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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141  
DEPARTMENT OF STATE LANDS

**FILED**  
09/25/2020 2:26 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Jackson County Vernal Pool General Permit

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/01/2020 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.*

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Salem, OR 97301

Filed By:  
Kaitlyn Wiggins  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/20/2020

TIME: 4:00 PM - 5:00 PM

OFFICER: Kaitlyn Wiggins

ADDRESS: Remote Hearing - Zoom

775 Summer St NE

#100

Salem, OR 97301

SPECIAL INSTRUCTIONS:

The Zoom link will be posted on the  
DSL website under "Laws and Rules"

NEED FOR THE RULE(S):

To avoid permit expiration, DSL is extending the expiration date from January 1, 2021 to January 1, 2026.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. OAR 141-093-0185, available on the Secretary of State website.
2. Oregon Fish and Wildlife Office, USFWS, Programmatic Formal Consultation on the US Fish & Wildlife Service's Vernal Pool Conservation Strategy for Jackson County, Oregon, Approved 1-26-2011. Available on the USFWS website.

FISCAL AND ECONOMIC IMPACT:

The vernal pool general permit (GP) offers a faster, more predictable process for developers to secure removal-fill permits in certain wetlands in Jackson County that are habitats for threatened and endangered species. The GP is coordinated with a Programmatic Biological Opinion issued by the U.S. Fish & Wildlife Service (USFWS) in 2011. Costs to permit applicants and regulators are not expected to increase over the normal permit process; costs may be reduced

if an applicant can avoid the USFWS requirement for an individual consultation. This rule change extends this window of opportunity for five more years.

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**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) No state agencies, local government entities, or members of the public are expected to be economically affected by extending the expiration date of this rule, other than those who may experience the cost savings described above.

(2a) As a result of extending the permit expiration date, businesses related to new commercial, industrial, infrastructure, or residential development in areas with vernal pool wetland conflicts may continue to experience faster and more predictable permit processing. The exact number of businesses impacted cannot be estimated. DSL has only had one business request a vernal pool GP in the past five years, which indicates the impact on businesses may be low. Rural landowners may choose to engage in mitigation banking as a new business venture facilitated by this rule.

Environmental consulting firms who prepare biological assessments may have fewer projects because these needs could be met programmatically under this rule.

(2b) Administrative expenses are not expected to change.

(2c) No changes to costs for professional services, equipment, supply, labor, or administration are expected from the permit extension.

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

No small businesses were consulted during this rule change, due to the simplicity of the change. However, there was extensive outreach to and engagement with potentially affected sectors during the development of the general permit and original rule in 2011.

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

No RAC was consulted because extending the expiration date is a simple change that does not have a direct impact on businesses or stakeholders.

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AMEND: 141-093-0185

RULE SUMMARY: Extending permit expiration by five years (2021 to 2026).

**CHANGES TO RULE:**

141-093-0185

Jackson County Vernal Pools - Expiration ¶¶

This GP will expire on January 1, 2024~~6~~ or when a combined total of 60 acres of vernal pool wetlands (up to 300 acres of vernal pool habitat complex) or other associated waters have been impacted, whichever occurs first.

Upon expiration, the GP may be reviewed and modified or reissued.

Statutory/Other Authority: ORS 196.600 - 196.692, 196.795 - 196.990

Statutes/Other Implemented: ORS 196.600 - 196.692, 196.795 - 196.990