

1 Department of State Lands

2
3 Division 141-093

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5
6 ADMINISTRATIVE RULES GOVERNING THE ISSUANCE AND ENFORCEMENT
7 OF GENERAL PERMITS WITHIN WATERS
8 OF THIS STATE

9
10 DRAFT RULES FOR PUBLIC REVIEW APRIL 27, 2012

11 Final Strikethrough

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13 September 1925, 2012

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16
17 **141-093-0100**

18 **General**

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20
21 (1) **Special Headings and Fonts.** Where headings, special fonts or double-spacing are
22 used, they are for the convenience of the user only and have no substantive effect.

23
24 (2) **Applicability of OAR 141-085.** Unless otherwise specified under OAR 141-093, the
25 provisions of OAR 141-085 apply to General Permits (GPs).

26 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

27 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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29
30 **141-093-0103**

31
32 **Agency Process and Standards for Establishing General Permits (GPs)**

33
34 (1) General Permits Established by Rulemaking May Apply Statewide or
35 Regionally. GPs are issued by rule on a statewide basis or a geographic basis. The
36 Department may undergo rulemaking to develop a GPs for a specific activity or group of
37 related activities on a statewide or geographic basis for use by the general public an
38 applicant or group of applicants. conditions will be established during rulemaking to
39 minimize adverse to water resources environmental

40
41 (2) General Permits Established by Order. GPs are issued by order for an applicant
42 or group of applicants to cover activities that are substantially similar in nature or
43 ongoing, and have predictable effects. The Department may establish authorize a GP
44 by order for an applicant or group of applicants for a specific activity or group of related
45 activities on a statewide or geographic basis.

1
2 ~~(2) **Activities Similar and Predictable.** Activities authorized under a GP must be~~
3 ~~substantially similar in nature, be recurring or ongoing, and have predictable effects and~~
4 ~~outcomes.~~

5
6 ~~(3) **Activities Similar and Predictable.** Activities authorized under a GP must be~~
7 ~~substantially similar in nature, be recurring or ongoing, and have predictable effects and~~
8 ~~outcomes.~~

9 ~~(3) **Rulemaking.** The Department will adopt GPs by rule, and will condition each GP to~~
10 ~~minimize adverse environmental effects.~~

11
12 (4) **Periodic Review.** The GPs will be periodically reviewed for compliance with the
13 review standards set forth in ORS 196.600 through 196.905 and the Department must
14 find that each GP will not result in long-term harm to water resources of this state.

15
16 (5) **Amend or Rescind.** The Department will amend or rescind any GP ~~established by~~
17 ~~rule~~ upon a determination that the activities conducted under the GP have resulted in ~~or~~
18 ~~would result in~~ unacceptable individual or cumulative environmental effects or long-term
19 harm to the water resources of this state.

20 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
21 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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23
24 **141-093-0104**

25 **Project Applicability**

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27
28 (1) **Applicability.** This rule sets forth conditions under which a person may, without an
29 individual removal-fill permit from the Department, place or remove material within
30 waters of this state, excluding State Scenic Waterways, as defined in OAR 141-085 for
31 the purposes set forth in ~~each~~ GP.

32
33 (2) **Department Determination of Eligibility.** To be eligible for a GP, a project must
34 comply with the general conditions described in OAR 141-093-0135 as well as ~~the~~
35 ~~individual GP's~~ purpose, eligibility, authorized activities and activity-specific conditions.
36 In the event a dispute arises as to the applicability of a GP to any project application,
37 the Department will make the final determination.

38
39 (3) **Thresholds and Best Management Practices (BMPs).** BMPs necessary to comply
40 with the general conditions are not included in the thresholds under each GP.

41
42 (4) **Individual Permit May Be Required.** The Department may require an individual
43 removal-fill permit for a project that would otherwise be authorized by a GP if:

44

1 (a) The activity conducted under the permit may have unpredictable effects or outcomes
2 which may result in unacceptable individual or cumulative environmental effects to
3 waters of this state; or

4
5 (b) The activity might result in long-term harm to the water resources of this state; or

6
7 (c) If the Oregon Department of Fish and Wildlife, the Oregon Department of
8 Environmental Quality or the affected local land use planning department request that
9 the Department do so.

10 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

11 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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14 **141-093-0105**

15
16 **Application Requirements and Completeness Review for Authorizing Projects**
17 **under a General Permit**

18
19 (1) **Authorization Required.** ~~Unless otherwise specified, a separate application must~~
20 ~~be submitted to from~~ the Department ~~is required~~ before starting any project covered by
21 a GP.

22
23 (2) **Required Information.** A complete, signed application must be submitted on forms
24 provided by the Department. ~~The application, and~~ must contain all applicable
25 information set forth in OAR 141-085-0550. An approved, unexpired wetland delineation
26 is required when wetlands are proposed for impact, unless otherwise approved by the
27 Department.

28
29 (3) **Applicant Signature Required.** The applicant signature is required. As used in this
30 section, “applicant” means a person who has the authority and responsibility to fully
31 execute the terms and conditions of an authorization issued under these rules. The
32 applicant becomes the authorization holder. The OAR 141-085-0510(1) definition of
33 “applicant” does not govern use of the term in this Division.

34
35 (4) **Fee Required.** Any person proposing to conduct an activity under a GP must ~~pay~~
36 ~~application fees apply to the Department~~ in accordance with the procedures set forth in
37 ~~Fees and Disposition Section under~~ OAR 141-085-0545, ~~unless otherwise specified~~
38 ~~under each in a specific GP.~~

39 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

40 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

41
42
43 **141-093-0107**

44
45 **Completeness and Eligibility Review for Authorizing Projects under a GP**

1
2 (1) **Initial Review.** The Department will review the application within 15 calendar days
3 (unless otherwise stated in the administrative rules for a specific GP), of agency receipt
4 of the application to determine whether the application is complete and the project is
5 eligible for [thea](#) GP.

6
7 (a) **Complete and Eligible Application.** A complete application is one that contains all
8 the information required in the Department’s application. An eligible project is one that
9 meets the eligibility requirements, activity-specific application requirements and
10 authorized activities listed under the GP.

11
12 (b) **Incomplete Application Notification.** If the Department determines that the
13 application is incomplete or deficient, the Department will notify the applicant in writing
14 and list the missing or deficient information. The applicant may resubmit the entire
15 amended package for reconsideration within 120 calendar days from date of the
16 Department’s notice, unless instructed by the Department to do otherwise. Submission
17 of a new or amended application package starts a new initial review period.

