



Oregon Parks and Recreation Department
C/o Katie Gauthier, Legislative Coordinator
725 Summer St NE, Suite C
Salem, OR 97301

April 7, 2022

RE: Public comment on draft rules to guide take-off and landings of drones in state parks and ocean shore

Dear Ms. Gauthier,

On behalf of our broader statewide membership of thousands of ocean users and coastal stakeholders, Surfrider Foundation appreciates this opportunity to provide feedback and recommendations to Oregon Parks and Recreation Department's draft rules regarding the take-off and landings of unmanned aircraft systems. These systems, hereinafter referred to as "drones", have proliferated in use among visitors to Oregon's outdoor public spaces providing both exciting access to monitoring and media of Oregon's most beloved spaces, but also an increase in user conflict, wildlife disturbance and safety concerns. As such, it's increasingly necessary to manage drone use to preserve the integrity of our natural resources, minimize existing user conflicts and provide safe opportunities for this new, rapidly growing, use.

Primary Recommendation:

Surfrider Foundation's Oregon Chapter networks supports the original draft rule from the first Rule Advisory Committee:

Draft Rules

736-010-0040(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:

(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."¹

Following the first Rule Advisory Committee meeting, this approach was abandoned for a presumption of ubiquitous use of drones on parks property unless explicitly prohibited in a published map. The new approach to the rule, which Surfrider does not currently support as written, provides for the presumption of a new conflicting use without clear management thresholds or measures to minimize user and wildlife conflicts. Surfrider Foundation believes this fundamental diversion in the rule approach is inconsistent with Oregonians primary natural, cultural and recreational experience interests as park users – SCORP data² would reinforce this. The dependability of an outstanding natural experience when recreating in Oregon's Parks far outweighs our memberships' interest in ubiquitously accommodating for a new use that conflicts with this outstanding natural experience. Surfrider

¹ *Id.* at around minute 20:00 in November 10, 2021 RAC meeting.

² 2019-2023 Oregon Statewide Comprehensive Outdoor Recreation Plan, Participant Survey

Foundation's Oregon Chapter network rather supports an approach that ubiquitously supports a natural experience, while providing specific accommodation for new uses, such as drones, through careful management with allowable take off and landing-zones where appropriate.

We furthermore support that OPRD develop safety and wildlife disturbance guidance for drone operators³, consistent with those of federal agencies such as Part 107 FAA⁴, NOAA⁵ currently underway and US Fish & Wildlife Service. This consistency is particularly important as evident in the recent public scoping of the State's Territorial Sea Planning Process⁶ where drone use and state and federal consistency concerns were key public findings of arising uses and potential conflicts. Through well designed and efficient special use permitting with clear guidance for park managers, such quality control can allow for existing users to have a dependable experience while also providing opportunity for safe drone operation where conflicts may not exist. This approach would also be similar to OPRD's and ODFW's approach to permitting research in sensitive habitat areas, but this policy guidance should be reflected in rule so it's not lost to discretion and park manager capacity.

As drone use continues to grow this approach (prohibit except for allowed areas) will be more and more critical in managing the public's expectation for a natural experience in our parks. This approach offers for a more simplified management and enforcement scenario that is cautionary and protective of existing uses, wildlife and natural resources while allowing for a new use with drones where we clearly understand and can effectively manage and permit its activity.

The currently proposed rule is likely to create a much more piecemeal and inconsistent approach through prohibition zones that are both seasonally and geographically inconsistent and confusing to the public. If uses continue to grow to a rate of extreme impact to existing users, wildlife and natural resources, this freedom of drone use will become more and more challenging to regulate as it infringes on freedoms. However, if we must comment on the alternative rule approach:

Secondary Recommendation (on Proposed Rule)

If OPRD chooses to instead advance with the proposed rule that provides an approach for a presumption of ubiquitous use with the exception of a map of prohibition zones, Surfrider Foundation requests that a clear process be outlined for zone development. Such a process should track with Oregon's equity, diversity and

³ Several studies and agency guidelines recommend 100m buffers. See, e.g., Weston MA, O'Brien C, Kostoglou KN, Symonds MRE. 2020. Escape responses of terrestrial and aquatic birds to drones: Towards a code of practice to minimize disturbance. *J Appl Ecol.* 2020;00: 1–9, <https://doi.org/10.1111/1365-2664.13575>; Vas E, Lescroël A, Duriez O, Boguszewski G, Grémillet D. 2015 Approaching birds with drones: first experiments and ethical guidelines, *Biol. Lett.* 11: 20140754. <http://dx.doi.org/10.1098/rsbl.2014.0754>.

