

**Routine Program Change**  
**Updating Oregon's State Lands Enforceable Policies**

**O.R.S. §§ 273.551-273.591, 273.775-273.790**

**July 24, 2014**

**I. Introduction**

The Oregon Coastal Management Program requests that the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM) approve updates to the OCMP to reflect changes to Oregon's statutes regarding activities on state lands generally. Oregon requests concurrence that these updates constitute a Routine Program Change.

Section II.A describes the relevant programs in ORS Chapter 273 and identifies changes to the statutes since OCRM's previous approval. Section II.B identifies those sections that state "enforceable policies" that are used in Oregon's federal consistency review determinations. Section II.C shows that the submitted updates are a Routine Program Change under NOAA regulations and guidelines.

**II. Analysis of Routine Program Change**

**A. Discussion of Programs in Chapter 273**

The OCMP was initially approved by NOAA in 1977, and was subsequently revised and approved *in toto* by NOAA in 1987. The 1987 OCMP serves as the baseline program for subsequent updates and routine program changes.

In 1987, the effective OCMP included programs codified in ORS Chapter 273. These include the state's Natural Heritage Program (now Natural Areas Program), which protects a discrete and limited system of natural areas that are selected to represent the full range of Oregon's natural heritage resources; protections of the South Slough National Estuarine Sanctuary (now South Slough National Estuarine Research Reserve); as well as policies and required procedures regarding mineral and geothermal rights on state lands and their development. These statutory provisions are administered by the Department of State Lands (renamed in 2003, from the former Division of State Lands).

The attached table includes the full listing of statutory provisions addressing development of state resources and protections of specific areas, including those provisions which remain unchanged since prior OCRM approval in 1987. This is in order to ensure that the full current program remains part of the OCMP and establishes the 2013 Edition of the Oregon Revised Statutes as the effective baseline for all of these statutory provisions, should they be further amended in the future. We are also attaching the full current versions of the statutes.

As shown in the attached table, the only changes to many of these sections since 1987 reflect conforming name changes and revised cross-references. Name changes included the renaming of the

Division of State Lands as the Department of State Lands in 2003, the redesignation of the South Slough National Estuarine Sanctuary as South Slough National Estuarine Research Reserve in 2003, the removal of references to the Natural Heritage Advisory Council in 2011 and placement of those activities with the State Parks and Recreation Department, the movement of State Land Board authorities to the State Parks and Recreation Department and Commission, and the replacement of references to the Office of Coastal Zone Management with Office of Ocean and Coastal Resource Management.

The correction of cross-references to other sections of Oregon law included the removal of references to ORS 517.420, which was repealed in 1993; the removal of references to ORS 274.615 to 274.645, most of which were repealed in 1991, ORS 274.645 having been repealed in 1987; the substitution of reference to ORS 273.201, which was repealed in 1991, with ORS 270.100; more precise replacement of “chapter 208, Oregon Laws 1981” with ORS 273.578; and the replacement of “Public Law 415, 75th Congress (50 Stat. 917, 16 U.S.C. 777)” with “an agreement with the federal government under 16 U.S.C. 669 to 669i (P.L. 75-415).”

Other updates and changes are as follows:

O.R.S. §273.551. This section continues to state the authority of the Department of State Lands to execute leases and contracts for mining and drilling on state lands, and was amended to correct titles and cross-references.

O.R.S. §§ 273.553-273.558. The renamed South Slough National Estuarine Research Reserve, from Valino Island southward in the South Slough of Coos Bay, is administered by the South Slough National Estuarine Research Reserve Management Commission. Changes since 1987 authorized the Commission to adopt rules to carry out its responsibilities and to implement a fee system for costs of management, including fees for facility use, research activities, visitor activities, and parking. The Commission continues to have the authority to limit and control public use of the Research Reserve, but ORS Chapter 273 no longer requires it to do so. Violations of any of the Commission’s rules limiting and controlling public use of the Research Reserve are “Class D violations,” a change from 1987, when they were “punishable, upon conviction, by a fine of up to \$100.” Also since 1987, one member (a representative of Oregon Indian tribes) has been added and the location of the South Slough National Estuarine Research Reserve Management Account has been moved from the General Fund of the State Treasury to the Common School Fund, with interest on money in the account now to be credited to the Common School Fund.

O.R.S. §§ 273.563-273.591. The renamed Natural Areas Program is a classification and planning process developed by the State Parks and Recreation Department for decision making related to natural heritage resources. In 2011, the natural areas advisory committee was established to aid and advise the State Parks and Recreation Director in the performance of the functions related to the Natural Areas Program. This committee effectively replaced the Natural Heritage Advisory Council. In addition, ORS Chapter 273 has given the State Parks and Recreation Commission a larger role in the Program since 1987, including it among the agencies that establish procedures dedicating state natural areas and authorizing it to add and remove natural areas to/from the register. Also, small changes have been made to definitions for

the Natural Areas Program, and the State Parks and Recreation Department no longer must maintain a classification of natural heritage elements, an inventory of their locations, or a data bank of that information.

O.R.S. §§273.705-273.711. Statutes regarding the removal of archeological and historical materials from public lands, ORS 273.705 and ORS 273.711, have been recodified under ORS Chapter 390. Substantive changes to them since 1987 are detailed in that update.

O.R.S. §§273.775-273.787. Chapter 273 also addresses state-owned mineral and geothermal resources, and when the state retains or conveys such resources when conveying surface lands. Changes in this chapter since 1987 have added exceptions to the rights covered in these statutes, authorize land owners to apply for release or transfer of mineral or geothermal resource rights reserved by the state and detail the required procedures, and prohibit the Department of State Lands from retaining mineral and geothermal resource rights in real property located inside an urban growth boundary or within an area zoned for residential use on January 1, 2004.

## **B. Enforceable Policies**

OCRM initially approved Oregon's Coastal Management Program, including entire state statutes as part of the approved program. Subsequently OCRM has requested that states identify enforceable policies within their statutes as updates are submitted. While Oregon seeks to incorporate the entire updated programs of ORS §§ 273.551-273.591 and 273.775-273.790 into the OCMP, we have identified specific sections that define enforceable policies for federal consistency purposes.

Each of the sections identified specifies a substantive enforceable policy, defines when a permit or authorization is required or conditions when it is not required, or provides enforceable mechanisms for implementation of the substantive provisions. Statutory sections not defined as enforceable are those that are purely procedural, that contain statements of findings, or that merely grant state officials authority to undertake administrative acts not affecting the potential activities of federal actors or licensees.

