



Oregon

Tina Kotek, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

Tina Kotek

Governor

Tobias Read

Secretary of State

Elizabeth Steiner

State Treasurer

State Land Board

Regular Meeting
February 11, 2025
Agenda Item 2

SUBJECT

Administrative rulemaking governing the establishment and management of marine reserves and marine protected areas in Oregon's territorial sea.

ISSUE

Whether the State Land Board should adopt updated administrative rules in OAR 141-142 to formally incorporate new rocky habitat designations in conformance with Part III of Oregon's Territorial Sea Plan.

AUTHORITY

Oregon Constitution, Article VIII, Section 5, specifies that the State Land Board is responsible for managing lands placed under their jurisdiction by law.

ORS 273.045; authorizing the Department of State Lands (the Department) to exercise the administrative functions of the State Land Board.

BACKGROUND

On August 13, 2024, the State Land Board authorized the Department to initiate rulemaking for OAR 141-142, rules governing the establishment and management of marine reserves and marine protected areas in Oregon's territorial sea.

Oregon's marine rocky habitats are integral to the unique landscape and seascape of the Oregon Coast. They provide a safe harbor for a variety of species that have uniquely adapted to live on the margin between the land and sea. The living resources found in rocky habitats include fish, invertebrates, and plant life, particularly in the intertidal areas, as well as seabirds and seals that use adjacent cliffs and offshore rocks

for shelter, feeding, and reproduction. Below the surface, rocky habitats offer stable footing for structure-forming marine plants such as kelps and seagrasses. These marine plants provide a foundation for the diverse, unique, and economically important species that live in rocky habitats.

The Territorial Sea Plan, originally published in 1994, is managed by the Ocean Policy Advisory Council (OPAC) and the Department of Land Conservation and Development (DLCD) and outlines clear policies and direction for strong, site-based management and the protection of unique ecosystems along the Oregon Coast. Part III of the Territorial Sea Plan outlines the state's Rocky Habitat Management Strategy and includes classifications such as marine gardens, habitat refuges, and research and conservation areas.

The Department is following through on a responsibility to amend OAR 141-142 with the updated designations of rocky habitat sites (see Appendix D), in conformance with the community-informed work completed by OPAC and DLCD in updating Part III of the Territorial Sea Plan.

PUBLIC INVOLVEMENT

After a 3-year public review process, an updated Part Three of the Territorial Sea Plan was adopted in April 2023 which resulted in new rocky habitat designations and new areas designated as marine gardens and conservation and protected areas. This public process directed several outcomes, including rulemaking required by the Department, the Oregon Department of Fish and Wildlife, and the Oregon Parks and Recreation Department.

Public Review and Comment Period

A Notice of Proposed Rulemaking (Appendix B) was filed with the Secretary of State's office on October 1, 2024. A public review and comment period was held from October 1 - October 31, 2024. The Department emailed a public notice to inform interested parties and stakeholders, as well as notified Senate President Rob Wagner and House Speaker Julie Fahey of the proposed rulemaking. All information (statements, draft rules, and comment form) was posted to the DSL website:

<https://www.oregon.gov/dsl/Pages/rulemaking.aspx>

In total, the Department received one comment. See Appendix C for the full comments submitted and the Department's response. A summary:

- The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) supports the changes, but requested that Tribal provisions of the Territorial Sea Plan also be included in a new Tribal stand-alone section of the administrative rules. The Department, after consultation with the Department of Justice, has elected to include the new provisions with some minor changes. Unfortunately, due to specifics in the rulemaking process, the Department cannot accommodate CTCLUSI's request to make a stand-alone rule. However, the

Department was able to incorporate CTCLUSI's comments as three new sections under the General Provisions rule, OAR 141-142-0020(7)-(9).

RECOMMENDATION

The Department recommends that the Land Board adopt the proposed changes to OAR 141-142 (Appendix A). If adopted, the proposed rules will go into effect immediately upon filing.

APPENDICES

- A. OAR 141-142 Final Rules
- B. Notice of Proposed Rulemaking including the Statement of Need and Fiscal Impact and Draft Rules
- C. Comments and DSL Responses
- D. Rocky Habitat Designation and Maps (excerpt from the Territorial Sea Plan, Part III)

Department of State Lands
Chapter 141
Division 142

RULES GOVERNING THE ESTABLISHMENT OF AND AUTHORIZATION OF USES IN MARINE RESERVES, MARINE GARDENS, MARINE CONSERVATION AREAS, MARINE PROTECTED AREAS, MARINE RESEARCH AREAS, AND SEABIRD PROTECTION AREAS IN THE TERRITORIAL SEA

141-142-0010
Purpose and Applicability

This division:

- (1) Governs the State Land Board establishment and Department of State Lands management of marine reserves, marine protected areas and seabird protection areas in the Territorial Sea.
- (2) Describes uses that the department may authorize within areas designated as a marine reserve, marine protected area, or seabird protection area.
- (3) Identifies areas of state-owned submerged and submersible land in the Territorial Sea that the State Land Board has designated as a marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

141-142-0015
Definitions

As used in this division, unless the context requires otherwise:

- (1) "Area" or "Protected Area" means and refers to all marine reserves, marine gardens, marine conservation areas, marine research areas, marine protected areas, and seabird protection areas.
- (2) "Authorization" means a lease, registration, short-term access authorization, temporary use authorization, public facility license, easement or other authorization the department grants that allows a person to use, or place a structure in, on, under or over state-owned submerged land, state-owned submersible land, or both in the Territorial Sea.
- (3) "Department" means the Department of State Lands.
- (4) "Disturbance" means the extraction of living organisms and non-living materials, or human induced changes to the environment.
- (5) "Extractive Activity" means any human effort to remove or attempt to remove any living or non-living marine resource.
- (6) "Extreme Low Water" or "ELWL" means the lowest elevation reached by the sea as recorded by a water level gauge during a given period. Extreme low water is generally seaward of the "line of ordinary low water" as defined in ORS 274.005(3).

(7) “Marine Conservation Area” are areas within Oregon’s territorial sea or adjacent rocky intertidal area with relatively intact ecosystems with high ecological value. These areas are managed to preserve the natural system to the highest degree possible by limiting adverse impacts to habitat and wildlife.

(8) “Marine Garden” or “Marine Education Area” means any area within Oregon’s territorial sea or adjacent rocky intertidal area that has been reserved by the state to provide enhanced education, enjoyment, public access, and resource awareness. These sites are characterized by their high public visitation and educational potential.

(9) “Marine Protected Area” means any area of the marine environment within Oregon’s territorial sea that has been reserved by the state to provide lasting protection for part or all of the natural and cultural resources therein.

(10) “Marine Research Area” means any area within Oregon’s territorial sea or adjacent rocky intertidal area that has been reserved by the state to support scientific research and monitoring while maintaining ecological integrity. These sites have relatively intact ecosystems that have or may benefit from scientific research.

(11) “Marine Reserve” is an area within Oregon's territorial sea or adjacent rocky intertidal area that is protected from all extractive activities, including the removal or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors.

(12) “Mean High Water” or “MHWL” is a tidal datum. It is the average of all the high water heights observed over the National Tidal Datum Epoch. For stations with shorter series, comparison of simultaneous observations with a control tide station is made in order to derive the equivalent datum of the National Tidal Datum Epoch. For purposes of the department’s jurisdiction, Mean High Water corresponds generally with the “line of ordinary high water” as defined in ORS 274.005(3).

(13) “National Tidal Datum Epoch” means the specific 19-year period adopted by the National Ocean Service as the official time segment over which tide observations are taken and reduced to obtain mean values (e.g., mean lower low water, etc.) for tidal datums. It is necessary for standardization because of periodic and apparent secular trends in sea level. The present National Tide Datum Epoch is 1983 through 2001 and is actively considered for revision every 20-25 years. Tidal datums in certain regions with anomalous sea level changes are calculated on a Modified 5-Year Epoch.

(14) “Removal-Fill Permit” means an authorization granted by the department governing the removal, fill, alteration, or any combination thereof of material within the waters of the State of Oregon as provided in ORS 196.668 to 196.692 and ORS 196.800 to 196.990.

(15) “Seabird Protection Area” is an area within Oregon’s Territorial Sea that has been reserved by the state for the protection of seabirds.

(16) “State Land” as provided in ORS 273.006(8) means public land controlled by the department.

(17) “Structure” means anything placed, constructed, or erected in, on, under or over state-owned submerged and submersible land.

(18) "Submerged Land" as provided in ORS 274.005(7), means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal, except as provided in 274.705.

(19) "Submersible Land" as provided in ORS 274.005(8), means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal, except as provided in 274.705.

(20) "Territorial Sea" as provided in ORS 196.405(5), means the waters and seabed extending three nautical/geographical miles seaward from the coastline in conformance with federal law.

(21) "Territorial Sea Plan" as provided in ORS 196.405(6), means the plan for Oregon's Territorial Sea. In addition to the Territorial Sea as defined in section (15), the scope of the Territorial Sea Plan includes the "ocean shore" as defined in 390.605.

141-142-0020

General Provisions

(1) The department will only grant an authorization or a removal-fill permit for a regulated removal-fill activity if the use, or removal, fill or alteration of material is necessary to study, monitor, evaluate, enforce or protect or otherwise further the studying, monitoring, enforcement and protection of the marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

(2) Applicants for an authorization within a marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area must provide evidence suitable to the department and other reviewing agencies that their proposed use meets the requirements of OAR 141-142-0020(1) and the management plan adopted and in force for the area at the time the application is submitted.

(3) The department will honor the terms and conditions of any valid authorization (including any provisions providing for a right of renewal) previously granted by the department for a use existing within an area designated as a marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area at the time of its designation if the holder of the authorization is, and continues to be in full compliance with the terms and conditions of the authorization.

(4) The department will condition any authorization to use or place a structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area to require that the holder receive all other authorizations required by the department (such as a Removal-Fill Authorization under ORS 196.800 to 196.990) and other local, state, and federal entities before using the area.

(5) Any person applying to the department for an authorization to place any structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine garden,

marine conservation area, marine research area, marine protected area, or seabird protection area must describe in the application how they will remove the structure pursuant to the requirements of the Territorial Sea Plan.

(6) Notwithstanding the provisions of ORS 274.885 to 274.895, no person may harvest or remove any kelp or other seaweed for any purpose within an area designated as a marine reserve or marine protected area unless expressly authorized by the department to do so in order to study, monitor, evaluate, enforce or otherwise further the purpose of the marine reserve, marine garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

(7) These rules are not intended to affect consent decrees or other agreements between the State of Oregon and any Oregon federally recognized Tribe, nor are these rules intended to change any state agency policy recognizing Tribal rights in rocky habitat areas.

