

Enrolled
Senate Bill 361

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CHAPTER

AN ACT

Relating to applications for operating permits for surface mining; creating new provisions; and amending ORS 517.830.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 517.830 is amended to read:

517.830. (1) Upon receipt of an application for an operating permit, the State Department of Geology and Mineral Industries shall:

(a) Inspect the operating site described in the application[.]; **and**

(b) Provide notice to the local jurisdiction and an opportunity for the local jurisdiction to, within 30 days after the date of the notice, request that the department delay a decision on an operating permit and reclamation plan as provided in subsection (4) of this section.

(2) Within 90 days after the date that the application and the required permit fee are received, the department shall issue the operating permit applied for or, if it considers the application incomplete, return the application to the applicant for correction of the deficiencies indicated by the department.

[2)] **(3)** Failure by the department to act upon the reclamation plan submitted with an application for an operating permit within the 90-day period referred to in subsection [(1)] **(2)** of this section is not a denial by the department of the operating permit applied for. The department, pending final approval of a reclamation plan, may issue a provisional permit subject to reasonable limitations that may be prescribed by the department and conditioned upon the applicant's compliance with the bond and security requirements established by ORS 517.810.

[(3)(a)] **(4)(a)** Notwithstanding subsections [(1) and (2)] **(2) and (3)** of this section, if an application involves an aggregate site that requires a permit issued pursuant to ORS 215.427 or 227.178, and if the local jurisdiction requests that the application not be decided until the local jurisdiction has taken final action, the department shall make a final decision on the operating permit and reclamation plan no later than 165 days after the date a complete land use application is submitted to the local jurisdiction, unless the applicant agrees to allow additional time under ORS 215.427, 215.429, 227.178 or 227.179. If a plan amendment is required as part of issuance of a permit, the provisions of paragraph (b) of this subsection apply. The department may not approve an operating permit and reclamation plan if the land use application is denied.

(b) Notwithstanding subsections [(1) and (2)] **(2) and (3)** of this section, if an application involves an aggregate site that requires amendment to a comprehensive plan, as defined in ORS 197.015, and if the local jurisdiction requests that the application not be decided until the local jurisdiction has

taken final action on the plan amendment, the department may not make a final decision on the operating permit and reclamation plan until the local jurisdiction has taken final action on the plan amendment. The department shall make its final decision within 45 days of the date that the local jurisdiction has taken final action on the plan amendment. The department may not approve an operating permit and reclamation plan if the plan amendment is denied.

[(4)] (5) Conditions and requirements imposed on an operating permit and reclamation plan, and modifications thereto, issued subsequent to issuance of a local jurisdiction permit shall be compatible with the requirements and conditions of the local government permit, unless more stringent requirements are necessary to comply with the provisions of ORS 517.750 to 517.901.

[(5) If a local jurisdiction does not request that the department delay a decision on an operating permit and reclamation plan as provided in subsection (3) of this section, the department shall:]

[(a) give the local jurisdiction the opportunity to review and comment on the application; and]

[(b) notify the local jurisdiction of the decision and requirements and conditions imposed by the department.]

(6)(a) If a local jurisdiction does not request that the department delay a decision on an operating permit and reclamation plan as provided in subsections (1)(b) and (4) of this section, the department shall, prior to issuing the operating permit, give the local jurisdiction notice and an opportunity to provide comments and the following information about the proposed operating permit and reclamation plan:

(A) Information about any applicable local land use regulations;

(B) Whether the site described in the proposed operating permit and reclamation plan is included on a local government inventory required by any open spaces, scenic and historic areas and natural resources land use planning goal;

(C) A statement that an application has or has not been filed for local approval; and

(D) Any other information that the local jurisdiction considers pertinent in its review of the application.

(b) A local jurisdiction shall respond to a notice provided under paragraph (a) of this subsection within 35 days after the date of the notice.

[(6)] (7) If the department refuses to approve a submitted reclamation plan, it shall notify the applicant, in writing, of its reasons for the refusal to approve the reclamation plan, including additional requirements as may be prescribed by the department for inclusion in the reclamation plan. Within 60 days after the receipt of the notice, the applicant shall comply with the additional requirements prescribed by the department for the reclamation plan or file with the department a notice of appeal from the decision of the department with respect to the reclamation plan. If a notice of appeal is filed with the department by the applicant, the department may issue a provisional permit to the applicant.

[(7)] (8) If an application is submitted as part of the consolidated application process under ORS 517.952 to 517.989, review of the application and approval or denial of the application shall be in accordance with ORS 517.952 to 517.989. However, the review and approval or denial shall take into consideration all policy considerations for issuing a permit under ORS 517.702 to 517.989.

SECTION 2. The amendments to ORS 517.830 by section 1 of this 2015 Act apply to operating permits applied for under ORS 517.790 on or after the effective date of this 2015 Act.

Passed by Senate April 28, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 9, 2015

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Tina Kotek, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State