317  
318 (ii) OPRD may operate the project; or

319  
320 (iii) OPRD may qualify and assign another successor to the project.  
321

322 (2) ATV projects or components not eligible for funding:

323  
324 (a) Overtime is generally not eligible for funding except for an identified emergency situation;

325  
326 (b) Overhead items such as office or building rent, insurance, depreciation and other fixed costs associated  
327 with the normal everyday operation of a business, agency or group;

328  
329 (c) ATV projects that have no way to measure completion or specific intent are not eligible;

330  
331 (d) Portions of projects completed prior to an ATV agreement or after the expiration of an ATV agreement;  
332

333 (e) ATV projects that do not meet the goals of the ATV Grant Program, OAR 736-004-0020 to 736-004-  
334 0030, or are not in the best interest of ATV recreation;  
335  
336 (f) Vehicle or other personal property usage unrelated to the scope of the ATV project.  
337  
338 (3) Requirements for Match:  
339  
340 (a) The minimum match required for eligible ATV projects is 20 percent of the total project cost except for  
341 land acquisitions;  
342  
343 (b) For land acquisitions and when unusual circumstances exist, public agencies may request a partial or  
344 full waiver of the 20 percent match requirement. Consideration for the waiver will be based upon the  
345 following criteria:  
346  
347 (A) The public agency is able to demonstrate due diligence was exercised in obtaining other funds and that  
348 the following limitations, among others, are present:  
349  
350 (i) Budget authority does not exist;  
351  
352 (ii) Budget appropriations cannot be obtained in a reasonable time yet public support does exist; and  
353  
354 (iii) No saleable assets, such as conservation easements, exist from which to generate the full cash match  
355 requirement.  
356  
357 (B) The public agency is able to demonstrate their ability to operate and maintain the project property for  
358 ATV recreational purposes:  
359  
360 (i) By having budgeted funds in place; or  
361  
362 (ii) Having identified other resources such as volunteers or contracted services.  
363  
364 (C) The public agency is able to demonstrate that time is of the essence:  
365  
366 (i) The seller of the real property has placed time limits in which the public agency can affect a purchase,  
367 such as the expiration of an Option to Purchase or a First Right of Refusal; or  
368  
369 (ii) The public agency can identify the possible loss of other existing matching funds such as grants from  
370 other entities that may have an expiration date.  
371  
372 (D) If a waiver to the required partial or full match is approved, the public agency shall be limited in all  
373 future grant requests to receiving ATV grant funds in an amount of 50 percent or less of the total costs for  
374 any development projects located on the acquired property.  
375  
376 (c) Match may include, but is not limited to, cash funds, labor, either force account or volunteer, materials,  
377 and equipment;  
378  
379 (d) Grants from other sources may be used as match provided the sponsor can certify the funds will be  
380 available within 120 days from the beginning date of the grant agreement;  
381  
382 (e) Eligible volunteer labor will require a log that includes the volunteer's name, date volunteer performed  
383 work, location volunteer performed work, the hours worked, and the hourly rate of compensation used for  
384 their contribution of labor.  
385  
386 (4) Conversions:  
387

388 (a) It is the intent of the ATV Grant Program that all real property acquisitions or easements shall be  
389 retained and used for the project's intended and stated use as described in both the grant application and the  
390 grant agreement;

391  
392 (b) The director has authority to disapprove conversion requests, reject proposed substitutions, or both;

393  
394 (c) The project sponsor shall submit requests for conversions to the OPRD in writing. The OPRD may  
395 consider the request if the following prerequisites are met:

396 (A) All practical alternatives to a conversion have been evaluated and rejected on a sound basis;

397  
398 (B) The project sponsor has established the fair market value of the property to be converted and the  
399 property proposed for substitution is of at least equal fair market value as established by a state-approved  
400 appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of  
401 structures or facilities that will not directly enhance its ATV recreation utility;

402  
403 (C) The project sponsor proposes a replacement property that is of reasonably equivalent usefulness and  
404 location as that being converted.

405  
406 (d) If the project sponsor is unable to provide replacement property within 24 months of either the approved  
407 request for conversion or after the fact of conversion, the project sponsor shall pay the OPRD a current  
408 amount equal to the OPRD's original percentage of contribution to the project. As an example, if the OPRD  
409 provided an original grant of 80 percent for the project's acquisition costs, the project sponsor will be  
410 required to reimburse the OPRD 80 percent of the real property's value at the time of conversion or  
411 discovery of conversion, whichever is later;

412  
413 (e) In the case of development, rehabilitation, and equipment purchases, the project sponsor shall operate  
414 the improvements or equipment for its established useful life. Guidelines established by the IRS will be  
415 used by the project sponsor to define useful life per each item. If the facility is closed, service is terminated  
416 and the facility or equipment has not reached its useful life, it will be made available to other agencies or  
417 organizations. If a facility is closed, service is terminated, or land is closed, or the facility or equipment has  
418 not reached its useful life, a percentage of the allocated funds will be returned to the OPRD equal to the  
419 percentage of useful life remaining in the funded facility or equipment.

420  
421 Stat. Auth.: ORS 390.180, 390.585

422 Stats. Implemented: ORS 390.180

423 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
424 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

425  
426 **736-004-0030**

427  
428 **Project Administration**

429 (1) Applications:

430  
431 (a) A current ATV grant application is required for consideration of ATV funding;

432  
433 (b) Information regarding application deadlines and public meetings will be provided through available  
434 media sources and on the OPRD -- ATV website;

435  
436 (c) Applicants must submit applications by published deadlines;

437  
438 (d) Applications will be reviewed by the OPRD and the ATV-Grant Subcommittee;

439  
440 (e) The ATV-Grant Subcommittee will recommend ATV project funding to the commission.

444 (2) Agreements:

445 (a) To authorize an ATV Project, OPRD requires a signed ATV Grant Agreement.

447 (b) A project sponsor may not begin work on an ATV project without a Notice to Proceed.

448 (c) OPRD, upon written request by the project sponsor, may approve, in writing, that some match may be  
449 considered and allowed prior to commencement of the project.

450 (3) If funds are not available to fully fund a project, or partial funding has been recommended by the ATV-  
451 Grant Subcommittee, the project sponsor may be given the option of reducing the scope of the project.

452 (4) If the project sponsor anticipates the project will not be completed by the expiration date of the ATV  
453 grant agreement, the project sponsor must make a timely written request for an extension of the ATV grant  
454 agreement prior to the expiration date of the project agreement. The time extension request shall include  
455 any reasons for delay of project completion and a new projected completion date.

456 Stat. Auth.: ORS 390.180, 390.585

457 Stats. Implemented: ORS 390.180

458 Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert.  
459 ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

460 **736-004-0035**

461 **Establishment of the ATV Advisory Committee**

462 (1) The commission shall appoint the ATV-AC and the ATV-Grant Subcommittee established by ORS  
463 390.565. In appointing the first members to the ATV-AC, the commission shall specify the end of the term  
464 of office for each member consistent with Oregon Laws 2009, chapter 812, section 4(2).

465 (2) The Director shall appoint the ATV-AC Chair and Vice Chair upon consideration of the committee's  
466 recommendations.

467 (3) The Director shall appoint the ATV-Grant Subcommittee Chair and Vice Chair upon consideration of  
468 the subcommittee's recommendations.

469 Stat. Auth.: ORS 390.180, 390.565

470 Stats. Implemented: ORS 390.180, 390.565

471 Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

472 **ATV Operating Permit Agents**

473 **736-004-0045**

474 **ATV Operating Permit Agent Application and Privileges**

475 (1) To become an ATV Operating Permit Agent an applicant shall:

476 (a) Submit an application in a form provided by OPRD to become an ATV Operating Permit Agent;

477 (b) OPRD reserves the right to require the Operating Permit Agent to obtain a bond in an amount  
478 determined by OPRD if there is historical evidence of substandard performance by the Operating Permit  
479 Agent.

