

Enrolled
House Bill 2185

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Environmental Quality)

CHAPTER

AN ACT

Relating to state certification for discharges into water; amending ORS 468B.047.

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

SECTION 1. ORS 468B.047 is amended to read:

468B.047. (1) The Environmental Quality Commission *[may]* **shall** establish, by rule, a schedule of fees **required** for state certification under *[section 401 of the]* **33 U.S.C. 1341 of the** Federal Water Pollution Control Act, *[PL 92-500]* as amended. *[The commission shall not assess fees under subsections (1) and (2) of this section for activities:]*

[(a) That have an operating permit for surface mining under ORS chapter 517;]

[(b) Relating to commercial sand and gravel removal operations;]

[(c) Involving removal of less than 500 cubic yards of material; or]

[(d) Involving a fill of less than two acres.]

[(2) As used in subsections (1) and (2) of this section, “fill” and “removal” have the meanings given in ORS 196.800.]

(2) The fees authorized by this section must be based on the nature of the underlying federal license or permit, the size of the project, the estimated or actual costs incurred by the Department of Environmental Quality and any other relevant factors.

(3) The commission shall establish, by rule, procedures for an applicant for certification to seek review of the department’s determination of the appropriate fee. The procedures must include the ability of the applicant to request review by the Director of the Department of Environmental Quality and the applicant’s right to a contested case hearing under ORS chapter 183.

(4) The provisions of this section do not apply to fees authorized under ORS 468.065 (3).

[(3)] **(5) Any fees received under *[subsections (1) and (2) of]* this section shall be deposited in the State Treasury to the credit of an account of the Department of Environmental Quality and are continuously appropriated to meet the administrative expenses of the state certification program under *[subsections (1) and (2) of]* this section.**

Passed by House June 11, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 23, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State