

## Oregon Parks and Recreation Commission

September 20, 2023

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Agenda Item: 8d UPDATED

Action

Public Comment Allowed: Yes

Topic: Request to open rulemaking –Amending Territorial Sea Plan Rocky Habitat Site Designation (OAR 736-021-0090)

Presented by: Katie Gauthier

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**Background:** The Oregon Department of Land Conservation and Development (DLCD) adopted updates to Oregon’s Territorial Sea Plan Rocky Habitat Management Strategy in April 2023. As a part of this update, rocky habitat sites are now eligible for one of three management designations: Marine Research Area, Marine Garden/Education Area and Marine Conservation Area. Goals, regulations and management practices differ for each type of designation.

The management areas and their respective goals were designated by DLCD after an extensive review process led by the Ocean Policy Advisory Council. To comply with the updated plan and management goals now included in the Rocky Habitat Management Strategy, OPRD will need to update our rule language around collection of marine plants and macroalgae in marine reserves and marine protected areas in OAR 736-021-0090(4)(b).

In addition, when opening 736-021-0090 for changes, we are proposing removing language in section (3) that refers to requirements for enrolled tribal members to obtain a permit from OPRD prior to collecting natural products. This language is outdated and does not reflect current agency practices. Prior to proposing opening rulemaking, the agency offered consultation to all nine federally recognized tribes.

A copy of the proposed rules is included in Attachment A.

### **Prior Action by Commission:**

**Action Requested:** Staff requests approval to open rulemaking to amend OAR 736-021-0090 to update language regarding marine plant and macroalgae collection in designated areas and remove outdated language regarding tribal permit requirements.

**Attachments:** Attachment A – proposed rule amendments- marked copy

**Prepared by:** Katie Gauthier

**8d: Attachment A: Marked Copy UPDATED**

**736-021-0090**

**Cultural, Historic, Natural and Wildlife Resources**

(1) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on the ocean shore state recreation area, unless the department has authorized that activity by a permit issued under ORS 390.235 and OAR 736-051-0060 to 736-051-0080.

(2) Except with the written permission of the department or as allowed by sections (3) or (4) of this rule, a person may not:

(a) Pick, cut, mutilate, trim, uproot, or remove any living vegetation;

(b) Dig up or remove any sand, soil, rock, historical or fossil materials; or

(c) Place, remove, roll, move any stones, logs or other objects to gain access to the ocean shore state recreation area.

(3) A persons who is an enrolled member of an Indian Tribe as defined in ORS 97.740 may collect natural products as part of their traditional cultural heritage, in accordance with procedures established by the department and in state rules. ~~Upon request by a park employee, a person collecting natural products under this section must present tribal enrollment identification or a department issued Special Tribal Use Permit.~~

**Removal for Personal Use:**

(4) A person may remove small quantities of natural products from the ocean shore state recreation area for personal use without a permit as provided in subsections (a) and (b). However, the department may restrict removal of natural products to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) Souvenirs that may serve as a reminder of a person's ocean shore visit and may include a small quantity of agates and other rocks, driftwood, and similar non-living items collected for non-commercial, personal use in accordance with ORS 390.705 and 390.725. For items such as agates, sand and cobble, each person collecting must use an individual container and may not combine collections in the same container with another person. Unless otherwise restricted by the department, a person may remove:

(A) Agates and other non-living items such as shells, stones, and fossils loose on the ground, in small quantities, defined as no more than a one-gallon volume container per person per day; up to three gallons per person per calendar year.

(B) Sand: no more than a five-gallon volume container per person per day; up to 20 gallons per person per calendar year.

(C) Cobble: no more than a five-gallon volume container per person per day; up to 10 gallons per person per calendar year.