18
19 (c) **Ineligible Projects.** If the review of the application results in a determination that the
20 project is ineligible for a GP, the applicant will be notified and informed of the reason for
21 ineligibility. The applicant may then either revise the project and resubmit the application
22 for reconsideration or apply for an Individual Permit under OAR 141-085 within 120
23 calendar days from date of agency determination.

24
25 (2) **Timeframe for Resubmittal.** If a revised application is not resubmitted within 120
26 calendar days of an incompleteness or ineligibility determination, the Department may
27 administratively close the application. If the Department closes the file under this
28 circumstance, the Department will retain the application fee. A subsequent application
29 for the same or similar project will require payment of an application fee.
30 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
31 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

32
33
34 **141-093-0110**

35
36 **Public Review Process for Authorizing Projects under a GP**

37
38 (1) **Circulation of the Application for Public Review.** Once the application has been
39 deemed complete, the Department will provide notification of the availability of the
40 application for review either by U.S. mail or electronically (e.g., facsimile, e-mail, posting
41 on the internet) to adjacent property owners, watershed councils, public interest groups,
42 affected local government land use planning departments, state agencies, federal
43 agencies and tribal governments in the geographic area affected by the permit.
44

1 (2) **Copies of the Application by Request.** The Department will furnish to any member
2 of the public, upon written request and at the expense of the member of the public, a
3 printed copy of any application.
4

5 (3) **Deadline for Receipt of Public Comments.** All recommendations and comments
6 regarding the application must be submitted in writing to the Department within the
7 period established by the Department, but not more than 15 calendar days from the
8 date of the notice. If a commenter fails to comment on the application within the
9 comment period, the Department will assume the commenter has no objection to the
10 project.
11

12 (4) **Department Review of Public Comments.** The Department will review and
13 consider substantive comments received during the public review period. The
14 Department may request the applicant to provide additional information to address
15 comments.

16 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

17 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
18 |
19

20 **141-093-0115**

21
22 **Department Determinations and Considerations in Evaluating Applications to**
23 **Authorize Projects under a GP**
24

25 (1) **Departmental Final Review.** The Department will evaluate the information provided
26 in the application, conduct its own investigation, and consider the comments submitted
27 during the public review process to determine whether or not to issue an authorization
28 under a GP. The Department will render a decision within 40 calendar days of receipt of
29 a complete application, unless otherwise stated in the administrative rules for a specific
30 GP.
31

32 (2) **Extension of Decision Deadline.** The applicant may request additional time to
33 respond to comments or to satisfy other requirements. The applicant and the
34 Department may agree to extend the timeline for making a final authorization decision. If
35 no agreement is reached, the Department will make a final authorization decision within
36 the original time period specified in these rules.
37

38 (3) **Effective Date of Review Standards.** The Department may consider only
39 standards and criteria in effect on the date the Department receives the complete
40 application or renewal request.
41

42 (4) **Department Determinations.** The Department will issue an authorization under a
43 GP if it determines the project described in the application:
44

45 (a) Has independent utility;

- 1
2 (b) Is consistent with the protection, conservation and best use of the water resources of
3 this state as specified in ORS 196.600 through 196.990;
4
5 (c) Would not unreasonably interfere with the paramount policy of this state to preserve
6 the use of its waters for navigation, fishing and public recreation, when project is on
7 state-owned lands; and
8
9 (d) Meets the purpose and eligibility requirements in the GP.
- 10
11 (5) **Department Considerations.** In determining whether to issue an authorization
12 under a GP, the Department will consider all of the following:
13
14 (a) The public need for the proposed fill or removal and the social, economic and other
15 public benefits likely to result from the proposed fill or removal. When the applicant for
16 an authorization under a GP is a public body, the Department may accept and rely on
17 the public body's findings as to local public need and local public benefit;
18
19 (b) The economic cost to the public if the proposed fill or removal is not accomplished;
20
21 (c) The availability of alternatives to the project for which the fill or removal is proposed;
22
23 (d) The availability of alternative sites for the proposed fill or removal;
24
25 (e) Whether the proposed fill or removal conforms to sound policies of conservation and
26 would not interfere with public health and safety;
27
28 (f) Whether the proposed fill or removal is in conformance with existing public uses of
29 the waters and with uses designated for adjacent land in an acknowledged
30 comprehensive plan and land use regulations;
31
32 (g) Whether the proposed fill or removal is compatible with the acknowledged
33 comprehensive plan and land use regulations for the area where the proposed fill or
34 removal is to take place or can be conditioned on a future local approval to meet this
35 criterion;
36
37 (h) Whether the proposed fill or removal is for stream bank protection; and
38
39 (i) Whether the applicant has provided all practicable mitigation to reduce the adverse
40 effects of the proposed fill or removal in the manner set forth in ORS 196.800.
41
- 42 (6) **Alternatives Analysis.** The applicant bears the burden of providing the Department
43 with the alternatives analysis used to derive the practicable alternative that has the least
44 reasonably expected adverse impacts on waters of this state. The alternatives analysis

1 must provide the Department all the underlying information necessary to support its
2 considerations under section (5) of this rule.
3
4 **(7) Fills in an Estuary for Non-Water Dependent Use.** A “substantial fill” in an estuary
5 is any amount of fill regulated by the Department. No authorizations will be issued for a
6 substantial fill in an estuary for a non-water dependent use unless all of the following
7 apply:
8
9 (a) The fill is for a public use;
10
11 (b) The fill satisfies a public need that outweighs the harm, if any, to navigation, fisheries
12 and recreation; and
13
14 (c) The removal-fill meets all other review standards.
15
16 **(8) Written Findings.** In the following cases, the Department will prepare written
17 findings to document a decision for an authorization under a GP:
18
19 (a) Permit denial;
20
21 (b) Fill of two acres or more in wetlands;
22
23 (c) Fill in estuaries (except cable crossings, pipelines, or bridge construction);
24
25 (d) Removal from estuaries of more than 10,000 cubic yards of material (except for
26 maintenance dredging);
27
28 (e) Placement of greater than 2,500 cubic yards of riprap in coastal streams or
29 estuaries;
30
31 (f) Removal-fill in the Oregon Territorial Sea in accordance with Statewide Planning
32 Goal 19-Ocean Resources; and
33
34 (g) Any permit decision that is contrary to the final decision recommendation of a state
35 agency.
36
37 **(9) Marine Reserves and Marine Protected Areas.** The Department will only authorize
38 a removal-fill activity within an area designated by the State Land Board as a marine
39 reserve or a marine protected area if the removal-fill activity is necessary to study,
40 monitor, evaluate, enforce, protect or otherwise further the studying, monitoring,
41 enforcement and protection of the reserve or marine protected area.
42 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
43 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
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45

1 **141-093-0120**

2
3 **Expiration and Annual Billing**

4
5 (1) **Term of Authorizations Issued Under a General Permit.** Authorizations under a
6 General [Permit](#) may be kept active for up to ~~five~~ [three](#) years [or as allowed under a](#)
7 [specific GP](#), provided [the applicable](#) annual fees are received by the Department before
8 the anniversary date of the authorization.

