

## AQUATIC INVASIVE SPECIES PREVENTION

(Generally)

**830.560 Launching boat with aquatic invasive species prohibited; rules.** (1) As used in this section:

(a) “Aquatic invasive species” means any aquatic life or marine life determined by the State Fish and Wildlife Commission by rule to be invasive or any aquatic noxious weed determined by the State Department of Agriculture to be invasive.

(b) “Launch” means any act that places a boat into a waterway for recreational boating, for flushing or testing an engine or for any other purpose.

(2) Except as provided in subsection (3) of this section, a person may not launch a boat into the waters of this state if:

(a) The boat has any visible aquatic species on its exterior hull or attached to any motor, propulsion system or component, anchor or other attached apparatus outside of the hull, or on the trailer or other device used to transport the boat; or

(b) The boat has any aquatic invasive species within its bilge, livewell, motorwell or other interior location.

(3) The State Fish and Wildlife Commission, in consultation with the State Department of Agriculture, by rule may allow the presence of certain aquatic species on or within a boat for activities including but not limited to hunting and photography.

(4) The State Marine Board shall provide information to the public about any rules adopted under subsection (3) of this section. [2009 c.303 §2]

(Permits)

**830.565 Permit required.** (1) A person may not operate a manually propelled boat that is 10 feet or more in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

(2) A person who obtains an aquatic invasive species prevention permit for a manually propelled boat may use the permit on any manually propelled boat the person operates on the waters of this state. [2009 c.764 §7]

**830.570 Board to issue permit; fees.** (1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board shall supply the agents with motorboat and manually propelled boat aquatic invasive species prevention permits. [2009 c.764 §8]

**830.575 Fees for permit.** Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

- (1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is \$5.
- (2) The annual fee for a manually propelled boat 10 feet or more in length is \$5.
- (3) The annual fee for a motorboat operated by a nonresident is \$20.
- (4) The annual fee for an operator of a boat livery is:
  - (a) \$30 for an operator who owns 6 to 10 manually propelled boats;
  - (b) \$55 for an operator who owns 11 to 20 manually propelled boats; or
  - (c) \$100 for an operator who owns 21 or more manually propelled boats. [2009 c.764 §9]

**830.580 Rules; contracting services.** (1) The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565.

(2) Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided under ORS 830.565 to 830.575 to any private person or entity or other unit of government. [2009 c.764 §10]

**830.585 Aquatic Invasive Species Prevention Fund.** The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board for the purpose of administering the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species. [2009 c.764 §11]

**Note:** 830.585 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Prevention Efforts)

**830.587 Definitions for ORS 830.589, 830.594 and 830.999.** As used in ORS 830.589, 830.594 and 830.999:

(1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.

(2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors. [Formerly 570.850]

**Note:** 830.587, 830.589 and 830.594 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**830.589 Watercraft check stations; rules.** (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the

presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section.

(3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.

(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section. [Formerly 570.855]

**Note:** See note under 830.587.

**830.594 Report of prevention efforts.** (1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245. [Formerly 570.860]

**Note:** See note under 830.587.

## SEAPLANES

**830.600 Applicability of boating laws to seaplanes.** The provisions of ORS 830.172, 830.200, 830.210 to 830.240, 830.245, 830.250, 830.260, 830.270, 830.375, 830.410, 830.415, 830.420, 830.430 to 830.460, 830.700 to 830.870 and 830.880 to 830.895 do not apply to seaplanes as defined in ORS 835.200. [1995 c.655 §3; 1999 c.692 §11]

**830.605 State Marine Board and Oregon Department of Aviation to distribute information on regulation of seaplanes.** (1) The State Marine Board and the Oregon Department of Aviation shall cooperate to publish and distribute information concerning laws, rules and regulations that govern seaplane safety and operations in Oregon.

(2) As used in this section, “seaplane” has the meaning given that term in ORS 835.200. [1995 c.655 §5; 2001 c.104 §316; 2005 c.22 §518]

## NUMBERING, TITLES AND LICENSES

(Generally)

**830.998 Penalty for failing to stop at an aquatic invasive species check station.** (1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

(2) Notwithstanding ORS 153.042, an enforcement officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation. [Subsections (1) and (2) of 2011 Edition formerly 570.990(2) and (3)]

**Note:** 830.998 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **830.999 Penalty for transporting aquatic invasive species; exceptions; use of penalty moneys; rules.**

(1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section. [Formerly 570.865]

**Note:** 830.999 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## **141-100-0010**

### **Purpose**

Pursuant to ORS 390.835(2) and (3), these rules establish procedures for the consideration and processing of permit applications for fill, removal and other alterations of the beds and banks of a State Scenic Waterway and in jurisdictional waters within related adjacent lands.

