

**Oregon Department of Geology and Mineral Industries (DOGAMI)
Mineral Land Regulation and Reclamation (MLRR) Program**

OPERATING PERMITS – FAQs

What is the purpose of an Operating Permit?

The purpose of the DOGAMI Operating Permit is to ensure that the mining operation is carried out in a way that protects land, air and water resources, avoids off-site impacts, and ensures reclamation. Reclamation to the greatest practical degree is necessary to allow for the intended subsequent use and to prevent impacts that would be detrimental to the general welfare, health, safety, and property rights of the citizens of this state. Permittees who plan and conduct their surface mine operations with this final goal in mind are much more likely to meet the productive use requirement and secure full release of the reclamation security when mining operations are completed.

What are the first steps in applying for an Operating Permit?

Potential applicants interested in obtaining a permit should review the DOGAMI website and FAQs sheets, and consult with the DOGAMI Permitting Lead to familiarize themselves with the application and permitting requirements, expected timelines, and potential application fees. In many cases, a pre-application meeting may be held to thoroughly review the application requirements.

Should I request a pre-application meeting?

Prior to submitting an application, an applicant is encouraged to request a pre-application meeting with the DOGAMI Permitting Lead. During the meeting the Permitting Lead will; review application requirements and proposed surface mine plans, answer questions, and provide timelines and resources pertaining to the application process.

How do I know what forms to use?

The most up to date application forms should always be obtained at <https://www.oregon.gov/dogami/mlrr/Pages/surfacemining.aspx>.

Due to the variety of surface mining operations and methods, there are specific application forms for specific activities and/or locations. For example, there are supplemental application forms for sites located in the floodplain, sites proposing to impact groundwater by conducting pit dewatering, and sites which may have slope stability concerns. The DOGAMI Permitting Lead can assist with determining the correct forms to use at a pre-application meeting.

What should I know about the forms?

- The application forms for an Operating Permit are now fillable.
- Applications must be completed on the forms furnished by DOGAMI.
- Applicants are not authorized to make any modifications to the text of the DOGAMI forms.
- If outdated DOGAMI forms are received, the applicant will be required to resubmit using the current forms.

Should I consider retaining an environmental and/or geotechnical consultant?

Given the cost and complexity of developing, maintaining, and reclaiming surface mine sites, many applicants elect to hire an environmental and/or geotechnical consultant to assist with the preparation of application materials including the operating plans, reclamation plans, and maps. Hiring a consultant with experience preparing application materials for mining operations in Oregon may be helpful for some applicants.

What types of services might a typical environmental and/or geotechnical consultant provide?

- Assistance with mineral exploration plans to determine if there are economically significant quantities of minerals.
- Interpretation of regulations as they pertain to the particular operations being proposed.
- Groundwater characterization and mine dewatering plans.
- Site characterization and slope stability analysis.
- Assemble scientific and technical data needed to complete the operating and reclamation plans.
- Prepare required maps, forms, and support documents for the applicant's approval and signature.
- Identify options to mitigate impacts and work with the applicant to design operations that will minimize environmental concerns.
- Provide assistance with obtaining other permits or approvals that may be required.

What other types of permits, reports, or approvals might I need?

Applicants should identify, apply for, and obtain other permits and approvals that may be required for the site and proposed operations. Requirements may include but are not limited to the following:

- Department of Environmental Quality (DEQ) Permits such as Air Quality, Storm Water Discharge, and Process Water Permits
- Local jurisdictional land use
- Oregon Water Resources Department - Water Rights
- Utility Right of Way (Oregon Utility Notification Center)
- Department of State Lands – Fill/Removal Permit
- Road Access (local jurisdiction or Oregon Department of Transportation)
- Cultural Resource Survey

Are there actions I can take to mitigate for potential impacts and/or concerns?

Talking to neighboring property owners, residents, and businesses regarding the proposed operations, listening to concerns, refining operating plans to mitigate for potential impacts, establishing pathways for continued communication, and maintaining written records of communications during site development and operations may be useful.

What are the minimum requirements needed to be considered a complete application?

In order to correctly review an application for accuracy and consistency, the following items need to be submitted together:

- Non-Refundable Application Fee
- Operating Permit Application Form including Operating and Reclamation Plan(s)
- Permit Boundary Survey Map
- Site Plan Map
- Reclamation Plan Map
- Proof of Land Ownership
- Applicable Supplemental Forms and Fees*

*Note that per ORS 517.800 (1)(b) If an application for a new permit or an amendment to an existing permit requires extraordinary department resources because of concerns about slope stability or proximity to waters of the state or other environmentally sensitive areas, the applicant shall pay to the department an additional fee in an amount determined by the State Geologist to be adequate to cover the additional costs for staff and other related expenses. The State Geologist shall consult with the applicant when determining the amount of the fee.

How will I know when DOGAMI receives my application?

DOGAMI will send the applicant an email acknowledgment notifying the applicant that the application has been received.

How will I know if my application is complete?

Subsequent to DOGAMI's review of all application submittals, DOGAMI will send the applicant a Technical Review Completeness Report via email. The report will indicate whether or not the application is deemed complete. If the application is incomplete or contains inconsistent information, DOGAMI will detail the necessary revisions and/or submissions.

What happens if my Operating Permit application package is incomplete?

Incomplete or inadequate submittals will need to be revised and/or resubmitted which will result in delays to both the administrative and technical review process. A notice of an incomplete submittal does not constitute a denial of the Operating Permit application; however, extended delays may result in the expiration of the application.

When does an application expire?

If the applicant fails to submit all required application forms and submittals within 12 months after the application is submitted, the application is deemed to have been withdrawn. The applicant may resubmit an application without prejudice, however, the new application must be accompanied by a new application fee.

