

**Enrolled**  
**House Bill 3563**

Sponsored by Representative SMITH, Senator JOHNSON; Representatives HOYLE, MCLANE, WITT, Senator BEYER

CHAPTER .....

AN ACT

Relating to requirements for engaging in surface mining; creating new provisions; and amending ORS 517.800 and 517.810.

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

**SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 517.702 to 517.989.**

**SECTION 2. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (15), a person must obtain an exclusion certificate from the State Department of Geology and Mineral Industries to engage in surface mining that results in the extraction of 5,000 cubic yards or less of minerals or affects less than one acre of land within a period of 12 consecutive calendar months. Except as provided in ORS 517.755, a mining operation subject to a valid exclusion certificate is not subject to the operating permit or reclamation requirements set forth in ORS 517.702 to 517.989.**

**(2) A person shall submit an exclusion certificate application on a form provided by the department, accompanied by a fee not to exceed \$400. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application shall be deemed approved.**

**(3) Each holder of an exclusion certificate shall annually pay to the department a renewal fee of \$150, accompanied by a description of:**

**(a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;**

**(b) The total acreage of surface disturbance by the mining operation as of the date that the renewal is submitted; and**

**(c) Any additional information required by the department to determine that the mining operation continues to qualify for an exclusion certificate.**

**SECTION 3. ORS 517.800 is amended to read:**

**517.800. (1)(a) Except for an application for a mining operation submitted under ORS 517.910 to 517.989, each applicant for an operating permit under ORS 517.702 to 517.989 shall pay to the State Department of Geology and Mineral Industries a fee established by the State Geologist in an amount not to exceed [~~\$1,260~~] **\$1,750**.**

**(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.

(2) Annually, each holder of an operating permit shall pay to the department a base fee of [~~\$635~~] **\$850**, plus [~~\$0.0075~~] **\$0.0095** per ton of aggregate or mineral ore extracted during the previous 12-month period.

(3) If a reclamation plan is changed, the operator may be assessed for staff time and other related costs an amount not to exceed [~~\$1,260~~] **\$1,750** in addition to the annual renewal fee. This subsection does not apply to a mining operation that is subject to the fee established by ORS 517.973 (2)(a).

(4) If, at operator request, the department responds to requests for information required by a local government in making a land use planning decision on behalf of the operator for a specific site, the State Geologist may require the operator to pay the department a fee for staff time and related costs. The department shall notify the operator in advance of the estimated costs of providing the information, and the actual amount assessed shall not exceed the estimate provided by the department.

(5) The State Geologist may require the operator of a site to pay to the department a special inspection fee in an amount not to exceed [~~\$200~~] **\$500** for an inspection conducted under the following circumstances:

(a) Investigation of surface mining operations conducted without the operating permit required under ORS 517.790; or

(b) Investigation of surface mining operations conducted outside the area authorized in an operating permit.

(6) Upon request of an applicant or operator, the department shall provide an itemized list and documentation of expenses used to determine a fee under subsection (1)(b), (3) or (4) of this section.

(7) Notwithstanding the per ton fee established in subsection (2) of this section, the governing board of the department may lower to zero or raise the per ton fee up to [~~\$0.0085~~] **\$0.0095** if necessary to provide financial certainty to the department or to reflect actual expenses of the department in administering ORS 517.702 to 517.951. [*If the per ton fee established in subsection (2) of this section is raised by the governing board, the additional amount of money*]

**(8) All fees collected by the department under this section shall be deposited in the Mined Land Regulation and Reclamation Program Subaccount within the Geology and Mineral Industries Account. The department shall prepare and submit to the governing board of the State Department of Geology and Mineral Industries an annual report on the financial status of the Mined Land Regulation and Reclamation Program Subaccount.**

[~~(8)~~] **(9) The governing board of the [State Department of Geology and Mineral Industries] department:**

(a) Shall adopt by rule a procedure for the administrative review of the determinations of fees under this section.

(b) Shall adopt rules establishing the payment date for annual fees required under this section.

(c) May adopt rules establishing a late fee of up to five percent of the unpaid amount of an annual fee owed under this section if the annual fee is more than 60 days past due.

**SECTION 4.** ORS 517.810 is amended to read:

517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or issuing or reissuing an exploration permit for any exploration activity, the State Department of Geology and Mineral Industries shall require that the applicant for the permit file with it a bond or security acceptable to the department in a sum to be determined by the department but in an amount not to exceed the total cost for reclamation if the department were to perform the reclamation. The decision of the department may be appealed to the governing board of the State Department of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security shall be conditioned upon the faithful performance of the reclamation plan and of the other requirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

(2) Nothing in this section shall apply to any public body, as defined in ORS 174.109.

(3) In lieu of the bond or other security required of the applicant in subsection (1) of this section, the department may accept a similar security from the landowner, equal to the estimated cost of reclamation as determined by the department in consultation with the operator or explorer. The decision of the department may be appealed to the governing board as provided in ORS chapter 183.

(4) In lieu of the bond required by subsection (1) of this section, the department may accept a blanket bond covering two or more surface mining sites or exploration projects operated by a single company, owned by a single landowner or operated by all members of an established trade association, in an amount, established by the department, not to exceed the amount of the bonds that would be required for separate sites.

(5) The governing board shall identify by rule the procedures for the determination of the amount of the bond or other security required of an applicant for an operating permit or exploration permit. The rules:

(a) Shall provide an opportunity for participation by the applicant as part of the procedures; and

(b) May allow for the amount of the bond to be calculated and adjusted based upon the total area expected to be in a disturbed condition in the following year as a result of the surface mining or exploration operation.

**(6) Any deposit of moneys accepted and held by the department as a form of security pursuant to the provisions of this section shall be deposited in the Reclamation Guarantee Fund.**

**SECTION 5. (1) The Reclamation Guarantee Fund is established in the State Treasury, separate and distinct from the General Fund. The Reclamation Guarantee Fund shall consist of deposits of moneys received under ORS 517.810.**

**(2) Interest earned on the Reclamation Guarantee Fund shall be paid to the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account.**

**(3) The State Department of Geology and Mineral Industries shall annually prepare and submit to the governing board of the department a report on the financial status of the Reclamation Guarantee Fund.**

**SECTION 6. The State Department of Geology and Mineral Industries shall, before January 1, 2017, transfer to the Reclamation Guarantee Fund all moneys accepted prior to the effective date of this 2015 Act and held by the department as a form of security pursuant to the provisions of ORS 517.810.**

**SECTION 7. Section 6 of this 2015 Act is repealed on January 2, 2017.**

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**Passed by House June 25, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 30, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

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

**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