(8) The department shall provide all affected Oregon federally recognized Tribes the opportunity for consultation regarding any department action, including the planning, taking place in the rocky habitat areas.

(9) The department shall make good faith efforts to avoid, minimize or mitigate impacts to cultural resources or historic properties in rocky habitats as determined by the State Historic Preservation Office or Tribal Historic Preservation Office. The department shall consult with affected Oregon federally recognized Tribes as appropriate.

141-142-0025

Establishing a Marine Reserve, Marine Garden, Marine Conservation Area, Marine Protected Area, Marine Research Area, and Seabird Protection Area

In order to be established, marine reserves, marine gardens, marine conservation areas, marine protected areas, marine research area, and seabird protection areas must be approved by the adoption of an amendment to this division by the State Land Board.

141-142-0030

Otter Rock Marine Reserve

(1) All state-owned submerged and submersible land bounded by the following points is within the Otter Rock Marine Reserve:

(a) Beginning from a point at Latitude $44^{\circ} 45.17'$ ($44^{\circ} 45' 10''$ N), Longitude $-124^{\circ} 3.86'$ ($124^{\circ} 3' 52''$ W) (Point A);

(b) Then following the MHWL south to Latitude $44^{\circ} 43.31'$ ($44^{\circ} 45' 10.5''$ N), Longitude $-124^{\circ} 3.66'$ ($124^{\circ} 3' 51.5''$ W) (Point B);

(c) Then west to Latitude $44^{\circ} 43.31'$ ($44^{\circ} 44' 47.6''$ N), Longitude $-124^{\circ} 4.2'$ ($124^{\circ} 4' 12''$ W) (Point C);

(d) Then north to Latitude $44^{\circ} 45.17'$ ($44^{\circ} 45' 10''$ N), Longitude $-124^{\circ} 4.53'$ ($124^{\circ} 4' 32''$ W) (Point D);

(e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0035

Redfish Rocks Marine Reserve

(1) All state-owned submerged and submersible land bounded by the following points is within the Redfish Rocks Marine Reserve:

(a) Beginning from a point at Latitude $42^{\circ} 42.96'$ ($42^{\circ} 42' 57.6''$ N), Longitude $-124^{\circ} 27.78'$ ($124^{\circ} 27' 46.8''$ W) (Point A);

(b) Then south along MHWL to Latitude $42^{\circ} 41.52'$ ($42^{\circ} 41' 31.2''$ N), Longitude $-124^{\circ} 27.18'$ ($124^{\circ} 27' 10.8''$ W) (Point B);

(c) Then west to Latitude $42^{\circ} 41.16'$ ($42^{\circ} 41' 9.6''$ N), Longitude $-124^{\circ} 28.86'$ ($124^{\circ} 28' 51.6''$ W) (Point C);

(d) Then north to Latitude $42^{\circ} 42.54'$ ($42^{\circ} 42' 32.4''$ N), Longitude $-124^{\circ} 29.64'$ ($124^{\circ} 29' 38.4''$ W) (Point D);

(e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0040

Redfish Rocks Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Redfish Rocks Marine Protected Area:

(a) Beginning from a point at Latitude $42^{\circ} 41.16'$ ($42^{\circ} 41' 9.6''$ N), Longitude $-124^{\circ} 28.86'$ ($124^{\circ} 28' 51.6''$ W) (Point A);

(b) Then north to Latitude $42^{\circ} 42.54'$ ($42^{\circ} 42' 32.4''$ N), Longitude $-124^{\circ} 29.64'$ ($124^{\circ} 29' 38.4''$ W) (Point B);

(c) Then west to Latitude $42^{\circ} 41.90'$ ($42^{\circ} 41' 54''$ N), Longitude $-124^{\circ} 32.50'$ ($124^{\circ} 32' 30''$ W) (Point C);

(d) Then south to Latitude $42^{\circ} 40.25'$ ($42^{\circ} 40' 15''$ N), Longitude $-124^{\circ} 32.50'$ ($124^{\circ} 32' 30''$ W) (Point D);

(e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0045

Cape Perpetua Marine Reserve

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Perpetua Marine Reserve:

(a) Beginning from a point at Latitude $44^{\circ} 17.00'$ ($44^{\circ} 17' 0''$ N), Longitude $-124^{\circ} 6.73'$ ($124^{\circ} 6' 42''$ W) (Point A);

(b) Then south along the ELWL to Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 6.74'$ ($124^{\circ} 6' 44.4''$ W) (Point B);

(c) Then west to Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 11.00'$ ($124^{\circ} 11' 0''$ W) (Point C);

(d) Then north to Latitude $44^{\circ} 17.00'$ ($44^{\circ} 17' 0''$ N), Longitude $-124^{\circ} 11.00'$ ($124^{\circ} 11' 0''$ W) (Point D);

(e) Then in a generally easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0050

Cape Perpetua North Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Perpetua North Marine Protected Area:

(a) Beginning from a point at Latitude $44^{\circ} 17.00'$ ($44^{\circ} 17' 0''$ N), Longitude $-124^{\circ} 6.73'$ ($124^{\circ} 6' 22.2''$ W) (Point A);

(b) Then west to Latitude $44^{\circ} 17.00'$ ($44^{\circ} 17' 0''$ N), Longitude $-124^{\circ} 10.50'$ ($124^{\circ} 10' 30''$ W) (Point B);

(c) Then north to Latitude $44^{\circ} 20.00'$ ($44^{\circ} 20' 0''$ N), Longitude $-124^{\circ} 10.50'$ ($124^{\circ} 10' 30''$ W) (Point C);

(d) Then east to Latitude $44^{\circ} 20.00'$ ($44^{\circ} 20' 0''$ N), Longitude $-124^{\circ} 6.04'$ ($124^{\circ} 6' 2.4''$ W) (Point D);

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0055

Cape Perpetua South-East Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Perpetua South East Marine Protected Area:

(a) Beginning from a point at Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 6.74'$ ($124^{\circ} 6' 44.4''$ W) (Point A);

(b) Then south along the ELWL to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 7.53'$ ($124^{\circ} 7' 31.8''$ W) (Point B);

(c) Then west to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 8.60'$ ($124^{\circ} 8' 36''$ W) (Point C);

(d) Then north to Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 8.00'$ ($124^{\circ} 8' 0''$ W) (Point D);

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0060

Cape Perpetua Seabird Protection Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Perpetua Seabird Protection Area:

(a) Beginning from a point at Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 11.00'$ ($124^{\circ} 11' 0''$ W) (Point A);

(b) Then south to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 11.62'$ ($124^{\circ} 11' 37.2''$ W) (Point B);

(c) Then east to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 8.60'$ ($124^{\circ} 8' 36''$ W) (Point C);

(d) Then north to Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 8.00'$ ($124^{\circ} 8' 0''$ W) (Point D);

(e) Then in a westerly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0065

Cascade Head Marine Reserve

(1) All state-owned submerged and submersible land bounded by the following points is within the Cascade Head Marine Reserve:

(a) Beginning from a point at Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 0.52'$ ($124^{\circ} 0' 31.2''$ W) (Point A);

(b) Then south along the MHWL to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 0.89'$ ($124^{\circ} 0' 53.4''$ W) (Point B);

(c) Then west to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 4.50'$ ($124^{\circ} 4' 30''$ W) (Point C);

(d) Then north to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 4.50'$ ($124^{\circ} 4' 30''$ W) (Point D);

(e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0070

Cascade Head North Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cascade Head North Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point A);

(b) Then north to Latitude $45^{\circ} 5.00'$ ($45^{\circ} 5' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point B);

(c) Then east to Latitude $45^{\circ} 5.00'$ ($45^{\circ} 5' 0''$ N), Longitude $-124^{\circ} 0.40'$ ($124^{\circ} 0' 24''$ W) (Point C);

(d) Then south along the MHWL to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 0.52'$ ($124^{\circ} 0' 31.2''$ W) (Point D);

(f) Then in a westerly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0075

Cascade Head South Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cascade Head South Marine Protected Area:

(a) Beginning from a point at Latitude $44^{\circ} 56.50'$ ($45^{\circ} 56' 30''$ N), Longitude $-124^{\circ} 1.47'$ ($124^{\circ} 1' 28.2''$ W) (Point A);

(b) Then west to Latitude $44^{\circ} 56.50'$ ($45^{\circ} 56' 30''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point B);

(c) Then south to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point C);

(d) Then east to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 0.89'$ ($124^{\circ} 0' 53''$ W) (Point D);

(e) Then in a southerly direction along the MHWL back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0080

Cascade Head West Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cascade Head West Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point A);

(b) Then south to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point B);

(c) Then east to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 0.89'$ ($124^{\circ} 5' 0''$ W) (Point C);

(d) Then north along the MHWL to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 0.52'$ ($124^{\circ} 0' 31''$ W) (Point D);

(e) Then in a westerly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0085

Cape Falcon Marine Reserve

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Falcon Marine Reserve:

(a) Beginning from a point at Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-123^{\circ} 58.10'$ ($123^{\circ} 58' 6''$ W) (Point A);

(b) Then south along the MHWL to Latitude $45^{\circ} 46.80'$ ($45^{\circ} 46' 48''$ N), Longitude $-123^{\circ} 58.17'$ ($123^{\circ} 58' 10.2''$ W) (Point B);

(c) Then south continuing along the MHWL to Latitude $45^{\circ} 44.00'$ ($45^{\circ} 44' 0''$ N), Longitude $-123^{\circ} 56.77'$ ($123^{\circ} 56' 46.2''$ W) (Point C);

(d) Then west to Latitude $45^{\circ} 44.00'$ ($44^{\circ} 44' 0''$ N), Longitude $-124^{\circ} 1.50'$ ($124^{\circ} 1' 30''$ W) (Point D);

(e) Then north to Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-124^{\circ} 1.50'$ ($124^{\circ} 1' 30''$ W) (Point E);

(f) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0090

Cape Falcon West Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Falcon West Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-124^{\circ} 1.50'$ ($124^{\circ} 1' 30''$ W) (Point A);

(b) Then south to Latitude $45^{\circ} 44.00'$ ($45^{\circ} 44' 0''$ N), Longitude $-124^{\circ} 1.50'$ ($124^{\circ} 1' 30''$ W) (Point B);

(c) Then west to Latitude $45^{\circ} 44.00'$ ($45^{\circ} 44' 0''$ N), Longitude $-124^{\circ} 3.19'$ ($124^{\circ} 3' 11.4''$ W) (Point C);

(d) Then northwest to Latitude $45^{\circ} 44.31'$ ($44^{\circ} 44' 18.6''$ N), Longitude $-124^{\circ} 3.50'$ ($124^{\circ} 3' 30''$ W) (Point D);

(e) Then north to Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-124^{\circ} 3.50'$ ($124^{\circ} 3' 30''$ W) (Point E);

(f) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0095

Cape Falcon Shoreside Marine Protected Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Cape Falcon Shoreside Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-123^{\circ} 58.10'$ ($123^{\circ} 58' 6''$ W) (Point A);

(b) Then south along the ELWL to Latitude $45^{\circ} 46.80'$ ($45^{\circ} 46' 48''$ N), Longitude $-123^{\circ} 58.17'$ ($123^{\circ} 58' 10.2''$ W) (Point B);

(c) Then west to a point at Latitude $45^{\circ} 46.79'$ ($45^{\circ} 46' 47''$ N), Longitude $-123^{\circ} 58.37'$ ($123^{\circ} 58' 22''$ W) (Point C);

(d) Then north to a point at Latitude $45^{\circ} 48.00'$ ($45^{\circ} 48' 0''$ N), Longitude $-123^{\circ} 58.25'$ ($123^{\circ} 58' 15''$ W) (Point D);

(e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0100

Blacklock Point Marine Conservation Area

All state-owned submerged and submersible land in the coastal area of Floras Lake State Natural Area between Langlois and Port Orford is within the Blacklock Point Marine Conservation Area.

