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DIVISION 1

PROCEDURAL RULES

142-001-0000
Notice of Proposed Rule

Prior to the adoption, amendment, repeal of any rule, the South Slough National Estuarine Research Reserve Management Commission shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least fifteen (15) days prior to the effective date.

(2) By mailing a copy of the Notice to persons on the Commission's mailing list established pursuant to ORS 183.335(6).

(3) By submitting a copy of the Notice to all of the newspapers published in Coos County, Oregon.

(4) By mailing a copy of the Notice to the Department of Fish and Wildlife, the Department of Environmental Quality, the State Forestry Department, and the Coos County Board of Commissioners.

Stat. Auth.: ORS 183 & 273
 Stats. Implemented: ORS 273
 Hist.: SSES 1-1978, f. & ef. 11-2-78; SSNER 1-1998, f. & cert. ef. 7-15-98

142-001-0005
Model Rules of Procedure

Pursuant to ORS 183.341, the Division of State Lands and the State Land Board adopt the Attorney General's Model Rules of Procedure under the Administrative Procedures Act as amended October 3, 2001.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Division of State Lands, South Slough National Estuarine Reserve.]

Stat. Auth.: ORS 183 & 273
 Stats. Implemented: ORS 273
 Hist.: SSES 2-1978, f. & ef. 12-1-78; SSES 1-1980, f. & ef. 12-23-80; SSES 1-1982, f. & ef. 2-25-82; SSES 1-1984, f. & ef. 3-30-84; SSNER 1-1998, f. & cert. ef. 7-15-98; SSNER 1-2002, f. & cert. ef. 7-12-02

DIVISION 5

RESEARCH AND EDUCATION ACTIVITIES

142-005-0005
Notification of Research

Any person(s) planning to conduct research within the South Slough National Estuarine Research Reserve must submit a description of their proposed research no later than 30 days prior to the onset of the research project with their request for permission to conduct research. Written permission must be obtained from the Manager of SSNERR before initiating any research. The researcher(s) must also agree to submit a report of their findings to South Slough National Estuarine Research Reserve, no later than six months after the completion of field work.

Stat. Auth.: ORS 183 & 273
 Stats. Implemented: ORS 273
 Hist.: SSNER 1-1998, f. & cert. ef. 7-15-98

142-005-0010
Temporary Structures

Temporary structures for research or educational purposes are permitted for the duration of the project.

Stat. Auth.: ORS 183 & 273
 Stats. Implemented: ORS 273
 Hist.: SSNER 1-1998, f. & cert. ef. 7-15-98

DIVISION 10

**PUBLIC USES OF THE SOUTH SLOUGH NATIONAL
ESTUARINE RESEARCH RESERVE**

142-010-0005
Purpose

These rules are designed to complement the primary management objectives and the primary scientific objectives of the South Slough National Estuarine Research Reserve by regulating public use of the Reserve. The primary management objective of the Reserve is to maintain the integrity of the estuary; to protect it from both internal and external sources of stress which may alter or affect the nature of the ecosystem and to preserve the area for long-term scientific and educational uses. All publicly owned areas of the Reserve are available to scientists, students and the general public on a basis desirable and permissible for coordinated research and educational uses and for other compatible uses to the extent they do not interfere with the primary management and scientific objectives. These rules are adopted in accordance with plans and policies defined in the South Slough National Estuarine Research Reserve Management Plan; Oregon Revised Statutes (ORS 273.533 et seq.); the federal Grant-in-Aid (fi04-4-158-12001, as amended); and Section 315 of the Coastal Zone Management Act of 1972 as amended.

Stat. Auth.: ORS 273
 Stats. Implemented: ORS 273
 Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0010
Definitions

As used in these rules, unless the context provides otherwise:

(1) "Advisory Group" means the group of local interested persons and persons with special expertise in fields relating to the Reserve appointed by the Commission to advise the Commission.

(2) "Commercial" refers to an activity undertaken for economic gain, as opposed to an activity for personal use or enjoyment.

(3) "Commission" means the Management Commission of the South Slough National Estuarine Research Reserve created by ORS 273.554.

(4) "Manager" means the Manager of the South Slough National Estuarine Research Reserve appointed by the Commission.