Thus, statements of policy, requirements for permits or other authorizations, lists of conditions for permits or authorizations, provisions for rules that define regulatory requirements, and definitions that specify the content of obligations and requirements are enforceable policies. The sections in this Routine Program Change stating enforceable policies are: 273.551, 273.553, 273.554, and 273.558. The attached table identifies these with an X and describes the content of each section.

These policies are rendered enforceable by the leases or permits required in 273.551 and 273.780, and enforcement implementation includes penalties under 273.558, the opportunity for injunctive relief under 273.558, and termination of a dedication of land under 273.586.

## **C. Action as Routine Program Change**

Pursuant to CZMA §306(e) and 15 C.F.R. §923.84, this section explains why this update to Oregon's program is a Routine Program Change and does not constitute an amendment. Under 15 C.F.R.

§923.80(d), amendments are defined as substantial changes in one or more of five listed coastal management program areas:

- (1) uses subject to management;
- (2) special management areas;
- (3) boundaries;
- (4) authorities and organization; and
- (5) coordination, public involvement and the national interest.

OCRM's 1996 Program Change guidance states that a "substantial change" is a high threshold requiring case-by-case determination. Statutory changes are identified in the attached table. The table relates each change to Oregon's authority as previously approved as part of the OCMP in 1987. Each change is described in detail in the right-hand column of the table.

*1. Uses subject to management.*

This submittal does not identify new uses subject to management.

*2. Special management areas.*

This submittal does not designate or change special management areas. It does not establish new criteria for special management areas.

*3. Boundaries.*

This submittal does not change the boundaries of Oregon's coastal zone.

*4. Authorities and organization.*

This submittal does not change Oregon's administration of the OCMP. The same authorities continue to apply the programs in ORS Chapter 273; references to Division have become Department in order to reflect the current status of the Department of State Lands, and the few reassignments of functions noted above occurred among entities already within the network of OCMP authorities.

*5. Coordination, public involvement, and the national interest.*

This submittal does not change any coordination, public involvement, or national interest provisions of the OCMP. One of the changes better includes tribal governments in South Slough National Estuarine Research Reserve decision-making, but no new rights of coordination are created nor existing rights removed. No changes affect the national interest.

Accordingly, this submittal is a Routine Program Change, and Oregon requests OCRM concurrence.

## State Lands

### Statutes Enacted since Last OCRM Approval

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>1</sup>	Changes Since Last Approval
<b>NATURAL AREAS PROGRAM</b>						
273.573	Natural areas advisory committee.	Authorizes establishment of a natural areas advisory committee to, among other things, assist in the development of policy and in advising on the adoption of rules; sets policy for compensation			2011	<ul style="list-style-type: none"> <li>• Enacted in 2011</li> </ul>
<b>MINERAL AND GEOTHERMAL RESOURCE RIGHTS</b>						
273.787	Release and transfer of mineral or geothermal resources; rules; fee.	Authorizes land owners to apply for release or transfer of mineral or geothermal resource rights reserved by the state; establishes procedures for application and review; specifies how to determine value of resources for purchase; authorizes a fee for application processing; authorizes the department to develop rules for			2003	<ul style="list-style-type: none"> <li>• Enacted in 2003</li> </ul>

<sup>1</sup> Oregon is seeking to establish the 2013 Edition of the Oregon Revised Statutes and the 2014 Oregon Laws supplement as the effective baseline for the statutory provisions incorporated into the Oregon Coastal Management Program (OCMP). The year in the “updates adopted and effective” column refers to the year(s) during which the Oregon legislature adopted changes to the statutory provisions incorporated into the OCMP.

<b>ORS Section</b>	<b>Current Title</b>	<b>Description</b>	<b>Enf. Policy</b>	<b>Last OCRM Approval</b>	<b>Updates Adopted &amp; Effective<sup>1</sup></b>	<b>Changes Since Last Approval</b>
		implementation				

## Changes to Statutes in the Program since Last OCRM Approval

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
<b>DRILLING LEASES</b>						
273.551	Mining and drilling leases on state lands; fee	Authorizes the Department of State Lands to execute leases and contracts for mining and drilling on state lands, including exploration and development of geothermal resources; authorizes the Department to charge applicant a reasonable fee for necessary investigations before lease execution	X	1987	1991 1993 2003	<ul style="list-style-type: none"> <li>• “division” replaced with “department” or “Department of State Lands”</li> <li>• Addition of “fee” to the title</li> <li>• Removal of references to “ORS 517.420” in subsections (3) and (4)</li> <li>• Reference to “ORS 273.201” changed to “ORS 270.100” in subsection (4)</li> <li>• Removal of reference to “ORS 274.615 to 274.645” in subsection (6)</li> </ul>
<b>SOUTH SLOUGH ESTUARY</b>						
273.553	South Slough National Estuarine Research Reserve; agreement between Oregon and federal government; rules.	States policy to maintain South Slough of Coos Bay as an estuarine research reserve, including maintaining its integrity, protecting it from uses and activities that may alter or affect its ecosystem, and preserving it for scientific and educational uses; vests	X	1987	2003	<ul style="list-style-type: none"> <li>• Addition of “rules” to title</li> <li>• Redesignation of “South Slough National Estuarine Sanctuary” as “South Slough National Estuarine Research Reserve” in subsection (1) and replacement of those terms throughout the Section</li> <li>• “sanctuary” replaced with “research reserve” or “reserve”</li> </ul>

<sup>2</sup> Oregon is seeking to establish the 2013 Edition of the Oregon Revised Statutes and the 2014 Oregon Laws supplement as the effective baseline for the statutory provisions incorporated into the Oregon Coastal Management Program (OCMP). The year in the “updates adopted and effective” column refers to the year(s) during which the Oregon legislature adopted changes to the statutory provisions incorporated into the OCMP.

