

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rules(s) adopted on 5/20/2012 by the
Date prior to or same as filing date.

Oregon Department of Aviation,
Agency and Division 738-040
Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective May 20, 2012 through 11/15/2012
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Waldo Lake access by seaplanes with certain restrictions.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:

AMEND: OAR 738-040 by including new paragraph 738-040-0035

SUSPEND:

ORS 183.335, ORS 184.619, ORS 835.035, ORS 835.080, ORS 835.200
Stats. Auth. Other Authority

Stats. Implemented

RULE SUMMARY

Temporary rule amends Oregon Administrative Rule 738-040 by including new paragraph 738-040-035 to allow for the use of seaplanes at Waldo Lake to empirically document usage and impose certain restrictions.

Authorized Signer Printed name Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Aviation
Agency and Division

OAR 738-040
Administrative Rules Chapter Number

In the Matter of: Waldo Lake access and the use of seaplanes with certain restrictions.

Rule Caption: Waldo Lake access and the use of seaplanes with certain restrictions.

- Seaplane pilots cannot use Waldo Lake for pilot training. Waldo Lake shall be used as a destination lake for the purpose of recreation and seaplanes shall be used as the mode of transportation to and from the lake.
- Seaplanes shall be limited in their hours of operation to access Waldo Lake between the hours of 8 am and 8 pm for arrivals and departures.
- Landings on Waldo Lake shall be limited to the eastern half of the lake at a location where planes can land safely. Pilots will be responsible for landing in a safe manner as to not endanger any persons or seaplanes using the lake.
- Seaplane pilots shall screen their aircraft for invasive species prior to landing at Waldo Lake. Any invasive species discovered shall be removed prior to arrival at Waldo Lake
- Seaplane Pilots are required to notify the Department of Aviation using an FAA flight Plan form when landing at Waldo Lake to empirically document usage. The Department shall keep track of seaplane evolutions prior to permanent rulemaking to quantify the scope of usage.

Statutory Authority: ORS 183.335, ORS 184.619, ORS 835.035, ORS 835.080, ORS 835.200

Other Authority: OAR 738-040: Seaplane Operation

Statutes Implemented:

Need for the Temporary Rule(s):

- The Oregon Marine Board (OMB) has exempted seaplanes from OAR 250-030-0030(4) and OAR 250-020-0221(10) which places a ban on internal combustion motors on Waldo Lake.
- Seaplanes access the lake as a form of transportation similar to a motorized vehicle driving to the site vice an on the lake platform that navigates around the lake as recreation.
- Waldo Lake is classified as an alpine lake which receives very few to no visitors in the winter and spring months. As the weather warms and the snows melt, the number of visitors will increase. OAB finds that this temporary rule is necessary to help empirically identify the actual usage of Waldo Lake by seaplanes and to establish parameters for times and location seaplanes could access the lake. The temp rule will also require seaplane pilots to conduct an invasive species inspection and remove any invasive species prior to landing on Waldo Lake.
- The Oregon Department of Aviation and the OAB conclude that by enacting the following temporary rule, for a period of six months, will allow time for empirical data gathering on usage, allow time for public comment and create a new permanent rule to be adopted in OAR 738-040.

Documents Relied Upon, and where they are available:

OAR 250-030-0030(4)
OAR 250-020-0221(10)

Justification of Temporary Rules(s):

The Oregon Aviation Board is proposing this temporary rule for the use of seaplanes on Waldo Lake as a response to the recent lifting of the ban of seaplanes landing on Waldo Lake by the Oregon Marine Board at their April 10, 2012 public hearing. Both the Oregon Marine Board (OMB) and the Oregon Aviation Board (OAB) have been in discussions to develop a rule to regulate the use of seaplanes on Waldo Lake. In the interim, a temporary rule is being proposed as a measure to quantify the actual seaplane usage and to balance the use of the lake between seaplanes and other constituents using the lake on a recreational basis.

Authorized Signer

Printed name
Date



Oregon

John A. Kitzhaber, MD, Governor



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MEMORANDUM

DATE: May 17, 2012
TO: Oregon Aviation Board
FROM: Director, Oregon Department of Aviation
SUBJECT: Waldo Lake Temporary Rule

Waldo Lake Temp Rule Justification:

The Oregon Aviation Board is proposing this temporary rule for the use of seaplanes on Waldo Lake as a response to the recent lifting of the ban of seaplanes landing on Waldo Lake by the Oregon Marine Board at their April 10, 2012 public hearing. Both the Oregon Marine Board (OMB) and the Oregon Aviation Board (OAB) have been in discussions to write a rule to regulate the use of seaplanes on Waldo Lake. In the interim, a temporary rule is being proposed as a measure to address this issue and to balance the use of the lake between seaplanes and the boating public, both of which use the lake in a recreational basis.

The Oregon Department of Aviation and the Oregon Aviation Board find an emergent justification for this temporary rule based on the following:

- The Oregon Marine Board has exempted seaplanes from **OAR 250-030-0030(4) and OAR 250-020-0221(10)** which places a ban on internal combustion motors on Waldo Lake.
- In a joint work session between the OMB and the OAB, both groups worked together to create a compromise which will allow seaplanes to access the lake as a form of transportation similar to a motorized vehicle driving to the site.
- Waldo Lake is classified as an alpine lake which receives very few to no visitors in the winter and spring months. As the weather warms and the snows melt, the number of visitors will increase. OAB finds that this temporary rule is necessary to help regulate the times and location seaplanes can access the lake in an attempt to abide by the new OMB rule as stated in the ORS.

- The Oregon Department of Aviation and the OAB conclude that by enacting the following temporary rule, for a period of six months, will allow time for new permanent rules to be adopted in **738-040**.

The new temporary rule is as follows:

738-040-0035

Waldo Lake access and the use of seaplanes with certain restrictions.

- Seaplane pilots cannot use Waldo Lake for pilot training. Waldo Lake shall be used as a destination lake for the purpose of recreation and seaplanes shall be used as the mode of transportation to and from the lake.
- Seaplanes shall be limited in their hours of operation to access Waldo Lake between the hours of 8 am and 8 pm for arrivals and departures.
- Landings on Waldo Lake shall be limited to the eastern half of the lake at a location where planes can land safely. Pilots will be responsible for landing in a safe manner as to not endanger any persons or seaplanes using the lake.
- Seaplane pilots shall screen their aircraft for invasive species prior to landing at Waldo Lake. Any invasive species discovered shall be removed prior to arrival at Waldo Lake.
- Pilot is required to notify the Department of Aviation using an FAA flight Plan form when landing at Waldo Lake to empirically document usage. The Department shall keep track of seaplane evolutions prior to permanent rulemaking to quantify the scope of usage.

Mitchell Swecker
Director

CC:
Office of the Governor, attention
Richard Whitman
Brett Brownscombe
Lynn Peterson
Director, State Marine Board
Director, State Parks and Recreation
Director, Oregon Dept of Forestry
Oregon Aviation Board