(5) "Public Use" means any use of the Reserve which is not a part of a formal Reserve educational or scientific program.

(6) "Recreational" refers to an activity undertaken for personal enjoyment as opposed to economic gain.

(7) "Reserve" means Sanctuary as defined in the Coastal Zone Management Act of 1972 which is the lands, within the boundary of

the South Slough National Estuarine Research Reserve under the jurisdiction of the Commission, in which the State of Oregon has legal interest, including, but not limited to fee ownership, conservation easement, and/or life estate. ORS 273.553(1) states, "...the South Slough Estuary Sanctuary pursuant to chapter 415, Oregon Laws 1975, as the first estuarine sanctuary in the United States...", and the 1986 reauthorization of the Coastal Zone Management Act changed the name from Estuarine "Sanctuary" to National Estuarine Research Reserve. South Slough Estuarine Sanctuary is doing business as the South Slough National Estuarine Research Reserve for the purpose of day to day business.

(8) "Forest Greenery" means plant material used for decorative purposes.

(9) "OCZM grant" means the original NOAA Grant-in-Aid financial award.

(10) "Stewardship" means activities conducted to maintain and restore the integrity and natural dynamic processes of an estuarine ecosystem.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0015

Permitted Activities

Subject to action by the Commission taken under rules 142-010-0025 and 142-010-0030, the following noncommercial uses of the Reserve are permitted without special restrictions. State and federal regulations will govern these activities where applicable:

- (1) Canoeing and rowboating;
- (2) Aesthetic appreciation;
- (3) Recreational fishing;
- (4) Hiking;
- (5) Wildlife observation.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0020

Restricted Activities

The following public, noncommercial uses of the Reserve are permitted with restrictions, subject to action taken by the Commission under rules 142-010-0025, 142-010-0030 and other appropriate governmental agency regulations:

(1) Picking of forest greenery for personal use is permitted only upon written approval by the Manager. The amount gathered should be no more than 10 pounds per day unless otherwise stated in the permit.

(2) Overnight use of the Reserve is allowed only with written permission of the Manager.

(3) Chemical fertilizers, herbicides, or pesticides will be used within the Reserve only if necessary to assure sound management of the ecosystem. Any allowed application of such chemicals shall be approved in writing by the Commission, after consultation with the Advisory Group, in accordance with best management practices so as to prevent direct application or discharge to the estuary waters. It is the intent of the Commission to preferentially utilize nonchemical management techniques of pest control. Chemicals will be utilized for pest or weed control only after it has been determined that the nature and integrity of the ecosystem is endangered.

(4) Digging for artifacts is not permitted except as pursuant to ORS 273.705 et seq. and with the written permission of the Commission.

(5) Open fires are allowed only upon approval of the Reserve Manager.

(6) Hunting is allowed only during authorized waterfowl and game hunting seasons, subject to Department of Fish and Wildlife regulations, except in specific areas where the Commission may prohibit hunting for the protection of the health, safety, and welfare of the public. Areas closed to hunting will be posted.

(7) Hunting and Observation Blinds are allowed within the boundaries of the Reserve, but a blind must be taken down and removed from the Reserve at the end of each day.

(8) Motorized boating is permitted except in special protection zones: areas excepted for public health, safety, and welfare, education-

al uses, and scientific research. Motorized boating will be at reduced speed that will limit the wake to less than a one foot wave height in order to prevent disturbance to the tidelands and wildlife habitats.

(9) Construction of boat launch and tie-up facilities is permitted only as necessary for health, safety, research, or education.

(10) Oyster culture is limited to the 100 acres as provided in the OCZM grant. The Commission shall recommend appropriate action on each oyster culture application or changes to existing plats within the Reserve to the Department of Agriculture.

(11) Tree removal from Reserve lands may occur only with the approval of the Commission, after consultation with the Advisory Group, and only for the following reasons:

- (a) Salvage of windthrow, dead, and dying trees;
- (b) High risk to invasion of forest insects and diseases;
- (c) Hazards to visiting public and scientists;
- (d) Experimental and scientific projects;
- (e) To maintain adequate clear space for existing powerline corridors;

(f) Thinning to maintain a healthy forest stand.