⁴ Federal Aviation Administration Certified Remote Pilots, [Part 107](#)

⁵ National Oceanic - <https://www.fisheries.noaa.gov/insight/viewing-marine-life>

⁶ Public Scoping for Oregon's Territorial Sea Plan, Drone Use Perception in Rocky Habitat: DLCD, 2017: <https://www.oregonocean.info/index.php/opac-documents/workinggroups/tspwg-p3/2018-5-29/1741-tsp-part-3-public-process-summary/file>

environmental justice strategies⁷ and allow for inclusive engagement of users to recommend geographic prohibition zones, seasonal closures, and a variety of other management measures such as guidance for drone operators requirements and permitting.

Surfrider supports the following be included as prohibition zones:

- A) The entirety of the ocean shore.
- B) All State park facilities adjacent the ocean shore.

Surfrider additionally supports that for all federally or publicly managed lands adjacent the ocean shore, that OPRD consult w/ ODFW, USFWS, USFS, NOAA and other relevant land and resource managers on coordinating management actions for unmanned aircrafts in these areas. The creation of prohibition zones adjacent areas where these agencies are responsible for managing habitats and species provides an important opportunity for synergy in managing people and sensitive habitats.

Based on the intersection of our mission, existing recreational uses, sensitive species and habitats in the coastal zone, and the economic importance of our beaches and rocky habitats, Surfrider Foundation believes there is significant evidence that prohibiting drone use in the above areas of Oregon's parks is warranted and in some cases necessary under federally protected species and Oregon's own recreational and nearshore planning strategies. Some examples include:

- 1) Economics: The Oregon coast and parks adjacent the ocean shore represent the greatest revenue source for OPRD and the most visited destination⁸ – protecting what we know to be the most important in providing the natural experience users expect makes good business sense, that's OPRD's value proposition with our ocean shore.
- 2) Conservation Strategy Species: Significant portions of the ocean shore accommodate the federally listed Snowy Plover, whose habitat and nesting area along our beaches is extremely dynamic. Rocky habitat within the ocean shore supports a number of Oregon Conservation Strategy species⁹ of conservation concern including Black Oystercatchers, Caspian Tern, Tufted Puffins, etc. Managing and permitting drone use in these areas is necessary to be consistent with many management strategies called for in Oregon's Conservation Strategy and nearshore Territorial Sea Plan, recently updated and adopted by DLCD.
- 3) Existing User Conflicts: From the natural, recreational experience to privacy and safety, the potential impacts of ubiquitously open recreational operation of drones along the ocean shore are significant. As we have seen with tourism, crowding and destination management on the Oregon coast, the ocean shore is an increasingly busy space for growing interests in the more traditional natural, cultural and recreational resources they provide. The

⁷ Oregon's Diversity, Equity and Inclusion Action Plan: Strategies: Community Engagement, Inclusive Communications - https://www.oregon.gov/lcd/Commission/Documents/2021-09_Item-2_Directors-Report_Attachment-A_DEI-Action-Plan.pdf

⁸ Data provided by Oregon Parks and Recreation Department demonstrate 59% of park visitors in 2021 went to coastal parks, over 31 million visitors - <https://www.oregonlive.com/data/2022/02/record-crowds-visited-oregon-state-parks-in-2021-see-which-ones-saw-the-most-traffic.html>

⁹ Oregon's Nearshore Conservations Strategy includes species of concern whose range and habitat encompasses the entirety of the ocean shore - <https://www.oregonconservationstrategy.org/ocs-strategy-species/>

ocean shore represents the single greatest recreational resource of its kind for the park system. From a safety standpoint, beaches and the ocean shore have extreme weather events and dense visitation leading to significantly increased opportunities for safety and user conflict.

