

Enrolled
House Bill 4302

Sponsored by Representative KOTEK; Representative WILDE (at the request of Joint Committee on the Second Special Session of 2020)

CHAPTER

AN ACT

Relating to geological permits; amending ORS 517.705, 517.710, 517.715, 517.730, 517.753, 517.800, 517.973, 520.017, 520.025, 522.055, 522.115 and 522.135.

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

SECTION 1. ORS 517.705 is amended to read:

517.705. (1) *[Any person engaging]* **A person may not engage** in onshore exploration that disturbs more than one surface acre or involves drilling to greater than 50 feet *[shall obtain an exploration permit. Prior to receiving an exploration permit, an applicant shall submit a permit application on a form provided by the State Department of Geology and Mineral Industries. Information required shall include the information necessary to assess impacts of the proposed exploration, including but not limited to:]* **except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section.**

(2) An application for an onshore exploration permit must include:

- (a) The name and address of the surface owner and mineral owner.
- (b) The names and addresses of the persons conducting the exploration.
- (c) The name and address of any designated agent.
- (d) A brief description of the exploration activities, including *[but not limited to]:*
 - (A) The amount of road to be constructed;
 - (B) The number, depth and location of proposed drill holes;
 - (C) The number, depth and location of proposed monitoring wells; and
 - (D) The number, length, width and depth of exploration trenches.
- (e) Provisions for the reclamation of surface disturbance caused by exploration activities.
- (f) Exploration drill hole or monitoring well abandonment procedures, including *[but not limited to]:*
 - (A) The capping of all holes;
 - (B) The plugging of any hole producing surface flow; and
 - (C) Appropriate sealing for any holes which have encountered aquifers.
- (g) **[A] An exploration boundary** map with the location of the proposed exploration and delineation of exploration boundaries.

(h) Such other information as the department by rule may require to assess the impacts of the proposed exploration.

(i) A nonrefundable fee of \$2,000 per application.

(3) Each permit application may include a single contiguous exploration boundary that is no more than 640 acres.

[2] (4) Any production records, mineral assessments or trade secrets submitted as part of the application under subsection [(1)] (2) of this section [shall be] **are** confidential.

SECTION 2. ORS 517.710 is amended to read:

517.710. (1) [A fee, not to exceed \$400 shall accompany the application described in ORS 517.705. The State Department of Geology and Mineral Industries may] **If the person conducting an exploration under a permit issued under ORS 517.705 is not in violation of ORS 517.702 to 517.740 or 517.810 or any terms of the permit and has paid an annual renewal fee not to exceed \$1,460 prior to the anniversary date of the permit as established by the State Department of Geology and Mineral Industries, the department shall renew the permit.** [annually on the anniversary date of the issuance of the permit, provided the person conducting the exploration is not in violation of any provision of ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920 and pays a renewal fee not to exceed \$300.]

[(2) A permit shall be subject to suspension and revocation as provided by ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920.]

(2) Nothing in this section prevents the department from suspending or revoking a permit for violations of ORS 517.702 to 517.740 or 517.810 or taking any other action authorized under ORS chapter 517.

SECTION 3. ORS 517.753 is amended to read:

517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (16), a person [must obtain an exclusion certificate from the State Department of Geology and Mineral Industries to] **may not** 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 in compliance with an exclusion certificate issued by the State Department of Geology and Mineral Industries under this section.** 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] **not to exceed \$165**, 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 4. 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 [\$1,750] **\$2,000.**

(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] **deems** 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 \$850, plus \$0.0095 per ton of aggregate or mineral ore extracted during the previous 12-month period.]

(2) A holder of an operating permit that did not extract minerals during the preceding 12-month period shall pay to the department an annual renewal fee of \$1,200. A holder of an

operating permit that extracted minerals during the preceding 12-month period shall pay to the department an annual renewal fee of \$1,460 and \$0.0125 per ton of minerals extracted during the preceding 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 [*\$1,750*] **\$2,000** 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* **an** operator [*request,*] **requests that** the department [*responds*] **respond** 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*] **assessment may** 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 [*\$500*] **\$2,000** 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 [*\$0.0095 if necessary to provide financial certainty to the department or*] **\$0.015** to reflect actual expenses of the department in administering ORS 517.702 to 517.951.