141-142-0105

Boiler Bay Marine Research Area

All state-owned submerged and submersible land in the intertidal area between the mouth of Fogarty Creek and the westernmost tip of Government Point at Boiler Bay State Wayside is within the Boiler Bay Marine Research Area.

141-142-0110

Brookings Marine Research Area I

All state-owned submerged and submersible land in the intertidal area between a point 1/2 mile north of Harris Beach State Park and the mouth of the Chetco River, except the area within the Harris Beach Marine Garden, is within the Brookings Marine Research Area.

141-142-0115

Cape Arago Marine Research Area A

All state-owned submerged and submersible land between a line projected due west from Cape Arago lighthouse and the southern tip of Norton Gulch is within the Cape Arago Marine Research Area A.

141-142-0120

Cape Arago Marine Research Area B

All state-owned submerged and submersible land between the southern tip of Norton Gulch and Simpson Reef Overlook is within the Cape Arago Marine Research Area B.

141-142-0125

Cape Arago Marine Research Area C

All state-owned submerged and submersible land between Simpson Reef Overlook and a point $\frac{3}{4}$ of a mile south of Cape Arago State Park is within the Cape Arago Marine Research Area C.

141-142-0130

Cape Blanco Marine Research Area

All state-owned submerged and submersible land in the intertidal area along the north and south sides of Cape Blanco extending seaward to encompass all rock along the headland up to the sand beaches of the north and south sides of the cape is within the Cape Blanco Marine Research Area.

141-142-0135

Cape Foulweather Complex Marine Conservation Area

All state-owned submerged and submersible land starting 12 miles north of Newport and extending to 1.5 miles south of Depoe Bay, encompassing 1.9 miles of shoreline, is within the Cape Foulweather Complex Marine Conservation Area.

141-142-0140

Cape Kiwanda Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north and south sides of Cape Kiwanda, including the rocky areas abutting the sand beaches on the north and south sides of the headland, is within the Cape Kiwanda Marine Garden.

141-142-0145

Cape Lookout Marine Conservation Area

All state-owned submerged and submersible land beginning from the west-facing sand beach 880 yards north of Rover Creek and extending west along the Cape's south flank, around the tip, then east along the north flank for 1,425 yards is within the Cape Lookout Marine Conservation Area.

141-142-0150

Chapman Point Marine Garden

All state-owned submerged and submersible land encompassing the shoreline around Chapman Pt, extending 194 yards north and 211 yards south of the tip of Chapman Pt (perpendicular to West 7th St. beach access), and extending out seaward to 405 yards from the tip of Chapman Pt is within the Chapman Point Marine Garden.

141-142-0155

Coquille Point Marine Garden

All state-owned submerged and submersible land in the intertidal area between a line perpendicular to the shore from the 8th St. beach access point and a line perpendicular to shore from the Coquille Point beach access staircase is within the Coquille Point Marine Garden.

141-142-0160

Ecola Point Marine Conservation Area

All state-owned submerged and submersible land encompassing the shoreline and ocean along the headland from 194 yards northeast of the tip of Bald Point to 176 yards north of Waterfall Creek to the south, including all beaches and nearshore rocks within the two lines, is within the Ecola Point Marine Conservation Area.

141-142-0165

Fogarty Creek Marine Conservation Area

(1) All state-owned submerged and submersible land further described below is within the Fogarty Creek Marine Conservation Area:

(a) The intertidal and subtidal zones between the southern flank of Fishing Rock and the southern flank of the rocky platform located 180 yards south of Fogarty Creek.

(b) The seaward boundary line of Fogarty Creek Marine Conservation Area extends to a point at Latitude 44° 50.405' (44° 50' 24" N), Longitude - 124° 03.478' (124° 3' 29" W) (Point A);

(c) Then northeast to a point at Latitude 44° 50.782' (44° 50' 47" N), Longitude - 124° 03.208' (124° 3' 12" W).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0170

Gregory Point Marine Research Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Gregory Point Marine Research Area:

(a) Beginning from a point at Latitude 43° 20.312' (43° 20' 19" N), Longitude -124° 22.838' (124° 22' 50" W) (Point A);

(b) Then northwest to a point at Latitude 43° 20.598' (43° 20' 36" N), Longitude -124° 22.895' (124° 22' 54" W) (Point B);

(c) Then east to a point at Latitude 43° 20.650' (43° 20' 39" N), Longitude -124° 22.637' (124° 22' 38" W) (Point C);

(d) Then southeast along the MHWL to Latitude $43^{\circ} 20.402'$ ($43^{\circ} 20' 24''$ N), Longitude $-124^{\circ} 22.545'$ ($124^{\circ} 22' 33''$ W) (Point D);

(e) Then in a southwesterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0175

Harris Beach Marine Garden

All state-owned submerged and submersible land between a line perpendicular to shore from the Harris Beach State Park beach access parking area and a line perpendicular to shore from the road entrance to Harris Beach State Park off Highway 101 is within the Harris Beach Marine Garden.

141-142-0180

Haystack Rock Marine Garden

All state-owned submerged and submersible land within a 300-yard radius around the base of Haystack Rock (Cannon Beach), including all tidepools and beaches between extreme high and low tides, is within the Haystack Rock Marine Garden.

141-142-0185

Neptune State Park Marine Research Area

All state-owned submerged and submersible land in the intertidal area between the northerly and southerly boundaries of Neptune State Park is within the Neptune State Park Marine Research Area.

141-142-0190

Pirate Cove Marine Research Area

(1) All state-owned submerged and submersible land East of a line drawn across the mouth of Pirate Cove, and defined by the following points is within the Pirate Cove Marine Research Area:

(a) Beginning from a point at Latitude $44^{\circ} 49.083'$ ($44^{\circ} 49' 5''$ N), Longitude $-124^{\circ} 04.035'$ ($124^{\circ} 4' 2''$ W) (Point A);

(b) Then to north a point at Latitude $44^{\circ} 49.146'$ ($44^{\circ} 49' 9''$ N), Longitude $-124^{\circ} 04.060'$ ($124^{\circ} 4' 4''$ W) (Point B).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0195

Whale Cove Marine Conservation Area

(1) All state-owned submerged and submersible land East of a line drawn across the mouth of Whale Cove, and defined by the following points, is within the Whale Cove Marine Conservation Area:

(a) Beginning from a point at Latitude $44^{\circ} 47.237'$ ($44^{\circ} 47' 14''$ N), Longitude $-124^{\circ} 04.298'$ ($124^{\circ} 4' 18''$ W) (Point A);

(b) Then north to a point at Latitude $44^{\circ} 47.367'$ ($44^{\circ} 47' 22''$ N), Longitude $-124^{\circ} 04.32'$ ($124^{\circ} 4' 19''$ W) (Point B).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

141-142-0200

Yachats Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north and south boundaries of Yachats State Park is within the Yachats Marine Garden.

141-142-0205

Yaquina Head Marine Garden

All state-owned submerged and submersible land in the intertidal area along the north and south sides of Yaquina Head, including rocky areas abutting the sandy beaches along the headland, is within the Yaquina Head Marine Garden.

141-142-0210

Otter Rock Marine Garden

All state-owned submerged and submersible land in the intertidal area between the highest point at Cape Foulweather and Devils Punchbowl is within the Otter Rock Marine Garden.

141-142-0215

Cape Perpetua Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north side of Devils Churn and the north boundary of Neptune State Park is within the Cape Perpetua Marine Garden.

OFFICE OF THE SECRETARY OF STATE
LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141

DEPARTMENT OF STATE LANDS

FILED

09/30/2024 1:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updating the division to align the division with Part Three of the Territorial Sea Plan.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2024 5:00 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: Danielle Boudreaux
503-798-6846
dsl.rules@dsl.oregon.gov

775 Summer St NE
Suite 100
Salem, OR 97301

Filed By:
Danielle Boudreaux
Rules Coordinator

NEED FOR THE RULE(S)

Part Three of Oregon's Territorial Sea Plan outlines the state's Rocky Habitat Management Strategy. Originally published in 1994, the Territorial Sea Plan is managed by the Land Conservation and Development Commission (LCDC) and the Department of Land Conservation and Development (DLCD), with review and input of the Ocean Policy Advisory Council (OPAC) and its Rocky Habitat Working Group (RHWG) subcommittee. It outlines clear policies and direction for strong, site-based management and the protection of unique ecosystems along the Oregon Coast. This includes classifications such as marine gardens, habitat refuges, and research and conservation areas. After a 3-year process, an updated Part Three of the Territorial Sea Plan was adopted in April 2023.

Oregon's marine rocky habitats are integral to the unique landscape and seascape of the Oregon Coast. They provide a safe harbor for a variety of species that have uniquely adapted to live on the margin between the land and sea. The living resources found in rocky habitats include fish, invertebrates, and plant life, particularly in the intertidal areas, as well as seabirds and seals that use adjacent cliffs and offshore rocks for shelter, feeding, and reproduction. Below the surface, rocky habitats offer stable footing for structure-forming marine plants such as kelps and seagrasses. These marine plants provide a foundation for the diverse, unique, and economically important species that live in rocky habitats.