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
		responsibility for completing land purchase with Department of State Lands; states that reserve is open to the public, subject to decisions of the Management Commission; vests responsibility for administration of the reserve with the Management Commission				<ul style="list-style-type: none"> <li>• “which” replaced with “that” in subsections (1)(b) and (5)</li> <li>• “Division of State Lands” replaced with “Department of State Lands”</li> <li>• “commission created under ORS 273.554” replaced with “South Slough National Estuarine Research Reserve Management Commission” in subsections (3) and (4)</li> <li>• “Office of Coastal Zone Management” replaced with “federal Office of Ocean and Coastal Resource Management” in subsection (4)</li> <li>• Change from [the reserve] “shall be” to “is” open to the public in subsection (3)</li> <li>• Change from [public use of the reserve] “shall” to “may” be limited and controlled by the commission in subsection (3)</li> <li>• In subsection (4), there is a change in sentence structure (from “Administration . . . shall be provided by and pursuant to the authority granted [the commission]” to “[The commission] shall administer . . .”), but the point remains the same</li> </ul>
273.554	South Slough National Estuarine	Vests authority in the South Slough National Estuarine	X	1987	2003 2005	<ul style="list-style-type: none"> <li>• Addition of “rules; fees” to title</li> <li>• “sanctuary” replaced with “research</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
	Research Reserve Management Commission; powers; rules; fees; membership; procedures; expenses.	Research Reserve Management Commission to operate and manage the Research Reserve and adopt rules necessary to carry out its responsibilities; designates Commission membership, terms of service, voting power, and compensation			2013	<p>reserve” or “reserve”</p> <ul style="list-style-type: none"> <li>• “Division of State Lands” replaced with “Department of State Lands”</li> <li>• Addition of Subsection (2) enabling the commission to adopt rules to carry out its responsibilities and to implement a fee system for costs of management, including fees for facility use, research activities, visitor activities, and parking</li> <li>• Renumbering of subsections (2) through (5) to (3) through (6)</li> <li>• “The South Slough Estuarine Sanctuary Management Commission” replaced with “The commission” in current subsection (3)</li> <li>• Addition of one member to the commission (changing the total in current subsection (3) from “eight” to “nine”): a representative of Oregon Indian tribes appointed after consultation with the Commission on Indian Services in current subsection (3)(h)</li> <li>• Rewording in current subsection (4) referencing other subsections (as subsections rather than as paragraphs of subsections) when describing terms of office; the representatives referenced do not change, except to</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						<p>add the Oregon Indian tribe representative to the list of members who shall serve four year terms</p> <ul style="list-style-type: none"> <li>Relocation of designation of the Director of the Department of State Lands or the Director's designee as chairperson of the commission from subsection (2)(d) to subsection (4), and replacement of clause "who shall serve as permanent chairperson of the commission" with sentence "The Director of the Department of State lands or the designee of the director, if appointed in place of the director, shall serve as the permanent chairperson of the commission."</li> <li>Corrects title in (3)(c) to "Oregon International Port of Coos Bay."</li> </ul>
273.556	South Slough National Estuarine Research Reserve Management Account.	Establishes the South Slough National Estuarine Research Reserve Management Account, requires the Commission to put into it all money received, and identifies procedures for its use; requires recordkeeping of moneys in the account		1987	2003 2005	<ul style="list-style-type: none"> <li>"Division of State Lands" replaced with "Department of State Lands"</li> <li>Changes location of the Management Account from the General Fund of the State Treasury to the Common School Fund in subsection (1)</li> <li>Adds that interest on moneys in the account shall be credited to the Common School Fund in subsection (1)</li> </ul>
273.557	Appeal to State Land Board.	Confers jurisdiction to review Commission actions and		1987		<ul style="list-style-type: none"> <li>None</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
		proposed actions claimed to violate law on the State Land Board; defines requirements for requests for review				
273.558	Penalties; enforcement; injunctive relief.	Specifies penalties for violation of rules adopted under ORS 273.553 (3); authorizes the application for injunctive relief for violations of such rules	X	1987	1999 2003	<ul style="list-style-type: none"> <li>• Title changed to include “penalties” instead of “fines”</li> <li>• “sanctuary” replaced with “research reserve”</li> <li>• Violations changed from “punishable, upon conviction, by a fine of up to \$100” to “Class D violations” in subsection (1)</li> </ul>
NATURAL AREAS PROGRAM						
273.563	Definitions for ORS 273.563 to 273.591.	Defines terms for statutes 273.563 to 273.591		1987	2001 2003 2009 2011	<ul style="list-style-type: none"> <li>• Removes applicability of definitions to ORS 307.550 and 307.560</li> <li>• Removes definitions for “board,” “council,” “elements,” and “natural heritage conservation area”</li> <li>• Remaining definition subsections were renumbered</li> <li>• “Data bank” definition replaced “provided in ORS 273.576(1)(a)” with “maintained by the Institute for Natural Resources under ORS 352.239.”</li> <li>• “Data bank” definition removed two instances of “element” and replaced</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						<p>the second with “natural heritage resources”</p> <ul style="list-style-type: none"> <li>• “Dedicate” definition removed</li> <li>• “natural heritage”</li> <li>• “Natural Heritage Program” replaced with “Natural Areas Program”</li> <li>• “Oregon Natural Heritage Plan” replaced with “Oregon Natural Areas Plan”</li> <li>• “Plan” refers to Oregon Natural Areas Plan established under ORS 273.578 not ORS 273.576</li> <li>• “Register” definition replaces “Oregon Register of Natural Heritage Areas” with “Oregon Register of Natural Areas”</li> <li>• “council” replaced with “State Parks and Recreation Department”</li> <li>• “natural heritage conservation area” replaced with “state natural area”</li> <li>• Addition of the definition of “State natural area”</li> </ul>
273.566	Legislative findings.	Finds that some natural areas can be protected through voluntary cooperation of private landowners and public land managers and that these areas will comprise a discrete and limited system of natural areas to be living museums for		1987	2009 2011	<ul style="list-style-type: none"> <li>• “elements” replaced with “resources” once each in subsections (1), (3) and (4)</li> <li>• “which” replaced with “that” twice in subsection (1) and once in subsection (2)</li> <li>• “heritage conservation” is removed from the second sentence of</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
		scientific research, educational purposes, and nature interpretation; finds that the State Parks and Recreation Department should provide a framework for decision making, which should incorporate cost effectiveness considerations; recognizes the need for an information system concerning natural resource locations				subsection (1) <ul style="list-style-type: none"> <li>• “conservation areas” replaced by “state natural areas” in subsection (2)</li> <li>• In subsection (3), “natural heritage conservation” replaced with “related to natural heritage resources” twice, replaced with “state natural” once, and removed in one instance</li> <li>• “Natural Heritage Advisory Council” replaced with “State Parks and Recreation Department” in subsection (3)</li> <li>• “Natural Heritage Program” replaced with “Natural Areas Program” in subsection (3)</li> <li>• “natural heritage” replaced by “natural areas,” in subsection (4)</li> </ul>
273.576	State Parks and Recreation Department duties; Oregon Natural Areas Plan; contents.	Requires the State Parks and Recreation Department to assist in selecting areas for natural heritage resource dedication; identifies the plan to govern state natural areas; directs the department’s consideration of different factors in selecting state natural areas; authorizes the department to advise land owners on management of state natural areas; authorizes the department to accept moneys		1987	2003 2009 2011	<ul style="list-style-type: none"> <li>• Removal of “implementing plan” from title</li> <li>• “State Land Board,” “board,” or “Board” replaced with “State Parks and Recreation Department” or “department”</li> <li>• “Oregon Natural Heritage Plan” replaced with “Oregon Natural Areas Plan”</li> <li>• “elements” replaced with “resources”</li> <li>• “natural heritage conservation areas” replaced with “state natural areas”</li> <li>• “Natural Heritage Program” replaced</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