480 (c) Enter into an OPRD agreement to be designated as an ATV Operating Permit Agent.

500 (2) OPRD may consign ATV operating permits to an ATV Operating Permit Agent without prepayment.

501  
502 (3) OPRD will establish by policy an amount the ATV Operating Permit Agent may retain for each permit  
503 issued in addition to the regular costs of the permit, to cover the agent's costs to handle the permits.

504  
505 (4) ATV Operating Permit Agents shall legibly complete each ATV operating permit with the required  
506 information.

507  
508 (5) OPRD may cancel an agent's authority to act as an ATV Operating Permit Agent at any time.

509 Stat. Auth.: ORS 390.180, 390.585

510 Stats. Implemented: ORS 390.180

511 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
512 15-08

### 513 514 **ATV Operating Permits**

#### 515 516 **736-004-0060**

#### 517 518 **ATV Operating Permit**

519  
520 (1) An ATV operating permit shall be in the form of a decal valid for a two-year period from the date of  
521 issue to be placed on the vehicle as determined in OAR 736-004-0065. All ATV operating permits shall  
522 include on the decal:

523  
524 (a) The distinctive number or characters assigned by OPRD to the vehicle;

525  
526 (b) The word "Oregon"; and

527  
528 (c) The expiration date.

529  
530 (2) The application for an ATV operating permit shall be in a form as prescribed by OPRD and shall  
531 include.

532  
533 (a) The name and address of the owner of the ATV; and

534  
535 (b) The make and body style of the ATV for which application is made.

536  
537 (3) To replace a permit that is lost, destroyed, or mutilated the owner must:

538  
539 (a) Apply for a new permit in the same manner as for an original permit; and

540  
541 (b) Pay the fee for a replacement ATV Operating Permit.

542  
543 (4) The fee for an original or replacement ATV Operating Permit is \$10.00.

544  
545 (5) OPRD at OPRD's discretion, may replace an ATV operating permit free of charge if legibility,  
546 adhesiveness, or other material effectiveness is lost due to production or manufacturer's defects.

547  
548 Stat. Auth.: ORS 390.180, 390.585

549 Stats. Implemented: ORS 390.180

550 Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
551 15-08; PRD 20-2009, f. & cert. ef. 12-8-09

#### 552 553 **736-004-0062**

556 **Ocean Shores ATV Operating Permit (Permit to operate a Class I ATV on the Ocean Shore)**  
557

558 (1) A person may not operate a Class I all-terrain vehicle on the ocean shore unless the person obtains an  
559 Ocean Shores ATV Operating Permit from OPRD.  
560

561 (2) The operator must have, in addition to the Ocean Shores ATV Operating Permit, a current ATV Safety  
562 Education Card issued under ORS 390.570 and the vehicle must have a current ATV operating permit  
563 (ATV decal affixed to the vehicle) issued under 390.580.  
564

565 (3) The Ocean Shores ATV Operating Permit is to be used only to meet the access needs of:  
566

567 (a) Persons with disabilities, as defined by ORS 174.107; or who have proof of motor vehicle disabled  
568 placard, or both;  
569

570 (b) Emergency response or emergency aid workers during the course of their work; or  
571

572 (c) Biologists, wildlife monitors, or other natural resources workers during the course of their work.  
573

574 (4) Ocean Shores ATV Operating Permits issued under subsection (3)(a) will allow use in those areas open  
575 to motorized vehicle use. However, upon request from an individual with a disability, OPRD may issue  
576 such a permit for sections closed to motorized use if the Director or his designee determines that such use:  
577

578 (a) Is a reasonable accommodation of the individual's access needs; and  
579

580 (b) Does not significantly impact environmentally or culturally sensitive areas or create a safety hazard to  
581 the public.  
582

583 (5) Permits issued under this section shall specify length of time, area of operation and access points.  
584

585 (6) Class I ATV's shall not be operated in a careless manner on the Ocean Shore Recreation Area.  
586

587 (7) Unless otherwise posted Class I ATV's shall not be operated on the Ocean Shore in excess of 25 mph in  
588 open sections and 10 mph in closed sections.  
589

590 Stat. Auth.: ORS 390.180 & 390.585

591 Stats. Implemented: ORS 390.729

592 Hist.: PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 10-2008, f. & cert. ef.  
593 12-15-08; PRD 10-2009, f. & cert. ef. 6-18-09; PRD 20-2009, f. & cert. ef. 12-8-09  
594

595 **736-004-0065**  
596

597 **Placement of ATV Off-Road Operating Permit**  
598

599 (1) An ATV operating permit shall be in the form of a decal to be permanently affixed to the vehicle for  
600 which it is issued, and must be clearly visible.  
601

602 (2) Placement of the permit shall be as follows:  
603

604 (a) For quads, three-wheelers, or vehicles of a similar design, the permit shall be displayed on the right-  
605 hand side of the vehicle in a visible location;  
606

607 (b) For jeeps, pickups, passenger cars and similar vehicles, the permit shall be displayed in a manner that  
608 makes it visible from the rear of the vehicle, such as on the bumper or in the rear window;  
609

610 (c) On sandrail vehicles (dune buggies) the permit shall be displayed in the middle of the rear rollbar and be  
611 visible from the rear of the vehicle; and

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(d) For vehicles that are similar in design to motorcycles and where it is not possible to display the permit as required in sections (2) or (3) of this rule, the permit shall be displayed:

(A) On the front fork tube, on the opposite side of the vehicle from the brake, or in a location that is visible while the rider is on the vehicle; and

(B) Be positioned either horizontally or vertically.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09

### **736-004-0070**

#### **Reciprocity for Out-of-State ATV Operating Permits**

(1) An ATV operating permit issued by another state shall be honored in the State of Oregon if the issuing state also honors an Oregon ATV operating permit.

(2) The ATV must have a resident state ATV operating permit; or

(3) If an ATV operating permit is not required in the owner's home state, the operator must purchase a State of Oregon ATV operating permit to operate the ATV on designated ATV areas in Oregon.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

### **736-004-0085**

#### **ATV Safety Education Card (ATV Operator Permits)**

(1) To operate a Class I, III, or IV ATV on public lands in Oregon, a person must obtain an ATV Safety Education Card (ATV operator permit).

(2) The criteria for obtaining an ATV Safety Education Card are:

(a) Attain a test score of at least 80 percent on an OPRD-approved internet safety course;

(b) Attain a test score of at least 80 percent on a correspondence course and self-test provided by OPRD; or

(c) Be at least 16 years of age and have five or more years of experience operating a Class I, III, or IV all-terrain vehicle and successfully pass an equivalency examination with a score of at least 80 percent.

(d) Effective January 1, 2012, operators under 16 years of age must:

(A) Successfully demonstrate ATV proficiency, and

(B) Pass either an OPRD-approved:

(i) Hands-on training course, or

(ii) Evaluation course.

668  
669 (e) Effective January 1, 2012, a person under 16 years of age will receive a Certificate of Completion upon  
670 passing the ATV safety internet course. The certificate of completion will also be an Instruction Permit  
671 which shall be valid for 180 days.

672  
673 (3) To obtain an ATV Safety Education Card, the applicant must provide to the OPRD a completed  
674 application on a form provided by the OPRD with the following information: the applicant's name, address,  
675 date of birth, hair color, eye color, gender, and, if applicable, years of experience. The applicant must also  
676 sign a statement declaring that the information is true and correct.

677  
678 (4) ATV Safety Education Cards are not transferable.

679  
680 (5) ATV Safety Education Cards shall contain a unique number and endorsement code that corresponds to  
681 the individual named on the permit.