The Department of State Lands' administrative rules in OAR 141-142 have not been updated since 2012, and rulemaking is needed to align rules with the updated Plan and protected areas.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Statewide Land Use Planning Goal 19: Ocean Resources

<https://www.oregon.gov/lcd/OP/Documents/goal19.pdf>

Oregon Territorial Sea Plan: Part Three, Rocky Habitat Management Strategy

https://www.oregon.gov/lcd/OCMP/SiteAssets/Pages/Territorial-Sea-Plan/TSP3_RHMS_April202023.pdf

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The administrative rules do not have any known direct impacts on racial equity.

FISCAL AND ECONOMIC IMPACT:

None identified.

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) Oregon Department of Fish and Wildlife, Oregon Parks and Recreation Department, and Oregon Department of Land Conservation and Development have all completed the rulemaking process required to implement the adopted changes to Part Three of the TSP. DSL is initiating rulemaking as a final step in the process and does not see any additional cost of compliance for other state agencies, units of local government, or members of the public.

(2)(a) The department has not identified any small business subject to these rules.

(2)(b) Small businesses will not be expected to perform additional record keeping, administrative activities, or incur additional costs as a requirement to comply with these rules.

(2)(c) Small businesses are not expected to incur costs associated with professional services, equipment supplies, labor or increased administration to comply with these rules.

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

While small businesses were not directly involved in the drafting of the proposed rulemaking, they were involved in the review of the site designations and public comment process for Part Three of the Territorial Sea Plan.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rule language conforms to Part Three of the Territorial Sea Plan which went through a public comment process. The rules identify the geographical locations of protected marine areas.

RULES PROPOSED:

141-142-0010, 141-142-0015, 141-142-0020, 141-142-0025, 141-142-0030, 141-142-0035, 141-142-0040, 141-142-0045, 141-142-0050, 141-142-0055, 141-142-0060, 141-142-0065, 141-142-0070, 141-142-0075, 141-142-0080, 141-142-0085, 141-142-0090, 141-142-0095, 141-142-0100, 141-142-0105, 141-142-0110, 141-142-0115, 141-142-0120, 141-142-0125, 141-142-0130, 141-142-0135, 141-142-0140, 141-142-0145, 141-142-0150, 141-142-0155, 141-142-0160, 141-142-0165, 141-142-0170, 141-142-0175, 141-142-0180, 141-142-0185, 141-142-0190, 141-142-0195, 141-142-0200, 141-142-0205, 141-142-0210, 141-142-0215

AMEND: 141-142-0010

RULE SUMMARY: This rule is being amended to conform with Oregon's Territorial Sea Plan Part Three.

CHANGES TO RULE:

141-142-0010

Purpose and Applicability ¶

This division:

(1) Governs the State Land Board establishment and Department of State Lands (~~Department~~) management of marine reserves, marine protected areas and seabird protection areas in the Territorial Sea.

(2) Describes uses that the ~~D~~department may authorize within areas designated as a marine reserve, marine protected area, or seabird protection area.

(3) Identifies areas of state-owned submerged and submersible land in the Territorial Sea ~~managed by the Department~~ that the State Land Board has designated as a marine reserve, marine ~~protected~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

AMEND: 141-142-0015

RULE SUMMARY: This rule is being amended to conform with Oregon's Territorial Sea Plan Part Three.

CHANGES TO RULE:

141-142-0015

Definitions ¶

As used in this division, unless the context requires otherwise:

- (1) "Area" or "Protected Area" means and refers to all marine reserves, marine gardens, marine conservation areas, marine research areas, marine protected areas, and seabird protection areas.
- (2) "Authorization" means a lease, registration, short-term access authorization, temporary use authorization, public facility license, easement or other authorization the Department grants that allows a person to use, or place a structure in, on, under or over state-owned submerged land, state-owned submersible land, or both in the Territorial Sea.
- (23) "Department" means the Department of State Lands.
- (34) "Disturbance" means the extraction of living organisms and non-living materials, or human induced changes to the environment.
- (45) "Extractive Activity" means any human effort to remove or attempt to remove any living or non-living marine resource.
- (56) "Extreme Low Water" or "ELWL" means the lowest elevation reached by the sea as recorded by a water level gauge during a given period. Extreme low water is generally seaward of the "line of ordinary low water" as defined in ORS 274.005(3).
- (67) "Marine Conservation Area" are areas within Oregon's territorial sea or adjacent rocky intertidal area with relatively intact ecosystems with high ecological value. These areas are managed to preserve the natural system to the highest degree possible by limiting adverse impacts to habitat and wildlife.
- (8) "Marine Garden" or "Marine Education Area" means any area within Oregon's territorial sea or adjacent rocky intertidal area that has been reserved by the state to provide enhanced education, enjoyment, public access, and resource awareness. These sites are characterized by their high public visitation and educational potential.
- (9) "Marine Protected Area" means any area of the marine environment within Oregon's Territorial Sea that has been reserved by the state to provide lasting protection for part or all of the natural and cultural resources therein.
- (710) "Marine Research Area" means any area within Oregon's territorial sea or adjacent rocky intertidal area that has been reserved by the state to support scientific research and monitoring while maintaining ecological integrity. These sites have relatively intact ecosystems that have or may benefit from scientific research.
- (11) "Marine Reserve" is an area within Oregon's Territorial Sea or adjacent rocky intertidal area that is protected from all extractive activities, including the removal or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors.
- (812) "Mean High Water" or "MHWL" is a tidal datum. It is the average of all the high water heights observed over the National Tidal Datum Epoch. For stations with shorter series, comparison of simultaneous observations with a control tide station is made in order to derive the equivalent datum of the National Tidal Datum Epoch. For purposes of the Department's jurisdiction, Mean High Water corresponds generally with the "line of ordinary high water" as defined in ORS 274.005(3).
- (913) "National Tidal Datum Epoch" means the specific 19-year period adopted by the National Ocean Service as the official time segment over which tide observations are taken and reduced to obtain mean values (e.g., mean lower low water, etc.) for tidal datums. It is necessary for standardization because of periodic and apparent secular trends in sea level. The present National Tide Datum Epoch is 1983 through 2001 and is actively considered for revision every 20-25 years. Tidal datums in certain regions with anomalous sea level changes are calculated on a Modified 5-Year Epoch.
- (104) "Removal-Fill Permit" means an authorization granted by the Department governing the removal, fill, alteration, or any combination thereof of material within the waters of the State of Oregon as provided in ORS 196.668 to 196.692 and ORS 196.800 to 196.990.
- (115) "Seabird Protection Area" is an area within Oregon's Territorial Sea that has been reserved by the state for the protection of seabirds.
- (126) "State Land" as provided in ORS 273.006(8) means public land controlled by the Department.
- (137) "Structure" means anything placed, constructed, or erected in, on, under or over state-owned submerged and submersible land.
- (148) "Submerged Land" as provided in ORS 274.005(7), means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters

are tidal or nontidal, except as provided in 274.705.

(~~159~~) "Submersible Land" as provided in ORS 274.005(8), means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal, except as provided in 274.705.

(~~1620~~) "Territorial Sea" as provided in ORS 196.405(5), means the waters and seabed extending three nautical/geographical miles seaward from the coastline in conformance with federal law.

(~~217~~) "Territorial Sea Plan" as provided in ORS 196.405(6), means the plan for Oregon's Territorial Sea. In addition to the Territorial Sea as defined in section (~~1520~~), the scope of the Territorial Sea Plan includes the "ocean shore" as defined in 390.605.

Statutory/Other Authority: ORS ~~183, 273, 274~~ 196.555, ORS 273.045

Statutes/Other Implemented: ORS ~~847~~ 196.555, ORS 196.540

141-142-0020

General Provisions _

(1) The Department will only grant an authorization or a removal-fill permit for a regulated removal-fill activity if the use, or removal, fill or alteration of material is necessary to study, monitor, evaluate, enforce or protect or otherwise further the studying, monitoring, enforcement and protection of the marine reserve, marine ~~protected area~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

(2) Applicants for an authorization within a marine reserve, marine ~~protected area~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area must provide evidence suitable to the Department and other reviewing agencies that their proposed use meets the requirements of OAR 141-142-0020(1) and the management plan adopted and in force for the area at the time the application is submitted.

(3) The Department will honor the terms and conditions of any valid authorization (including any provisions providing for a right of renewal) previously granted by the Department for a use existing within an area designated as a marine reserve, marine ~~protected~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area at the time of its designation if the holder of the authorization is, and continues to be in full compliance with the terms and conditions of the authorization.

(4) The Department will condition any authorization to use or place a structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine ~~protected area~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area to require that the holder receive all other authorizations required by the Department (such as a Removal-Fill Authorization under ORS 196.800 to 196.990) and other local, state, and federal entities before using the area.

(5) Any person applying to the Department for an authorization to place any structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine garden, marine conservation area, marine research area, marine protected area, or seabird protection area must describe in the application how they will remove the structure pursuant to the requirements of the Territorial Sea Plan.

(6) Notwithstanding the provisions of ORS 274.885 to 274.895, no person may harvest or remove any kelp or other seaweed for any purpose within an area designated as a marine reserve or marine protected area unless expressly authorized by the Department to do so in order to study, monitor, evaluate, enforce or otherwise further the purpose of the marine reserve, marine ~~protected area~~garden, marine conservation area, marine protected area, marine research area, or seabird protection area.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0025

Establishing a Marine Reserve, Marine ~~Protected Area~~Garden, Marine Conservation Area, Marine Protected Area, Marine Research Area, and Seabird Protection Area

In order to be established, marine reserves, marine ~~protected areas~~gardens, marine conservation areas, marine ~~protected areas~~, marine research area, and seabird protection areas must be approved by the adoption of an amendment to this division by the State Land Board.