(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*] **department** an annual report on the financial status of the Mined Land Regulation and Reclamation Program Subaccount.

(9) The governing board of the department **shall adopt rules establishing:**

(a) [*Shall adopt by rule a procedure*] **Procedures** 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*] **fees** of up to five percent of the unpaid amount of [*an annual*] **a** fee owed under this section if the [*annual*] fee is more than 60 days past due.

SECTION 5. ORS 517.973 is amended to read:

517.973. (1) In addition to any permit fee required by any other permitting agency, each notice of intent to submit a consolidated application under ORS 517.961 [*shall*] **must** be accompanied by an initial fee established by the State Geologist in an amount not to exceed [*\$1,260*] **\$2,000**.

(2)(a) Annually on the anniversary date of [*the issuance of each such*] **an** operating permit, each holder of an operating permit shall pay to the State Department of Geology and Mineral Industries a renewal fee established by the State Geologist in an amount not less than \$2,500.

(b) In addition to the fee prescribed in paragraph (a) of this subsection, the department may charge an [*additional*] amount not to exceed \$1,200 for inspections made at sites **if the surface mining is:**

(A) [*Where surface mining was*] Conducted without the permit required by ORS 517.790;

(B) [*Where surface mining has been*] Abandoned; or

(C) [*Where surface mining was*] Conducted in an area not described in the surface mining permit.

(3) Subject to the provisions of subsection (5) of this section, the prospective applicant or applicant shall pay all expenses incurred by the department and the permitting and cooperating agencies related to the consolidated application process under ORS 517.952 to 517.989. These expenses may include legal expenses, expenses incurred in processing and evaluating the consolidated application, issuing a permit or final order and expenses of hiring a third party contractor under ORS 517.979 and 517.980.

(4) If the costs exceed the fee, the prospective applicant or applicant shall pay any excess costs shown in an itemized statement prepared by the department. *[In no event shall]* The department and permitting and cooperating agencies **may not** incur evaluation expenses in excess of 110 percent of the fee initially paid unless the department provides prior notification to the prospective applicant or applicant and a detailed projected budget the department believes necessary to complete the process or a portion of the process under ORS 517.952 to 517.989. If the **actual** costs are less than the fee paid, the **department shall refund the** excess *[shall be refunded]* to the prospective applicant or applicant.

(5) All expenses incurred by the department and the permitting and cooperating agencies under ORS 517.952 to 517.989 that are charged to or allocated to the fee paid by a prospective applicant or an applicant shall be necessary, just and reasonable. Upon request, the department shall provide a detailed justification for all charges to the prospective applicant or applicant.

SECTION 6. ORS 520.017 is amended to read:

520.017. (1) The following fees are established under this chapter:

(a) The application fee for a permit to drill a well[,] **is \$2,000.**

[(b) The fee for a request to extend the period for completion of drilling, \$500.]

[(c)] (b) The fee to modify [operations at a well, \$1,500] a well permit, information hole permit or seismic program permit is \$2,000.

[(d) The fee to sidetrack a well, \$500.]

[(e) The fee to plug and abandon a well, \$1,000.]

[(f)] (c) The annual renewal fee for [operation and maintenance of a well, \$1,500 the first renewal year and \$500 for each subsequent year] a well permit, information hole permit or seismic program permit is \$1,160.

[(g)] (d) The application fee for a permit to drill an information hole [is to be determined by the State Department of Geology and Mineral Industries based] may not exceed \$2,000 per five information holes drilled in a contiguous 640-acre area. The State Department of Geology and Mineral Industries shall base the fee on the estimated cost of review and approval[,] and the number and location of information holes to be drilled. [The fee may not exceed \$1,000 per information hole.]