682  
683 (6) A person is considered in violation of the provisions of ORS 821.170 and 821.172 and subject to  
684 penalties prescribed by law when they:

685  
686 (a) Provide a false statement or information or assist another person in giving a false statement or  
687 information on any application, affidavit, document or statement used to obtain an ATV Safety Education  
688 Card or replacement ATV Safety Education Card;

689  
690 (b) Exhibit to a law enforcement officer an altered Oregon ATV Safety Education Card or any ATV Safety  
691 Education Card other than the one issued to them;

692  
693 (c) Alter an ATV Safety Education Card or replacement card issued by the OPRD or its authorized agent;

694  
695 (d) Produce or possess an unauthorized replica of an ATV Safety Education Card or replacement card; or

696  
697 (e) Operate a Class I, III, or IV ATV on public lands without a valid ATV Safety Education Card in their  
698 possession.

699  
700 (7) In addition to any penalties that may result from a violation of ORS 821.170 and 821.172, the ATV  
701 Safety Education Card is null and void for any person who provides a false statement or information or  
702 obtains a permit to which the person is not entitled.

703  
704 (8) In accordance with ORS 821.174, when a person's driving privileges are suspended or revoked, the  
705 person may not operate a Class I, III, or IV all-terrain vehicle.

706  
707 Stat. Auth.: ORS 390.570 & 390.575

708 Stats. Implemented: ORS 390.570, 390.575 & 821.174

709 Hist.: PRD 2-2001, f. & cert. ef. 2-23-01; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-  
710 15-08; PRD 20-2009, f. & cert. ef. 12-8-09

711  
712 **736-004-0090**

713  
714 **Replacement ATV Safety Education Card**

715  
716 (1) A person may apply for a replacement ATV Safety Education Card from the OPRD if:

717  
718 (a) They legally change their name;

719  
720 (b) The card is lost, stolen or destroyed;

721  
722 (c) Misinformation is printed on the card; or

723

724 (d) The card has a printing error or physical defect.  
725

726 (2) To obtain a replacement card, an applicant must provide the OPRD with a completed application form  
727 provided by the OPRD which includes an affidavit signed by the applicant stating the circumstances that  
728 led to the replacement of the original card.  
729

730 Stat. Auth.: ORS 390.570 & 390.575

731 Stats. Implemented: ORS 390.570, 390.575 & 821.174

732 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
733

#### 734 **736-004-0095**

#### 735 **Temporary ATV Safety Education Card**

736 (1) A person who successfully passes the OPRD safety education course may print from their computer a  
737 temporary ATV safety education card and may operate an ATV for no more than 30 days from date of  
738 issue provided the temporary ATV safety education card is in the possession of the operator.  
739

740 (2) A person residing in Oregon who is required to possess an ATV Safety Education Card and is in  
741 possession of a certificate issued by another state or nation that is equivalent to Oregon's ATV Safety  
742 Education Card may use that certificate as a temporary Safety Education Card and may operate an ATV in  
743 Oregon for no more than 30 days from date of residency provided the document is in the possession of the  
744 operator.  
745

746 Stat. Auth.: ORS 390.570 & 390.575  
747

748 Stats. Implemented: ORS 390.570, 390.575 & 821.174

749 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
750

#### 751 **736-004-0100**

#### 752 **ATV Safety Checklist**

753 (1) Any person who provides a Class I, III, or IV ATV for rent in Oregon or offers guided tours for a client  
754 on either a Class I or Class III ATV must require that:  
755

756 (a) The operator(s) of the rental ATV show proof of possession of an ATV Safety Education Card before  
757 renting the person an ATV; or  
758

759 (b) If the operator does not possess an ATV Safety Education Card, the rental or tour agent must provide  
760 the operator with an ATV Safety Checklist provided by the OPRD;  
761

762 (c) The operator must review and mark the ATV Safety Checklist in the presence of the rental or tour agent  
763 before they may operate the ATV; and  
764

765 (d) The operator must retain the ATV Safety Checklist in their possession while operating the ATV.  
766

767 (2) A person who legally rents an ATV and is otherwise required to possess an ATV Safety Education Card  
768 may use the required ATV Safety Checklist as a temporary ATV Safety Education Card and may operate  
769 the rental ATV in Oregon for the term of the rental agreement but not longer than 30 days.  
770

771 (3) Any dealer who sells Class I, III, or IV vehicles may offer to the buyer/operator a non-renewable ATV  
772 Safety Checklist provided by OPRD.  
773

774 (a) The operator must review and mark the ATV Safety Checklist in the presence of the dealer before they  
775 operate the vehicle; and  
776

777 (b) The operator must retain the ATV Safety Checklist in their possession when operating the ATV.  
778  
779

780  
781 (c) A person who purchases an ATV and is otherwise required to possess an ATV Safety Education Card  
782 may use the ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the ATV  
783 in Oregon for not longer than 30 days from the date of purchase of the ATV.  
784

785 Stat. Auth.: ORS 390.570 & 390.575  
786 Stats. Implemented: ORS 390.570, 390.575 & 821.174  
787 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08  
788

789 **736-004-0105**

790 **Exemptions**

791  
792 (1) Non-residents riding in Oregon are exempt from carrying a State of Oregon ATV Safety Education  
793 Card if they possess an ATV Safety Education Card or equivalent issued by their resident state or nation.  
794

795 (a) An ATV Safety Education Card issued in another state or nation shall be honored in the State of Oregon  
796 if the issuing state or nation also honors an Oregon ATV Safety Education Card.  
797

798 (b) The operator must have a State of Oregon ATV Safety Education Card if mandatory education is not  
799 required in their home state or nation to operate an ATV on public lands.  
800

801 (2) A person operating a Class I, III, or IV in a sanctioned competitive ATV event is not required to carry  
802 an ATV Safety Education Card.  
803

804 Stat. Auth.: ORS 390.570 & 390.575  
805 Stats. Implemented: ORS 390.570, 390.575 & 821.174  
806 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08  
807

808 **736-004-0110**

809 **Fees**

810 (1) There is no fee for issuance of the original ATV Safety Education Card.  
811

812 (2) There is no fee for issuance of an ATV Safety Education Card that adds an endorsement code.  
813

814 (3) The replacement fee for an ATV Safety Education Card is \$8.00.  
815

816 Stat. Auth.: ORS 390.570 & 390.575  
817 Stats. Implemented: ORS 390.570, 390.575 & 821.174  
818 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
819

820 **736-004-0115**

821 **Rider Fit**

822 (1) A Class I ATV operator under 16 years of age must meet all the following minimum physical size  
823 requirements in relationship to the vehicle:  
824

825 (a) Brake Reach: With hands placed in the normal operating position and fingers straight out, the first joint  
826 (from the tip) of the middle finger will extend beyond the brake lever and clutch;  
827

828 (b) Leg Length: While sitting and with their feet on the pegs, the knee must be bent at least 45 degrees;  
829

830  
831  
832  
833  
834

835 (c) Grip Reach: While sitting upright on the ATV with hands on the handlebars and not leaning forward,  
836 there must be a distinct angle between the upper arm and the forearm; and  
837

838 (d) The rider must be able to turn the handlebars from lock to lock while maintaining grip on the handlebars  
839 and maintaining the throttle and brake control.  
840

841 (2) Disabled riders are allowed to use prosthetic devices or modified or adaptive equipment to achieve rider  
842 fit.  
843

844 Stat. Auth.: ORS 390.570 & 390.575

845 Stats. Implemented: ORS 390.570, 390.575 & 821.174

846 Hist.: PRD 8-2008, f. & cert. ef. 10-15-08; PRD 20-2009, f. & cert. ef. 12-8-09  
847

848 **736-004-0120**  
849

850 **Minimum Training Standards**

851 (1) Providers of a Class I, III, or IV ATV evaluation or training course must evaluate ATV operators in  
852 their ability to control an ATV at or above OPRD minimum training standards under section (2) of this  
853 rule.  
854

855 (2) OPRD will provide minimum ATV training or evaluation standards that will include:  
856

857 (a) Prerequisite training requirements;  
858

859 (b) Rider fit under OAR 736-004-0115;  
860

861 (c) Familiarization of controls;  
862

863 (d) Internet safety course review;  
864

865 (e) Starting and stopping;  
866

867 (f) Turns and weaves; and  
868

869 (g) Navigating over and around obstacles.  
870

871 (3) Participants in an ATV evaluation or training course must meet the following requirements:  
872

873 (a) Rider must provide the eleven-digit card number from either their ATV Safety Education Card or their  
874 certificate of completion issued by OPRD;  
875

876 (b) Rider under 16 years of age must be accompanied throughout the training by an adult at least 18 years  
877 of age; and  
878

879 (c) Rider must have a Class I, III, or IV ATV. Three-wheeled vehicles are not allowed.  
880

881 (4) Rider must wear the following while operating an ATV during evaluation or training:  
882

883 (a) DOT (Department of Transportation) approved motorcycle helmet;  
884

885 (b) Goggles (or helmet with face shield);  
886

887 (c) Gloves;  
888

889 (d) Sturdy over-the-ankle shoes or boots;  
890

891 (e) Long-sleeved shirt or jacket; and

892

893 (f) Long pants.