Statutory/Other Authority: ORS ~~183, 273, 274~~ 196.555, ORS 273.045

Statutes/Other Implemented: ORS ~~847~~ 196.555, ORS 196.540

141-142-0030

Otter Rock Marine Reserve __

(1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Otter Rock Marine Reserve:

(a) Beginning ~~at~~ from a point at the northwest corner of Gull Rock at Latitude $44^{\circ} 45.175'$ ($44^{\circ} 45' 10.5''$ N), Longitude $-124^{\circ} 04.533.86'$ ($124^{\circ} 4' 31.83'52''$ W) (Point A);

(b) Then east following the MHWL south to Latitude $44^{\circ} 45.1753.31'$ ($44^{\circ} 45' 10.5''$ N), Longitude $-124^{\circ} 03.858366'$ ($124^{\circ} 3' 51.5''$ W) (Point B) at approximately the MHWL;

~~(c) Then following the MHWL; __~~

~~(c) Then west to Latitude $44^{\circ} 44.79333.31'$ ($44^{\circ} 44' 47.6''$ N), Longitude $-124^{\circ} 03.7833.4.2'$ ($124^{\circ} 34' 47.12''$ W) (Point C);~~

~~(d) Then following longitude $-124^{\circ} 03.7833'$ ($124^{\circ} 3' 47''$ W) south to Latitude $44^{\circ} 44.7283'$ ($44^{\circ} 44' 43.7''$ N) (Point D) at approximately the ELWL;~~

~~(e) Then following the ELWL to Latitude $44^{\circ} 43.315'$ ($44^{\circ} 43' 18.9''$ N), Longitude $-124^{\circ} 03.6567'$ ($124^{\circ} 3' 39.4''$ W) (Point E);~~

~~(f) Then west to Latitude $44^{\circ} 43.315'$ ($44^{\circ} 43' 18.9''$ N) north to Latitude $44^{\circ} 45.17'$ ($44^{\circ} 45' 10''$ N), Longitude $-124^{\circ} 04.253'$ ($124^{\circ} 4' 1.32''$ W) described as the southwest corner of Whale Back Rock (Point F);~~

~~(g) Then in a north easterly direction back to the point of beginning (Point A).~~

(1) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0035

Redfish Rocks Marine Reserve _

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and~~ is bounded by the following points is within the Redfish Rocks Marine Reserve:

(a) Beginning from a point at Latitude $42^{\circ} 42.5496'$ ($42^{\circ} 42' 32.4576''$ N), Longitude $-124^{\circ} 29.64778'$ ($124^{\circ} 29' 38.4468''$ W) (Point A);

(b) Then ~~east~~ south along MHWL to Latitude $42^{\circ} 42.96152'$ ($42^{\circ} 42' 57.6312''$ N), Longitude $-124^{\circ} 27.718'$ ($124^{\circ} 27' 46.108''$ W) (Point B) at approximately the ELWL;

~~(c) Then following the ELWL south;~~

~~(c) Then west~~ to Latitude $42^{\circ} 41.5216'$ ($42^{\circ} 41' 31.296''$ N), Longitude $-124^{\circ} 27.182886'$ ($124^{\circ} 27' 10.8''$ W); ~~described as a point near the middle of Coal Point~~ $51.6''$ W) (Point C);

(d) Then ~~west~~ north to Latitude $42^{\circ} 41.16254'$ ($42^{\circ} 41' 9.6324''$ N), Longitude $-124^{\circ} 28.862964'$ ($124^{\circ} 28' 51.6384''$ W) (Point D);

(e) Then in a ~~north~~ n easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0040

Redfish Rocks Marine Protected Area ¶

(1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Redfish Rocks Marine Protected Area:

(a) Beginning from a point at Latitude $42^{\circ} 41.9016'$ ($42^{\circ} 41' 549.6''$ N), Longitude $-124^{\circ} 32.5028.86'$ ($124^{\circ} 32' 3028' 51.6''$ W) (Point A);

(b) Then ~~east~~north to Latitude $42^{\circ} 42.54'$ ($42^{\circ} 42' 32.4''$ N), Longitude $-124^{\circ} 29.64'$ ($124^{\circ} 29' 38.4''$ W) (Point B);

(c) Then ~~south~~west to Latitude $42^{\circ} 41.1690'$ ($42^{\circ} 41' 9.654''$ N), Longitude $-124^{\circ} 28.8632.50'$ ($124^{\circ} 28' 51.632' 30''$ W) (Point C);

(d) Then ~~west~~south to Latitude $42^{\circ} 40.25'$ ($42^{\circ} 40' 15''$ N), Longitude $-124^{\circ} 32.50'$ ($124^{\circ} 32' 30''$ W) (Point D);

(e) Then in a ~~generally north~~n easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0045

Cape Perpetua Marine Reserve I__

(1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua Marine Reserve I:

(a) Beginning from a point at Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 6.73' (124° 6' 42" W) (Point A);

(b) Then south along the ELWL to Latitude 44° 16.82' (44° 16' 49.2" N), Longitude -124° 6.69' (124° 6' 41.4" W)

~~(Point B);~~

~~(c) Then south along the MHWL to Latitude 44° 16.15' (44° 16' 9" N), Longitude -124° 6.56' (124° 6' 33.6" W)~~

~~(Point C);~~

~~(d) Then south along the ELWL to Latitude 44° 15.81' (44° 15' 48.6" N), Longitude -124° 6.62' (124° 6' 37.2" W)~~

~~(Point D);~~

~~(e) Then south along the MHWL to Latitude 44° 14.67' (44° 14' 40.2" N), Longitude -124° 6.84' (124° 6' 50.4" W)~~

~~(Point E);~~

~~(f) Then south along the ELWL to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 6.74' (124° 6' 44.4" W)~~

~~(Point F);~~

~~(g) Then west to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 11.00' (124° 11' 0" W) (Point G);~~

~~(h) Then north to Latitude 44° 17.00' (44° 17' 0" N), Longitude -124° 11.00' (124° 11' 0" W) (Point H);~~

~~(i) Then in a generally easterly direction back to the point of beginning (Point A).~~

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0050

Cape Perpetua North Marine Protected Area

(1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cape Perpetua North Marine Protected Area:

- (a) Beginning from a point at Latitude $44^{\circ} 20' 17.00''$ ($44^{\circ} 20' 17.00''$ N), Longitude $-124^{\circ} 6' 04.73''$ ($124^{\circ} 6' 2.42.2''$ W) (Point A);
- (b) Then south along the MHWL west to Latitude $44^{\circ} 18' 67.00''$ ($44^{\circ} 18' 36''$ N), Longitude $124^{\circ} 6.37'$ ($124^{\circ} 6' 22.2''$ W) (Point B);
- (c) Then south to Latitude $44^{\circ} 18.33'$ ($44^{\circ} 18' 19.87''$ N), Longitude $-124^{\circ} 6.3910.50'$ ($124^{\circ} 6' 23.410' 30''$ W) (Point C);
- (d) Then south along the MHWL north to Latitude $44^{\circ} 17' 20.00''$ ($44^{\circ} 17' 0''$ N), Longitude $124^{\circ} 6.73'$ ($124^{\circ} 6' 42''$ W) (Point D);
- (e) Then west to Latitude $44^{\circ} 17.00'$ ($44^{\circ} 17' 20''$ N), Longitude $-124^{\circ} 10.50'$ ($124^{\circ} 10' 30''$ W) (Point E);
- (f) Then northeast to Latitude $44^{\circ} 20.00'$ ($44^{\circ} 20' 0''$ N), Longitude $-124^{\circ} 10.506.04'$ ($124^{\circ} 10' 30' 6.2.4''$ W) (Point F);
- (g) Then in a generally easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 183, 273, 274, 196.555, ORS 273.045

Statutes/Other Implemented: ORS 847, 196.555, ORS 196.540

141-142-0055

Cape Perpetua South-East Marine Protected Area __

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and~~ is bounded by the following points is within the Cape Perpetua South -East Marine Protected Area:

(a) Beginning from a point at Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 6.74' (124° 6' 44.4" W)

(Point A);

(b) Then south along the ELWL to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 7.53' (124° 7' 31.8" W)

(Point B);

(c) Then west to Latitude 44° 5.75' (44° 5' 45" N), Longitude -124° 8.60' (124° 8' 36" W) (Point C);

(d) Then north to Latitude 44° 13.50' (44° 13' 30" N), Longitude -124° 8.00' (124° 8' 0" W) (Point D);

~~(e) Then in a generally easterly direction back to the point of beginning (Point A).~~

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0060

Cape Perpetua Seabird Protection Area _

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and~~ is bounded by the following points is within the Cape Perpetua Seabird Protection Area:

(a) Beginning from a point at Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 811.00'$ ($124^{\circ} 811' 0''$ W) (Point A);

(b) Then south to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 811.602'$ ($124^{\circ} 811' 367.2''$ W) (Point B);

(c) Then ~~west~~ to Latitude $44^{\circ} 5.75'$ ($44^{\circ} 5' 45''$ N), Longitude $-124^{\circ} 118.620'$ ($124^{\circ} 118' 37.26''$ W) (Point C);

(d) Then north to Latitude $44^{\circ} 13.50'$ ($44^{\circ} 13' 30''$ N), Longitude $-124^{\circ} 118.00'$ ($124^{\circ} 118' 0''$ W) (Point D);

(e) Then in a ~~generally easterly~~ direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0065

Cascade Head Marine Reserve __

(1) All state-owned submerged and submersible land that is under the jurisdiction of the Department and is bounded by the following points is within the Cascade Head Marine Reserve:

(a) Beginning from a point at Latitude 45° 2.00' (45° 2' 0" N), Longitude -124° 0.52' (124° 0' 31.2" W) (Point A);

(b) Then west along the ELWL to Latitude 45° 1.98' (45° 1' 58.8" N), Longitude -124° 0.65' (124° 0' 39" W)

~~(Point B);~~

~~(c) Then south along the MHWL to Latitude 45° 1.53' (45° 1' 31.8" N), Longitude -124° 0.74' (124° 0' 44.4" W)~~

~~(Point C);~~

~~(d) Then south along the EL south along the MHWL to Latitude 44° 59.25' (44° 59' 15" N), Longitude -124° 0.89' (124° 0' 53.4" W) (Point ~~DB~~);~~

~~(e)~~ Then west to Latitude 44° 59.25' (44° 59' 15" N), Longitude -124° 4.50' (124° 4' 30" W) (Point ~~EC~~);

~~(f)~~ Then north to Latitude 45° 2.00' (45° 2' 0" N), Longitude -124° 4.50' (124° 4' 30" W) (Point ~~FD~~);~~¶~~

~~(g)~~ Then in a ~~generally~~ easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

141-142-0070

Cascade Head North Marine Protected Area __

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and~~ is bounded by the following points is within the Cascade Head North Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 52.00'$ ($45^{\circ} 52' 0''$ N), Longitude $-124^{\circ} 04.45.00'$ ($124^{\circ} 05' 240''$ W) (Point A);

(b) Then ~~south along the MHWL~~ north to Latitude $45^{\circ} 2.855.00'$ ($45^{\circ} 25' 510''$ N), Longitude $-124^{\circ} 0.695.00'$ ($124^{\circ} 05' 41.40''$ W) (Point B);