[(h)] (e) The fee for approval of a seismic program [shall be determined by the department based on] may not exceed \$2,000. The department shall base the fee on the estimated cost of review and approval, but may not exceed \$1,000.

(f) A permittee that requests to transfer a well permit, information hole permit or seismic program permit must pay a nonrefundable fee of \$2,000 at the time of the request.

(2) The governing board of the *[State Department of Geology and Mineral Industries]* **department** by rule may specify a schedule of fees for costs incurred by the department for activities related to field designation for purposes of this section.

(3) All moneys received by the *[State Department of Geology and Mineral Industries]* **department** under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established in ORS 516.070.

SECTION 7. ORS 520.025 is amended to read:

520.025. (1) A person may not drill or use a well without first obtaining a permit from the State Department of Geology and Mineral Industries and posting any bond that may be required pursuant to ORS 520.095 (1). *[Drilling must be completed within one year from the date the permit is issued unless an extension is granted under subsection (2) of this section.]* When drilling has been completed, the well must be maintained under a permit until it is properly plugged and the site is reclaimed.

[(2) An unused permit may be extended by the department for a reasonable period upon receipt of a written request from the permittee before the expiration date of the permit. The request shall be accompanied by a nonrefundable fee established under ORS 520.017.]

[(3)] (2) A permittee maintaining or operating a well shall provide the department with an annual report on a form provided by the department. Subject to the determinations in subsection [(4)] (3) of this section, a permittee shall renew the permit for a well by paying the fee established under ORS 520.017.

[(4)(a)] (3)(a) If upon receipt of the application the department determines that the method and equipment to be used by the applicant in drilling or operating the well comply with applicable laws and rules, the department shall issue the permit.

(b) The department may refuse to issue, refuse to renew or revoke a permit issued pursuant to this section if the department determines that methods or equipment to be used or being used in drilling or operating the well do not comply with applicable laws or rules, or that the well will not be operated and maintained or is not being operated or maintained in compliance with the permit and applicable laws or rules.

SECTION 8. ORS 522.055 is amended to read:

522.055. (1) [No person shall] **A person may not** engage in drilling a prospect well **except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section** [without first obtaining a permit issued under the authority of the State Department of Geology and Mineral Industries and without complying with the conditions of such permit].

(2) An application **for a permit** to drill prospect wells [shall] **must include** [contain such information as the department may require, including but not limited to]:

(a) A plugging and decommissioning plan[, and shall be accompanied by];

(b) **Such other information as the department by rule may require to assess the impacts of the proposed prospect well; and**

(c) A nonrefundable fee [in the amount] **as** determined by the department **based on** [to be] the estimated cost of review of the proposed prospect wells, **not to exceed \$2,000 per application or permit modification.**

(3) Each application may include up to five prospect wells [in a given] **per** project area. [The amount of the fee may not exceed \$1,000 per five prospect wells.] **The project area must be contiguous and include no more than 640 acres.**

(4) A permit to drill remains valid until it is revoked or modified by the department based on new information or changed conditions.

[(3)] (5) The permittee shall [provide] **pay the department** an annual nonrefundable **renewal** fee of [500] **\$2,725** on or before the anniversary of [the issuance date of] each active permit.

[(4)] (6) [A request by] A permittee **that requests** to transfer a permit issued under this section shall [be accompanied by] **pay** a nonrefundable fee of [500] **\$2,000 at the time of the request.**

[(5)] (7) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070.

SECTION 9. ORS 522.115 is amended to read:

522.115. (1) [No person shall] **A person may not** engage in the drilling or operating of any geothermal well **except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section** [without first obtaining a permit issued under the authority of the State Department of Geology and Mineral Industries, and without complying with the conditions of such permit].

(2) An application for a permit [shall] **to drill or operate a geothermal well must include** [contain]:

(a) The location and elevation of the floor of the proposed derrick.

(b) The number or other designation approved by the department by which the well shall be known.