		from government agencies and nongovernmental sources				<p>with “Natural Areas Program”</p> <ul style="list-style-type: none"> <li>• Removal of “with the assistance of the council” from subsection (1)(a)</li> <li>• Removal of “maintain a natural heritage office to” from subsection (1)(a)</li> <li>• Addition of “natural” before “areas” in subsection (1)(a)</li> <li>• Removal of the requirement to maintain a classification, inventory, and data bank for natural heritage elements from subsection (1)(a)</li> <li>• “chapter 208, Oregon Laws 1981” replaced with “ORS 273.578” in subsection (1)(b)</li> <li>• Change in spelling from “complimentary” to “complementary”</li> <li>• “register” replaced with “Oregon Register of Natural Areas” in subsection (1)(b)</li> <li>• “council” replaced with “department” in subsection (1)(b)</li> <li>• Rewording of the third sentence in subsection (1)(b) that does not alter its meaning</li> </ul>
273.578	Plan approval; review of modifications by commission.	States approval of the Oregon Natural Areas Plan and authorizes the State Parks and Recreation Commission to		1987	2009 2011	<ul style="list-style-type: none"> <li>• “board” replaced with “State Parks and Recreation Commission” or “commission”</li> <li>• “Oregon Natural Heritage Plan” or</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
		review modifications to the plan				<p>“plan” replaced with “Oregon Natural Areas Plan”</p> <ul style="list-style-type: none"> <li>• “council” replaced with “State Parks and Recreation Department”</li> </ul>
273.581	Natural areas register; contents; agreements between department and landowners.	Requires maintenance of a state natural areas register; identifies considerations and procedures for registration of natural areas		1987	2009 2011	<ul style="list-style-type: none"> <li>• “council” replaced with “State Parks and Recreation Department” or “department”</li> <li>• “elements” replaced with “resources”</li> <li>• “heritage” removed from title</li> <li>• “board” replaced with “department” in title</li> <li>• “Oregon Register of Natural Heritage Areas” replaced with “Oregon Register of Natural Areas” in subsection (1)</li> <li>• “Oregon Natural Heritage Plan” or “plan” replaced with “Oregon Natural Areas Plan”</li> <li>• “which” replaced with “that” three times in subsection (2)</li> <li>• “natural heritage conservation areas” replaced with “state natural areas”</li> <li>• Removal of “heritage” from second sentence of subsection (2)</li> <li>• Addition of “natural” before “areas” or “area” in final sentence of subsection (2) and in subsection (3)</li> <li>• Addition of “and recommendation” after “After review” in subsection (4)</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						<ul style="list-style-type: none"> <li>• “board” replaced with “State Parks and Recreation Commission” in subsection (4)</li> <li>• “sites” replaced with “natural areas” twice in subsection (4) and once in subsection (5)</li> <li>• “board” replaced with “department” in subsection (5)</li> </ul>
273.586	Dedication of land as state natural area; notice and hearing; termination of dedication.	Identifies procedures for dedicating land as a state natural area and for terminating such dedication; authorizes public agencies and private land owners to dedicate lands		1987	1991 2009 2011	<ul style="list-style-type: none"> <li>• “for natural heritage conservation purposes” replaced with “as state natural area” in title</li> <li>• “natural heritage conservation area[s]” replaced with “state natural area[s]”</li> <li>• “council” replaced with “department”</li> <li>• “which” replaced with “that” in the first sentence of subsection (1)</li> <li>• “board” replaced with “State Parks and Recreation Department” in subsection (1)</li> <li>• The State Parks and Recreation Commission is added to the list of agencies that shall establish procedures for dedication of state natural areas in subsection (2)</li> <li>• “Oregon Natural Heritage Plan” replaced with “Oregon Natural Areas Plan” in subsection (4)(a)</li> <li>• “board” replaced with “State Parks and Recreation Commission” in</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						subsection (4)(c)
273.591	Natural Areas Program Account.	Establishes the account into which all money received by the State Parks and Recreation Department for the purposes of ORS 273.563 to 273.591 must be paid		1987	2009 2011	<ul style="list-style-type: none"> <li>• “Natural Heritage Program Account” replaced with “Natural Areas Program Account”</li> <li>• “board” replaced with “State Parks and Recreation Department” or “department”</li> </ul>
<b>MINERAL AND GEOTHERMAL RESOURCE RIGHTS</b>						
273.775	Definitions for ORS 273.775 to 273.790.	Defines “mineral” and “geothermal resources”	X	1987		<ul style="list-style-type: none"> <li>• None</li> </ul>
273.780	Retention of mineral and geothermal resource rights by state; exploration permit or lease; sale or exchange; exception.	States that mineral and geothermal resource rights are owned by the state when on state land, and retained by the state when state lands are conveyed, with certain limitations; designates the fund for proceeds from mineral and geothermal resources; and requires exploration to be by permit or lease from the Department of State Lands	X	1987	2005 2013	<ul style="list-style-type: none"> <li>• “Division of State Lands” or “division” replaced with “Department of State Lands” or “department”</li> <li>• Addition of “; exception” at end of title</li> <li>• “Such” replaced with “The” at the beginning of subsection (3)</li> <li>• Addition of subsection (4) specifying exception when the department may not retain mineral or geothermal resource rights: if, on January 1, 2004, the real property was located either inside an urban growth boundary or within an area zoned for residential use on a lot three acres or smaller in size, and the value of the mineral or geothermal resource rights is included in the sale price of the</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						property
273.785	Application of ORS 273.551 and 273.775 to 273.790; rules	Lists mineral and geothermal resources to which ORS 273.551 and 273.775 to 273.790 do not apply	X	1987	1991 2001 2003 2005 2011 2013	<ul style="list-style-type: none"> <li>• Addition of “; rules” to end of title</li> <li>• Simplification of sentence structure in first sentence, without altering meaning</li> <li>• “such” replaced with “those” in subsection (1)</li> <li>• “Any mineral” replaced with “Mineral” at beginning of subsection (2)</li> <li>• “therefrom” replaced with “from those rights” in subsection (2)</li> <li>• “Public Law 415, 75th Congress (50 Stat. 917, 16 U.S.C. 777)” replaced with “an agreement with the federal government under 16 U.S.C. 669 to 669i (P.L. 75-415).” in subsection (2)</li> <li>• Relocation of “if other disposition is required by federal rules or regulations or any agreement entered into at the time of acquisition of the mineral or geothermal resource rights by the state” from subsection (2) to new subsection (3), where it is now preceded by the addition of “Mineral or geothermal resource rights or proceeds from those rights”</li> <li>• Former subsection (3) renumbered as subsection (4)</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						<ul style="list-style-type: none"> <li>• Addition of subsection (5) including rights acquired after January 1, 1974 by the Department of Veterans' Affairs (DVA), which shall enter into an agreement with the Department of State Lands concerning mineral or geothermal resource values on properties acquired for the state by DVA and shall adopt rules relating to the release of those rights</li> <li>• Addition of subsection (6) including rights given by a donor that are acquired or held by the State Board of Higher Education, which shall consult with the Department of State Lands in accordance with an interagency agreement between them governing management of the mineral or geothermal resources</li> <li>• Addition of subsection (7) including rights acquired and held by the Department of Transportation, which shall enter into an agreement with the Department of State Lands governing management of the mineral or geothermal resources</li> <li>• Addition of subsection (7) including mineral or geothermal resource rights or proceeds from those rights acquired or held by the Housing and</li> </ul>