(c) Then ~~south along the ELWL~~ east to Latitude $45^{\circ} 25.00'$ ($45^{\circ} 25' 0''$ N), Longitude $-124^{\circ} 0.5240'$ ($124^{\circ} 0' 31.24''$ W) (Point C);

(d) Then ~~west to~~ Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.00'$ ($124^{\circ} 5' 0''$ W) (Point D);

~~(e) Then north~~ south along the MHWL to Latitude $45^{\circ} 52.00'$ ($45^{\circ} 52' 0''$ N), Longitude $-124^{\circ} 5.000.52'$ ($124^{\circ} 50' 031.2''$ W) (Point ED);

~~(f)~~ Then in a ~~generally east~~ generally easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 183, 273, 274 196.555, ORS 273.045

Statutes/Other Implemented: ORS 847 196.555, ORS 196.540

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and is~~ bounded by the following points is within the Cascade Head South Marine Protected Area:

(a) Beginning from a point at Latitude 44° 59.256.50' (44° 59' 15.30" N), Longitude -124° 0.891.47' (124° 01' 53.428.2" W) (Point A);

(b) Then ~~south along the ELWL~~ west to Latitude 44° 56.50' (45° 56' 30" N), Longitude -124° 1.475.00' (124° 15' 28.20" W) (Point B);

(c) Then ~~west~~ south to Latitude 44° 56.509.25' (44° 56' 30.15" N), Longitude -124° 5.00' (124° 5' 0" W) (Point C);

(d) Then ~~north~~ east to Latitude 44° 59.25' (44° 59' 15" N), Longitude -124° 5.000.89' (124° 50' 05.3" W) (Point D)¶

(e) Then in a ~~generally easterly direction~~ southerly direction along the MHWL back to the point of beginning (Point A)¶

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 183, 273, 274 196.555, ORS 273.045

Statutes/Other Implemented: ORS 847 196.555, ORS 196.540

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and is~~ bounded by the following points is within the Cascade Head West Marine Protected Area:

(a) Beginning from a point at Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 4.55.00'$ ($124^{\circ} 45' 30''$ W) (Point A);

(b) Then south to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 4.55.00'$ ($124^{\circ} 45' 30''$ W) (Point B);

(c) Then ~~west~~ to Latitude $44^{\circ} 59.25'$ ($44^{\circ} 59' 15''$ N), Longitude $-124^{\circ} 5.000.89'$ ($124^{\circ} 5' 0''$ W) (Point C);

(d) Then north along the MHWL to Latitude $45^{\circ} 2.00'$ ($45^{\circ} 2' 0''$ N), Longitude $-124^{\circ} 5.000.52'$ ($124^{\circ} 5' 00' 31''$ W) (Point D);

(e) Then in a ~~generally easterly~~ westerly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and is~~ bounded by the following points is within the Cape Falcon Marine Reserve:

- (a) Beginning from a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -123° 58.10' (123° 58' 6" W) (Point A);
- (b) Then south along the ~~ELM~~MHWL to Latitude 45° 46.80' (45° 46' 48" N), Longitude -123° 58.17' (123° 58' 10.2"W) (Point B);
- (c) Then south ~~continuing~~ along the MHWL to Latitude 45° 45.79' (45° 45' 47.4" N), Longitude ~~-123° 58.41' (123° 58' 24.6" W) (Point C);~~
- ~~(d) Then south along the ELWL to Latitude 45° 45.44' (45° 45' 26.4" N), Longitude -123° 58.03' (123° 58' 1.8" W) (Point D);~~
- ~~(e) Then south along the MHWL to Latitude 45° 44.62' (45° 44' 37.2" N), Longitude -123° 57.82' (123° 57' 49.2"W) (Point E);~~
- ~~(f) Then south along the ELWL to Latitude 45° 44.00' (45° 44' 0" N), Longitude -123° 56.77' (123° 56' 46.2" W) (Point F);~~
- ~~(g) Then west to Latitude 45° 44.00' (44° 44' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point G);~~
- ~~(h) Then north to Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point H);~~
- ~~(i) Then in a generally easterly direction back to the point of beginning (Point A).~~

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

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(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and is~~ bounded by the following points is within the Cape Falcon West Marine Protected Area:

(a) Beginning from a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point A);

(b) Then south to Latitude 45° 44.00' (45° 44' 0" N), Longitude -124° 1.50' (124° 1' 30" W) (Point B);

(c) Then west to Latitude 45° 44.00' (45° 44' 0" N), Longitude -124° 3.19' (124° 3' 11.4" W) (Point C);

(d) Then northwest to Latitude 45° 44.31' (44° 44' 18.6" N), Longitude -124° 3.50' (124° 3' 30" W) (Point D);

(e) Then north to Latitude 45° 48.00' (45° 48' 0" N), Longitude -124° 3.50' (124° 3' 30" W) (Point E);

(f) Then in a ~~generally~~ easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ ORS 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ ORS 196.555, ORS 196.540

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(1) All state-owned submerged and submersible land ~~that is under the jurisdiction of the Department and is~~ bounded by the following points is within the Cape Falcon Shoreside Marine Protected Area:

- (a) Beginning from a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -123° 58.10' (123° 58' 6" W) (Point A);
- (b) Then south along the ELWL to Latitude 45° 46.80' (45° 46' 48" N), Longitude -123° 58.17' (123° 58' 10.2" W) (Point B);
- (c) Then west to a point at Latitude 45° 46.79' (45° 46' 47" N), Longitude -123° 58.37' (123° 58' 22" W) (Point C);
- (d) Then north to a point at Latitude 45° 48.00' (45° 48' 0" N), Longitude -123° 58.25' (123° 58' 15" W) (Point D);
- (e) Then in an easterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ~~ORS 183, 273, 274~~ 196.555, ORS 273.045

Statutes/Other Implemented: ~~ORS 847~~ 196.555, ORS 196.540

Blacklock Point Marine Conservation Area

All state-owned submerged and submersible land in the coastal area of Floras Lake State Natural Area between Langlois and Port Orford is within the Blacklock Point Marine Conservation Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Boiler Bay Marine Research Area

All state-owned submerged and submersible land in the intertidal area between the mouth of Fogarty Creek and the westernmost tip of Government Point at Boiler Bay State Wayside is within the Boiler Bay Marine Research Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Brookings Marine Research Area I

All state-owned submerged and submersible land in the intertidal area between a point 1/2 mile north of Harris Beach State Park and the mouth of the Chetco River, except the area within the Harris Beach Marine Garden, is within the Brookings Marine Research Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Arago Marine Research Area A

All state-owned submerged and submersible land between a line projected due west from Cape Arago lighthouse and the southern tip of Norton Gulch is within the Cape Arago Marine Research Area A.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Arago Marine Research Area B

All state-owned submerged and submersible land between the southern tip of Norton Gulch and Simpson Reef Overlook is within the Cape Arago Marine Research Area B.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Arago Marine Research Area C

All state-owned submerged and submersible land between Simpson Reef Overlook and a point ° of a mile south of Cape Arago State Park is within the Cape Arago Marine Research Area C.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Blanco Marine Research Area

All state-owned submerged and submersible land in the intertidal area along the north and south sides of Cape Blanco extending seaward to encompass all rock along the headland up to the sand beaches of the north and south sides of the cape is within the Cape Blanco Marine Research Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Foulweather Complex Marine Conservation Area

All state-owned submerged and submersible land starting 12 miles north of Newport and extending to 1.5 miles south of Depoe Bay, encompassing 1.9 miles of shoreline, is within the Cape Foulweather Complex Marine Conservation Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Kiwanda Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north and south sides of Cape Kiwanda, including the rocky areas abutting the sand beaches on the north and south sides of the headland, is within the Cape Kiwanda Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Lookout Marine Conservation Area

All state-owned submerged and submersible land beginning from the west-facing sand beach 880 yards north of Rover Creek and extending west along the Cape's south flank, around the tip, then east along the north flank for 1,425 yards is within the Cape Lookout Marine Conservation Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Chapman Point Marine Garden

All state-owned submerged and submersible land encompassing the shoreline around Chapman Pt, extending 194 yards north and 211 yards south of the tip of Chapman Pt (perpendicular to West 7th St. beach access), and extending out seaward to 405 yards from the tip of Chapman Pt is within the Chapman Point Marine Garden.
Statutory/Other Authority: ORS 196.555, ORS 273.045
Statutes/Other Implemented: ORS 196.555

Coquille Point Marine Garden

All state-owned submerged and submersible land in the intertidal area between a line perpendicular to the shore from the 8th St. beach access point and a line perpendicular to shore from the Coquille Point beach access staircase is within the Coquille Point Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Ecola Point Marine Conservation Area

All state-owned submerged and submersible land encompassing the shoreline and ocean along the headland from 194 yards northeast of the tip of Bald Point to 176 yards north of Waterfall Creek to the south, including all beaches and nearshore rocks within the two lines, is within the Ecola Point Marine Conservation Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Fogarty Creek Marine Conservation Area

(1) All state-owned submerged and submersible land further described below is within the Fogarty Creek Marine Conservation Area:

(a) The intertidal and subtidal zones between the southern flank of Fishing Rock and the southern flank of the rocky platform located 180 yards south of Fogarty Creek.

(b) The seaward boundary line of Fogarty Creek Marine Conservation Area extends to a point at Latitude 44° 50.405' (44° 50' 24" N), Longitude - 124° 03.478' (124° 3' 29" W) (Point A);

(c) Then northeast to a point at Latitude 44° 50.782' (44° 50' 47" N), Longitude - 124° 03.208' (124° 3' 12" W).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Gregory Point Marine Research Area

(1) All state-owned submerged and submersible land bounded by the following points is within the Gregory Point Marine Research Area:

(a) Beginning from a point at Latitude 43° 20.312' (43° 20' 19" N), Longitude -124° 22.838' (124° 22' 50" W) (Point A);

(b) Then northwest to a point at Latitude 43° 20.598' (43° 20' 36" N), Longitude -124° 22.895' (124° 22' 54" W) (Point B);

(c) Then east to a point at Latitude 43° 20.650' (43° 20' 39" N), Longitude -124° 22.637' (124° 22' 38" W) (Point C);

(d) Then southeast along the MHWL to Latitude 43° 20.402' (43° 20' 24" N), Longitude -124° 22.545' (124° 22' 3" W) (Point D);

(e) Then in a southwesterly direction back to the point of beginning (Point A).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Harris Beach Marine Garden

All state-owned submerged and submersible land between a line perpendicular to shore from the Harris Beach State Park beach access parking area and a line perpendicular to shore from the road entrance to Harris Beach State Park off Highway 101 is within the Harris Beach Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Haystack Rock Marine Garden

All state-owned submerged and submersible land within a 300-yard radius around the base of Haystack Rock (Cannon Beach), including all tidepools and beaches between extreme high and low tides, is within the Haystack Rock Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Neptune State Park Marine Research Area

All state-owned submerged and submersible land in the intertidal area between the northerly and southerly boundaries of Neptune State Park is within the Neptune State Park Marine Research Area.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Pirate Cove Marine Research Area

(1) All state-owned submerged and submersible land East of a line drawn across the mouth of Pirate Cove, and defined by the following points is within the Pirate Cove Marine Research Area:

(a) Beginning from a point at Latitude 44° 49.083' (44° 49' 5" N), Longitude -124° 04.035' (124° 4' 2" W) (Point A);

(b) Then to north a point at Latitude 44° 49.146' (44° 49' 9" N), Longitude - 124° 04.060' (124° 4' 4" W) (Point B).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Whale Cove Marine Conservation Area

(1) All state-owned submerged and submersible land East of a line drawn across the mouth of Whale Cove, and defined by the following points, is within the Whale Cove Marine Conservation Area:

(a) Beginning from a point at Latitude 44° 47.237' (44° 47' 14" N), Longitude -124° 04.298' (124° 4' 18" W) (Point A);

(b) Then north to a point at Latitude 44° 47.367' (44° 47' 22" N), Longitude -124° 04.32' (124° 4' 19" W) (Point B).