Can my application be rejected/denied?

All incomplete or erroneous applications, forms, and/or checks will be returned to the applicant for correction. Per OAR 632-030-0030(4) Within 60 days after the receipt of a deficiency list or permit conditions, the applicant shall comply with the additional requirements prescribed by DOGAMI or file a written notice of appeal of the decision in accordance with OAR 632-030-0056. Unless an extension is granted, failure to comply with the additional requirements or file a notice of appeal within the 60 day period may result in the application for an Operating Permit being denied. A permit denial on this basis does not prevent the applicant from submitting a new application without prejudice. As provided in ORS 517.830, DOGAMI may issue a Provisional Operating Permit to the applicant pending the outcome of the appeal.

Is there a specific timeline that DOGAMI has to notify me of application deficiencies?

Per statutory timeframes, DOGAMI is required to complete one of the following within 90 days after receiving an application:

- Notify the applicant of the application deficiencies and provide the applicant a notice of the information or documentation needed to make the application complete, OR
- Issue the Operating Permit.

What happens when DOGAMI determines my application is complete?

When an application is determined to be both administratively and technically complete DOGAMI will:

- Notify the applicant regarding application completeness
- Conduct a site inspection
- Complete a local land use notification
- Evaluate the reclamation liability and security requirement
- Draft a Note to Reviewing Agencies
- Complete internal review of the Note to Reviewing Agencies and application packet
- Provide the applicant an opportunity to review the Note to Reviewing Agencies prior to circulation
- Circulate the Note to Reviewing Agencies to the local land use jurisdiction (35 days)
- Circulate the Note to Reviewing Agencies to other federal, state, and local agencies and Tribal governments (30 days)
- Follow-up on circulation comments and/or concerns
- Receive and process the reclamation security
- Finalize the survey map
- Finalize Permit Conditions
- Issue the Operating Permit

Note: If it is determined at any time that third-party permits or approvals are required, DOGAMI may be required to issue a Provisional Operating Permit to the applicant as provided in ORS 517.830.

Does DOGAMI have to visit the site?

Per OAR 632-030-0024(2), DOGAMI is required to conduct an initial inspection on all new sites that have not been previously inspected by DOGAMI. It is possible that the processing of the application may be delayed if DOGAMI is unable to inspect the site due to weather or other field conditions that prevent an adequate site inspection.

What is the local land use notification?

Per ORS 517.830, when DOGAMI receives an application for an Operating Permit or Amendment, DOGAMI is required to;

- Notify the local land use jurisdiction that an application has been submitted to DOGAMI.
- Provide the local land use jurisdiction the opportunity to request that DOGAMI delay a decision on an Operating Permit.

Note: If it is determined at any time that third-party permits or approvals are required, DOGAMI may be required to issue a Provisional Operating Permit to the applicant as provided in ORS 517.830.

What is a Note to Reviewing Agencies?

A Note to Reviewing Agencies is a report completed by DOGAMI to compile and summarize information about the site and information presented in the application materials. The Note is circulated to other federal, state, and local agencies and Tribal governments for review. The Note has numerous sections including but not limited to:

- Site Location
- Land ownership
- Land Use
- Permitting History
- Site Conditions

- Operating Plans
- Reclamation Plans
- Reclamation Security
- Permit Conditions*

*DOGAMI may attach conditions to the Operating Permit to reflect special concerns which are not adequately addressed in the Reclamation Plan.

What is the interagency circulation for?

The interagency circulation is a process in which the application materials and the DOGAMI Note to Reviewing Agencies are provided to other federal, state, and local agencies and Tribal governments for review and comment. The circulation allows other agencies and Tribal governments with explicit knowledge and/or regulatory authority to evaluate the site and proposed operations to determine if there is potential for adverse impacts and/or if additional permits or approvals are necessary. It is not uncommon for modifications to be recommended or required during this process which may result in the requirement for additional information, permit conditions, additional permits and/or approvals, and/or survey work.

When will DOGAMI issue my permit?

Once the interagency circulation comments have been addressed or if no comments are received, DOGAMI will notify the applicant that the circulation process is complete. If the reclamation security has already been submitted or upon receipt of the required reclamation security (see Reclamation Securities FAQ), on the correct form, the Operating Permit can be issued. DOGAMI will provide the applicant with an official permit document.

Does an Operating Permit need to be renewed annually?

Yes. The Operating Permit must be renewed annually by the last day of the month it was originally issued. An annual renewal form will be mailed to the permittee at least 30 days before the due date. In addition to listing the annual fee, the form requires the permittee to report the production over the previous 12 month period. The annual renewal fee and production fee (per ton of material excavated) must be submitted to DOGAMI with the production report. The permittee is responsible for paying the annual fee and all production fees related to the permit area, even for material that was mined by other parties.

What should I do as a permittee to ensure I am maintaining compliance with my permit?

To assist permittees with maintaining compliance, DOGAMI recommends that permittees conduct the following evaluation at least once a year:

- Carefully review all the components of the Operating Permit, including any permit conditions and associated operating and reclamation plan(s);
- Assess the status of the mining operations to anticipate future development and needs; and
- Amend the permit if any aspects of the Operating Permit need to be updated.

If at any time you have questions regarding compliance please contact DOGAMI immediately.

What is an Amendment?

An Amendment is a formal modification to an already approved Operating Permit. An Amendment is subject to the same requirements as a new application including an interagency circulation to federal, state, and local agencies and Tribal governments for review and comment. Amendments are required

for any significant modification of the operating or reclamation plans including but not limited to: expansion or reduction of the permitted area, reducing setbacks, increasing depth of excavation, conducting dewatering activities, modifying final sloping configurations or changing the secondary beneficial use.