ORS Section	Current Title	Description	Enf. Policy	Last OCRM Approval	Updates Adopted & Effective <sup>2</sup>	Changes Since Last Approval
						Community Services Department
273.790	Registry of rights under state board	Requires maintenance of a registry of mineral and geothermal resource rights under jurisdiction of State Land Board		1987		<ul style="list-style-type: none"> <li>• “Division” replaced with “Department”</li> </ul>

Statutes that Were in the Program but Have Been Repealed since Last OCRM Approval

ORS Section	Title at Last Approval	Description	Last OCRM Approval	Changes Since Last Approval
[273.571]	Natural Heritage Advisory Council; members; terms; qualifications; compensation; duties; rules	Establishes the Natural Heritage Advisory Council and identifies its composition, member selection procedures, term duration, responsibilities, and authorities	1987	<ul style="list-style-type: none"> <li>• Repealed in 2011</li> </ul>
[273.705]	Permits and conditions for excavation or removal of archaeological or historical material from state lands.	Requires a permit for excavation on public lands and removal of archaeological or historical material; identifies rules for curation and for issuing permits; states that archaeological materials recovered under a permit are under the stewardship of the state, with some exceptions; establishes violation of the permit requirement as a Class B misdemeanor	1987	<ul style="list-style-type: none"> <li>• Moved to 390.235</li> </ul>
[273.711]	Removal without permit.	States that archaeological or historical materials removed without a permit are under stewardship of the state, except those materials of native Indian cultural patrimony (which shall go directly to the appropriate Indian tribe)	1987	<ul style="list-style-type: none"> <li>• Moved to 390.237</li> </ul>

**Text of ORS Chapter 273 Statutes Included in July 24, 2014 RPC**  
**2013 Edition Oregon Revised Statutes**

**DRILLING LEASES**

**273.551 Mining and drilling leases on state lands; fee.** (1) The Department of State Lands, as to any land or mineral and geothermal resource rights subject to its jurisdiction and control and without restricting, limiting or repealing any other powers and authority which it has, after consultation with the State Department of Geology and Mineral Industries and with concurrence of any state agency acting for the state with respect to surface rights in the subject land, may execute leases and contracts for the mining of gold, silver, copper, lead, cinnabar, gas and oil, or other valuable minerals or the exploration and development of geothermal resources upon conditions agreed upon by the Department of State Lands and the lessee.

(2) All leases may be without limitation as to time; but the department may cancel any lease upon failure by the lessee to exercise due diligence in the prosecution of the prospecting, development or continued operation of the mine or well, and shall insert in every such lease appropriate provisions for such cancellation.

(3) The authority granted by this section shall include the execution of leases and contracts covering submersible and submerged lands, as defined in ORS 274.005, the leasing of which is not otherwise expressly authorized by statute.

(4) Leases and contracts executed under this section are not sales within the purview of ORS 270.100.

(5) The department may charge a reasonable fee, to be paid by the applicant, for making necessary investigations before the execution of any such lease.

(6) This section does not apply to permits or leases under ORS 274.705 to 274.860.  
[Formerly 273.355; 1974 c.51 §6; 1975 c.552 §42; 1991 c.217 §4; 1991 c.816 §17; 1993 c.340 §1; 2003 c.253 §19]

**SOUTH SLOUGH ESTUARY**

**273.553 South Slough National Estuarine Research Reserve; agreement between Oregon and federal government; rules.** (1) It is the policy of the State of Oregon to maintain the South Slough of Coos Bay, from Valino Island southward, inclusive, as a national estuarine research reserve, acquired as the South Slough Estuary Sanctuary pursuant to chapter 415, Oregon Laws 1975, as the first estuarine sanctuary in the United States to be created under Section 312 of the Coastal Zone Management Act of 1972 (P.L. 92-583) and redesignated as the South Slough National Estuarine Research Reserve by federal law (P.L. 99-272). The management policy for the reserve is to:

- (a) Maintain the integrity of the estuary;
  - (b) Protect the estuary from uses and activities, both within and beyond its boundaries, that may alter or affect the ecosystem and its natural dynamic processes; and
  - (c) Preserve the area for long-term scientific and educational uses.
- (2) Responsibility for completing purchase of the South Slough National Estuarine Research Reserve is vested with the Department of State Lands. The department acts for the State of

Oregon in any transaction respecting the purchase of acreage for the reserve on or after October 4, 1977.

(3) Except as necessary to achieve the policy set forth in subsection (1) of this section and any standards established in the Coastal Zone Management Act of 1972 (P.L. 92-583) or any rules, regulations or agreements adopted pursuant thereto, the reserve is open to the public. However, to protect the estuarine ecosystems, public use of the reserve may be limited and controlled by the South Slough National Estuarine Research Reserve Management Commission in consultation with any technical management team established pursuant to an agreement between the State of Oregon and the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration of the United States Department of Commerce. The commission shall adopt rules to carry out the intent of this subsection.

(4) The South Slough National Estuarine Research Reserve Management Commission shall administer the reserve, subject to any agreement respecting the reserve between the State of Oregon and the federal Office of Ocean and Coastal Resource Management.