(2) All coordinate information is provided in WGS84 coordinate system (geographic latitude/longitude) and has not been verified by a licensed surveyor.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Yachats Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north and south boundaries of Yachats State Park is within the Yachats Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Yaquina Head Marine Garden

All state-owned submerged and submersible land in the intertidal area along the north and south sides of Yaquina Head, including rocky areas abutting the sandy beaches along the headland, is within the Yaquina Head Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Otter Rock Marine Garden

All state-owned submerged and submersible land in the intertidal area between the highest point at Cape Foulweather and Devils Punchbowl is within the Otter Rock Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

Cape Perpetua Marine Garden

All state-owned submerged and submersible land in the intertidal area between the north side of Devils Churn and the north boundary of Neptune State Park is within the Cape Perpetua Marine Garden.

Statutory/Other Authority: ORS 196.555, ORS 273.045

Statutes/Other Implemented: ORS 196.555

OAR 141-142 Rulemaking: Rocky Shore Habitat Designations



Comments & Agency Response

The comment period was open from October 1, 2024, to October 31, 2024, at 5:00 PM. The Department received 1 set of comments in total, which were received via a PDF letter (attached at the end of this document).

Learn more about DSL rulemaking at: <https://www.oregon.gov/dsl/Pages/rulemaking.aspx>

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Brad Kneaper, Chair, Tribal Council, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (via Meagan Davenport) – October 30, 2024 (letter dated); October 31, 2024 (letter received)

Comment (excerpt from letter):

The Tribe supports the changes, but requests that Tribal provisions of the Sea Plan be included in a new Tribal stand-alone section of the administrative rules. Specifically, the Tribe requests that the following language (from the Sea Plan) be incorporated in the rule:

- These rule, the Territorial Sea Plan, and their implementation do not affect consent decrees or other agreements between the State of Oregon and any Oregon federally recognized tribe or any state agency policy recognizing tribal rights in rocky habitat areas.
- All affected Oregon federally recognized tribes shall be provided the opportunity for consultation regarding any action, including the planning, taking place in the rocky habitat areas.
- Impacts to cultural resources or historic properties in rocky habitats shall be avoided, minimized, or mitigated, in consultation with affected Oregon federally recognized tribes and as determined by the State Historic Preservation Office or Tribal Historic Preservation Office, as appropriate.

Agency Response:

Dear Chair Kneaper:

Thank you for your supportive comments submitted on behalf of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) regarding the Department of State Lands (Department) proposed rulemaking for OAR 141-142. Confirmation of receipt of those comments was provided to CTCLUSI on October 31, 2024.

The Department has considered the comments and supports adding the new provisions to OAR 141-142. After consultation with the Department of Justice (DOJ), minor changes to the provisions were made to ensure any requirements apply to, and are implementable, by the Department. In regard to CTCLUSI's request for a stand-alone rule, the rulemaking process prevents the Department from creating a stand-alone rule at this point, as any new rule must be circulated to the public for comment and review. However, the Department has incorporated the provisions as three new sections under the General Provisions rule, OAR 141-142-0220(7-9).

The Department also sought input from Tribal staff to better understand the intent of CTCLUSI's comments and is committed to ongoing conversation on this topic at the Tribe's request. The Department believes that through our outreach to CTCLUSI, internal discussions, and consultation with DOJ we have addressed the main points and concerns of CTCLUSI.

Please reach out if you have any questions or would like to discuss the Department's rulemaking efforts in more detail.

The Department appreciates CTCLUSI's thoughtful comments and participation in the rulemaking process.



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA AND SIUSLAW INDIANS
TRIBAL GOVERNMENT**

1245 Fulton Avenue - Coos Bay, OR 97420

Telephone: (541)888-9577 Toll Free 1-888-280-0726 Fax: (541)888-2853

October 30, 2024

Vicki L. Walker, Director
Oregon Department of State Lands
775 Summer St. NE
Salem, OR 97301-1279

SENT VIA EMAIL (Vicki.walker@dsl.oregon.gov)

RE: Comments on OAR 141-142 Rulemaking

Dear Ms. Quan:

This letter is submitted on behalf of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians ("CTCLUSI" or "Tribe") on the OAR 141-142 rulemaking currently open for public comment by the Department of State Lands ("DSL").

It is the Tribe's understanding that the intent of the rulemaking to incorporate updates of Part Three of the Territorial Sea Plan ("Sea Plan") into the DSL administrative rules in OAR 141-142.

The Tribe supports the changes, but requests that Tribal provisions of the Sea Plan be included in a new Tribal stand-alone section of the administrative rules. Specifically, the Tribe requests that the following language (from the Sea Plan) be incorporated in the rule:

- These rule, the Territorial Sea Plan, and their implementation do not affect consent decrees or other agreements between the State of Oregon and any Oregon federally recognized tribe or any state agency policy recognizing tribal rights in rocky habitat areas.
- All affected Oregon federally recognized tribes shall be provided the opportunity for consultation regarding any action, including the planning, taking place in the rocky habitat areas.
- Impacts to cultural resources or historic properties in rocky habitats shall be avoided, minimized, or mitigated, in consultation with affected Oregon federally recognized tribes and as determined by the State Historic Preservation Office or Tribal Historic Preservation Office, as appropriate.

The Tribe appreciates your consideration of these comments.

Respectfully,

A handwritten signature in black ink, appearing to be 'BK', with a long horizontal flourish extending to the right.

Brad Kneaper
Chair, Tribal Council
Confederated Tribes of Coos, Lower and Siuslaw Indians

cc: Tribal Liaison Ellie Forness, Ellie.S.Forness@dsl.oregon.gov
Rulemaking Coordinator Danielle Boudreaux, DSL.Rules@dsl.oregon.gov

Rocky Habitat Designations & Map

Rocky Habitat Designations (as of April 2023)

Marine Gardens (Marine Education Areas)

The OPAC and LCDC have approved the designation of eight Marine Gardens in rocky intertidal areas along the Oregon Coast (Table 3). ODFW's regulations in these areas protect the rocky intertidal invertebrate community from harvest impacts (OAR 635-005-0260). Currently, ODFW designated Marine Gardens are summarized in the table at right.

Marine Gardens are closed to the take of marine invertebrates with two exceptions: single mussels may be taken for bait, and razor clams (a sandy beach species) may be taken at Cape Perpetua. The

Cape Perpetua Marine Garden has some small stretches of sandy beach among the rocky areas where razor clams can be harvested without affecting rocky habitat areas. Sport fishing is allowed in and from Marine Gardens, while commercial harvest of invertebrates is prohibited. No collection of marine aquatic vegetation is allowed within the ocean shore in these areas, except by scientific research permit from OPRD. These regulations may differ in areas where Marine Gardens overlap with Marine Reserves or Marine Protected Areas (Section E.2.b).

Marine Research Areas

The OPAC and LCDC have approved the designation of seven Marine Research Areas (total) in both rocky intertidal areas and subtidal areas (Table 4). ODFW's Marine Research Area regulations vary by site and are designed to limit sport harvest of most invertebrate species and manage scientific/educational take through a permit program (OAR 635-005-0260; Section E.3.). The designated Marine Research Areas are listed in Table 4.

Table 3 Marine Gardens (Marine Education Areas)	
Site Name	Community, County
Haystack Rock	Cannon Beach, Clatsop County
Chapman Point	Cannon Beach, Clatsop County
Cape Kiwanda	Pacific City, Tillamook County
Otter Rock	Otter Rock, Lincoln County
Yaquina Head	Agate Beach, Lincoln County
Yachats	Yachats, Lincoln County
Cape Perpetua	Lincoln County
Coquille Point	Bandon, Coos County
Harris Beach	Brookings, Curry County

At most intertidal-only Marine Research Areas, sport harvest of most invertebrate species is closed. However, harvest of abalone,³² clams, Dungeness crab, red rock crab, mussels, piddocks, scallops, and shrimp is allowed. The regulations divide Cape Arago into three zones (Areas A, B, and C – north to south). Area B employs the Marine Research Area regulation described above, while Areas A and C prohibit take of all marine invertebrates. Pirate Cove and Gregory Point Marine Research Areas are closed to the take of all marine invertebrates. Sport fishing is allowed in Marine Research Areas, while commercial harvest of invertebrates is prohibited. No collection of marine plants is allowed within the ocean shore in these areas, except by scientific research permit from OPRD. These regulations may differ in areas where Marine Research Areas overlap with Marine Reserves or Marine Protected Areas (Section E.2.c.).

Table 4 Marine Research Areas	
Site Name	Community, County
Boiler Bay (intertidal only)	Depoe Bay, Lincoln County
Pirate Cove (intertidal and subtidal)	Depoe Bay, Lincoln County
Neptune State Scenic Viewpoint (intertidal only)	Florence, Lane County
Gregory Point (subtidal only)	Charleston, Coos County
Cape Arago (intertidal only)	Charleston, Coos County
Cape Blanco	Curry County
Brookings (intertidal only)	Brookings, Curry County

Marine Conservation Areas

As specified in Section D of the Strategy, the Marine Conservation Area designation allows for different types of management prescriptions based on site conservation goals and needs. Each site will be described below accordingly, in a north to south order, to document the management regulations that will be applied. The Marine Conservation Areas are included in the Appendix E Map of Rocky Habitat Designated Sites.