9
10 (2) **Annual Billing Notice.** ~~Unless otherwise specified, An~~ annual fee is assessed
11 for each year that the authorization is in effect. The annual fee is equal to the base fee
12 in effect at the time of annual billing and is due by the anniversary date of issuance of
13 the authorization. Before the anniversary date of authorization, the Department will send
14 an annual billing notice to the authorization holder.

15
16 (3) **Failure to Pay Annual Billing Fee.** When an GP authorization holder fails to submit
17 the [applicable](#) annual fee, the Department will expire the authorization on the
18 anniversary date of the authorization.

19
20 (4) **One-Time Fee Assessment for Authorization under a General Permit.**
21 Authorization under a GP may be issued for up to ~~three~~ [five](#) years, the Department may,
22 at the request of the applicant, assess a one-time fee based on the fee schedule in
23 effect at the time of the application or annual billing. The one-time fee must include:

24
25 (a) The application fee; and

26 (b) Any applicable annual fees for the duration of the term of the authorization.

27 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

28 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

29
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31
32 **141-093-0125**

33
34 **Enforcement**

35
36 Failure to adhere to the terms of any authorization issued under this division is a
37 violation of the Removal-Fill Law and may be subject to appropriate enforcement in
38 accordance with OAR 141-085.

39 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

40 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

41
42
43 **141-093-0130**

44
45 **Appeal Process for Authorizations Issued under General Permits**

1
2 The provisions of OAR 141-085-0575 and 141-085-0580 are incorporated here by
3 reference.
4 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
5 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
6
7

8 **141-093-0135**

9
10 **General Conditions.** [Unless otherwise modified by a specific GP or an authorization](#)
11 [issued under a GP, the following general conditions apply:](#)
12

13 (1) **Responsible Party.** The person listed on the application as the applicant is
14 responsible for the activities of all contractors or other operators involved in project work
15 covered by the authorization under the GP.
16

17 (2) **Copy of Authorization Available for Inspection.** A copy of the authorization must
18 be available at the work site whenever authorized activities are being conducted.
19

20 (3) **Site Access Required.** Employees of the Department and all authorized
21 representatives must be permitted access to the project area at all reasonable times for
22 the purpose of inspecting work performed under this authorization.
23

24 (4) **Archeological Resources.** If any archeological sites, resources or artifacts are
25 discovered during construction, work must immediately cease and the State Historic
26 Preservation Office must be contacted.
27

28 (5) **ODFW Fish Passage Requirement.** The authorized activity must meet Oregon
29 Department of Fish and Wildlife requirements for fish passage before commencing the
30 project (ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040).
31

32 (6) **Hazards to Recreation, Navigation or Fishing.** The activity must be timed not to
33 interfere with or create a hazard to recreational or commercial navigation or fishing.
34

35 (7) **Work Period in Jurisdictional Areas.** Fill or removal activities below the Ordinary
36 High Water Line must be conducted when recommended by ODFW, unless otherwise
37 coordinated with Oregon Department of Fish and Wildlife and approved in writing by
38 DSL. Work is prohibited when fish eggs are present within the reach where the
39 authorized activities are being conducted.
40

41 (8) **Pre-Construction Resource Area Fencing or Flagging.** Prior to any site grading,
42 the boundaries of any avoided wetlands, waterways and riparian areas adjacent to the
43 project site must be surrounded by noticeable construction fencing or flagging. There
44 will be no vegetation removal or heavy equipment within marked areas. The marked

1 areas must be maintained during construction of the project and be removed
2 immediately upon project completion.
3
4 **(9) Erosion Control Methods.** The following erosion control measures must be
5 installed at the construction site before construction and maintained during and after
6 construction to prevent erosion and minimize movement of soil into waters of this state:
7
8 (a) All exposed soils must be stabilized during and after construction in order to prevent
9 erosion and sedimentation;
10
11 (b) Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms,
12 or other measures must be used to prevent movement of soil into waterways and
13 wetlands;
14
15 (c) To prevent erosion, use of compost berms, impervious materials or other equally
16 effective methods, must be used to protect soil stockpiled during rain events or when
17 the stockpile site is not moved or reshaped for more than 48 hours;
18
19 (d) Unless part of the permanent fill, all construction access points through, and staging
20 areas in, riparian and wetland areas must use removable pads or mats to prevent soil
21 compaction. However, in some wetland areas under dry summer conditions, this
22 requirement may be waived upon approval by DSL. At project completion, disturbed
23 areas with soil exposed by construction activities must be stabilized by mulching and
24 native vegetative plantings or seeding. Sterile grass may be used instead of native
25 vegetation for temporary sediment control if native vegetation is unavailable. If soils are
26 to remain exposed for more than seven days after completion of the permitted work,
27 they must be covered with erosion control pads, mats or similar erosion control devices
28 until vegetative stabilization is installed;
29
30 (e) Where vegetation is used for erosion control on slopes steeper than 2:1, tackified
31 seed mulch must be used so the seed does not wash away before germination and
32 rooting;
33
34 (f) Dredged or other excavated material must be placed on upland areas having stable
35 slopes and must be prevented from eroding back into waterways and wetlands;
36
37 (g) Erosion control measures must be inspected and maintained as necessary to ensure
38 their continued effectiveness until soils become stabilized; and
39
40 (h) All erosion control structures must be removed when the project is complete and
41 soils are stabilized and vegetated.
42
43 **(10) Hazardous, Toxic, and Waste Material Handling.** Petroleum products,
44 chemicals, fresh cement, sandblasted material and chipped paint, wood treated with
45 leachable preservatives or other deleterious waste materials must not be allowed to

1 enter waters of this state. Machinery refueling is to occur at least 150 feet from waters
2 of this state and confined in a designated area to prevent spillage into waters of this
3 state. Barges must have a containment system to effectively prevent petroleum
4 products or other deleterious material from entering waters of this state. Project-related
5 spills into waters of this state or onto land with a potential to enter waters of this state
6 must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-
7 0311.