(5) The agency that acquired title to the reserve shall cause title to be cleared in the name of the State of Oregon. [1977 c.496 §1; 2003 c.14 §134]

**273.554 South Slough National Estuarine Research Reserve Management Commission; powers; rules; fees; membership; procedures; expenses.** (1) For the purpose of providing for the administration of the South Slough National Estuarine Research Reserve in a manner consistent with the provisions of ORS 273.553, there is created the South Slough National Estuarine Research Reserve Management Commission. The commission shall have the authority, in accordance with the policies formulated by the State Land Board, to:

(a) Conduct the day-to-day operation and management of the South Slough National Estuarine Research Reserve with the administrative support of the Department of State Lands;

(b) Appoint a manager and other staff necessary to carry out this section; and

(c) Apply for, receive and expend moneys from the federal government and from this state or any agency thereof for the purpose of carrying out this section.

(2) In accordance with applicable provisions of ORS chapter 183, the commission may adopt rules necessary to:

(a) Carry out the commission's responsibilities pursuant to ORS 273.553; and

(b) Implement a system of fees to recover the costs of carrying out the management established in ORS 273.553, including fees for use of facilities at the reserve, fees for research activities conducted at the reserve, visitor activities fees and parking fees.

(3) The commission shall consist of nine members appointed by the Governor as follows:

(a) A representative of common schools in the area of the reserve;

(b) One authorized representative of the Coos County Board of Commissioners;

(c) One authorized representative of the governing body of the Oregon International Port of Coos Bay;

(d) The Director of the Department of State Lands or a designee thereof;

(e) One authorized representative of the federal Office of Ocean and Coastal Resource Management;

(f) Two representatives with an interest in marine science, one from the University of Oregon Institute of Marine Biology at Charleston and one from Oregon State University;

(g) One member selected from the general public at large; and

(h) One representative of Oregon Indian tribes appointed after consultation with the

Commission on Indian Services.

(4) The members appointed by the Governor under subsection (3)(a), (f), (g) and (h) of this section shall serve for terms of four years and members appointed under subsection (3)(b) and (c) of this section shall serve for terms of two years. The Director of the Department of State Lands or the designee of the director, if appointed in place of the director, shall serve as the permanent chairperson of the commission. The commission shall select one of its members as vice chairperson. The chairperson and vice chairperson shall have duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairperson shall act as the chairperson of the commission in the absence of the chairperson. The vice chairperson shall serve for a term of one year, subject to reelection by the commission.

(5) Each member of the commission shall have one vote, except that the member who is the authorized representative of the federal Office of Ocean and Coastal Resource Management shall be a nonvoting member. A majority of the commission constitutes a quorum for the transaction of business.

(6) Members of the commission are not entitled to compensation, but in the discretion of the State Land Board may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to laws regulating travel and other expenses of state officers and employees. [1977 c.496 §2; 1983 c.485 §1; 2003 c.14 §135; 2005 c.146 §1; 2005 c.528 §1; 2013 c.1 §25]

**273.556 South Slough National Estuarine Research Reserve Management Account.** (1) The South Slough National Estuarine Research Reserve Management Account is established within the Common School Fund. Except for moneys otherwise designated by statute, all moneys received by the South Slough National Estuarine Research Reserve Management Commission shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously and shall be used by the commission for the purpose of carrying out ORS 273.554. Interest on moneys in the account shall be credited to the Common School Fund.

(2) The commission shall keep a record of all moneys deposited in the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [1977 c.496 §3; 2003 c.14 §136; 2005 c.528 §2]

**273.557 Appeal to State Land Board.** (1) Jurisdiction for review of actions and proposed actions of the commission which are claimed to be in violation of any provision of ORS 273.553 or 273.554 is conferred upon the State Land Board. Proceedings for review of such actions may be instituted by filing a request for review with the State Land Board.

(2) The request for review by the State Land Board need only state the action or proposed action of the commission in question and the particular provisions of ORS 273.553 or 273.554 which are violated thereby. Copies of the request for review shall be served by registered or certified mail upon the commission.

(3) The State Land Board may affirm, reverse or modify the action under review and make such other disposition of the matter as it deems necessary to carry out the provisions of ORS 273.553 and 273.554. The State Land Board shall make its decision within 60 days after the date on which the request for review was filed. [1977 c.496 §5]

**273.558 Penalties; enforcement; injunctive relief.** (1) Violation of a rule adopted under ORS 273.553 (3) is a Class D violation for each day of violation.

(2) In addition to all other remedies, when it appears to the South Slough National Estuarine Research Reserve Management Commission that a person has engaged in, or is engaging in, any act that violates a rule adopted under ORS 273.553 (3), the commission may direct the Attorney General to apply to the court for an injunction restraining the person from violating such rule. [1977 c.496 §4; 1999 c.1051 §169; 2003 c.14 §137]

## NATURAL AREAS PROGRAM

**273.563 Definitions for ORS 273.563 to 273.591.** As used in ORS 273.563 to 273.591, unless the context requires otherwise:

(1) “Agency” means a local, state or federal agency, board, commission or department.

(2) “Candidate natural area” means a natural resource area that may be considered for registration or dedication.

(3) “Commodity” means timber, minerals, livestock, agricultural products or any other product of the land which is an important economic resource.

(4) “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.

(5) “Dedicate” means the formal recognition and protection of a natural area for conservation purposes.

(6) “Instrument” means any written document intended to convey an interest in real property under ORS 93.710, or an agreement between parties according to the Natural Areas Program or the Oregon Natural Areas Plan.

(7) “Natural area” means a unit of land or water or both that may be considered for dedication under ORS 273.563 to 273.591 and that 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 the natural features.

(8) “Natural heritage resources” means the terrestrial ecosystem types, aquatic ecosystem types and unique geologic types as defined in the Oregon Natural Areas Plan or a unit of land or water that contains a natural resource.

(9) “Plan” means the Oregon Natural Areas Plan established under ORS 273.578, which governs the Natural Areas Program in selecting natural areas for conservation.

(10) “Program” means the Natural Areas Program as established in ORS 273.566.

(11) “Register” means the Oregon Register of Natural Areas established under ORS 273.581.

(12) “Special species” means those species of plants and animals determined by the State Parks and Recreation Department to be significant in value in a state natural area and defined in the Oregon Natural Areas Plan.

(13) “State natural area” means an area that an individual, organization or public agency dedicates as a state natural area under ORS 273.586. [1983 c.786 §2; 2001 c.114 §1; 2003 c.661 §1; 2009 c.217 §1; 2011 c.319 §10]

**273.566 Legislative findings.** (1) The Legislative Assembly finds that many valuable natural heritage resources are represented in natural areas that can be protected through the voluntary

cooperation of private landowners and public land managers. These areas will comprise a discrete and limited system of natural areas that are selected to represent the full range of Oregon's natural heritage resources. These areas shall have substantially retained their natural character, or, if altered in character, shall in addition to their natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of the natural features. As such they will be living museums for scientific research, educational purposes and nature interpretation.

