

**Enrolled**  
**House Bill 2119**

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

CHAPTER .....

AN ACT

Relating to 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.** Sections 2, 3 and 4 of this 2005 Act are added to and made a part of ORS 517.750 to 517.901.

**SECTION 2.** A person holding an operating permit issued pursuant to ORS 517.830 shall, no later than March 31 of each year, file an annual report with the State Department of Geology and Mineral Industries. The governing board of the department shall adopt rules describing the information relating to the permit and operations under the permit that must be included in the annual report.

**SECTION 3.** (1) Notwithstanding ORS 517.810 and 517.830, the State Department of Geology and Mineral Industries may issue an emergency operating permit if:

(a) A natural disaster, including but not limited to a flood or an earthquake, or the effects of a natural disaster threaten significant damage to property or to natural resources; and

(b) A surface mining operation is necessary to abate the threat.

(2) The governing board of the department shall adopt rules governing the issuance of emergency operating permits. The rules shall include provisions:

(a) Ensuring that emergency operating permits are not issued over the objection of affected federal agencies or public bodies, as defined in ORS 174.109;

(b) Specifying the terms of an emergency operating permit;

(c) Establishing procedures for converting an emergency operating permit to a standard operating permit; and

(d) Establishing procedures for payment of fees under ORS 517.800.

**SECTION 4.** (1) Notwithstanding ORS 517.810 and 517.830, the State Department of Geology and Mineral Industries may issue a temporary operating permit to a person if:

(a) After consultation, the local jurisdiction with land use authority over the permitted site does not raise substantive objections to the issuance of the permit;

(b) All interested state agencies approve of the permit issuance; and

(c) There is no objection from persons owning property adjacent to the permitted site.

(2) A temporary operating permit issued under this section is subject to reasonable limitations that may be prescribed by the department.

(3) Within 30 days after issuing the temporary operating permit, the operator shall:

(a) Comply with the bond and security requirements established by ORS 517.810;

- (b) Pay any applicable fee pursuant to ORS 517.800; and
- (c) Submit a reclamation plan to the department.
- (4) The governing board of the department shall adopt rules governing the issuance of temporary operating permits. The rules shall include provisions:
  - (a) Ensuring opportunities for notice and comment by federal agencies;
  - (b) Specifying the terms of a temporary operating permit; and
  - (c) Establishing procedures for converting a temporary operating permit to a standard operating permit.

**SECTION 5.** ORS 517.800 is amended to read:

517.800. (1)(a) Except for an application for a chemical process mining operation submitted under ORS 517.952 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 \$1,200.

(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 [on the anniversary date of each operating permit], each holder of an operating permit shall pay to the department a fee established by the State Geologist. The State Geologist shall base the fee on the tonnage of aggregate or mineral ore [extracted] **excavated** during the previous 12 months according to the following schedule:

- (a) \$670 for zero to less than 10,000 tons.
- (b) \$735 for 10,000 to less than 100,000 tons.
- (c) \$935 for 100,000 to less than 200,000 tons.
- (d) \$1,135 for 200,000 to less than 300,000 tons.
- (e) \$1,335 for 300,000 to less than 400,000 tons.
- (f) \$1,535 for 400,000 to less than 500,000 tons.
- (g) \$1,735 for 500,000 to less than 600,000 tons.
- (h) \$1,935 for 600,000 to less than 700,000 tons.
- (i) \$2,135 for 700,000 to less than 800,000 tons.
- (j) \$2,335 for 800,000 to less than 900,000 tons.
- (k) \$2,535 for 900,000 to less than 1,000,000 tons.
- (L) \$2,735 for 1,000,000 to less than 1,100,000 tons.
- (m) \$2,935 for 1,100,000 to less than 1,200,000 tons.
- (n) \$3,135 for 1,200,000 to less than 1,300,000 tons.
- (o) \$3,335 for 1,300,000 to less than 1,400,000 tons.
- (p) \$3,535 for 1,400,000 to less than 1,500,000 tons.
- (q) \$3,735 for 1,500,000 tons or more.

(3) If a reclamation plan is changed to address significant revision or intensification, the permittee may be assessed for staff time and other related costs an amount not to exceed \$625 in addition to the annual renewal fee.

(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 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, permittee 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) The governing board of the State Department of Geology and Mineral Industries:

(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 6.** 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 [*such*] **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 [*or governmental agency*] **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 [*or*], 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) In carrying out the provisions of subsection (1) of this section, the department may reduce the bond for aggregate sites by an amount not to exceed 50 percent if the applicant has conducted the surface mining operation or exploration with a valid operating permit for a period of not less than 10 years and has demonstrated sufficient financial ability to perform the reclamation required by the applicant's approved reclamation plan.]*

**SECTION 7. (1) The governing board of the State Department of Geology and Mineral Industries may direct the department to modify the manner in which the department issues and renews operating permits, other than operating permits for a chemical process mining operation submitted under ORS 517.952 to 517.989, by changing the anniversary dates of all operating permits to the same date.**

(2) If the governing board directs the department to change the anniversary dates of operating permits, the department shall, notwithstanding ORS 517.800, prorate the fees established in ORS 517.800 for permit renewal based on the number of months remaining on the existing permit.

**SECTION 8.** Section 7 of this 2005 Act is repealed on January 2, 2008.

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**Passed by House April 4, 2005**

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Chief Clerk of House

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Speaker of House

**Passed by Senate April 27, 2005**

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President of Senate

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

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Secretary of State