894

895 Stat. Auth.: ORS 390.570 & 390.575

896 Stats. Implemented: ORS 390.570, 390.575

897 Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

898

899 **736-004-0125**

900

901 **ATV Training Course Approval by OPRD**

902

903 (1) An ATV course provider shall submit a course approval request on an application form provided by  
904 OPRD.

905

906 (2) OPRD will evaluate the course application under section (3) of this rule within 90 days of receipt of a  
907 complete application.

908

909 (3) OPRD shall evaluate the sufficiency of the course to train or evaluate to OPRD's minimum ATV  
910 training standards under OAR 736-004-0120(2) and meet the participation and equipment requirements of  
911 OAR 736-004-0120(3) and (4).

912

913 (4) OPRD course approval is valid for three years. An ATV course provider may submit a course approval  
914 renewal request on an application form provided by OPRD. OPRD will evaluate the course application  
915 renewal within 90 days of receipt of a completed application.

916

917 (5) OPRD may periodically audit courses or contact students for the purposes of evaluation for adherence  
918 to OPRD ATV minimum training standards under OAR 736-004-0120(2) through (4).

919

920 (6) If OPRD determines a course provider does not meet the ATV minimum training standards under OAR  
921 736-004-0120(2) through (4), OPRD may take one or more of the following actions:

922

923 (a) Notify the course provider in writing of course deficiencies and allow the course provider until the next  
924 scheduled course, or 30 days (whichever is later) to enact changes to comply with OAR 736-004-0120(2)  
925 through (4);

926

927 (b) Notify the course provider in writing that effective immediately no further courses are authorized by  
928 OPRD until required changes are made and determined to be in compliance with OAR 736-004-0120(2)  
929 through (4) by OPRD; or

930

931 (c) Notify the course provider in writing that effective immediately no further courses are authorized by  
932 OPRD until a new application for approval has been made under section (1) and approved under section (3)  
933 of this rule.

934

935 (7) Course providers are solely responsible for the oversight and management of course instructors.

936

937 Stat. Auth.: ORS 390.570 & 390.575

938 Stats. Implemented: ORS 390.570 & 390.575

939 Hist.: PRD 20-2009, f. & cert. ef. 12-8-09

Record of Public Comments  
Oregon Parks and Recreation Department

**Oregon Administrative Rule 736-004 – ATV Program**

In 2011, three public hearings were held around the state on November 29<sup>th</sup> in Salem, on November 30<sup>th</sup> in Bend, and December 1<sup>st</sup> in Medford. The meetings were held in public locations from 6:00 PM to 8:00 PM.

Staff sought public comment, both written and verbal relating to the proposed rule changes required because of House Bill 2329. Notices were provided to news outlets including newspapers and television. Notice was also posted at the OPRD / ATV internet site. Notices were provided to Off-Highway Vehicle clubs. Notice was also filed with the Secretary of State's office.

No public comment was received.

## Oregon Parks and Recreation Commission

January 25, 2011

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Agenda Item:	9c	Action
Topic:	Adopt OAR 736-045; Natural Areas Program	
Presented by:	Jim Morgan	

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### **Background:**

Passage of Oregon Senate Bill 58 conveyed the Oregon Natural Heritage Program from Department of State Lands (DSL) and State Land Board to Oregon Parks and Recreation Department (OPRD) and the Parks and Recreation Commission. The Natural Heritage Program is a cooperative interagency program that identifies significant plant, animal, and plant community resources of Oregon.

SB 58 abolished the Natural Heritage Advisory Council and provided that the OPRD Director may appoint a natural area advisory committee to advise in the function and performance of the natural heritage program. The bill transfers the authority from the State Land Board to the Commission the authority to designate State Natural Heritage sites and transfers the management of federal funds made available under Section 6 of the Federal Endangered Species Act to OPRD.

At the September 22, 2011 meeting, the commission granted permission to begin permanent rule making for creation of OAR 736-045 to provide rules necessary to facilitate the transfer and management of the Natural Areas Program from DSL to OPRD.

The rule changes were open for public comment during the month of November 2011. No comments were received. The rule text showing changes is included in Attachment A and a clean copy is included in Attachment B.

### **Prior Action by Commission:**

The commission granted permission to undertake permanent rule making, for changes to OAR 736-045 listed above, at the September 21, 2011 meeting.

### **Action Requested:**

Staff requests that the commission adopt changes in OAR chapter 736-045 as provided in Attachment B.

**Prepared by:** Jim Morgan

# **OREGON PARKS AND RECREATION DEPARTMENT**

## **DIVISION 45**

### **OREGON NATURAL AREAS PROGRAM RULES**

#### **General Provisions**

##### **736-045-005**

###### **Purpose**

The purpose of these rules is to provide a central and continuing register of areas in Oregon which contain significant natural heritage resources and special species, and describe the process used to register properties on the Oregon Register of Natural Areas. Ref. ORS 273.581, Chapter 208, Oregon Laws 1981.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273 .563 - 273 .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; Renumbered from 736-045-0890, DSL 9-2008, f. & cert. ef. 12-10-08

##### **736-045-010**

###### **Definitions**

As used in these rules, unless the context provides otherwise:

- (1) "Agency" means any federal, state or local government agency, department, board, or commission.
- (2) "Commission" means the Oregon Parks and Recreation Commission.
- (3) "Committee" means the Natural Areas Advisory Committee .
- (4) "Candidate Natural Area" means a natural resource area which may be considered for registration or dedication.
- (5) "Data bank" means the Natural Areas Program inventory of natural heritage resources classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.

(6) "Dedicated" means the formal recognition and protection of a natural area conservation purposes.

(7) "Department" means Oregon Parks and Recreation Department.

(8) "Document" means a documented record, report or map pertaining to the Natural Heritage Program data.

(9) "Instrument" means any written document intended to convey an interest in real property pursuant to ORS 93.710, or an agreement between parties pursuant to the Natural Areas Program, the Oregon Natural Areas Plan.

(10) "Introduced Species" means exotic or non-native species.

(11) "Managed Area" means a registered or dedicated State Natural Area Reserve that, by management agreement between the Commission and private landowner, or agency, the area and its natural heritage resources are maintained in a manner to protect the natural character.

(12) "Management Scheme" means a plan that sets forth in detail the responsibilities for the administration of an individual State Natural Area Reserve.

(13) "Natural Area" means a unit of land or water, or both, which may be considered for dedication under ORS 273.563 to 273.591. It means a natural heritage resource area which has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of natural features. Ref. ORS 273.566(1).

(14) "State Natural Area Reserve" means an area as defined as "Natural Area" above, that an individual, organization or public agency dedicates under the provisions of ORS 273.586.

(15) "Natural heritage resources" means the terrestrial ecosystems types, aquatic ecosystems types, and unique geologic types as defined in the Oregon Natural Areas Plan; means a unit of land or water which contains a natural resource(s).