(2) The Legislative Assembly also finds that it is necessary to establish a process and means for public and private sector cooperation in the development of this system of state natural areas. Private landowners and public land managers should be encouraged to voluntarily participate in the program through conservation activities that benefit all Oregonians.

(3) In order to ensure that activities related to natural heritage resources cause the minimum of conflict with other resource uses and that they are cost effective, the Legislative Assembly finds that the State Parks and Recreation Department should provide a specific framework for decision making related to natural heritage resources through a classification and planning process known as the Natural Areas Program. Future state natural areas should avoid unnecessary duplication of already protected natural heritage resources. Each decision should address alternative methods of accomplishing the same purpose and should consider cost effectiveness.

(4) The Legislative Assembly recognizes that there is a need for systematic, accessible information concerning the locations of the resources of Oregon's natural areas, including special plant and animal species, native terrestrial ecosystems, aquatic ecosystems and geologic features, and especially including the natural areas already protected that contain these resources. [1979 c.711 §2; 1983 c.786 §3; 2009 c.217 §2; 2011 c.319 §11]

**273.573 Natural areas advisory committee.** (1) To aid and advise the State Parks and Recreation Director in the performance of the functions related to the Natural Areas Program, the director may establish a natural areas advisory committee.

(2) The advisory committee may assist the State Parks and Recreation Department:

(a) In the development of policy for the Natural Areas Program through the review and approval of the Oregon Natural Areas Plan;

(b) By reviewing nominations for registration and the voluntary dedication of natural areas, and instruments of dedication for such areas;

(c) In 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 that are appropriate for dedication; and

(d) In advising the State Parks and Recreation 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. [2011 c.319 §9]

**273.576 State Parks and Recreation Department duties; Oregon Natural Areas Plan; contents.** (1)(a) The State Parks and Recreation Department shall provide assistance in the

selection and nomination of natural areas containing natural heritage resources for registration or dedication.

(b) The Oregon Natural Areas Plan established by ORS 273.578 shall govern the Natural Areas Program in the conduct of activities to create and manage a system of state natural areas that are complementary to and consistent with the research natural area program on federal lands in Oregon. This plan lists the natural heritage resources that should be represented on the Oregon Register of Natural Areas and in state natural areas and provides criteria for the selection and approval of candidate natural areas for registration and dedication under ORS 273.563 to 273.591. In selecting state natural areas, the department shall give primary consideration to inclusion of natural heritage resources, and especially those natural heritage resources that are not adequately protected elsewhere. Inclusion and protection of special species shall be an important additional consideration in selecting state natural areas, and wherever possible, individual species shall be protected in association with natural heritage resources or in assemblages of those species determined by the department to have special significance.

(2) The department may advise owners of state natural areas concerning the management and use of such areas and may make available to state, federal and local agencies that manage lands within Oregon, information concerning the conservation of natural heritage resources.

(3) The department may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any foundation, individual or organization for the purpose of carrying out the provisions of ORS 273.563 to 273.591. [1979 c.711 §5; 1983 c.786 §5; 2003 c.661 §2; 2009 c.217 §4; 2011 c.319 §12]

**273.578 Plan approval; review of modifications by commission.** (1) The Sixty-first Legislative Assembly approves the Oregon Natural Areas Plan submitted under ORS 273.576.

(2) The State Parks and Recreation Commission may review and approve or disapprove any modification to the Oregon Natural Areas Plan submitted by the State Parks and Recreation Department. [1981 c.208 §§2,3; 1983 c.786 §6; 2009 c.217 §5; 2011 c.319 §13]

**273.581 Natural areas register; contents; agreements between department and landowners.** (1) The State Parks and Recreation Department shall maintain a state register of natural areas containing significant natural heritage resources to be called the Oregon Register of Natural Areas.

(2) The department shall from time to time identify natural areas from the natural heritage data bank that qualify for registration. Priority shall be based on the Oregon Natural Areas Plan and shall generally be given to those resources that are rarest, most threatened or underrepresented in the conservation system on a statewide basis. State natural areas shall not unnecessarily duplicate resources or special species already adequately protected by other methods of land protection. Whenever feasible, natural areas that qualify for registration shall be located on lands that have been allocated primarily to special noncommodity uses.

(3) The department shall review each registration proposal, including the landowner's written permission for registration if the natural area is located on privately owned land.

(4) After review and recommendation by the department, the State Parks and Recreation Commission may place natural areas onto the register or remove natural areas from the register.

(5) A voluntary management agreement may be developed between the department and the owners of the natural areas on the register. [1979 c.711 §6; 1983 c.786 §7; 2009 c.217 §6; 2011 c.319 §14]

**273.586 Dedication of land as state natural area; notice and hearing; termination of dedication.** (1) A private individual or organization that is the owner of any registered natural area may voluntarily agree to dedicate that area as a state natural area by executing with the State Parks and Recreation Department an instrument of dedication. The instrument of dedication shall be effective upon its recording in the real property records of the office of the clerk of the county in which any or all of the state natural area is located.

(2) Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591 following the providing of opportunity for adequate public notice and hearing by the agency. The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education, the State Parks and Recreation Commission and the State Land Board shall, with the advice and assistance of the department, establish procedures for the dedication of state natural areas on land, the title of which is held by the State of Oregon, and which is under that agency's management and control.

(3) The instrument of dedication shall contain any information or provisions as the private owner, organization or agency and department consider necessary to complete the dedication.

(4) Dedication of a state natural area may be terminated as follows:

(a) The dedication of a state natural area by a public agency may be terminated following the providing of opportunity for adequate public notice and hearing and a finding by that agency of an imperative and unavoidable necessity, or a finding by that agency, with the approval of the department, that the state natural area is no longer needed according to the guidelines of the Oregon Natural Areas Plan.

(b) The dedication of a state natural area by a private individual or organization may be terminated by the private individual or organization after the department is assured that there has been compliance with the procedures required by the terms of the dedication instrument.

