



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141
DEPARTMENT OF STATE LANDS

FILED
06/28/2023 2:58 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: [Corrected] This rule enacts periodic closures for state-owned property on Crump Lake, Lake County.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/31/2023 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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Filed By:
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HEARING(S)

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

DATE: 07/26/2023

TIME: 2:00 PM

OFFICER: Danielle Boudreaux

HEARING LOCATION

ADDRESS: Memorial Hall, 513 Center St., Lakeview, OR 97630

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-444-9171

CONFERENCE ID: 2508868653

SPECIAL INSTRUCTIONS:

Web passcode: w#EnJ067

Phone passcode: 87671005

NEED FOR THE RULE(S)

Over the course of several years beginning in 2014, the Department of State Lands Director has enacted emergency restrictions of public use of Crump Lake in southern Lake County. The Department has received numerous reports from local law enforcement, tribal members, and local citizens about activities associated with damaging natural resources and removing cultural resources. Activities of concern are driving vehicles across the lakebed, removing and defacement of cultural and archaeological resources. Most recently, in August of 2022, an emergency closure order was issued by DSL Director Vicki Walker. The adoption of this permanent rule is needed to address illegal and nuisance activity on state-owned land. These activities include but are not limited to removal and damage to natural and cultural resources; driving vehicles across the lakebed; damage to riparian vegetation and wildlife habitat; interference with property; and damage to property.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 273 and 274 are available on the Oregon Legislature's website:

https://www.oregonlegislature.gov/bills_laws/pages/ors.aspx

OAR 141-088 is available on the Secretary of State's website.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Oregon Department of State Lands is committed to the fair, just, and unbiased treatment of people of all races. Actively identifying and addressing inequities to ensure inclusive public service is one of the Department's five core values. Evaluating who a proposed administrative rule will impact, and how the rule may impact some groups of people differently than others, is essential to providing equitable service. During the Restrictions for State-Owned Property on Crump Lake in Lake County rulemaking process, the Department and the Rulemaking Advisory Committee examined the following to ultimately determine the impacts the rule may have on racial equity:

- What persons and groups are subject to the rule? RAC discussion identified a number of groups affected by the rule, they include, small businesses, recreational users, guides and outfitters, law enforcement, the nine Federally recognized Tribes of Oregon, and other local agencies.
 - What issues is the rule seeking to address? Which racial groups are likely to be affected by those issues? The rule seeks to address nuisance issues on state-owned property.
 - Ultimately, what impacts does this rule have on racial equity? The Department has determined, in agreement with the RAC and through careful consideration and evaluation, that this rule is unlikely to impact racial equity in Oregon.
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FISCAL AND ECONOMIC IMPACT:

The Department does not anticipate this rulemaking to pose significant fiscal and economic impact to public or private interests. The proposed rule seeks to address illegal and nuisance activities on state-owned land. There are no developed or authorized uses at these locations outside of grazing. The proposed rule language takes into consideration and makes exceptions for "Government personnel on official business, public and private employees performing company business, vehicles and persons involved in rescue or emergency activities, and Department authorized persons and adjacent landowners inspecting or maintaining property." The draft rule language is consistent with existing recreational restrictions in OAR 141-088, will protect state-owned lands from damage, and will assist in the posting of sites around Crump Lake from use during low water periods throughout the year. The permanent use restrictions are one element of a long-term solution for ensuring a healthy environment and protection of natural and cultural resources.

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) The Department does not believe that the proposed changes to this rule, if adopted, will have any substantial economic impact on the public, or state or local government agencies. Possible economic impacts include but are not limited to: (1) Increased costs to the Department for the manufacture and placement of signs, and the publication of public notices describing the restrictions on, or closure to, public recreational use; (2) Increased costs to state and local law enforcement, as any restriction or closure is another activity that state and local law enforcement must monitor. State and local law enforcement were informed of the restrictions and are in support of the proposed rule.

(2)(a) Only small businesses that use state-owned land for recreational purposes may be impacted by any restrictions or closures imposed on recreational use—and only if such restrictions or a closure were imposed on a site, parcel, or area of state-owned land which a small business currently uses or may want to use in the future. It is not feasible to estimate the number of such small businesses, however, it is unlikely that there will be any significant cost for small businesses to comply with the proposed rule.

(2)(b) The Department does not believe that the proposed rule, if adopted, will result in increased costs for reporting, recordkeeping, and other administrative activities conducted by small businesses.

(2)(c) The Department does not believe that the proposed rule, if adopted, will result in increased costs for equipment, supplies, labor, or administration.

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

Department staff extended invites to small businesses in the communities to participate on the Rulemaking Advisory Committee (RAC); however, none chose to participate. One member of the RAC owns a cattle ranch and leases land from the Department, representing both lessees and small ranches.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 141-088-0250

RULE SUMMARY: This rule enacts periodic closures of state-owned land on Crump Lake when the lakebed is dry.

CHANGES TO RULE:

141-088-0250

Periodic Closure for State-Owned Property on Crump Lake in Lake County

(1) All state-owned lands under the jurisdiction of the Oregon Department of State Lands that are located within and around Crump Lake, beginning at the southern boundary of Township 38 South, terminating at Stone Bridge located at 42 Degrees, 21 Minutes, 17.032 Seconds North, 119 Degrees, 50 Minutes, 19.9203 Seconds West, are closed to:¶

(a) All access by motorized vehicles or pedestrian traffic. Excepted from this restriction are government personnel on official business, vehicles and persons involved in rescue or emergency activities, adjacent landowners inspecting or maintaining fences, and hunters on foot in possession of valid controlled hunt tags for Beatys Butte Wildlife Management Unit, actively engaged in scouting or hunting deer or antelope, or unless otherwise authorized by the department in writing through the Real Property Program.¶

(b) The collection, removal, defacement, or destruction of any archaeological site, objects, or artifacts, including arrowheads, as defined by ORS 358.905(1)(a), unless otherwise authorized by the Department in writing and consistent with permit issued by the State Historic Preservation Office (SHPO) under ORS 390.235.¶

(2) The Department will determine closure based on when the water is no longer touching the foundational rocks located along the parallel line of Tern Island, located at 119 Degrees, 50 Minutes, 38.46 Seconds West. The Department has sole discretion to determine when the water level meets the criteria for closure. The closure will be posted on all designated public access routes. Upon posting, the official closure through this rule becomes effective. ¶

(3) The Department will determine when to lift the closure based on when the water level refills and is again touching the foundational rocks described above. The Department has sole discretion to determine when the water level meets the criteria to lift the closure. The Department will provide notice that the closure is lifted by replacing the closure signs with signs confirming access is open. In the absence of signs, the public will assume the closure is in place unless confirmed in writing by the Department.

Statutory/Other Authority: ORS 183, ORS 273, ORS 274

Statutes/Other Implemented: ORS 273, ORS 274