
INTERNAL MANAGEMENT DIRECTIVE

ON-SITE CONSTRUCTION PERMITTING

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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.

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Approved by: MLRR Program Manager, DOGAMI



12/28/18

Date _____

Sarah L. Lewis

DISCLAIMER

This Internal Management Directive (IMD) directs the Oregon Department of Geology and Mineral Industries (DOGAMI) staff in processing exclusion certificate or operating permit applications for construction projects that meet the statutory definition of surface mining. This directive is not a 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.

Section 1 - Introduction

1.1 PERMITS FOR CONSTRUCTION PROJECTS

Since 2007, the statutory definition of surface mining has not excluded construction projects that exceed the excavation volume or disturbance area thresholds of ORS 517.750 (16)(a)(A), provided that the project makes industrial, commercial, or construction use of the excavated minerals.

Since 2016, a person must obtain an exclusion certificate to engage in surface mining that falls below the acreage and production thresholds of an operating permit.

1.2 PURPOSE & APPLICABILITY

This Internal Management Directive (IMD) establishes procedures and priorities for processing applications for construction project Operating Permits and Exclusion Certificates. The purpose is to provide staff with defined procedures for consistent and timely application processing in accordance with rule and statute. This directive applies to all staff working on application processing.

Section 2 – Implementation for Operating Permit Applications

2.1 WAIVER OF RECLAMATION PLAN

ORS 517.790 (2) allows the Department to waive the requirement for preparation and approval of a reclamation plan, and by inference the operating plan if:

- a. The operation is conducted as part of the on-site construction of a building, public works project or other physical improvement of the subject property;*
- b. The operation is reasonably necessary for such construction; and*
- c. The proposed improvements are authorized by the local jurisdiction with land use authority.*

Staff are directed to obtain the following information from applicants at a pre-application conference or as part of their application:

1. A written explanation of why the excavation of minerals is necessary for the project;
2. Proof of land use approval for the construction project; and
3. A copy of an approved building permit.

The aggregate permitting reclamationist or program manager will review the information and determine whether to waive the plan. Complex, controversial, or high-profile projects may require a full or partial plan at the discretion of the program manager.

Waiver of Reclamation Plan approval will be documented by completion of a Waiver of Reclamation Plan Form.

2.2 APPLICATION MATERIALS

Staff will require applicants who meet the requirements for a reclamation plan waiver to complete Section 1: Contact Information, Section 2: Site Conditions, and the Signature Page of the standard application form and submit with application fee.

Staff need not have these applicants fill out supplemental forms or submit a Reclamation Plan Map.

Staff must have applicants who do not meet the requirements for the reclamation plan waiver complete the entire application form and all relevant supplemental forms.

Staff must have all applicants provide a site map showing the final planned configuration of the project, and must provide either a legal description, or a survey of the affected tax lots.

2.3 PERMIT CONDITIONS

For applications granted an operating and reclamation plan waiver, staff must include the following condition in permits:

- The permittee will comply with all requirements of the applicable land use regulations and building permits and any other permits or approvals required for the project.

If the operating and reclamation plans have not been waived, DOGAMI will attach permit conditions consistent with those typically applied to commercial aggregate mines.

2.4 CIRCULATION TO REVIEWING AGENCIES

All construction project Operating Permit applications will be circulated consistent with the process for commercial aggregate mines. If the operating and reclamation plan has been waived, staff must include the following note to reviewing agencies or a similar statement:

- This applicant has applied for an Operating Permit because the construction project meets the statutory definition of surface mining. DOGAMI has determined the mining activity is necessary for the project, the project has land use approval, and a valid building or grading permit has been reviewed. Therefore, the operating and reclamation plan requirement has been waived, and DOGAMI will defer to the land use authority's permit conditions for compliance. The application is being circulated as required by Oregon Administrative Rule 632-030-0030 and 632-030-0035.

For projects that DOGAMI has not waived the operating and reclamation plan, the note to reviewing agencies will have content consistent with commercial aggregate mines except for the sections that describe the operating and reclamation plans.

2.5 BONDING OF CONSTRUCTION PROJECT OPERATING PERMITS

Staff shall not require a bond for construction projects with an operating and reclamation plan waiver. If a waiver was not granted, the bond will be calculated consistent with commercial aggregate mines.

2.6 PRIORITIZATION

Commercial aggregate mine operating permit applications are a priority for staff time. Staff will process construction project applications only after completing outstanding commercial aggregate permit applications. Exclusion certificates for construction related activities are the lowest priority for processing.

Permitting very large or complex projects, projects involved in complex multi-agency permitting, or projects that are the subject of written formal complaints may receive higher priority for processing at the discretion of the MLRR Program Manager or DOGAMI Director.

Section 3 - Directive

Upon approval of this IMD, DOGAMI staff participating in aggregate mine permitting may implement the construction site permitting procedure as described above.

Section 4 - Interpretation

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

Section 5 - Effective Period and Location

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

Related Links:

Government Ethics: [ORS Chapter 244](#)

Prohibited Activities: [ORS 516.133](#)

OR Government Ethics Law: [A Guide for Public Officials](#)