8
9 (11) **Raising or Redirecting Water.** The project must not cause water to rise or be
10 redirected and result in damage to structures or property.

11
12 (12) **Waste Disposal.** Old piling and other waste material generated by the project must
13 be disposed of in an appropriate disposal facility. There must be no temporary storage
14 of piling or other waste material below top of bank, in wetlands; in a Federal Emergency
15 Management Administration designated floodway, or in an area historically subject to
16 landslides.

17
18 (13) **DSL May Halt or Modify.** DSL retains the authority to temporarily halt or modify
19 the project in case of unforeseen damage to natural resources.

20
21 ~~(14) **Work Area Isolation.** The work area must be isolated from the water during~~
22 ~~construction. All structures and materials used to isolate the work area must be~~
23 ~~removed immediately following construction and water flow returned to pre-construction~~
24 ~~conditions. All fish must be salvaged from the isolated area in accordance with Oregon~~
25 ~~Department of Fish and Wildlife requirements.~~

26
27 (145) **Spoil Disposal.** Spoil materials, not authorized used in the project for placement
28 in waters of this state, must be placed in an upland location. Spoil materials used in the
29 project must be included in the cumulative removal-fill calculation for the activity.

30
31 (156) **Additional Conditions.** The Department may impose additional conditions, if
32 necessary, to eliminate and reduce the reasonably expected adverse impacts of a
33 project ~~development~~ to waters of this state. OAR 141-093-0135
34 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
35 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

1 **State General Permit for Transportation-Related Structures**

2
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4 **141-093-0140**

5
6 **Purpose**

7
8 This General Permit (GP) authorizes removal-fill for certain activities related to existing
9 transportation structures.

10 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

11 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
12 |

13
14 **141-093-0141**

15
16 **Eligibility Requirements**

17
18 (1) **Thresholds.** To be eligible a project must be limited to no more than:

19
20 (a) In waters of this state, other than wetlands, a total of five thousand (5,000) cubic
21 yards of material filled, removed or altered, for the entire project. Up to one thousand
22 (1,000) cubic yards of the allowable 5,000 cubic yards of material may be used for
23 streambank stabilization; and

24
25 (b) One-half (0.5) acre of permanent impact to wetlands is allowed for the entire project.

26
27 (2) **Wetlands of Conservation Concern.** The project must not involve impacts to
28 wetlands identified as a wetland type of conservation concern. Wetlands of
29 Conservation Concern are bogs, fens, playas, salt flats, alkaline lakes, hot springs,
30 native wet prairies, vernal pools, interdunal wetlands, mature forested wetlands,
31 ultramafic soil wetlands, wooded tidal wetlands, and undiked tidal wetlands, as
32 determined by the Department.

33 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

34 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
35 |

36
37 **141-093-0145**

38
39 **GP-Specific Application Requirements for Authorizing Projects**

40
41 (1) **Compensatory Wetland Mitigation.** Unless otherwise approved by the
42 Department, compensatory mitigation options are:

43
44 (a) Bank credit purchase from a Department-approved mitigation bank with a service
45 area that includes the proposed removal-fill site and supplies the appropriate Ecologic

1 System and Class (e.g., Palustrine emergent) under the Cowardin Classification
2 System;

3
4 (b) In-lieu fee credit purchase; and

5
6 (c) Cash payment to the Department's payment in-lieu program.

7
8 (2) **Compensatory Non-Wetland Mitigation.** Compensatory non-wetland mitigation
9 must be provided by the permit holder, unless otherwise approved by the Department.
10 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
11 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

12 |
13
14 **141-093-0150**

15
16 **Authorized Activities**

17
18 (1) **Existing Structures.** Widening, replacing, expanding use, maintaining and
19 removing existing:

20
21 (a) Roads;

22
23 (b) Bridges;

24
25 (c) Pedestrian paths;

26
27 (d) Culverts;

28
29 (e) Boat ramps; and

30
31 (f) Airport runways and taxiways.

32
33 (2) **Integrally-Related Activities.** Activities integrally related with existing roadway
34 structures, such as geo-technical borings, signs, guardrails and maintenance of
35 stormwater facilities.

36
37 (3) **Increase in Scour Protection.** Providing larger footprint for new scour protection
38 and bank stabilization associated with projects listed above.

39
40 (4) **Restoring Fluvial Processes.** Restoration or enhancement of natural stream
41 health, including fluvial processes, associated with projects listed above.

42
43 (5) **Fish and Wildlife Habitat Enhancement.** Providing fish or wildlife passage or
44 habitat in conjunction with transportation-related structures.

45

1 (6) **Grade Control.** Installing grade control where necessary to prevent channel
2 headcut migration for the projects listed above.
3 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
4 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

5 |

6

7 **141-093-0151**

8

9 **General Permit-Specific Conditions**

10

11 (1) **General Conditions Apply.** All the requirements, procedures and conditions set
12 forth in [OAR 141-093-0105 through 141-093-0135](#) apply to this GP.

13

14 (214) **Work Area Isolation.** The work area must be isolated from the water during
15 construction. All structures and materials used to isolate the work area must be
16 removed immediately following construction and water flow returned to pre-construction
17 conditions. All fish must be salvaged from the isolated area in accordance with Oregon
18 Department of Fish and Wildlife requirements.

19

20 | (32) **Proof of Mitigation Purchase.** Before an authorization is approved, the
21 Department must have proof of purchase of wetland mitigation bank credit, in-lieu fee
22 credit purchase, or cash payment of the correct in-lieu amount.
23 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
24 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

25

26

1 **General Permit for Minor Removal-Fill Impacts to Certain Non-Tidal Wetlands**

2

3

4 **141-093-0155**

5

6 **Purpose**

7

8 **Non-Tidal Wetland Impacts.** This General Permit (GP) authorizes removal-fill activity
9 in certain non-tidal wetlands subject to the terms and conditions contained herein.

