



February 24, 2020

Exclusion Certificate – Current Requirements:

- A person **must obtain** an **exclusion certificate** to engage in surface mining that results in the **extraction of 5,000 cubic yards or less** of minerals (defined below) or **affects less than one acre** of land within a period of **12 consecutive months**.
 - “Minerals” defined to include soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits situated within or upon lands in this state.
- A mining operation subject to a valid **exclusion certificate** is **not subject to the operating permit or reclamation requirements**
- Exclusion Certificate application fee is capped by statute not to exceed \$400. Currently, an Exclusion Certificate **application fee** is set by rule at **\$80**. Each year on average, DOGAMI processes 10 Exclusion Certificate applications.
- The annual Exclusion Certificate **renewal fee** is **\$150**. There are 99 Exclusion Certificates that are currently renewed annually.

RE: SB 1579-4 Exclusion Certificate Summary:

Total volume of reported minerals extracted in 12-months (volunteer reporting)	Existing Exclusion Certificates	Exclusion Certificates (EC) under SB 1579-4
Zero minerals extracted	66	84 ECs (not captured)
1 to 1,499 cubic yards (CY)	18	
1,500 to 5,000 CY	15	15 ECs (captured)

SB 1579-4 amendment language specific to minimum extraction thresholds:

- **Establishes a minimum threshold** and proposes that an **Exclusion Certificate** is **required** for each surface mining operation that, within a 12-month period, results in the extraction of **between 1,500 and 5,000 cubic yards** of minerals.

There is the potential that a number of the 84 existing Exclusion Certificate (EC) holders that are below the SB 1579-4 proposed threshold would elect not to maintain renewing the certificate. Some EC holders find value with maintaining the certificate whether they extract minerals or not. Without stakeholder engagement, it is difficult to estimate the number of EC holders that may elect not to

maintain the certificate. Potentially, the number of annual EC renewals could be reduced from 99 to 15 EC with a corresponding reduction in fee revenue from \$16,335 to \$2,475.

Additionally, SB 1579-4 amendments contain conflicting language.

On page 1 of the printed bill (SB 1579-4), lines 11-14 states:

“(2) Mining conducted under a valid exclusion certificate may expand the affected area by not more than one acre of land within any 12-month period unless the total acreage of surface disturbance by the mining operation exceeds five acres.”

The unacceptable consequence of the proposed language would be that an Exclusion Certificate would be an option after exceeding five acres. Under existing statute, as soon as any mining operation affects more than five acres of land, an Exclusion Certificate would no longer be valid, and the mining operation would be subject to operating permit and reclamation requirements pursuant to ORS 517.702 to 517.989.