(16) "Plan" means the Oregon Natural Areas Plan as established in ORS 273.576, which governs the Natural Areas Program in the selection of natural areas for conservation. Ref. ORS 273.566, Oregon Laws 1981, C. 208.

(17) "Program" means the Natural Areas Program as established in ORS 273.566, which provides for the establishment of a limited system of State Natural Area Reserves representing a full range of Oregon's natural resources and includes special species of plants and animals.

(18) "Register" means the Oregon Register of Natural Areas as established in ORS 273.581. The Register contains an official list of areas which have significant natural resources and special species.

(19) "Special Species" means those species of plants and animals determined by the Department to be of significant value in a state natural area reserve and defined in the Plan.

(20) "Wildlife" means any wild or free living vertebrate or invertebrate animal.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82, Renumbered from 736-045-0895 and 736-045-0950; DSL 9-2008, f. & cert. ef. 12-10-08

### **Natural Areas Advisory Committee**

#### **736-045-0100**

#### **Composition and Roles**

(1) Natural Areas Advisory Committee may be appointed by and serve at the will of the Director of Oregon Parks and Recreation Department, comprised of members chosen as follows and who shall elect from its membership a chairperson:

- a) individuals recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;
- b) citizens selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources; and,
- c) authorized representatives of state and federal natural resources management agencies.

(2) The Committee may assist the Department in:

- (a) the development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;
- (b) reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;
- (c) providing recommendations to the State Parks and Recreation Commission State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and
- (d) advising the Commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.

(3) Members of the advisory committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the department for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

## **Schedule of Fees and Charges**

### **736-045-0200**

#### **Acceptance of Funds**

(1) The Department may accept monies for, but not limited to, documents and services under these rules.

(2) The Department may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any private foundation for the purpose of carrying out the provisions of ORS 273.561 to 273.591 and Chapter 208, Oregon Laws 1981.

(3) All monies received by the Department shall be paid into the State Treasury and credited to the account of the Natural Areas Program. Ref. ORS 273.591.

Stat. Auth.: ORS 273

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 9-1982, f. & ef. 10-1-82

## **Oregon Register of Natural Heritage Resources**

### **736-045-0300**

#### **Criteria for Inclusion in Register**

Criteria to be included within the Register must be determined by the Commission to fulfill not only the definition of a natural area but the natural heritage resources and site considerations within the priorities and criteria for conservation in the Plan, ORS 273.563 to 273.591 and Chapter 208, Oregon Laws 1981. The following criteria will be used in evaluating a natural area proposed for inclusion in the Register:

(1) The priority for protection of the primary natural heritage resources objective and other natural heritage resources in the site as presented in the Plan;

- (2) The natural heritage resource occurrence(s) is an adequate representative of the type;
- (3) The extent to which each natural heritage resource has retained its natural character, i.e., a measurement of the degree of human caused disturbance;
- (4) The health and viability of the natural heritage resource occurrence(s), i.e., the ability of each natural heritage resource occurrence to perpetuate itself or its natural sequence of development in the area;
- (5) The number of natural heritage resources or natural heritage resources which will be adequately represented in the area;
- (6) The degree of uniqueness, and educational and natural interpretation values of a geologic resource(s);
- (7) The priority of protection given to each special species of plant or animal presented in the Plan;
- (8) The contribution the particular area will make to the protection of the special species; and
- (9) Manageability, i.e., the capability of being managed so as to protect and to maintain the natural values, as well as to make it available and useful for its designated purposes.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0305**

#### **Procedures for Registering**

Each proposal for the Register, together with field evaluation, maps and sufficient data to complete the register file, shall be reviewed by the Commission:

- (1) A proposal for the Register of private land shall contain the written consent of the landowner.
- (2) The Commission may place a site onto the Register, or remove a site from the Register. The Department will review and provide recommendation to the Commission for their consideration.
- (3) A voluntary management agreement may be developed between the Commission and a private landowner, or agency, of a site on the Register, with the assistance of the Department.

(4) Any area(s) designated by a federal or state agency, having been established by public hearing, may be entered onto the Register by the Commission Stat. Auth.: ORS 273 Stats. Implemented: ORS 273.563 - 273.591  
Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0310**

#### **Register File**

The Register may include file(s) of registered natural areas:

- (1) The card file may include name of natural area, location, size, ownership, register category, and principal Natural Heritage Resource(s) and special species. The card file may be cross referenced by county and principal resource.
- (2) The data file may include:
  - (a) Data Form -- Comprehensive information compiled for each natural area;
  - (b) Instrument of Dedication -- Or other documents certifying official dedication;
  - (c) Consent Form -- Written consent for natural areas on private land;
  - (d) Supportive Data -- Includes maps, photographs, remote sensing imagery, species lists, field notes, reports, research papers, and references to other information available;
  - (e) Cross references to the Data Bank -- To data file, computer and manual file consistent with data bank components;
  - (f) Implementation Data -- Written management agreement pertaining to the natural area;
  - (g) Summary Sheet -- A map and one page summary of information about each area which can be duplicated and circulated to appropriate authorities.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

### **736-045-0320**

#### **Location and Maintenance of Register**

The data files of the Oregon Register of Natural Areas will be located at the Department's office in Salem, OR, and will be maintained by the Department.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0330**

#### **Register Review**

The Register shall be reviewed and updated every five years by the Department.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

### **736-045-0340**

#### **Register Withdrawal**

Registered natural areas may be withdrawn from the Register by the Commission.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

## **Dedication and Management of a State Natural Area Reserve**

### **736-045-0400**

#### **Purpose**

The purpose and scope of dedication is to establish and maintain the integrity of the Plan, and the Program, by means of written formal recognition and protection of an area of land and/or water for natural heritage conservation purposes.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 9-1982, f. & ef. 10-1-82

### **736-045-0405**

#### **Instruments of Dedication**

(1) Private Dedication -- A private individual or organization which is the owner of any registered natural area may voluntarily agree to dedicate that area as a State Natural Area

Reserve by executing with the Commission, following review by the Department, an instrument of dedication. Instrument provisions and policies include, but are not limited to, the following:

(a) An agreement that provides each natural heritage resource in the State Natural Area Reserve with the most secure protection obtainable;

(b) An unlimited period of time, or a term sufficiently long to warrant dedication protection;

(c) Permission for conducting scientific research and other activities shall be commensurate with Program objectives;

(e) Termination of dedication may occur upon written notification to the Commission, including specific reasons for termination, and provision by the Commission of opportunity for adequate public notice and hearing.

(2) The Instrument of Dedication of an area under private ownership shall be filed by the Commission in the office of the clerk of the county in which any or all of the State Natural Area Reserve is located, and shall be effective upon its recording.

(3) A copy of the dedication and management agreement(s) shall be provided to the private owner of a State Natural Area Reserve.

(4) Public Agency Dedication -- Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591, and the Plan, after providing the opportunity for adequate public notice and hearing.

(5) The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education and the State Land Board shall, with the advice and assistance of the Department, establish procedures for the dedication of State Natural Area Reserves on land or water, the title of which is held by the State of Oregon, and which is under that agency's management and control. The instrument(s) of dedication and management shall contain any information or provisions as the agency and Department consider necessary to complete the dedication.