10 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

11 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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14 **141-093-0160**

15

16 **Eligibility Requirements**

17

18 (1) **Threshold.** The removal-fill activity in certain non-tidal wetlands must not exceed
19 two-tenths (0.20) of an acre for the entire project.

20

21 (2) **No Impact to Tidal Wetlands.** The project must not involve impacts to tidal
22 wetlands.

23

24 (3) **No Impacts to Waterways.** The project must not involve impacts to any non-
25 wetland waters.

26

27 (4) **No Impacts to ESH or State Scenic Waterways.** The project must not involve
28 impact to Essential Indigenous Anadromous Salmonid Habitat or State Scenic
29 Waterway-designated areas.

30

31 (5) **No Impacts to Wetlands of Conservation Concern.** The project must not involve
32 impacts to wetlands identified as a wetland type of conservation concern. Wetlands of
33 Conservation Concern are bogs, fens, playas, salt flats, alkaline lakes, hot springs,
34 native wet prairies, vernal pools, interdunal wetlands, mature forested wetlands,
35 ultramafic soil wetlands, wooded tidal wetlands, and undiked tidal wetlands, as
36 determined by the Department.

37 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

38 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

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1 |
2 | **141-093-0165**

3 |
4 | **Compensatory Wetland Mitigation.** Unless otherwise approved by the Department,
5 | compensatory mitigation options [in accordance with OAR 141-085-0705\(3\)\(f\) and \(g\)](#)
6 | are:

7 |
8 | (1) Bank credit purchase from a Department-approved mitigation bank with a service
9 | area that includes the proposed removal-fill site and supplies the appropriate Ecologic
10 | System and Class (e.g., Palustrine emergent) under the Cowardin Classification
11 | System;

12 |
13 | (2) In-lieu fee credit purchase; and

14 |
15 | (3) ~~Cash-P~~ayment to the Department's payment in-lieu program.
16 | Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
17 | Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

18 |
19 |
20 |
21 | **141-093-0170**

22 |
23 | **Authorized Activities**

24 |
25 | This GP authorizes a person to conduct removal-fill activity in certain non-tidal wetlands
26 | in an amount equal to or less than two-tenths (0.20) of an acre per project.
27 | Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
28 | Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

29 |
30 |
31 | **141-093-0175**

32 |
33 | **General Permit-Specific Conditions**

34 |
35 | (1) **General Conditions Apply.** All the requirements, procedures and conditions set
36 | forth in OAR 141-093-~~0105-0135~~ through ~~141-093-0135~~ apply to this GP.

37 |
38 | (2) **Proof of Mitigation Purchase.** Before an authorization is approved, the Department
39 | must have proof of purchase of wetland mitigation bank credit, in-lieu fee credit
40 | purchase, or payment of the correct in-lieu amount.
41 | Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
42 | Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
43 |

1 **State General Permit for Impacts to Vernal Pool Wetlands and**
2 **Other Waters of the State in Jackson County, Oregon**

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4
5 **141-093-0180**

6
7 **Purpose**

8
9 The purpose of this General Permit (GP) is to provide an expedited authorization for
10 certain projects that involve removal-fill activities in vernal pool wetlands in Jackson
11 County, Oregon. This GP includes a mitigation framework to address the Department's
12 interest in conserving and maintaining the rare species function of vernal pool wetlands.
13 It is also in alignment with the regulatory tools established by the U.S. Fish and Wildlife
14 Service (USFWS) and the U.S. Army Corps of Engineers in administering the federal
15 Endangered Species Act (ESA) and Clean Water Act, respectively. This GP authorizes
16 removal-fill in vernal pool wetlands and other specific waters, as well as removal-fill
17 activities necessary to conduct mitigation.

18 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

19 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

20
21
22 **141-093-0185**

23
24 **Expiration**

25
26 This GP will expire on April 1, 2016 or when a combined total of 60 acres of vernal pool
27 wetlands (up to 300 acres of vernal pool habitat complex) or other associated waters
28 have been impacted, whichever occurs first. Upon expiration, the GP may be reviewed
29 and modified or reissued.

30 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

31 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

32
33
34 **141-093-0187**

35
36 **Review Process for Authorizing Projects under this GP**

37
38 The Department shall review applications for this GP according to 141-093-0100
39 through 141-093-0135, with the following exceptions:

40
41 (1) **Initial Review.** The Department will review the application within 30 calendar days
42 of agency receipt of the application to determine whether the application is complete
43 and the project is eligible for this GP.

1 (2) **Departmental Final Review.** The Department will render a decision within 60
2 calendar days of receipt of a complete application.
3 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
4 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
5
6

7 **141-093-0190**

8
9 **Definitions**

10 The following definitions are used in this GP, in addition to those in OAR 141-085-0510.
11

12 (1) **“Combination Credits”** means those credits that have been approved by the
13 Department as wetland mitigation credits and by the USFWS as ESA species credits.
14

15 (2) **“Drought Year”** means a season in which precipitation prior to and during the
16 growing season is less than the 30 percent probability level documented in the WETS
17 table for the Medford weather station. The procedure for determining “below normal
18 rainfall” is found in the 2006 Interim Regional Supplement to the Corps of Engineers
19 Wetland Delineation Manual: Arid West Region, available on the Department Web site.
20

21 (3) **“Permittee Responsible Mitigation”** means actions undertaken by a permittee to
22 compensate for impacts resulting from a specific project.
23

24 (4) **“Protect and Manage Mitigation”** is preservation mitigation that entails the removal
25 of a threat to, or preventing the decline of vernal pool wetlands, and includes the
26 establishment and maintenance of native biological communities.
27

28 (5) **“Restore and Manage Mitigation”** is mitigation which re-establishes and maintains
29 vernal pool wetland topography and hydrology, and native biological communities in
30 areas where previously existing vernal pools have been altered to upland or open water.
31

32 (6) **“Steward”** means the party responsible for long-term management and monitoring
33 of the mitigation site after it has been released by the Department.
34

35 (7) **“Vernal Pool”** means a seasonal wetland found on shallow soils over an
36 impermeable hardpan layer or bedrock.
37

38 (8) **“Vernal Pool Complex (VPC) and VPC Habitat”** means a tract of land that
39 includes vernal pool wetlands and the upland mounds between them.
40

41 (9) **“Vernal Pool Function Ranking”** is the average of the four function scores (scores)
42 for the subject site relative to the scores reported for the 59 vernal pool complexes
43 inventoried in appendix C-1 of the Agate Desert Vernal Pool Final Draft Function
44