Stat. Auth.: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Stats. Implemented: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Hist.: LB 3-1994, f. 5-11-94, cert. ef. 5-15-94; DSL 4-2011, f. & cert. ef. 3-1-11

## **141-100-0020**

### **Policy**

The Department will:

- (1) Preserve. Preserve the natural setting and free-flowing character of State Scenic Waterways and related adjacent lands for recreation, fish and wildlife uses for present and future benefit to the public.
- (2) Recognize Best Use of Waters. Recognize recreation, fish and wildlife uses as the highest and best uses of the waters of a State Scenic Waterway.
- (3) Protect. Protect the outstanding scenic, geological, botanical, historic, archaeological, outdoor recreation and fish and wildlife values along State Scenic Waterways by protecting the special attributes (as listed in each Scenic Waterway Management Plan prepared by OPRD) that caused the waterway to be included in the Scenic Waterway system.
- (4) Require Non-structural Techniques. Require applicants to employ streambank stabilization and rehabilitation techniques utilizing native riparian vegetation and other non-structural alternatives, unless it can be demonstrated such approaches are unlikely to be effective for the given situation under consideration by the Department.
- (5) Require Permits Prohibit filling, removal and alteration of the beds and banks of State Scenic Waterways, except as provided under OAR 141-100-0035, unless a permit is issued by the Director as provided in these rules.

(6) Cooperate with Local, State and Federal Agencies. Recognize the interrelated nature of regulatory activities affecting State Scenic Waterways and the need to achieve coordinated management and protection of State Scenic Waterway values. The Department shall work in close cooperation with state, local and federal agencies, particularly OPRD, Water Resources Department (WRD), Department of Environmental Quality (DEQ), Oregon Department of Fish and Wildlife (ODFW), U.S. Army Corps of Engineers (COE), affected tribes, and local government land use planning agencies.

(7) Provide for Public Comment. Recognize the high level of public interest in State Scenic Waterway management by providing opportunities for comment on proposed policies or rules and individual applications.

(8) Ensure Compatibility with Land Use. Adhere to the Department's State Agency Coordination Plan (OAR 141-095-0005 through 141-095-0015), to assure compliance with the statewide planning goals and compatibility with acknowledged city and county comprehensive land use plans.

Stat. Auth.: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Stats. Implemented: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Hist.: LB 3-1994, f. 5-11-94, cert. ef. 5-15-94; DSL 3-1998, f. & cert. ef. 4-22-98; DSL 2-2006, f. 3-21-06, cert. ef. 3-27-06; DSL 3-2009, f. 2-13-09, cert. ef. 3-1-09; DSL 4-2011, f. & cert. ef. 3-1-11

## **141-100-0030**

### **Coordination with Key Agencies Involved in Scenic Waterway Management**

(1) Cooperative Effort. Managing the State Scenic Waterway Program is a cooperative effort of the OPRD, WRD and the Department. In addition, ODFW, DEQ, the Department of Forestry (DOF) and the Oregon State Marine Board play key roles. Therefore, the Department will:

(a) Coordinate the review and issuance of all State Scenic Waterway removal-fill permits with the affected state agencies;

(b) Coordinate the investigation of alleged State Scenic Waterway removal-fill violations with affected agencies;

(c) Advise applicants of the need to obtain concurrence from OPRD for projects on related adjacent lands; and

(d) Seek to utilize the expertise of other state agency's staff.

(2) Tribal and Federal Coordination. Because many State Scenic Waterways are also included in the federal Wild and Scenic River system or similar designations on tribal lands, the Department

will work closely with the appropriate federal agencies including the U.S. Forest Service (USFS), U.S. Bureau of Land Management (BLM), the U.S Army Corps of Engineers (USACE) and affected tribes as follows:

- (a) Fully coordinate the review and issuance of all State Scenic Waterway removal-fill permits with the analysis outlined in the Application Review Procedures for Scenic Waterway Removal-fill Permits (OAR 141-100-0045), and participate in National Environmental Protection Act review or any similar evaluations conducted by federal agencies; and
- (b) Immediately notify the appropriate federal agency or affected tribe of alleged State Scenic Waterway removal-fill violations.