(6) Termination of the dedication of a State Natural Area Reserve by a public agency requires:

(a) Provision of opportunity for adequate public notice and hearing; and

(b) A finding by the agency of an imperative and unavoidable necessity due to natural disaster in the site, need of the natural resource during time of declared war, or the need of the natural resource because of extreme economic crisis of the state; or

(c) A finding by that agency, with the approval of the Department that the State Natural Area Reserve is no longer needed according to the guidelines of the Plan, or has permanently lost its character.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0410**

#### **Publicity**

Information about a State Natural Area Reserve and appropriate descriptive material may be developed and made available to interested persons. However, publicity which would tend to encourage the general public to visit a State Natural Area Reserve in greater numbers than its carrying capacity shall be avoided.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0412**

#### **Reports**

At regular intervals the Department shall make or cause to be made for each State Natural Area Reserve a record of management activities and other influences affecting each State Natural Area Reserve.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0414**

#### **Instruments**

The instruments of dedication shall include, but not be limited to:

- (1) The size, location, purpose, and resources of the State Natural Area Reserve;
- (2) A management scheme written for each State Natural Area Reserve which describes:
  - (a) The conservation objective of the area;
  - (b) Proscribed, allowed and prohibited activities on the area; and

(c) Provisions as consistent as possible with the following practices in OAR 736-045-0952 through 736-045-0996, which shall, unless otherwise noted, are a part of each management scheme.

(3) Agreements between the Commission and any agency necessary to establish the State Natural Area Reserve.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0416**

#### **State Natural Area Reserve Manager**

Notwithstanding the instruments of dedication, managers of a State Natural Area Reserve shall not take any action or fail to take any action which is in conflict with a statute, rule regulation or policy relating to an agency having an interest in or responsibility for the State Natural Area Reserve.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0418**

#### **Fire**

Prescribed fire may only be used as a management tool in such areas or situations where fire is needed to maintain or protect a State Natural Area Reserve as an ecosystem type specified in the management scheme

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-8

### **736-045-0420**

#### **Water Level Control**

State Natural Area Reserves shall be managed to maintain their natural water levels. Water levels which have previously been altered by man may be changed if provided for in the management scheme as essential for the restoration of natural conditions.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0422**

#### **Disturbance of Natural Features**

The management of State Natural Area Reserves shall not include the cutting or removal of vegetation or the disturbance of other natural features, except that which is essential to carry out the management scheme enumerated in these rules.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0424**

#### **Visitor Protection**

Guard rails, fences, steps, and bridges may be provided when essential to the safety of a reasonable alert and cautious visitor.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0426**

#### **Erosion Control**

Erosion and soil deposition due to disturbances of natural conditions by man within or outside a State Natural Area Reserve may be controlled as provided in the management scheme.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0428**

#### **Scenic or Landscape Management**

No measures or actions shall be taken to alter the natural growth or features of a State Natural Area Reserve for the purpose of enhancing its neatness, beauty, or amenities.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0430**

#### **Control of Succession**

Control of succession may be undertaken only if maintenance or restoration of a particular ecosystem type or preservation of threatened or endangered species is designated in the instruments of dedication as an objective of the State Natural Area Reserve. Based on scientific evidence of necessity, successional control measures may be undertaken as provided in the management scheme. Such measures shall be applied with caution and only to that part of the area as is necessary.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0432**

#### **Control of Introduced Plant Species**

Control of introduced plant species may be undertaken as provided in the management scheme.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0434**

#### **Control of Wildlife Populations**

The control of wildlife populations on State Natural Area Reserves shall be by agreements between the Commission and Oregon Department of Fish and Wildlife, or other agency. Insofar as practical any control measures applied shall be to correct those situations where wildlife populations are significantly affecting natural conditions on a State Natural Area Reserve.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0436**

## **Introduction and Management of Special Species**

The introduction into or the management of a State Natural Area Reserve for special wildlife species shall be by agreement between the Commission and the Oregon Department of Fish and Wildlife, Oregon Department of Agriculture or other agency as provided in the management scheme.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0438**

#### **Use Tolerance**

The management scheme shall set forth the use tolerance or durability of all or any portion of a State Natural Area Reserve and specify the steps to be taken if overuse occurs.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

### **736-045-0440**

#### **Collecting Permits**

A person wishing to collect material from a site for the purposes of research, education or restoration within a State Natural Area Reserve shall secure written permission from:

- (1) Oregon Parks and Recreation Department ; and
- (2) The owner of the land; and
- (3) The appropriate agency if any, including but not limited to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

### **736-045-0442**

#### **Boundary Markers**

When feasible, boundaries of a State Natural Area Reserve may be made clearly evident by placing markers at corners or other strategic locations or by boundary signs.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

#### **736-045-0444**

##### **Fences**

Fences and barriers may be installed as provided in the management scheme.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

#### **736-045-0446**

##### **Trails**

The location and specifications of any trails may be established in the management scheme. Trails shall be adequate to provide for permitted use of a State Natural Area Reserve, but otherwise kept to a minimum. The use of paving materials, footbridges and elevated walks may be permitted when necessary.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

#### **736-045-0448**

##### **Other Structures and Improvements**

Signs and temporary research installations may be permitted within a State Natural Area Reserve. No other structures or facilities shall be located within a State Natural Area Reserve except as provided in the management scheme on these rules.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

#### **736-045-0500**

##### **Amendments**

The Commission may review and approve or disapprove any modification to the Plan submitted by the Department.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 9-1982, f. & ef. 10-1-82

### **736-045-0505**

#### **Waiver of Rules**

The Commission may waive all or any part of these rules which would prevent the establishment, management, or protection of a State Natural Area Reserve if such rule is in conflict with a statute, rule, regulation, or policy relating to an agency having an interest in or responsibility for the State Natural Area Reserve.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

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For a copy of the Oregon Natural Areas Plan, go to:

<http://orbic.pdx.edu/documents/2010NAP.pdf>

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# OREGON PARKS AND RECREATION DEPARTMENT ~~OF STATE LANDS~~

DIVISION ~~50~~45

OREGON NATURAL ~~HERITAGE~~AREAS PROGRAM RULES

## General Provisions

~~141736-050~~045-04505

### Purpose

The purpose of these rules is to provide a central and continuing register of areas in Oregon which contain significant natural heritage resources and special species, and describe the process used to register properties on the Oregon Register of Natural ~~Heritage Resources~~ Areas. Ref. ORS 273.581, Chapter 208, Oregon Laws 1981.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273 .563 - 273 .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; Renumbered from ~~141736-050~~045-0890, DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050~~045-050010

### Definitions

As used in these rules, unless the context provides otherwise:

(1) "Agency" means any federal, state or local government agency, department, ~~board~~board, or commission.

(2) "~~Board~~Commission" means the Oregon Parks and Recreation ~~State Land~~ ~~Board~~Commission.

(3) "Committee" means the Natural Areas Advisory Committee .

(~~3~~4) "Candidate Natural Area" means a natural resource area which may be considered for registration or dedication.

(5) "Data bank" means the Natural Areas Program inventory of natural heritage resources classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.

~~(4) "Council" means the Natural Heritage Advisory Council as established in ORS 273.571.~~

~~(65) "Dedicated" means the formal recognition and protection of a natural area for natural heritage conservation purposes.~~

(7) "Department" means Oregon Parks and Recreation Department.

~~(68) "Document" means a documented record, report or map pertaining to the Natural Heritage Program data.~~

~~(7) "Elements" means both the natural heritage resources and the special species.~~

~~(89) "Instrument" means any written document intended to convey an interest in real property pursuant to ORS 93.710, or an agreement between parties pursuant to the Natural Heritage Areas Program, the Oregon Natural Heritage Areas Plan, or matters related thereto.~~

~~(910) "Introduced Species" means exotic or non-native species.~~

~~(101) "Managed Area" means a registered or dedicated Natural Heritage Conservation Area State Natural Area Reserve that, by management agreement between the Board Commission and private landowner, or agency, the area and its element natural heritage resources are maintained in a manner to protect the natural character.~~

~~(142) "Management Scheme" means a plan that sets forth in detail the responsibilities for the administration of an individual Natural Heritage Conservation Area State Natural Area Reserve.~~

~~(123) "Natural Area" means a unit of land or water, or both, which may be considered for dedication under ORS 273.563 to 273.591. It means a natural heritage resource area which has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of natural features. Ref. ORS 273 .566(1).~~

~~(134) "State Natural Heritage Conservation Area Reserve" means an area as defined as "Natural Area" above, that an individual, organization or public agency dedicates under the provisions of ORS 273.586.~~

~~(145) "Natural Heritage resources" means the plant community types, aquatic types (or terrestrial ecosystems types, and aquatic ecosystems types,) and unique geologic types as defined in the Oregon Natural Heritage Areas Plan; means a unit of land or water which contains a natural resource(s).~~

~~(156) "Plan" means the Oregon Natural HERITAGE PLAN Areas Plan as established in ORS 273.576, which governs the Natural Heritage Areas Program in the selection of~~

natural areas for ~~natural heritage~~ conservation. Ref. ORS 273.566, Oregon Laws 1981, C. 208.