1 Assessment Methodology dated April 2007 (AD Inventory). This report is available on
2 the Department Web site.
3 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
4 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
5
6

7 **141-093-0195**

8
9 **Eligibility Requirements**

10
11 (1) **Project Location.** To be eligible for this GP, the project must be located within the
12 geographic area of Agate-Winlo Soils. This area generally conforms to the boundaries
13 of the Agate-Winlo soil map unit as mapped by the Natural Resources Conservation
14 Service's Jackson County soil survey.
15

16 (2) **Type of Water.** This GP authorizes removal-fill activities only in vernal pool wetlands
17 and the following other waters that occur in Agate-Winlo soils:
18

19 (a) Ditches or other water conveyance structures constructed solely to drain vernal pool
20 lands;
21

22 (b) Roadside ditches that are not part of a stream tributary system;
23

24 (c) Channels excavated through uplands for irrigation water and return flows; and
25

26 (d) Palustrine emergent wetlands that were historically vernal pool wetlands.
27

28 (3) **Thresholds.** To be eligible, a project must meet both of the following:
29

30 (a) Impacts to vernal pool wetlands and other waters must be less than two acres; and
31

32 (b) Impacts to VPC must be less than 15 acres.
33

34 (4) **Mitigation.** Mitigation must be accomplished in accordance with OAR 141-093-
35 0200.
36

37 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
38

39 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
40

41 **141-093-0200**

42 **Mitigation**
43

- 1 (1) **General Requirements.** Mitigation may be accomplished by either permittee
2 responsible mitigation projects or by purchasing credits from an established mitigation
3 bank. Mitigation must be conducted according to the following general requirements:
4
- 5 (a) Out-of-kind mitigation is not allowed for vernal pool impacts;
 - 6
 - 7 (b) All mitigation projects must meet the ratios and site suitability criteria described in
8 this section.
 - 9
 - 10 (c) Mitigation for vernal pool impacts must consist of either protect and manage or
11 restore and manage, or both. Neither enhancement of existing wetland nor creation of
12 wetlands where they did not previously occur is recognized as suitable mitigation for this
13 GP;
 - 14
 - 15 (d) Combination credits may be used only once (for wetlands or ESA species separately
16 or for an impact that requires both types); and
 - 17
 - 18 (e) The amount of mitigation required to offset impacts to waters of the state depends
19 on both the mitigation site base ratios and the impact site multipliers, as described in
20 this section.
 - 21
- 22 (2) **Mitigation Site Base Ratios.** Mitigation site base ratios are used to determine the
23 number of credits generated by each type of mitigation, as follows:
- 24 (a) One and one-half acres of wetland protected and managed generates one wetland
25 or combination credit (1.5:1 ratio), and
 - 26
 - 27 (b) One acre of wetland restored and managed generates one wetland or combination
28 credit (1:1 ratio).
 - 29
- 30
- 31 (3) **Impact Site Multiplier.** The impact site multiplier determines the number of credits
32 that must be purchased from a bank or generated at a permittee responsible mitigation
33 site to offset impacts associated with a project.
- 34
 - 35 (a) The impact acreage is multiplied by 2 if the project meets both of the following:
36
 - 37 (A) The vernal pool function ranking of the impact wetland is less than or equal to the
38 30th percentile score in the AD Inventory; and
 - 39
 - 40 (B) The total vernal pool wetland impact for the project is less than 0.5 acres.
 - 41
 - 42 (b) The impact acreage is multiplied by 2.5 if the project meets any one of the following:
43

- 1 (A) The vernal pool function ranking is less than or equal to the 30th percentile score in
2 the AD Inventory and the total impact for the project is more than 0.5 acre of vernal pool
3 wetland;
4
- 5 (B) The vernal pool function ranking is between the 30th and 70th percentile scores in the
6 AD Inventory;
7
- 8 (C) The vernal pool wetland proposed for impact is within a USFWS designated critical
9 habitat unit as shown on the Department Web site; or
10
- 11 (D) The vernal pool wetland proposed for impact is hydrologically contiguous with any
12 VPC of 10-30 acres.
13
- 14 (c) The impact acreage is multiplied by 3 if the project meets any one of the following:
15
- 16 (A) The vernal pool function ranking is equal to or greater than the 70th percentile score
17 in the AD Inventory; or
18
- 19 (B) The vernal pool wetland proposed for impact is hydrologically contiguous with any
20 VPC >30 acres.
21
- 22 (d) For impacts to other waters, the impact acreage is multiplied by 2.
23
- 24 (4) **Mitigation Site Suitability Criteria.** All of the following criteria must be met for a
25 proposed mitigation site under this GP:
26
- 27 (a) **Size.** The total effective size of a mitigation site must be at least 70 contiguous acres
28 of VPC. The Department will consider adjacent, permanently protected parcels
29 dedicated to vernal pool conservation as part of the total effective size if they have
30 uninterrupted continuity of soils, water flows, and topography. The Department may
31 determine that smaller parcels (10-70 acres) of VPC may be adequate in isolation if
32 they exist within areas in which surrounding land uses are compatible with long-term
33 VPC habitat conservation;
34
- 35 (b) **Buffers.** Mitigation sites must include sufficient area to maintain the hydrologic
36 regime, soils, topography, and vegetation conditions to provide suitable habitat for the
37 typical suite of vernal pools species. The mitigation site must include the surrounding
38 upland mounds and adjacent areas adequate to buffer the VPC habitats against effects
39 from adjacent land uses.
40
- 41 (c) **Fairy Shrimp Presence.** Mitigation sites must demonstrate at least 10 percent
42 occupancy by vernal pool fairy shrimp, unless only restore and manage mitigation is
43 proposed;
44

- 1 (d) Functionality. Mitigation sites must meet the 70th percentile ranking of the function
2 assessment score, unless only restore and manage mitigation is proposed;
3
- 4 (e) Hardpan. All proposed mitigation sites and must have an intact hardpan layer and no
5 activity anticipated that would perforate the hardpan (e.g. utility easement). If the
6 hardpan is perforated within 100 feet of the mitigation site, or if it is anticipated in the
7 future, the area of the mitigation site adversely affected, as determined by the
8 Department, may generate half of the credits otherwise generated per OAR 141-093-
9 0200(2);
10
- 11 (f) Net gain. Mitigation projects proposed for lands that are already designated for
12 conservation purposes must provide benefits to vernal pool habitats and species above
13 and beyond those resulting from the current conservation status of the lands. For such
14 cases, the number of credits generated will be determined by the Department.
15 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
16 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
17
18