Ecola Point Marine Conservation Area

The Ecola Point Marine Conservation Area goals are to preserve and strengthen the ecological integrity of the site including existing marine life, fish, seabird and shorebird nesting areas that exist in these rocky habitats for long term sustainability, and to preserve the area's wilderness character in the face of increasing tourism and

³² All abalone harvest was closed coastwide for at least a 3-year period beginning in 2018 due to population concerns. As of the date of this document, it is not known if and when harvest will reopen.

population on the North Coast. There is no change to existing use for commercial or recreational fish harvest. For invertebrate harvest only scientific research permits would allow harvest, and there would be no recreational harvest except for the use of single mussels used as bait for fishing. There is no harvest of marine plants, except for harvest associated with scientific research (permit required).

Cape Lookout Marine Conservation Area

The goal of the Cape Lookout Marine Conservation Area is Conserve, to the highest degree possible, the ecological functions and rocky habitat resources in order to provide long-term ecological, economic, and social benefits for current and future generations. There is no change to the existing use for commercial or recreational fish harvest. There is no change in the invertebrate harvest rules in the subtidal areas. The commercial harvest of invertebrates in the intertidal area is not allowed. Recreational harvest of invertebrates is allowed to, consistent with ODFW regulations. Marine plant harvest in the area is prohibited.

Fogarty Creek Marine Conservation Area

The goal of the Fogarty Creek Marine Conservation Area is the conserve the full diversity of species and habitats in the intertidal and shallow subtidal areas. The area will allow fishing, but only from shore. Commercial and recreational harvest of invertebrates in the area is prohibited. The recreational harvest of marine plants is allowed in the intertidal areas, consistent with existing regulations which allow a souvenir quantity.

Cape Foulweather Complex Marine Conservation Area

The goal of the Cape Foulweather Complex Marine Conservation Area is to conserve the ecological functions and rocky habitat resources in order to provide long-term ecological, economic, and social benefits for current and future generations. There is no change to the existing use for commercial or recreational fish harvest. There is no change in the invertebrate harvest rules in the area. The recreational harvest of marine plants is allowed in the intertidal areas, consistent with existing regulations which allow a souvenir quantity. Harvest of marine plants in the subtidal areas is prohibited.

Whale Cove Marine Conservation Area

Whale Cove was the first Marine Conservation Area designated on the coast and included management regulations for the intertidal and subtidal areas of Whale Cove in

Lincoln County. ODFW's regulations at Whale Cove prohibit harvest of both marine invertebrates and fish (OAR 635-005-0260). No collection of marine plants is allowed within the ocean shore in these areas, except by scientific research permit from OPRD (OAR 736-020-0003).

Blacklock Point Marine Conservation Area

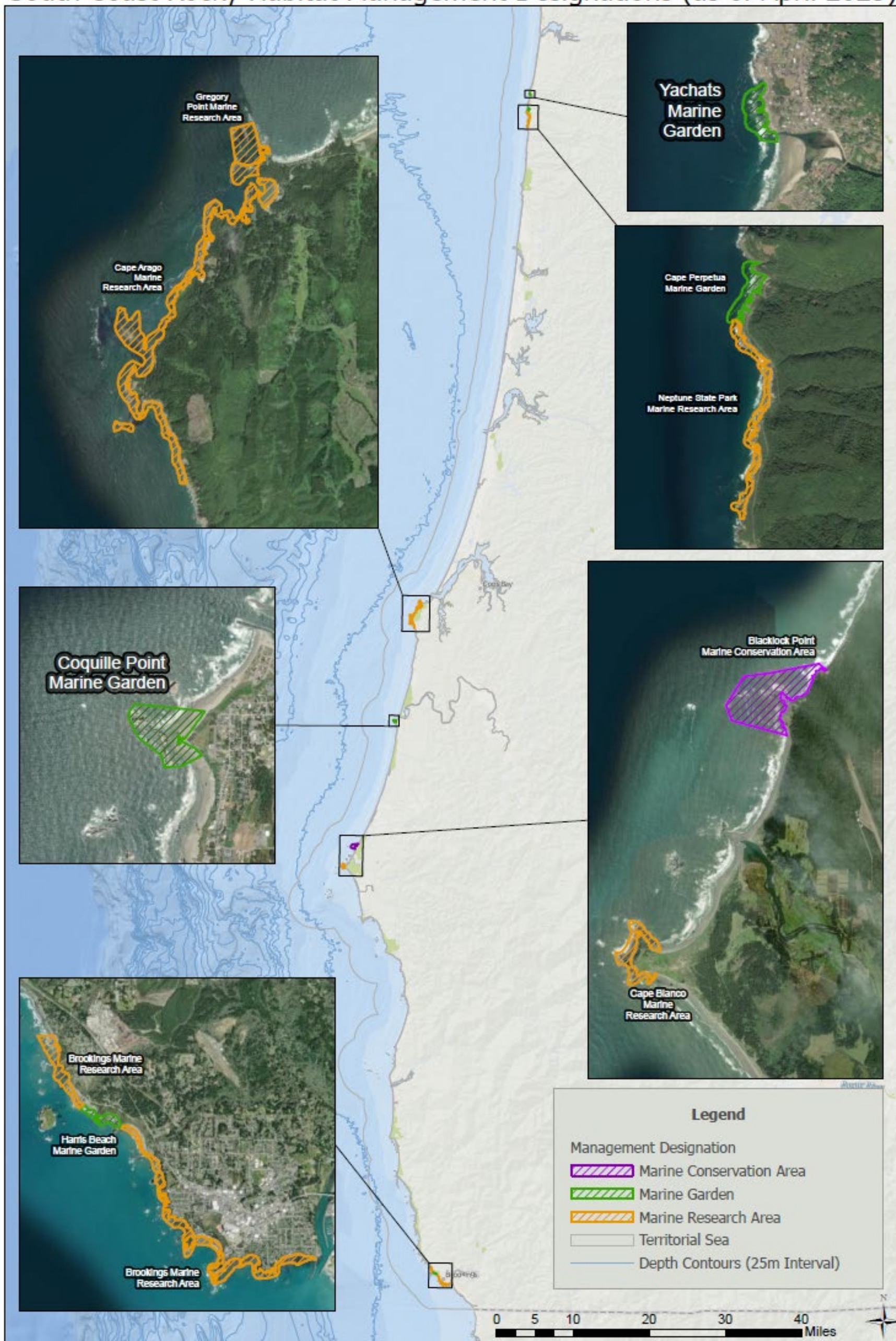
The goals for the Blacklock Point Marine Conservation area are:

1. Educate, monitor, and apply adaptive, ecosystem-based management to conserve the ecological structure, function, and resiliency of nearshore rocky habitat species facing effects of changing climate.
2. Allow for continued legal sustainable human uses of their goods, services, and resources including fisheries, using non-regulatory management measures.
3. To provide long-term ecological, economic, and social benefits for current and future generations on Oregon's south coast.

There are no changes to the existing statewide harvest regulations for fish, invertebrates, or marine plants.

Territorial Sea Plan Part Three - Appendix E Map 2 of 2

South Coast Rocky Habitat Management Designations (as of April 2023)



Marine Reserves & Protected Areas

Currently, there are five Marine Reserves designated in Oregon, four of which have one or more associated Marine Protected Areas (MPAs). All of the Marine Reserves contain subtidal habitat and four of the Marine Reserves contain rocky intertidal habitat (OAR 635-012).

The Marine Reserves include:

Table 5 Marine Reserves	
Site Name	Community, County
Cape Falcon (subtidal and rocky intertidal habitat)	Tillamook & Clatsop Counties
Cascade Head (subtidal and rocky intertidal habitat)	Tillamook County
Otter Rock (subtidal and rocky intertidal habitat)	Otter Rock, Lincoln County
Cape Perpetua (subtidal and rocky intertidal habitat)	Lincoln County
Redfish Rocks (subtidal habitat only)	Port Orford, Curry County

ODFW's regulations for Marine Reserves prohibit the take of fish and invertebrates. ODFW's regulations for the nine MPAs vary by site and can be found in OAR chapter 635, division 12. Only two MPAs have regulations that materially affect rocky intertidal areas: Cascade Head North MPA and Cape Perpetua North MPA. Regulations pertaining to rocky intertidal areas of Cascade Head North MPA and Cape Perpetua North MPA prohibit take of fish from shore and prohibit take of invertebrates except crab. The regulations may differ where the MPAs overlap with Marine Gardens (Marine Education Areas) and Marine Research Areas (Section E.2.c.).

Areas of Overlap between Designations

There are some rocky intertidal areas where Marine Reserves or Marine Protected Areas (MPA) overlap with Marine Gardens (Marine Education Areas) or Marine Research Areas. ODFW designated Marine Gardens (Marine Education Areas) and Research Reserves (Marine Research Areas) in years prior to designating Marine Reserves, and their designations were for different purposes. Even though many of the regulations are redundant in areas of overlap, ODFW chose not to change the status or

rescind the underlying Marine Gardens and Research Reserves in favor of the newer Marine Reserve regulations because the longevity of the Marine Reserve designations is not known. The Oregon Legislature will evaluate Marine Reserves in 2023, with an option of maintaining, changing, or removing designations. Maintaining the Marine Garden and Marine Research Area designations in areas of overlap ensures that these long standing rocky intertidal area protections will remain should the overlying Marine Reserve or MPA designations be removed.

Areas of overlap include:

- partial overlap between the Otter Rock Marine Garden (Marine Education Area) and Otter Rock Marine Reserve
- partial overlap of the Yachats Marine Garden (Marine Education Area) and Cape Perpetua North MPA
- partial overlap between the Cape Perpetua Marine Garden (Marine Education Area) and Cape Perpetua North MPA
- partial overlap between the Cape Perpetua Marine Garden (Marine Education Area) and Cape Perpetua Marine Reserve (note, sandy beaches are not in the Marine Reserve)
- complete overlap of the Neptune State Scenic Viewpoint Marine Research Area and the Cape Perpetua Marine Reserve (note, sandy beaches are not in the Marine Reserve)

The general interpretation of rules in areas of overlap is that the more stringent regulation (by species) applies. For example, the Otter Rock Marine Garden (Marine Education Area) allows fishing and taking single mussels for bait. The Otter Rock Marine Reserve does not allow any take; therefore, the more stringent Marine Reserve regulations (i.e. no take) apply for those species where the two areas overlap. For a full detailed description of Marine Reserves and Marine Protected Areas rules and regulations visit <http://OregonMarineReserves.com/>.