

# House Bill 3563

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

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires person that engages in surface mining activities at levels below thresholds for applicability of operating permit and reclamation requirements to obtain exclusion certificate from State Department of Geology and Mineral Industries and to pay fee. Requires holder of exclusion certificate to annually pay renewal fee and submit certain renewal information.

Increases operating permit fees.

Requires moneys accepted and held by department as securities pursuant to reclamation bond or security requirements to be deposited in Reclamation Guarantee Fund.

Establishes Reclamation Guarantee Fund.

Requires certain annual financial reporting by department to governing board of department.

## A BILL FOR AN ACT

1  
2 Relating to requirements for engaging in surface mining; creating new provisions; and amending  
3 ORS 517.800 and 517.810.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 517.702 to**  
6 **517.989.**

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

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

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

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

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

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

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

27 **517.800. (1)(a) Except for an application for a mining operation submitted under ORS 517.910 to**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 517.989, each applicant for an operating permit under ORS 517.702 to 517.989 shall pay to the State  
 2 Department of Geology and Mineral Industries a fee established by the State Geologist in an amount  
 3 not to exceed [~~\$1,260~~] **\$1,750**.

4 (b) If an application for a new permit or an amendment to an existing permit requires extraor-  
 5 dinary department resources because of concerns about slope stability or proximity to waters of the  
 6 state or other environmentally sensitive areas, the applicant shall pay to the department an addi-  
 7 tional fee in an amount determined by the State Geologist to be adequate to cover the additional  
 8 costs for staff and other related expenses. The State Geologist shall consult with the applicant when  
 9 determining the amount of the fee.

10 (2) Annually, each holder of an operating permit shall pay to the department a base fee of  
 11 [~~\$635~~] **\$850**, plus [~~\$0.0075~~] **\$0.0095** per ton of aggregate or mineral ore extracted during the previous  
 12 12-month period.

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

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

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

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

28 (b) Investigation of surface mining operations conducted outside the area authorized in an op-  
 29 erating permit.

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

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

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

42 [~~(8)~~] **(9)** The governing board of the [~~State Department of Geology and Mineral Industries~~] **de-**  
 43 **partment:**

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

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

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

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

5 517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or  
 6 issuing or reissuing an exploration permit for any exploration activity, the State Department of  
 7 Geology and Mineral Industries shall require that the applicant for the permit file with it a bond  
 8 or security acceptable to the department in a sum to be determined by the department but in an  
 9 amount not to exceed the total cost for reclamation if the department were to perform the reclama-  
 10 mation. The decision of the department may be appealed to the governing board of the State De-  
 11 partment of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security  
 12 shall be conditioned upon the faithful performance of the reclamation plan and of the other re-  
 13 quirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

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

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

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

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

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

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

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

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

37 **(2) Interest earned on the Reclamation Guarantee Fund shall be paid to the State**  
 38 **Treasury and deposited in the General Fund to the credit of the Geology and Mineral In-**  
 39 **dustries Account.**

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

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

1 **the provisions of ORS 517.810.**

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

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