(167) "Program" means the Natural ~~Heritage Areas~~ Program as established in ORS 273.566, which provides for the establishment of a limited system of ~~natural heritage conservation area~~ State Natural Area Reserves representing a full range of Oregon's natural ~~heritage~~ resources and includes special species of plants and animals.

(178) "Register" means the Oregon Register of Natural ~~Heritage Resources Areas~~ as established in ORS 273.581. The Register contains an official list of areas which have significant natural ~~heritage~~ resources and special species.

(189) "Special Species" means those species of plants and animals determined by the ~~Council Department~~ to be of significant value in a ~~Natural Heritage Conservation state natural area~~ Area reserve and defined in the Plan.

(2019) "Wildlife" means any wild or free living vertebrate or invertebrate animal.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82, Renumbered from ~~141736-050045~~-0895 and ~~141736-050045~~-0950; DSL 9-2008, f. & cert. ef. 12-10-08

### Natural Areas Advisory Committee

#### 736-045-0100

#### Composition and Roles

(1) Natural Areas Advisory Committee may be appointed by and serve at the will of the Director of Oregon Parks and Recreation Department, comprised of members chosen as follows and who shall elect from its membership a chairperson:

- a) individuals recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;
- b) citizens selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources; and,
- c) authorized representatives of state and federal natural resources management agencies.

(2) The Committee may assist the Department in:

(a) the development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;

- (b) reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;  
(c) providing recommendations to the State Parks and Recreation Commission State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and  
(d) advising the Commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.

(3) Members of the advisory committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the department for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

### Schedule of Fees and Charges

~~141736-050045-0525200~~

#### Acceptance of Funds

- (1) The Department ~~State Land Board~~ may accept monies for, but not limited to, documents and services under these rules.
- (2) The Department ~~Board~~ may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any private foundation for the purpose of carrying out the provisions of ORS 273.561 to 273.591 and Chapter 208, Oregon Laws 1981.
- (3) All monies received by the ~~Board~~Department shall be paid into the State Treasury and credited to the account of the Natural ~~Heritage Areas~~ Program. Ref. ORS 273.591.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273 .563 - ORS 273 .591

Hist.: LB 9-1982, f. & ef. 10-1-82

### Oregon Register of Natural Heritage Resources

~~141-050-0890 [Renumbered to 141-050-0450]~~

~~141736-050045-09300~~

#### Criteria for Inclusion in Register

Criteria to be included within the Register must be determined by the [Council Commission](#) to fulfill not only the definition of a natural area but the [element natural heritage resources](#) and site considerations within the [P](#) priorities and [C](#) criteria for [C](#) conservation in the Plan, ORS 273.563 to 273.591 and Chapter 208, Oregon Laws 1981. The following criteria will be used in evaluating a natural area proposed for inclusion in the Register:

(1) The priority for protection of the primary [element natural heritage resources](#) objective and other [element natural heritage resources](#) in the site as presented in the Plan;

(2) The [element natural heritage resource](#) occurrence(s) is an adequate representative of the type;

(3) The extent to which each natural heritage resource has retained its natural character, i.e., a measurement of the degree of human caused disturbance;

(4) The health and viability of the [element natural heritage resource](#) occurrence(s), i.e., the ability of each [element natural heritage resource](#) occurrence to perpetuate itself or its natural sequence of development in the area;

(5) The number of natural heritage resources or [element natural heritage resources](#) which will be adequately represented in the area;

(6) The degree of uniqueness, and educational and natural interpretation values of a geologic resource(s);

(7) The priority of protection given to each special species of plant or animal presented in the Plan;

(8) The contribution the particular area will make to the protection of the special species; and

(9) Manageability, i.e., the capability of being managed so as to protect and to maintain the natural values, as well as to make it available and useful for its designated purposes.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

[141736-050045-09305](#)

### **Procedures for Registering**

Each proposal for the Register, together with field evaluation, maps and sufficient data to complete the register file, shall be reviewed by the [Council Commission](#):

(1) A proposal for the Register of private land shall contain the written consent of the landowner.

(2) ~~The~~ After review and recommendation by the Council, the Board Commission may place a site onto the Register, or remove a site from the Register. The Department will review and provide recommendation to the Commission for their consideration. ~~The Board shall notify the Council of its decision.~~

(3) A voluntary management agreement may be developed between the ~~Board~~ Commission and a private landowner, or agency, of a site on the Register, with the assistance of the ~~Council~~ Department.

(4) Any area(s) designated by a federal or state agency, having been established by public hearing, may be entered onto the Register by the ~~Council~~.

Commission Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0915310~~

### **Register File**

The Register may include file(s) of registered natural areas:

(1) The card file may include name of natural area, location, size, ownership, register category, and principal Natural Heritage Resource(s) and special species. The card file may be cross referenced by county and principal resource.

(2) The data file may include:

(a) Data Form -- Comprehensive information compiled for each natural area;

(b) Instrument of Dedication -- Or other documents certifying official dedication;

(c) Consent Form -- Written consent for natural areas on private land;

(d) Supportive Data -- Includes maps, photographs, remote sensing imagery, species lists, field notes, reports, research papers, and references to other information available;

(e) Cross references to the Data Bank -- To data file, computer and manual file consistent with data bank components;

(f) Implementation Data -- Written management agreement pertaining to the natural area;

(g) Summary Sheet -- A map and one page summary of information about each area which can be duplicated and circulated to appropriate authorities.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-09320~~

### **Location and Maintenance of Register**

The data files of the Oregon Register of Natural ~~Heritage Resources~~-~~Areas~~ will be located at the ~~Oregon Natural Heritage Information Center~~~~Department's~~ office in ~~Portland~~ ~~Salem~~, OR, and will be maintained by the ~~Council~~~~Department~~.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0925330~~

### **Register Review**

The Register shall be reviewed and updated every five years by the ~~Council~~~~Department~~.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0930340~~

### **Register Withdrawal**

Registered natural areas may be withdrawn from the Register by the ~~State Land Board~~~~Commission~~ upon the recommendation of the Council. ~~Specific reasons must be given for withdrawal.~~

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

**Dedication and Management of a**  
~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#)

~~141736-050045-0935400~~

### **Purpose**

The purpose and scope of dedication is to establish and maintain the integrity of the Plan, and the Program, by means of written formal recognition and protection of an area of land and/or water for natural heritage conservation purposes.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0940405~~

### **Instruments of Dedication**

(1) Private Dedication -- A private individual or organization which is the owner of any registered natural area may voluntarily agree to dedicate that area as a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) by executing with the ~~Board~~[Commission](#), following review by the ~~Council~~[Department](#), an instrument of dedication. Instrument provisions and policies include, but are not limited to, the following:

(a) An agreement that provides each ~~element~~[natural heritage resource](#) in the ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) with the most secure protection obtainable;

(b) An unlimited period of time, or a term sufficiently long to warrant dedication protection;

(c) Permission for conducting scientific research and other activities shall be commensurate with Program objectives;

~~(d) Management policies for the site, which may include all or part of the Management of Natural Heritage Conservation Areas in OAR 141-050-0935 through 141-050-0999;~~

(e) Termination of dedication may occur upon written notification to the ~~Board~~[Commission](#), including specific reasons for termination, and provision by the ~~Council~~[Commission](#) of opportunity for adequate public notice and hearing.