19 **141-093-0205**

20
21 **GP-Specific Application Requirements for Authorizing Projects**

- 22
23 (1) **Wetland Delineation and Functional Assessments.** All applications for this GP
24 must include a wetland delineation approved by the Department and a functional
25 assessment of the vernal pool wetlands at the impact site. If the project involves
26 permittee responsible mitigation, a wetland delineation and functional assessment is
27 also required for the mitigation site. Functional assessments must be conducted
28 according to the Agate Desert Vernal Pool Final Draft Function Assessment
29 Methodology, available on the Department's Web site.
30
- 31 (2) **Rare Species Surveys.** All rare species surveys for this GP must be conducted
32 according to the USFWS Guidance to Assist in the Assessment of, and Conservation
33 Efforts for, Vernal Pool Systems on the Agate Desert, Jackson County, Oregon, dated
34 June 2008, available on the Department Web site.
35
- 36 (3) **Compensatory Wetland Mitigation Plan.** All applications for this GP that do not
37 propose using bank credits, must include a compensatory wetland mitigation plan
38 according to OAR 141-085-0695 through 0705, unless otherwise specified in this GP.
39
- 40 (4) **Long-Term Stewardship Plan.** Each permittee responsible mitigation project under
41 this GP must include a plan describing long-term management of the site necessary to
42 meet the goal of sustaining the aquatic resources and the wetland-dependent listed
43 species. The plan must include:
44

- 1 (a) A long-term protection instrument consistent with OAR 141-085-0695 for the entire
2 mitigation site, including the uplands between vernal pools and buffers.
3
- 4 (b) Identification of the long-term steward;
5
- 6 (c) A description of the long term management goals, the actions needed to reach and
7 maintain those goals, and an estimate of the annual costs for each action; and
8
- 9 (d) An ongoing funding mechanism, such as a non-wasting endowment, to pay for site
10 management in perpetuity.
11 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
12 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990
13

14 **141-093-0215**

15 **GP-Specific Conditions**

- 16
- 17
- 18
- 19 (1) **General Conditions Apply.** All the requirements, procedures and conditions set
20 forth in OAR 141-093-0105 through 141-093-0135 apply to this GP, unless otherwise
21 specified in this GP.
22
- 23 (2) **Proof of Mitigation Purchase.** Before an authorization is approved, the Department
24 must have proof of purchase of wetland mitigation bank credit, in-lieu fee credit
25 purchase, or cash payment of the correct in-lieu amount.
26
- 27 (3) **Long-Term Protection of Mitigation Sites Required.** The mitigation site shall be
28 protected in perpetuity pursuant to OAR 141-085-0695, using an instrument approved
29 by the Department. There must be no wetland impacts until the approved instrument is
30 fully executed.
31
- 32 (4) **Post-Construction Report Required.** For restore and manage sites, a post-
33 construction report demonstrating as-built conditions and discussing any variation from
34 the approved plan must be provided to the Department within 90 days of mitigation site
35 grading. The post-construction report must include:
36
 - 37 (a) A scaled drawing, accurate to 6-inch elevation, showing the finished contours of the
38 mitigation site;
 - 39
 - 40 (b) A narrative that describes any deviation from the approved mitigation plan; and
41
 - 42 (c) A copy of the fully executed long-term protection instrument.
43
- 44 (5) **Term of Monitoring; Annual Monitoring Reports Required.** The permittee must
45 monitor the mitigation site to determine whether the mitigation site is meeting

1 performance standards for a minimum period of five growing seasons after completion
2 of all initial plantings, and longer if necessary, until the standards have been met for
3 three consecutive non-drought years. Annual monitoring reports are required; however,
4 if a drought year occurs within these timelines, that year may be deferred and the
5 regular monitoring must resume the next non-drought year.

6
7 **(6) Annual Monitoring Report Due Date.** Annual monitoring reports are due by
8 December 31st of each year.

9
10 **(7) Extension of the Monitoring Period.** The monitoring period may be extended, at
11 the discretion of the Department, for failure to provide monitoring reports, failure of the
12 mitigation site to meet performance standards for three consecutive non-drought years
13 or when needed to evaluate re-planting or other corrective or remedial actions.

14
15 **(8) Release of Mitigation Obligation.** Mitigation monitoring is required until the
16 Department has officially released the site from further monitoring.

17
18 **(9) Failure to Submit Monitoring Reports.** Failure to submit the monitoring report by
19 the due date may result in an extension of the monitoring period, forfeiture of the
20 financial security and/or enforcement action.

21
22 **(10) Contents of the Annual Monitoring Report.** The annual monitoring report must
23 include the following information:

24
25 (a) Completed Monitoring Report Cover Sheet, which includes permit number, permit
26 holder name, monitoring date, report year, performance standards, and a determination
27 of whether the site is meeting performance standards;

28
29 (b) Impact and mitigation site location map(s);

30
31 (c) A brief narrative that describes maintenance activities conducted and
32 recommendations for future management to sustain performance standards;

33
34 (d) Mitigation site map showing permanent plot locations that correspond to the data
35 collected and fixed photo-points;

36
37 (e) Data collected to support the conclusions related to the status of the site relative to
38 all the performance standards listed in this permit (include a summary and analysis in
39 the report and raw data in the appendix);

40
41 (f) Photos from fixed photo points (include in the appendix);

42
43 (g) Other information necessary to document compliance with the performance
44 standards listed in this permit;

45

1 (h) A post-construction functional assessment by the end of the monitoring period; and

2

3 (i) For restore and manage projects, a delineation must be conducted one time within
4 the first five years, during spring of a year with normal precipitation patterns.

5

6 (11) **Corrective Action May be Required.** The Department retains the authority to
7 require corrective action in the event the performance standards are not accomplished
8 at any time within the monitoring period.

9

10 (12) **Monitoring Methods.** The mitigation site must be monitored according to the
11 monitoring methods described in the Vernal Pool General Permit Mitigation
12 Performance Standards and Monitoring Methods, available on the Department's Web
13 site.

14

15 (13) **Performance Standards.** Authorizations issued under this GP shall include the
16 performance standards listed in the Vernal Pool General Permit Mitigation Performance
17 Standards and Monitoring Methods, available on the Department's Web site. Alternative
18 performance standards may be approved, if they are based on monitoring data from
19 appropriate reference sites and they meet the following goals:

20

21 (a) The goal of the hydrology and topography standards is to restore and sustain the
22 natural range of extent, depth and duration of water, and topography of vernal pools.

