

Oregon Parks and Recreation Commission

November 17, 2021

Agenda Item: 9d **Action**

Public Comment Allowed: Yes

Topic: Request to open rulemaking guiding take-off and landing of drones

Presented by: Katie Gauthier, Government Relations and Policy Manager

As unmanned aircraft activities have increased across the state with operations by both commercial pilots and recreational hobbyists, OPRD has faced increasing questions and conflicts among and between visitors.

For drone pilots and hobbyists, it is often confusing to know where operations are allowed and appropriate. State Parks are often contacted with questions from drone enthusiasts about where they can fly. For some park visitors, there is a frustration that State Parks have not prohibited drone operations.

As an agency, we are caught in the middle. The flights of unmanned aircraft are regulated by the Federal Aviation Administration (FAA). At national parks, drone flights are prohibited. Visitors who travel to Crater Lake or one of our National Wildlife Refuges will find those areas closed to drone operations and often wonder why it is not the same with state parks. As a state agency we do not have the ability to ban drone operations at the state level. However, with the passage of SB 109 during the 2021 legislative session, the legislature has provided the permission necessary for OPRD to work with the community to adopt fair, sensible rules that address the location of take-off and landings on state park properties and the ocean shore.

OPRD told legislators we would have a public conversation during rulemaking about regulating the take-off and landing of drones within a state park. We said would that would start with a Rule Advisory Committee (RAC) bringing together commercial drone pilots, recreational hobbyists and conservation advocates to help craft a rule that provides clarity to drone operators while protecting the natural, cultural and scenic resources within state parks and the ocean shore.

With your permission, we will begin this process. Members of the RAC include commercial and recreational UAV pilots, a UAS industry professor, state and federal agency partners and OPRD park managers and program staff with experience working in our most sensitive places. The RAC will be meeting in November and December with public comment anticipated to open in January.

The proposed rule language in Attachment A is a beginning draft for the RAC to consider and will be developed further based on their recommendation prior to opening public comment. The proposed rule change would amend 736-010-0040 the visitor conduct rule for park properties and 736-021-0100 the visitor conduct rule for the ocean shore. Both amendments are modeled after current rules for metal detecting in state parks. Metal detecting is allowed in some parks. In other parks it is only allowed with manager permission. While, in some places it is strictly prohibited to protect cultural, natural or scenic resources. Individuals interested in metal detecting are directed to the state parks website to find locations available.

The goal of this rulemaking will be to articulate places in state parks and along the ocean shore where drone operations can be managed as any other recreational use, the places with a special use permit, drone operations may be appropriate and separate the places that for the protection of natural, cultural or scenic resources drones are not appropriate, some or all of the time. These rules will provide the clarity needed for drone pilots, hobbyists and the general public to know where drone take-off and landing is allowed and prohibited within a state park and along the ocean shore.

Prior Action by Commission: In April 2020, the Commission approved introduction of legislative concept seeking permission to write rules for drone operations that became SB 109.

Action Requested: Staff requests permission to open rulemaking to clarify where UAV take-off and landing will be allowed, restricted and prohibited in state park properties and along the ocean shore by amending 736-010-0040 and 736-021-0100.

Attachments: Attachment A Marked Copy.

Prepared by: Katie Gauthier

9d: Take-off and landing of Drones
Attachment A Marked Copy

736-010-0040
Visitor Conduct

(8) While many activities are allowed on park property, the following activities are specifically prohibited at park properties, and a person may not engage in:

(a) Using or operating any noise producing machine, vehicle, device or instrument in a manner that disturbs or may disturb other park visitors except as allowed in section 10 below;

(b) Using a public address system or similar device without written permission of the park manager;

(c) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, fireworks or other similar materials or substances without the written permission of the park manager or designated park employee;

(d) Using a metal detector or similar device without written permission of the park manager or designated employee at any park property or portion of a park property not listed on the “Detecting Allowed” list, published on the state park website;

(e) Taking-off or landing an unmanned aerial vehicle, drone or similar device without written permission of the park manager or designated employee at any park property or portion of a park property not listed on the “UAS operation zone” map published on the state park website;

(~~e~~f) Obstructing, harassing or interfering with a park employee or peace officer in the performance of their duties;

(~~f~~g) Entering or occupying any building, facility or portion of a park property that has been closed to public access; punishable as a Class C misdemeanor pursuant to ORS 164.245;

(~~g~~h) Blocking, obstructing or interfering with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway or common area; punishable as a Class C misdemeanor pursuant to ORS 164.245;

(~~h~~i) Occupying or interfering with access to any structure, office, lavatory or other facility in a manner which interferes with the intended use of such a structure or facility; punishable as a Class C misdemeanor pursuant to ORS 164.245;

(~~i~~j) Fighting; or promoting, instigating or encouraging fighting or similar violent conduct which would threaten the physical well-being of any person at the park property;

(~~j~~k) Smoking tobacco products except:

(A) In vehicles and personal camping units in accordance with all applicable laws governing smoking in vehicles;

(B) In designated campsites in developed overnight camping areas, unless temporarily suspended by the park manager due to high fire hazard conditions;

(C) In day use areas managed as Safety Rest Areas through agreements with the Oregon Department of Transportation; and

(D) Where allowed by the park manager for personal use by a member of a federally recognized Oregon tribe as part of their traditional religious, medicinal, or other customary cultural heritage practices;

(~~k~~) Activities or conduct which constitutes a public nuisance or hazard;

(~~l~~) Public indecency as defined in ORS 163.465;

(~~m~~) Base-jumping, hang gliding, paragliding or similar activities without written permission from the park manager except that the use of hang gliders is allowed at Cape Kiwanda State Natural Area;

(~~n~~) Discharging any firearm, bow and arrow, slingshot, pellet gun, or other weapon capable of injuring humans or wildlife or damaging property, except at those park property locations and for those purposes specified in OAR 736-010-0055(7);

(~~o~~) Placing a sign, marker or inscription of any kind, except in designated areas within a park property, without written permission from the park manager;

736-021-0100

Visitor Conduct

(4) A person may only engage in the following activities on the ocean shore state recreation area as authorized in a special use permit that they obtain from the department pursuant to OAR chapter 736, division 16 or written permission from the park manager:

(a) Use or operation of any noise or light-producing machine, vehicle, device or instrument in a manner that may disturb persons or wildlife;

(b) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, or fireworks or other substances;

(c) Using a metal detector or similar device in any property not listed on the "Detecting Allowed" list, published on the department website;

(d) Taking-off or landing an unmanned aerial vehicle, drone or similar device on any property not listed on the “UAS operation zone” map published on the department website;

~~(de)~~ Blocking, obstructing or interfering with pedestrian or vehicular traffic;

~~(ef)~~ Descending, scaling or technical rock climbing on rock formations and cliffs;

~~(fg)~~ Entering or occupying any portion of the ocean shore state recreation area that has been closed to public access, including fenced areas; and

~~(gh)~~ Constructing a structure or sign.