(12) Firewood cutting for personal use requires a permit from the Reserve Manager.

(13) Pets are permitted only if on a leash or under the direct control of the owner.

(14) Recreational mineral gathering requires a permit from the Manager.

(15) Horseback riding is permitted except in designated areas and not within any water course. Information about designated areas may be obtained at Reserve Headquarters.

(16) Picnicking is permitted except in designated areas.

(17) Recreational mushroom gathering, up to a maximum of one gallon per day, is permitted except in designated areas.

(18) Recreational berry picking is permitted except in designated areas.

(19) Recreational bait gathering is permitted except in designated areas subject to Oregon Department of Fish and Wildlife regulations.

(20) Recreational clamming is permitted except in designated areas.

(21) No dredging, filling or altering the natural environment except upon the approval of the proposed activities by the Commission.

(22) Motorized off-road vehicles are prohibited except on designated county-maintained roads or driveways approved by the Commission.

(23) Construction of roads is not allowed except by special permit issued by the Commission.

(24) No deliberate introduction of a non-native species (or subspecies) within the Research Reserve's administrative boundaries without the prior approval of the Commission.

(25) Trapping within the Reserve's administrative boundaries is prohibited, except for research or management purposes, and then only with the approval of the Manager.

(26) New or increased commercial activities which are not existing as of the creation of the Reserve in June 1974 must be approved by the Commission.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0021

Prohibited Activities

The following uses of the Reserve are prohibited activities as determined by the Commission, by authority of ORS 273.553(3):

- (1) Commercial bait gathering;
- (2) Commercial timber harvest;
- (3) Commercial mineral removal;
- (4) Discharge of firearms for pleasure shooting or for target practice;

(5) Picking of forest greenery and cascara bark gathering for commercial purposes.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0025

Public Health, Safety, and Welfare

The Manager is authorized to take actions necessary for maintaining public health, safety, and welfare. The Manager's actions under such authority shall be consistent with the primary objectives of the Reserve.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0030

Temporary Closure

Any activity may be suspended or any area closed if necessary for the conduct of appropriate scientific research, stewardship and educational activities. Such closure will occur only after consultation with the Advisory Group, and with approval of the Commission. If, based on the scientific data and knowledge acquired and on scientific judgment, uses are found to have a detrimental or adverse impact, actual or potential, on the ecosystem or resources thereof, appropriate agencies of the State of Oregon shall take immediate action to control such uses so as to remove or negate their impacts and restore the system to its natural state as it was prior to such activities.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0035

Roads and Trails

Roads and trails other than those authorized by the Commission will be closed. No roads or trails will be constructed without approval of the Commission. Access to Reserve lands shall be on authorized roads and trails only, and not through private property unless the state has acquired an easement.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0040

Leases and Rentals

Any fee for a lease or rental approved by the Commission for any use of the Reserve lands or buildings shall be at fair market value.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0045

Short-Term Use of Facilities

Overnight use of buildings and facilities is permitted upon approval by the Manager. Employee housing can be provided in a manner consistent with applicable policy governing use of state owned property by state employees (ORS 182.425 and 182.435).

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 1-1985, f. & ef. 7-24-85; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0050

Violation of Rules

Violation of these rules is punishable, upon conviction, by a fine of not more than \$100 for each day of violation, as set forth in ORS 273.558. The Commission may appropriately appeal for injunctive relief and pursue civil remedies which require the rehabilitation or restoration of Reserve lands damaged in violation of these rules.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0055

Review of Rules

ORS 273.557 provides for State Land Board review of Commission rules. Individuals or organizations concerned about possible improper use or restriction of use of the Reserve may petition the State Land Board or the Office of Coastal Zone Management for review of the management program.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98

142-010-0060

Amendment of Rules

These rules are subject to amendment by the Commission in accordance with the Attorney General's Model Rules of Administrative Procedure. Amended rules must be consistent with the policies of the Reserve Management Plan.

Stat. Auth.: ORS 273

Stats. Implemented: ORS 273

Hist.: SSES 2-1980, f. & ef. 12-23-80; SSES 2-1982, f. & ef. 3-2-82; SSNER 1-1998, f. & cert. ef. 7-15-98
