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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141
DEPARTMENT OF STATE LANDS

FILED
05/29/2020 8:41 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Restrictions for the State-Owned Property of the Columbia River and Oregon Slough

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/01/2020 4:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Kaitlyn Wiggins
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 06/17/2020

TIME: 4:30 PM - 5:30 PM

OFFICER: Kaitlyn Wiggins

ADDRESS: Remote Hearing - Zoom

Request Zoom link by email or online.

Salem, OR 97301

SPECIAL INSTRUCTIONS:

DSL is holding a remote hearing via Zoom to keep Oregonians safe and healthy during COVID-19. To request the meeting link, go to DSL's website under Laws & Rules, or email kaitlyn.r.wiggins@state.or.us.

NEED FOR THE RULE(S):

Revisions to the rules governing the establishment of restrictions on the public recreational use of state-owned land (OAR 141-088) are needed to address illegal and nuisance activity on state-owned land. These activities include but are not limited to offensive littering and dumping, reckless burning and open fires, damage to riparian vegetation and wildlife habitat, interference with property, and damage to property. To meet these needs, DSL is adopting restrictions for state-owned property of the Columbia River and the Oregon Slough (also known as the North Portland Harbor Channel) in the Portland-area.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 273 & 274, Oregon Legislature
OAR 141-088, Secretary of State

FISCAL AND ECONOMIC IMPACT:

DSL does not anticipate significant fiscal or economic impact on surrounding businesses. The proposed rule seeks to address illegal and nuisance activities on state-owned land. There are no developed or authorized uses at these locations. The proposed rule language takes into consideration and makes exceptions for "government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining property."

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) DSL does not believe the proposed rule will have a significant economic impact on the public, local government, or state agencies. Potential economic impacts include, but are not limited to: increased transportation costs to the public resulting from the need to travel to other public land if this restriction is imposed; increased costs to DSL for the manufacture and placement of signs, and the publication of public notices describing the restrictions on or closure to public recreational use; or increased costs to state and local law enforcement, as any restriction or closure is another activity that state and local law enforcement must monitor. However, these costs may be offset by the otherwise incurred costs of monitoring overnight camping. State and local law enforcement were informed of the restrictions and are in support of the proposed rule.

(2)(a) Only small businesses that use state-owned land for recreational purposes would be impacted by any restrictions or closures imposed on recreational use by the Director or the State Land Board - and only if such restrictions or a closure were imposed on a site, parcel, or area of state-owned land which a small business has, or would like to use. It is not feasible to estimate the number of such small businesses. However, it is unlikely that there would be any significant cost on small businesses in order to comply with the proposed rule.

(b) DSL does not believe the proposed changes will result in increased costs for reporting, record-keeping, or other administrative activities by small businesses.

(c) DSL does not believe the proposed changes will result in increased costs for professional services, equipment, supplies, labor, or administration.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business interests were represented on the Rule Advisory Committee (RAC). Two small business owners were committed to participating on the RAC, though one member was unable to attend for medical reasons. The small business owner who was present owns a small marina and boatyard, and is a member of the Waterfront Organizations of Oregon.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 141-088-0230

RULE SUMMARY: Closure of banks of the Columbia River between mile markers 102 to 106 and 120 to 121, and the

Oregon Slough between mile markers 0 to 2.5.

CHANGES TO RULE:

141-088-0230

Restrictions for the State-Owned Property of the Columbia River and Oregon Slough

(1) All state-owned land that is under the jurisdiction of the Department between the line of ordinary high water and the line of ordinary low water along the Columbia River between river mile 102 to 106 (Hayden Island to the north side and Marine Drive to the south side), and river mile 120 to 121 (Sandy River Delta), and along the Oregon Slough (North Portland Harbor Channel) between river mile 0 to 2.5, in Multnomah County, Oregon, is closed to:

(a) All uses between 10 p.m. and 5 a.m.

(b) The establishment of a campsite at any time. For the purposes of this section, "campsite" means any place where bedding, sleeping bag or other material used for bedding purposes, or any stove is placed, established or maintained for the purpose of maintaining a temporary place to live, whether such a place incorporates the use of any tent, lean-to, shack, vessel or any other structure.

(c) Fires at any time.

(2) Excepted from this restriction are Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, Department authorized persons, and adjacent landowners inspecting or maintaining property.

Statutory/Other Authority: ORS 183, 273 & 274

Statutes/Other Implemented: ORS 273 & 274