23

24 (b) The goal of the vegetation standards is to restore and maintain plant communities
25 dominated by native species typical of least-disturbed reference site vernal pool
26 wetlands and surrounding uplands.

27

28 (c) The goal for listed and rare species is to sustain or increase local populations.

29 Stat. Auth.: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

30 Stats. Implemented: ORS 196.600 – 196.692 & ORS 196.795 – 196.990

31

32

1 **NOTE: This GP was adopted as a temporary rule upon filing on April 2, 2012**
2 **State General Permit for Maintaining Drainage to Protect Agricultural Land**

3
4 **141-093-0220**

5
6 **Purpose**

7
8 This General Permit (GP) authorizes removal of up to 100 cubic yards of material and
9 fill of up to 100 cubic yards of material for the purpose of maintaining drainage to protect
10 agricultural lands.

11 Stat. Auth.: ORS 196.692

12 Stats. Implemented: ORS 196.816

13
14
15 **141-093-0225**

16
17 **Eligibility Requirements**

18
19 Activities authorized by this GP must meet all of the following requirements for
20 maintaining drainage to protect agricultural lands.

21
22 (1) **Purpose.** Removal and fill must be for the primary purpose of maintaining drainage
23 to protect agricultural land.

24
25 (2) **Land Use.** The current land use must be agricultural land. For the purposes of this
26 general permit, agricultural land means:

27
28 (a) Land currently used for the primary purpose of obtaining a profit in money by raising,
29 harvesting and selling crops or the feeding, breeding, management and sale of, or the
30 produce of, livestock, poultry, fur-bearing animals, fish, or honeybees or for dairying and
31 the sale of dairy products or any other agricultural or horticultural use or animal
32 husbandry or any combination thereof.

33
34 (b) Agricultural Land also includes land used for the:

35
36 (i) On-site preparation, storage and disposal of the products or by-products raised on
37 such land for human or animal use;

38
39 (ii) Primary purpose of obtaining a ~~monetary profit, in money,~~ by stabling or training
40 equines;

41
42 (iii) On-site construction and maintenance of equipment and facilities used for the
43 activities described in this subsection; or

1 (iv) Growing trees exclusively as an agricultural, not forestry, commodity (e.g. cultured
2 Christmas trees or hybrid cottonwood).

3
4 (3) **Removal of Material.** The excavation is limited to the minimum amount necessary
5 to maintain drainage within existing bed and banks. Channel relocation is not allowed.

6
7 (4) **Removal Threshold.** The activity is limited to no more than a total of one hundred
8 (100) cubic yards of material from below ordinary high water or below the elevation of
9 highest measured tide, for each landowner, per calendar year.

10
11 (5) **Disposal of Excavated Material.** Material removed as a result of this activity may
12 be placed in adjacent converted wetlands as long as the effects are temporary and do
13 not result in a permanent conversion of wetland to upland.

14
15 (6) **No Removal-Fill in SSW Allowed.** Removal and fill under this general permit may
16 not occur in waterways designated State Scenic Waterway (SSW) or waterways located
17 in SSW Related Adjacent Lands.
18 Stat. Auth.: [ORS 196.692](#)
19 Stats. Implemented: [ORS 196.816](#)

20
21
22 **141-093-0230**

23
24 **GP-Specific Application Requirements.** Notwithstanding 141-093-0115, the applicant
25 must provide the following information in an application:

26
27 (1) **Description of the work to be done.** Provide a description of how the work will be
28 conducted and where the dredge spoil will be placed.

29
30 (2) **Alternatives.** Provide a statement about other methods that would protect
31 agricultural lands and maintain drainage which would not require work in the waterway.

32
33 (3) **Location of Project:**

34
35 (a) A tax lot map that highlights the entire location and length of the removal and fill
36 activity with respect to all tax lot lines;

37
38 (b) A scaled plan view drawing showing the approximate location of the existing channel
39 and its dimensions; and

40
41 (c) The line indicating the location of the Ordinary High Water for non-tidal waters; and
42 Highest Measured Tide for tidal waters.

43
44 (4) **Disposal Location.** The application must include a map of the disposal location with
45 respect to tax lot lines and waterways within the tax lot.

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(5) Fees. No Application or renewal fee required for this GP.

Stat. Auth.: ORS 196.692

Stats. Implemented: ORS 196.816

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141-093-0235

Authorized Activities

Maintenance of Drainage. The annual removal of up to one hundred cubic yards of material below OHW or HMT for jurisdictional waterways for maintaining existing drainage to protect agricultural land and the placement of up to one hundred cubic yards of material in converted wetlands as a result of the project, when upland disposal is not practicable. Placement of material in converted wetlands must not result in creation of upland.

Stat. Auth.: ORS 196.692

Stats. Implemented: ORS 196.816

141-093-0240

General Permit-Specific Conditions

(1) General Conditions Apply. All the conditions set forth in OAR 141-093-0135 apply to this GP.

(2) Temporary Impacts Only. No conversion of wetland to upland is allowed. All material placed in wetlands must be spread in a thin layer before the onset of winter rains.

(3) Removal of Woody Vegetation. Removal of woody vegetation must be limited to the minimum amount needed to complete the activity, including removal site access.

(4) Maintenance of Riparian Buffer. Where practicable and necessary to complete the activity, removal of woody vegetation is limited to the north or east sides of the stream channel.

(5) No Operation of Equipment in the Water Allowed. Equipment used to remove material must operate from top of bank position when feasible, otherwise from a dry position below top of bank.

- 1 (6) Design to Limit Maintenance. To the extent practicable, the project must be
2 implemented to naturally maintain inlet and outlet connections with the main stream
3 channel.
4
- 5 (7) Erosion Control. As necessary, erosion control measures must be installed and
6 maintained during the activity and after disposal, so as to prevent discharge into waters
7 of this state.
8 Stat. Auth.: ORS 196.692
9 Stats. Implemented: ORS 196.816
10
11
- 12 **141-093-0245**
13
14
- 15 **Fees**
16 This General Permit is exempt from the fee requirements set forth in 141-085-0545.
17 Stat. Auth.: ORS 196.692
18 Stats. Implemented: ORS 196.816
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