Stat. Auth.: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Stats. Implemented: ORS 196.600 – 196.692, 196.795 – 196.990, 390.805 – 390.925

Hist.: LB 3-1994, f. 5-11-94, cert. ef. 5-15-94; DSL 2-2006, f. 3-21-06, cert. ef. 3-27-06; DSL 3-2009, f. 2-13-09, cert. ef. 3-1-09; DSL 4-2011, f. & cert

**835.205 Seaplane regulation.** For purposes of ORS 830.175, 830.180, 830.185 and 830.195, the Oregon Department of Aviation, in cooperation with the State Marine Board, shall regulate boats that are seaplanes as provided in ORS 830.605 and 835.200. [Formerly 835.045; 2003 c.14 §505]

## REGULATIONS FOR SPECIFIC AREAS

**830.175 Regulations for specific areas; rules.** (1) The State Marine Board, upon consideration of the size of a body of water and traffic conditions, may make special regulations consistent with the safety and the property rights of the public or when traffic conditions become such as to create excessive congestion, relating to the operation of boats in any waters within the territorial limits of any political subdivision of this state. The regulations may include, but need not be limited to, the establishment of designated speeds, the prohibition of the use of motorboats and the designation of areas and times for testing racing motorboats.

(2) The governing body of a political subdivision of this state may apply to the board for special regulations relating to the designation of moorage areas on lakes or reservoirs which are under the jurisdiction of a public agency, or to the operation of boats on the waters within the territorial limits of the political subdivision. Within a reasonable time, the board shall act upon the application in the manner provided in subsection (1) of this section. When special regulations have been established within a political subdivision in accordance with this subsection, the governing body shall establish and maintain the navigational markers prescribed by the board.

(3) The board may make special regulations relating to the operation of boats, including the establishment of designated speeds and prohibition of the use of motorboats for the protection of game and game fish at the request of the State Fish and Wildlife Commission, or for carrying out the provisions of the federal Wild and Scenic Rivers Act, Public Law 90-542, and the Oregon Scenic Waterways Act, ORS 390.805 to 390.925. Action necessary to implement this section, including but not limited to the operation and manner of operation of boats, shall be by a permit

system initiated by the board.

(4) The board may designate certain rivers or sections of rivers as hazardous. In making such designations, the board may consider recommendations of guide associations incorporated in this state.

(5) Regulations regarding operation of boats pursuant to this section shall be adopted in accordance with the provisions of ORS chapter 183.

(6) Any speeds in excess of the speeds designated by the board, as provided in this section, shall be prima facie evidence of the violation of ORS 830.315. [Formerly 488.600]

**830.180 Use of motors prohibited on certain lakes; exceptions.** No person, other than the Department of State Police and governmental agencies of this state and the federal government having jurisdiction over the following described waters, shall use a motor for propelling a boat or for any purpose on the following named waters of this state located in the counties named:

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<u>Counties</u>	<u>Lakes, Reservoirs and Rivers</u>
Clackamas	Trillium Lake
Deschutes	Charlton, Devils, Irish, Lucky, North and South Twin, Taylor, Three Creek and Todd Lakes
Douglas	Opal and Timpanagos Lakes
Hood River	Lost Lake
Jackson	Squaw Lakes
Jefferson	Horseshoe, Dark and Olallie Lakes, and on that portion of the Deschutes River between Pelton Dam and the Wasco County line
Lane	Gold Lake
Linn	Clear Lake
Marion	Breitenbush Lake
Wasco	Frog Lake, and on that portion of the Deschutes River bordering the Warm Springs Indian Reservation

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[Formerly 488.610]

**830.185 Speed restrictions in certain areas.** (1) No person shall operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour during those hours of the day and on those days of the year that it is lawful to fish, on East Lake, Paulina Lake and Elk Lake in Deschutes County; Magone Lake in Grant County; Timothy Lake in Clackamas County; and Davis Lake in Deschutes and Klamath Counties.