(c) The applicant's estimate of the depths to be drilled.

- (d) The nature and character of the geothermal resource sought.
- (e) A reclamation plan for the well pad.
- (f) Such other information as the [governing board of the State Department of Geology and Mineral Industries] **department** by rule may require **to assess the impact of the proposed geothermal well.**

[3] (g) [An application for a permit shall be accompanied by] A nonrefundable fee of \$2,000.

[4] (3) The permittee shall [provide] **pay** an annual nonrefundable renewal fee of **\$2,725** on or before the anniversary of [the issuance date of] each active permit. [as follows:]

[a] \$1,500 for the first renewal year.]

[b] \$500 for each subsequent renewal year.]

[5] (4) A request by a permittee to modify a permit shall be accompanied by a nonrefundable fee not to exceed [1,500] **\$2,000.**

[6] (5) A request by a permittee to transfer a permit issued under this section [shall] **must** be accompanied by a nonrefundable fee of [500] **\$2,000.**

[7] A request by a permittee to plug and decommission a geothermal well shall be accompanied by a nonrefundable fee of \$1,000.]

[8] (6) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070.

SECTION 10. ORS 522.135 is amended to read:

522.135. (1) Within 60 days after receipt of a complete application for a permit to drill or operate a geothermal well, the State Department of Geology and Mineral Industries shall by order issue or deny the permit unless the department determines that a longer period is necessary to respond to comments or new information or for other good cause.

(2) Except as provided in ORS 522.145, the department shall issue the permit if, after receipt of comments from the agencies referred to in ORS 522.125, the department determines that issuance of the permit would be consistent with the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the [State Department of Geology and Mineral Industries] **department**, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the Environmental Quality Commission.

(3) If the department issues a permit pursuant to this section, the department shall impose such conditions as the department considers necessary to carry out the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the department, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the Environmental Quality Commission. The department shall include in the permit a statement that issuance of the permit does not relieve any person from any obligation to comply with ORS 468B.035, 468B.050, 468B.195, 537.090 or 537.535 or any other applicable state or federal environmental laws.

(4) The State Geologist shall incorporate into the permit requirements:

(a) Any conditions made by the Water Resources Director necessary to comply with the purposes set forth in ORS 537.525; and

(b) Any conditions made by the Department of Environmental Quality necessary to comply with the purposes set forth in ORS 468A.010 and 468B.015.

[5] *Drilling, redrilling or deepening must begin within one year after the date of permit issuance or the permit shall expire. However, the State Department of Geology and Mineral Industries may extend the unused permit for a reasonable period not to exceed one year beyond the initial one-year period upon receipt of a written request from the permittee before the expiration date of the permit. The request shall be accompanied by the nonrefundable fee specified in ORS 522.115.]*

SECTION 11. ORS 517.715 is amended to read:

517.715. (1) When exploration will result in less than one acre of surface disturbance or drilling to 50 feet or less, any person conducting exploration is exempted from the requirements of the per-

mit procedure described in ORS 517.702 to 517.740. However, nothing in this section exempts a person from the requirements of ORS chapter 273 or the requirements of other departments.

(2) All mineral exploration drill holes shall comply with the abandonment procedures specified in ORS 517.705 [(1)(f)] (2)(f).

SECTION 12. ORS 517.730 is amended to read:

517.730. (1) The State Department of Geology and Mineral Industries shall consult with the Water Resources Department on the development of rules covering drill hole or monitoring well abandonment procedures, including procedures for the abandonment of holes and wells for which no exploration permit is required in ORS 517.705.

(2) Nothing in ORS 517.702 to [517.755, 517.790, 517.810, 517.910 and 517.920] **517.740** prohibits the conversion of exploration drill holes or monitoring wells to water wells, provided that the conversion conforms to the standards and rules of the Water Resources Department.

Passed by House August 10, 2020

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate August 10, 2020

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2020

Approved:

.....M,....., 2020

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2020

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Bev Clarno, Secretary of State