INTERNAL MANAGEMENT DIRECTIVE

LIMITED IMMUNITY FROM ENFORCEMENT IN THE DOGAMI WATER QUALITY PROGRAM

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MISSION:
The Oregon Department of Geology and Mineral Industries provides earth science information and regulation to make Oregon safe and prosperous.
Contents

I. BACKGROUND OF THE DOGAMI WATER QUALITY PROGRAM ................................................................. 3
II. PURPOSE & APPLICABILITY .................................................................................................................... 3
III. CONDITIONS FOR LIMITED IMMUNITY ............................................................................................... 3
IV. EXCEPTIONS FROM IMMUNITY ............................................................................................................. 3
V. INSPECTION ........................................................................................................................................... 4
VI. VERIFICATION THAT VIOLATIONS HAVE BEEN CORRECTED ................................................................ 4
VII. INTERPRETATION ................................................................................................................................. 4
VIII. EFFECTIVE PERIOD AND LOCATION .............................................................................................. 4

DOCUMENT DEVELOPMENT

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DISCLAIMER

This Internal Management Directive (IMD) represents the Oregon Department of Geology and Mineral Industries (DOGAMI) implementation plan for enforcement actions on water quality permits administered pursuant to the Memorandum of Agreement (MOA) with Oregon Department of Environmental Quality (DEQ). This directive is not final agency action and does not create any rights, duties, obligations, or defenses, implied or otherwise, in any third parties. This directive should not be construed as rule, nor should the recommendations contained in this directive be construed as a requirement of rule or statute. DOGAMI anticipates revising this document from time to time as conditions warrant.
I. BACKGROUND OF THE DOGAMI WATER QUALITY PROGRAM

The DOGAMI Water Quality Program is authorized under the DEQ/DOGAMI Memorandum of Agreement dated August 2008 to act as DEQ's agent for administration of General 1200-A permits for discharging stormwater and General WPCF 1000 permits for process water storage at DOGAMI permitted mine sites. As such, DEQ authorized DOGAMI to perform inspections and generate reports addressing permit compliance.

II. PURPOSE & APPLICABILITY

This Internal Management Directive (IMD) establishes a limited immunity policy pursuant to compliance and enforcement requirements of the MOA. This directive applies to all staff working with Permittees covered under NPDES 1200-A and WPCF 1000 permits. Those staff are directed to provide limited immunity to some Permittees, under the circumstances described in this directive. The limited immunity is warranted due to a history of limited staff availability for technical assistance, compliance, and enforcement in the water quality program. The intent is to encourage Permittees to seek technical assistance and allow for DOGAMI to provide a safe and effective means to address compliance issues.

III. CONDITIONS FOR LIMITED IMMUNITY

DOGAMI will not “select” participants for immunity. Staff will provide immunity to any Permittee to whom DOGAMI administers a General NPDES 1200-A or General WPCF 1000 Permit that requests technical assistance or education prior to or during a first-time site visit.

Immunity may be offered only once. Violations observed on subsequent site visits or that occur after the technical assistance site inspection will not be immune from enforcement and may trigger DEQ enforcement action pursuant to DEQ Guidance Documents. If multiple violations are found during a TA site inspection, immunity may still be given.

IV. EXCEPTIONS FROM IMMUNITY

Immunity may not be given by staff in situations where:

- There exists actual significant harm to the public health, safety, or to the environment or DOGAMI has reasonable cause to believe there is an imminent threat of significant harm to public health, safety, or the environment.
- Violations of water quality standards or conditions of the permits were committed intentionally, willfully or flagrantly.
- The Permittee has had a previous violation of other water quality rules, laws or permits which have been the subject of previous DEQ enforcement.
- Discovery of the violation resulted from a citizen complaint.
V. INSPECTION

The Inspector will walk through the site and review the permit with the Permittee to ensure all conditions are met. If the inspection is a result of an updated Stormwater Pollution Control Plan (SWPCP) all BMPs will be evaluated to determine if they are implemented as intended.

If violations are observed, those violations will be documented and discussed with the Permittee. Violations will be documented in the Inspection Report. The Inspector will gather evidence supporting the existence of a violation such as photos, drawings, grab samples, written notes, and/or maps, etc., to properly document violations.

The Inspector will communicate verbally with the Permittee and provide the Permittee with an inspection report that documents the violation. If corrective action is required, a Warning Letter with Opportunity to Correct will accompany the report and request the Permittee take corrective action within a specified timeframe and submit documentation of the correction by a specified deadline.

VI. VERIFICATION THAT VIOLATIONS HAVE BEEN CORRECTED

Verification of corrective actions may be achieved through a follow-up visit by the Inspector, or, a written summary and photographic evidence of corrective actions documented by the Permittee. If the Permittee fails to implement any corrective actions requested by DOGAMI within the timeframe requested, staff may proceed with the enforcement process.

VII. INTERPRETATION

The terms and provisions of the IMD are subject to reasonable interpretations of DOGAMI or DEQ.

VIII. EFFECTIVE PERIOD AND LOCATION

This IMD is effective from the date signed above until DOGAMI terminates the directive.

Related Links:
Oregon Department of Environmental Quality, Ch. 340, Division 12: Enforcement Procedure and Civil Penalties
Government Ethics: ORS Chapter 244