(c) The dedication of a state natural area may be terminated by the State Parks and Recreation Commission upon the advice of the department if the area is no longer needed according to the guidelines of the plan, or has permanently lost its natural character. [1979 c.711 §7; 1983 c.786 §8; 1991 c.121 §2; 2009 c.217 §7; 2011 c.319 §15]

**273.591 Natural Areas Program Account.** The Natural Areas Program Account is established within the General Fund of the State Treasury. All moneys received by the State Parks and Recreation Department for the purposes of ORS 273.563 to 273.591 shall be paid into the State Treasury and credited to the account. All moneys in the account are continuously appropriated for the use of the department in carrying out the provisions of ORS 273.563 to 273.591. [1979 c.711 §8; 2009 c.217 §8; 2011 c.319 §16]

## MINERAL AND GEOTHERMAL RESOURCE RIGHTS

**273.775 Definitions for ORS 273.775 to 273.790.** (1) "Mineral" includes oil, gas, sulfur, coal, gold, silver, copper, lead, cinnabar, iron, manganese and other metallic ore, and any other solid, liquid or gaseous material or substance excavated or otherwise developed for commercial, industrial or construction use from natural deposits situated within or upon state lands, including mineral waters of all kinds.

(2) "Geothermal resources" shall have the same meaning given in ORS 522.005. [1974 c.51 §3; 1975 c.552 §41; 1981 c.588 §1; 1981 c.694 §1; 1983 c.740 §70a]

**273.780 Retention of mineral and geothermal resource rights by state; exploration permit or lease; sale or exchange.** (1) Mineral and geothermal resource rights in real property owned by any state agency and mineral and geothermal resource rights retained as an interest in lands previously sold, granted or otherwise conveyed by the state or any agency thereof are property of the State of Oregon. Except as provided in ORS 273.785 and 273.787, proceeds therefrom shall accrue to the Common School Fund, and the State Land Board is declared to be the state agency acting for the state in any transaction respecting such mineral and geothermal resource rights.

(2) In addition to applicable requirements of ORS chapter 522, such mineral and geothermal resource rights shall be subject to exploration permit or lease by the Department of State Lands, in accordance with rules and conditions established by law or adopted by the department.

(3) Except as provided in ORS 273.787, the mineral and geothermal resource rights shall be retained by the state in the absence of a finding by the State Land Board upon adequate facts presented to it that their sale or exchange is for the purpose of obtaining the greatest benefit for the people of this state, consistent with the conservation of lands under its jurisdiction under sound techniques of land management. [1974 c.51 §2; 1975 c.552 §40; 2005 c.60 §2; 2013 c.256 §1]

**273.785 Application of ORS 273.551 and 273.775 to 273.790; rules.** ORS 273.551 and 273.775 to 273.790 do not apply to:

(1) Soil, clay, stone, sand and gravel acquired or used by state agencies for the purpose of constructing or repairing roads or other state facilities, or the proceeds from those materials.

(2) Mineral or geothermal resource rights or proceeds from those rights acquired by the State Fish and Wildlife Commission pursuant to an agreement with the federal government under 16 U.S.C. 669 to 669i (P.L. 75-415).

(3) Mineral or geothermal resource rights or proceeds from those rights if other disposition is required by federal rules or regulations or any agreement entered into at the time of acquisition of the mineral or geothermal resource rights by the state.

(4) Proceeds of mineral and geothermal resource rights acquired by the state pursuant to ORS 530.010 and 530.030, other than those distributed under ORS 530.110 (1)(c).

(5) Mineral or geothermal resource rights or proceeds from those rights acquired after January 1, 1974, for the state by the Department of Veterans' Affairs pursuant to ORS 88.720, 406.050 (2), 407.135 or 407.145. After consultation, the Department of State Lands and the Department of Veterans' Affairs shall enter into an interagency agreement governing consultation between them concerning mineral and geothermal resource values on properties acquired for the state by the Department of Veterans' Affairs. The Department of Veterans' Affairs shall adopt rules relating to the release of mineral and geothermal rights on such properties.

(6) Mineral or geothermal resource rights or proceeds from those rights given by a donor to any public university or office, department or activity under the control of the State Board of Higher Education that are acquired or held for the state by the State Board of Higher Education pursuant to ORS chapters 351 and 567. In managing mineral or geothermal resource leases, the State Board of Higher Education shall consult with the Department of State Lands in accordance with an interagency agreement established by the department and the State Board of Higher Education governing consultation between the department and the State Board of Higher

Education and governing management of the mineral or geothermal resources.

(7) Mineral or geothermal resource rights or proceeds from those rights acquired and held by the Department of Transportation. In managing mineral or geothermal resource leases, the Department of Transportation shall enter into an intergovernmental agreement with the Department of State Lands governing consultation between the departments and governing management of the mineral or geothermal resources.

(8) Mineral or geothermal resource rights or proceeds from those rights acquired and held by the Housing and Community Services Department. [1974 c.51 §4; 1991 c.467 §1; 2001 c.453 §1; 2003 c.676 §1; 2005 c.60 §1; 2005 c.625 §63; 2011 c.637 §84; 2013 c.167 §2]

**273.787 Release and transfer of mineral or geothermal resources; rules; fee.** (1) As used in this section:

(a) "Owner" means:

(A) The record holder of fee title interest in residential real property; or

(B) The contract purchaser of residential real property.

(b) "Residential real property" means real property that is sold by the Department of State Lands for the State Land Board and is located:

(A) Inside an urban growth boundary; or

(B) Within an area zoned for residential use on a lot or parcel that is three acres or smaller in size.

(2) An owner may apply to the department for release and transfer of the rights to mineral or geothermal resources reserved by the State of Oregon.

(3) Upon application by the owner, the department shall release and transfer to the owner the reserved rights to mineral and geothermal resources within 30 days after the first board meeting that is at least 60 days after the department received the completed application for release and transfer of the rights, unless the board finds that a significant mineral or geothermal resource exists. If the board finds that a significant mineral or geothermal resource exists, the owner may:

(a) Offer to purchase the resource for the value of the resource; or

(b) Withdraw the application.

(4) If the board finds that a significant mineral or geothermal resource exists under subsection (3) of this section and the owner offers to purchase the resource for the value of the resource:

(a) The board shall determine the value of the resource on the basis of an appraisal conducted by a state certified appraiser certified under ORS 674.310 or by a geologist who is registered under ORS 672.505 to 672.705 and qualified to assess the value of mineral and geothermal deposits.

(b) The board may not:

(A) Require an owner to obtain an appraisal under this section; or

(B) Require an owner to pay the cost of an appraisal conducted at the request of the board under this section.

(5) The department may charge a reasonable fee, not to exceed \$150, to process an application under this section.

(6) The department may adopt rules to implement this section. [2003 c.676 §3]

**273.790 Registry of rights under state board.** The Department of State Lands shall establish and maintain a registry of mineral and geothermal resource rights placed under the jurisdiction of the State Land Board. [1974 c.51 §5]