
INTERNAL MANAGEMENT DIRECTIVE

PROCESSING, ISSUING AND CONVERTING PROVISIONAL OPERATING PERMITS

**Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation**

229 Broadalbin St. SW

Albany, OR 97321

Phone: 541-967-2039

Fax: 541-967-2075

MISSION:

The Oregon Department of Geology and Mineral Industries
provides earth science information and regulation
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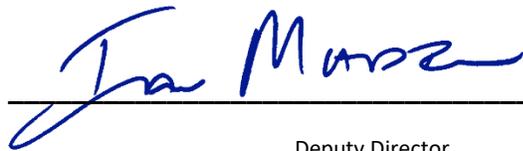
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Approved by: Ian Madin, Deputy Director, DOGAMI



Deputy Director

Date 5/1/2018

DISCLAIMER

This Internal Management Directive (IMD) directs the Oregon Department of Geology and Mineral Industries (DOGAMI) staff in processing aggregate mine operating permits that may require a provisional operating permit as required by statute since January 1, 2018. 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 Provisional Operating Permits:

The 2017 legislature passed SB 644 which amended ORS 517.790 to include a new requirement for a provisional permit in cases where the applicant has not obtained all other relevant approvals or permits at the time of issuance of the DOGAMI permit. In addition, the bill amended ORS 517.830 to change how the agency identifies and mitigates adverse impacts. Policy issues associated with the implementation of the ORS 517.830 amendments are addressed in a separate directive. However, aspects of the ORS 517.830 amendments that affect the processing of Provisional Operating Permits are addressed in this directive in Section 1.3.4.

1.2 – Purpose & Applicability:

This Internal Management Directive (IMD) establishes procedures for processing applications for new aggregate or non-aggregate Operating Permits that may meet the requirements for a Provisional Operating Permit. It also describes the procedure for converting a Provisional Operating Permit to an Operating Permit. The purpose is to provide a clear set of procedures to staff so that applications can be processed consistently, in a timely manner, and in accordance with rule and statute. This directive applies to the all staff working on application processing.

Section 2 – Implementation

2.1 – Application Form:

The DOGAMI application form will ask applicants whether they know of any state, Federal or local government permits or approvals (henceforth “third-party requirements”) that will be required for their mining operations. Those answering yes to this question will be directed to list the third-party requirements, and describe the status of their satisfaction of those requirements. Applicants who indicate that they do need to meet third-party requirements will be flagged by staff as potential candidates for a Provisional Operating Permit. Because applicants may not be aware of all required permits and approvals, the final determination of whether to issue a Provisional Operating Permit will be made after circulation, as described in Section 2.2.

2.2 – Circulation to reviewing agencies:

All Notes from staff to Reviewing and Cooperating Agencies will include the following statement:

- This mining operation may require additional permits and approvals from other state, Federal or local government agencies. If it is determined that such permits and approvals have not been issued at the time that the DOGAMI permit is to be issued, the applicant will receive a Provisional Operating Permit which will be subject to the conditions listed in this Note as “Provisional Conditions”.
- If at the end of the circulation period DOGAMI determines that no further approvals are needed and that an Operating Permit can be issued, it will be subject to the permit conditions listed in the Note as “Proposed Conditions”

2.3 – Determination of qualification for Provisional Operating Permit:

Upon completion of the standard DOGAMI agency circulation review and comment period for cooperating and interested agencies and Tribal governments, staff will take the following steps to determine if a Provisional Operating Permit must be issued:

- Consult with the applicant to determine whether any previously identified third-party requirements have not yet been met.
- Review comments from cooperating and interested agencies and Tribal governments to determine whether there are additional third-party requirements that were not previously identified.

If there are any third-party requirements that have not been met at the end of interagency circulation, the applicant must be issued a Provisional Operating Permit if all other DOGAMI requirements have been met. However, if the applicant believes that all third-party requirements may be met no later than three weeks prior to the application expiration date, DOGAMI staff may delay issuing the permit for up to that amount of time.

2.4 – Permit Amendments:

Permit amendments are not subject to the requirement for a Provisional Permit. If an area is being added to a permit by amendment and there are third-party requirements for that area which have not been met at the time of issuance, the permit shall include a condition that restricts mining and/or mining related activities in that area until all of the third party requirements have been met.

2.5 – Standard Conditions for Provisional Permits:

Every Provisional Operating Permit issued must contain the following conditions at a minimum:

- No mining operations of any sort may take place at the site until DOGAMI has converted the Provisional Operating Permit by issuing a new Operating Permit. When all of the required third-party permits and approvals have been obtained, the permittee must provide copies to DOGAMI for review.
- If DOGAMI determines that the third party permits or approvals resulted in significant changes to the plans approved by DOGAMI, an Amendment to the Operating Permit and/or additional permit conditions will be required prior to issuing the new Operating Permit and conducting any mining operations at the site.

Every Provisional Operating Permit must include all conditions that DOGAMI deems necessary to meet the DOGAMI's statutory and regulatory requirements. A Provisional Operating Permit must include a condition that lists the adverse impacts identified by cooperating or interested agencies and requires the permittee to agree to additional conditions in the final Operating Permit to address those impacts following review of third-party permits by DOGAMI. This is intended to address the 2018 amendments to 517.830 which prohibit DOGAMI from including conditions to address impacts that have been mitigated by third-party permits or approvals.

Section 3 – Directive to Program Staff

Upon approval of this IMD, DOGAMI staff participating in aggregate mine permitting may implement the provisional 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](#)