(2) The Instrument of Dedication of an area under private ownership shall be filed by the ~~Board~~[Commission](#) in the office of the clerk of the county in which any or all of the ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) is located, and shall be effective upon its recording.

(3) A copy of the dedication and management agreement(s) shall be provided to the private owner of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#).

(4) Public Agency Dedication -- Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591, and the Plan, after providing the opportunity for adequate public notice and hearing ~~by the agency~~.

(5) The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education and the State Land Board shall, with the advice and assistance of the ~~Council~~ [Department](#), establish procedures for the dedication of ~~Natural Heritage Conservation Area~~ [State Natural Area Reserves](#) on land or water, the title of which is held by the State of Oregon, and which is under that agency's management and control. The instrument(s) of dedication and management shall contain any information or provisions as the agency and ~~Council~~ [Department](#) consider necessary to complete the dedication.

(6) Termination of the dedication of a ~~Natural Heritage Conservation Area~~ [State Natural Area Reserve](#) by a public agency requires:

(a) Provision of opportunity for adequate public notice and hearing; [and](#)

(b) A finding by the agency of an imperative and unavoidable necessity due to natural disaster in the site, need of the natural resource during time of declared war, or the need of the natural resource because of extreme economic crisis of the state;

[or](#)

(c) A finding by that agency, with the approval of the ~~Council~~ [Department](#) that the ~~Natural Heritage Conservation Area~~ [State Natural Area Reserve](#) is no longer needed according to the guidelines of the Plan, or has permanently lost its character.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0952410~~

## Publicity

Information about a ~~Natural Heritage Conservation Area~~ [State Natural Area Reserve](#) and appropriate descriptive material may be developed and made available to interested persons. However, publicity which would tend to encourage the general public to visit a ~~Natural Heritage Conservation Area~~ [State Natural Area Reserve](#) in greater numbers than its carrying capacity shall be avoided.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0954412~~

## Reports

At regular intervals the ~~Council~~Department shall make or cause to be made for each ~~Natural Heritage Conservation Area~~State Natural Area Reserve a record of management activities and other influences affecting each ~~Natural Heritage Conservation Area~~State Natural Area Reserve.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273 .563 - ORS 273 .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0956414~~

## Instruments

The instruments of dedication shall include, but not be limited to:

- (1) The size, location, purpose, and resources of the ~~Natural Heritage Conservation Area~~State Natural Area Reserve;
- (2) A management scheme written for each ~~Natural Heritage Conservation Area~~State Natural Area Reserve which describes:
  - (a) The conservation objective of the area;
  - (b) Proscribed, allowed and prohibited activities on the area; and
  - (c) Provisions as consistent as possible with the following practices in OAR ~~141736-050045-0952~~ through ~~141736-050045-0996~~, which shall, unless otherwise noted, ~~be~~are a part of each management scheme.
- (3) Agreements between the ~~Board~~Commission and any agency necessary to establish the ~~Natural Heritage Conservation Area~~State Natural Area Reserve.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273 .563 - ORS 273 .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0960416~~

## ~~Natural Heritage Conservation Area~~State Natural Area Reserve Manager

Notwithstanding the instruments of dedication, managers of a ~~Natural Heritage Conservation Area~~State Natural Area Reserve shall not take any action or fail to take any

action which is in conflict with a statute, rule regulation or policy relating to an agency having an interest in or responsibility for the ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#).

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0962~~[418](#)

### **Fire**

Prescribed fire may only be used as a management tool in such areas or situations where fire is needed to maintain or protect a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) as an ecosystem type specified in the management scheme

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-8

~~141736-050045-0964~~[420](#)

### **Water Level Control**

~~Natural Heritage Conservation Area~~[State Natural Area Reserves](#) shall be managed to maintain their natural water levels. Water levels which have previously been altered by man may be changed if provided for in the management scheme as essential for the restoration of natural conditions.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273](#) .563 - [ORS 273](#) .591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0965~~[422](#)

### **Disturbance of Natural Features**

The management of ~~Natural Heritage Conservation Area~~[State Natural Area Reserves](#) shall not include the cutting or removal of vegetation or the disturbance of other natural features, except that which is essential to carry out the management scheme enumerated in these rules.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0966424~~

### **Visitor Protection**

Guard rails, fences, steps, and bridges may be provided when essential to the safety of a reasonable alert and cautious visitor.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0967426~~

### **Erosion Control**

Erosion and soil deposition due to disturbances of natural conditions by man within or outside a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) may be controlled as provided in the management scheme.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0968428~~

### **Scenic or Landscape Management**

No measures or actions shall be taken to alter the natural growth or features of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) for the purpose of enhancing its neatness, beauty, or amenities.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0970430~~

### **Control of Succession**

Control of succession may be undertaken only if maintenance or restoration of a particular ecosystem type or preservation of threatened or endangered species is designated in the instruments of dedication as an objective of the ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#). Based on scientific evidence of necessity, successional control measures may be undertaken as provided in the management scheme. Such measures shall be applied with caution and only to that part of the area as is necessary.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0972~~[432](#)

### **Control of Introduced Plant Species**

Control of introduced plant species may be undertaken as provided in the management scheme.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0974~~[434](#)

### **Control of Wildlife Populations**

The control of wildlife populations on ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) shall be by agreements between the ~~Board~~[Commission](#) and Oregon Department of Fish and Wildlife, or other agency. Insofar as practical any control measures applied shall be to correct those situations where wildlife populations are significantly affecting natural conditions on a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#).

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0976~~[436](#)

### **Introduction and Management of Special Species**

The introduction into or the management of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) for special wildlife species shall be by agreement between the ~~Board~~[Commission](#) and the Oregon Department of Fish and Wildlife, Oregon Department of Agriculture or other agency as provided in the management scheme.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0980~~[438](#)

## Use Tolerance

The management scheme shall set forth the use tolerance or durability of all or any portion of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) and specify the steps to be taken if overuse occurs.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0982440~~

## Collecting Permits

A person wishing to collect material from a site for the purposes of research, education or restoration within a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) shall secure written permission from:

(1) ~~Oregon -The Board~~[Parks and Recreation Department](#) ; and

(2) The owner of the land; and

(3) The appropriate agency if any, including but not limited to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

~~141736-050045-0990442~~

## Boundary Markers

When feasible, boundaries of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) may be made clearly evident by placing markers at corners or other strategic locations or by boundary signs.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0992444~~

## Fences

Fences and barriers may be installed as provided in the management scheme.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0994446~~

### **Trails**

The location and specifications of any trails may be established in the management scheme. Trails shall be adequate to provide for permitted use of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#), but otherwise kept to a minimum. The use of paving materials, footbridges and elevated walks may be permitted when necessary.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0996448~~

### **Other Structures and Improvements**

Signs and temporary research installations may be permitted within a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#). No other structures or facilities shall be located within a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) except as provided in the management scheme on these rules.

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0998500~~

### **Amendments**

The ~~Board~~[Commission](#) may review and approve or disapprove any modification to the Plan submitted by the ~~Council~~[Department](#).

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 9-1982, f. & ef. 10-1-82

~~141736-050045-0999505~~

### **Waiver of Rules**

The ~~State Land Board~~[Commission](#) may waive all or any part of these rules which would prevent the establishment, management, or protection of a ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#) if such rule is in conflict with a statute, rule, regulation, or policy relating to an agency having an interest in or responsibility for the ~~Natural Heritage Conservation Area~~[State Natural Area Reserve](#).

Stat. Auth.: [ORS 273](#)

Stats. Implemented: [ORS 273 .563](#) - [ORS 273 .591](#)

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

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[For a copy of the Oregon Natural Areas Plan, go to:](#)

<http://orbic.pdx.edu/documents/2010NAP.pdf>

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