

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
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ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 632  
DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES

**FILED**  
12/18/2023 9:17 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Appeals Process For Orders In Other Than Contested Cases

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/02/2024 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.*

CONTACT: Vaughn Balzer  
541-231-8368  
vaughn.balzer@dogami.oregon.gov

229 Broadalbin Street SW  
Albany, OR 97321

Filed By:  
Vaughn Balzer  
Rules Coordinator

HEARING(S)

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

DATE: 01/24/2024

TIME: 10:00 AM - 11:00 AM

OFFICER: Vaughn Balzer

HEARING LOCATION

ADDRESS: MLRR Office, Albany OR, 229 Broadalbin Street SW, Albany, OR 97321

SPECIAL INSTRUCTIONS:

This is a hybrid meeting with options to attend in person at the DOGAMI MLRR office in Albany or remotely via the Zoom platform. This Hearing is a public meeting under Oregon's Public Meeting Law and will be recorded. The Hearing recording will be made available upon request. Please contact the hearing officer, Vaughn Balzer, with questions regarding the rulemaking process or how to attend the Hearing in person. If you need assistance attending the meeting remotely via the Zoom link, please contact Becky Johnson (contact information provided below). Reasonable accommodation, such as sign language interpreters, will be provided as requested. To ensure availability, please contact Becky Johnson at Becky.johnson@dogami.oregon.gov or (541) 967-2083 as soon as possible (at least 72 hours prior to the meeting) to make your request. Services for persons with a hearing or speech disability are available by dialing 711.

REMOTE MEETING DETAILS

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

PHONE NUMBER: 541-231-8368

SPECIAL INSTRUCTIONS:

Join Zoom Meeting Link:

<https://us06web.zoom.us/j/86349115863?pwd=wba8hTvqscbxkeBospXq6R4QIHbuGj.1>

Meeting ID: 863 4911 5863

Passcode: 262384

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Zoom platform. This Hearing is a public meeting under Oregon's Public Meeting Law and will be recorded. The Hearing recording will be made available upon request. Please contact the hearing officer, Vaughn Balzer, with questions regarding the rulemaking process or how to attend the Hearing in person. If you need assistance attending the meeting remotely via the Zoom link, please contact Becky Johnson (contact information provided below). Reasonable accommodation, such as sign language interpreters, will be provided as requested. To ensure availability, please contact Becky Johnson at [Becky.johnson@dogami.oregon.gov](mailto:Becky.johnson@dogami.oregon.gov) or (541) 967-2083 as soon as possible (at least 72 hours prior to the meeting) to make your request. Services for persons with a hearing or speech disability are available by dialing 711.

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#### NEED FOR THE RULE(S)

The rule change is needed to align the rule text with ORS 517.880 so that the Department may issue a suspension order as a final order in other than a contested case subject to judicial review under ORS 183.484.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Revised Statute (see [https://www.oregonlegislature.gov/bills\\_laws/pages/ors.aspx](https://www.oregonlegislature.gov/bills_laws/pages/ors.aspx)).

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

The rule change will not affect racial equity in the State of Oregon.

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#### FISCAL AND ECONOMIC IMPACT:

Amending this rule aligns the rule with the existing statutory authority consistent with the intent of the Oregon Department of Geology and Mineral Industries (DOGAMI), and therefore does not result in fiscal or economic impact.

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#### 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) Amending this rule is not anticipated to have economic impacts to any state agencies, units of local government, or members of the public.

(2)(a) DOGAMI estimates that up to 315 small businesses are subject to this rule.

(2)(b) The rule change will not result in any changes to small business reporting, recordkeeping, administrative activities, or costs of compliance.

(2)(c) The rule change will not result in any changes to small business costs including professional services, equipment, supplies, labor, and increased administration required to comply with the rule.

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

DOGAMI will use the permanent rulemaking Notice procedures including publishing Notice in the Oregon Bulletin, and on the Oregon Transparency Website to solicit input and involve small businesses. DOGAMI will also hold a hybrid Public Hearing. The rulemaking Notice and information about how to attend the Public Hearing will be posted on our website, sent out via our rulemaking listserv email system, and information about the rulemaking and Public Hearing has been shared with both the Oregon Concrete and Aggregate Producers Association (OCAPA) and the Oregon Independent Aggregate Association (OIAA). The membership of both of those organizations includes small businesses.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A Rules Advisory Committee was not consulted as part of this rulemaking effort because the rule change is being implemented to align the rule with existing statute ORS 517.880. DOGAMI's intent when issuing Suspension Orders is that they are final orders effective upon issuance/receipt, however the current rule text is not consistent with this intent or the intent of existing statute (ORS 517.880). As such, this rulemaking effort is being made for clarifying purposes and will not result in any significant operational changes.

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AMEND: 632-030-0056

RULE SUMMARY: This rule is being amended to align the rule text with Oregon Revised Statute 517.880. The Department's intent when issuing a suspension order is to prevent adverse impacts to adjacent properties and/or the environment by requiring the immediate suspension of mining operations at any surface mining site where the operator has not complied with or is not complying with the operating permit, reclamation plan, this chapter or rules of the department.

CHANGES TO RULE:

632-030-0056

Appeals ¶

(1) Prior to the initiation of an administrative appeal of any proposed Departmental order, notice, fee, or other proposed action made pursuant to the Act or the rules adopted thereunder, the applicant or permittee may first request that the State Geologist informally review and resolve the matter. The State Geologist will provide a written decision within 30 days of receipt of such an informal request. If the State Geologist is unable to resolve the informal request, the applicant or permittee may request a contested case hearing by the Board or its designee for final resolution of the matter. Appeals must be filed within 30 days of receipt of the proposed order, notice, other proposed action being appealed, or receipt of State Geologist written decision except as otherwise provided by OAR 632-030-0030(4) and by the applicable provisions of 183.310 through 183.550. A final determination by the Board must be made before any appeal for judicial review under ORS 183.480 is allowed.¶

(2) An applicant or permittee requesting a hearing for consideration of any appeal of any proposed action shall state the reasons for requesting the hearing and the objections to the Department's proposed order, notice, fee, or other proposed action in accordance with ORS 183.430-183.470.¶

(3) The Department may suspend operations effective immediately in accordance with ORS 517.880 by issuing a suspension order. A suspension order shall be issued as a final order in other than a contested case subject to judicial review under ORS 183.484.

Statutory/Other Authority: ORS 516.090(2)(a), 517.740, 517.840(1)(d)4, 517.880

Statutes/Other Implemented: ORS 517.890