4) Confusing Patchwork of Coastal Prohibition Zones: The proposed rule would create a patchwork of regulation for the ocean shore that is more confusing to the public than a clear blanket policy that covers the entire ocean shore with approved take-off and landing zones. The current rule includes a prohibition on overnight park facilities, which could be interpreted as any area of the ocean shore where camping is permitted, not just park “facilities”. Regardless, this would include a patchwork of parks along the ocean shore, but not *on* the ocean shore, except in some areas where we have known plovers nesting (but that will constantly change), and not county parks or federal parks...you can see how this rule gets very confusing. Finally, the inclusion of managed areas of Oregon’s rocky habitat, but not Marine Reserves and Protected Areas creates an additional layer of confusion largely challenging for the public to understand. Inclusion of the entire ocean shore and adjacent parks is much more understandable and translatable to the public and managers for enforcement.

5) Conflict with Oregon’s Statewide Comprehensive Plan: Oregon 2019-2023 SCORP reinforces the significance of non-motorized activities within the ocean shore. Non-motorized water-based and beach activities are one of the key findings of the SCORP participant survey in valued outdoor recreation activities, one of the *only* activities in the SCORP survey that can be clearly place-based in the ocean shore and within OPRD’s jurisdiction. Natural experiences and non-motorized activities dominate the interest of OPRD visitors and the services most valued by Oregonians. The report and plan further demonstrate the value of these natural spaces, non-motorized activities and recreational experiences to the public and visitor’s health, both physical but more significantly mental. The words drone or unmanned aircraft are nowhere to be found in the State’s Comprehensive Outdoor Recreation Plan; however addressing a diverse population, an underserved low-income population and the health benefits of physical activity, are all key focal areas of the plan. ¹⁰

6) Consistency with current OPRD regulations: OPRD’s current regulations (736-021-0130) Commercial and Non-traditional Activities, require special use permits in situations when such uses (such as drone use which is a non-traditional activity) “*could disturb natural, cultural, scenic, and recreational resources...*” (see 736-021-0130, subsection f) and/or “*could pose a safety concern...*” (see 736-021-0130, subsection g). All other motorized activities along the ocean shore are subject to special use permitting except for special allowed areas – from e-bikes to motor vehicles.

Background

Surfrider Foundation is a non-profit, environmental organization dedicated to the protection and enjoyment of our oceans, waves and beaches. We are first and foremost recreational users of the coast - surfers, divers, paddlers, beach-goers, fishers and individuals of all walks of life that identify with our mission to protect and enjoy. As such, we are some of the primary customers and partners in OPRD’s mission to provide and protect outstanding natural, scenic, cultural, historic and recreational sites for the enjoyment and education of present and future generations. Our experience as coastal users is rich and our dedication to the protection of these uses and the integrity of our natural resources is a reflection of our strong organizational and member values in balancing use and access with natural resource protection. While this ethic is well articulated in organizational

¹⁰ Oregon Statewide Comprehensive Outdoor Recreation Plan 2021-2023:
<https://www.oregon.gov/oprd/PRP/Documents/SCORP-2019-2023-Final.pdf>

policy for beach access, marine protected areas and even ocean renewable energy, Surfrider Foundation has no specific policy on drone use, yet applies this same ethic and grassroots approach in guiding our recommendations for OPRD drone rulemaking.

Surfrider's Oregon network has deep values in the many existing uses and the wild and rugged nature of the Oregon coast. Our membership accesses the outdoors to recreate in natural spaces, whether that's the calm and still from a day reading on the beach or the high energy of recreating in surf, there's a quiet ecological connection to how we, and most Oregonians, interact with our park environments. And while the potential impacts of drones on wildlife viewers and natural resources might be more directly obvious, the potential conflict with other existing recreational users should not be overlooked and must be considered in the rulemaking process.

We value the opportunity to provide this feedback on behalf of our recreational audience; and, while we are not experts in wildlife management, we are legacy coastal users and parks partners in protecting those uses and the natural resources they depend on for generations to come. We wish to extend our support for the wildlife and conservation recommendations of other coastal partners including the combined NGO recommendations (Audubon, Oregon Shores, etc.) and those of our federal agency managers (USFWS).

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