(2) No person shall operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour on the following named waters of this state located in the counties named:

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<u>Counties</u>	<u>Lakes and Reservoirs</u>
Clackamas	On that portion of the waters of the reservoir known as North Fork Reservoir which lies upstream from a line drawn across the reservoir at right angles to the thread of the stream at a point 2.3 miles upstream from the North Fork Dam measured along the thread of the stream
Deschutes	Hosmer, Lava, Little Cultus, Little Lava, Sparks Lakes and Crane Prairie Reservoir
Jefferson	On that portion of the waters behind Pelton Dam, known as Lake Simtustus, which lies upstream from a line drawn across the lake at right angles to the thread of the stream at a point 0.85 miles upstream from the Pelton Dam measured along the thread of the stream
Klamath	That portion of Upper Klamath Lake that lies west of a line beginning at a point on the north shore of Pelican Bay one-quarter mile east of Crystal Creek and extending due south to the opposite shore of the lake; any stream, creek or canal that leads into the portion of Upper Klamath Lake described above including Crystal Creek, Recreation Creek and Four-Mile Creek, also known as Harriman Creek
<u>Lane</u>	<u>Waldo Lake</u>
Linn	Smith and Trailbridge Reservoirs
Wasco	Clear Lake

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(3)(a) The State Marine Board shall establish an appropriate decibel rating and speed restriction on Diamond Lake in Douglas County to allow recreational boating that is not limited to fishing. Recreational boating does not include operating a jet ski or similar personal watercraft. The speed established by the board:

(A) May not exceed 45 miles per hour between the hours of 9 a.m. and 6 p.m.;

(B) May not exceed 10 miles per hour between the hours of 6 p.m. and 9 a.m.;

(C) Shall be restricted to 10 miles per hour at all times in any area within 200 yards of any boat ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer home.

(b) The board shall reduce the speed restriction on Diamond Lake to 10 miles per hour at all hours when the State Fish and Wildlife Director determines that the health of Diamond Lake is restored and the lake can be restocked for fishing. [Formerly 488.620; 1995 c.79 §383; 1999 c.252 §2]

**830.190 Temporary suspension of speed restrictions.** The governing body of a political subdivision of this state may apply to the State Marine Board for a temporary suspension of a speed restriction on a specific body of water within the territorial limits of the political subdivision and, after a hearing upon notice, the board may suspend the restriction, such suspension not to exceed 72 hours. [Formerly 488.625]

**830.195 Board to protect traditional boating uses and prevent user conflicts.** In addition to any other authority to regulate boating activities pursuant to this chapter, the State Marine Board may regulate and restrict boating activities to protect traditional boating uses and to prevent boating user conflicts. [Formerly 488.880]

**830.200 County boat use permits.** (1) Except as otherwise provided in this section, it is unlawful to operate a boat on the waters of this state if a county requires a boat use permit to do so and the operator of the boat has not obtained the permit.

(2) Notwithstanding the provisions of subsection (1) of this section, a resident of the State of Idaho may operate a boat on the waters of this state without a boat use permit. The provisions of this subsection do not become operative until laws, rules or regulations of the State of Idaho become operative that, in substance or effect, contain provisions which make lawful engaging in boating without obtaining a boat use permit or paying a fee to operate a boat. This subsection remains operative only while such laws, rules or regulations remain operative. [1991 c.590 §3]

## SEAPLANES

**830.600 Applicability of boating laws to seaplanes.** The provisions of ORS 830.172, 830.200, 830.210 to 830.240, 830.245, 830.250, 830.260, 830.270, 830.375, 830.410, 830.415, 830.420, 830.430 to 830.460, 830.700 to 830.870 and 830.880 to 830.895 do not apply to seaplanes as defined in ORS 835.200. [1995 c.655 §3; 1999 c.692 §11]

**830.605 State Marine Board and Oregon Department of Aviation to distribute information on regulation of seaplanes.** (1) The State Marine Board and the Oregon Department of Aviation shall cooperate to publish and distribute information concerning laws, rules and regulations that govern seaplane safety and operations in Oregon.

(2) As used in this section, "seaplane" has the meaning given that term in ORS 835.200. [1995 c.655 §5; 2001 c.104 §316; 2005 c.22 §518]

**835.035 General board powers; rules; United States facilities exempt from board orders.** (1) Subject to ORS 835.017, the State Aviation Board may perform such acts, adopt or

amend and issue such orders, rules and regulations, and make, promulgate and amend such minimum standards, all consistent with the provisions of this chapter, as it considers necessary to carry out the provisions of this chapter and to perform its duties thereunder.

(2) No such rule, regulation or order of the board shall apply to airports or air navigation facilities owned or operated by the United States.

(3) All authority, power and duty delegated to the board by the provisions of this section shall be exercised and performed in all respects commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, or using or traveling in aircraft, and of persons or property on land or water, and to develop and promote aviation in this state.

(4) Promulgation of rules, conduct of hearings and issuance and judicial review of rules and orders shall be in accordance with ORS chapter 183. [Formerly 491.100; 2011 c.630 §31]