

D R A F T

SUMMARY

Establishes and modifies fees and requirements relating to permits for mineral exploration, mining operations, exclusion certificates, gas and oil drilling and exploration and geothermal well drilling operation. Limits number and distribution of onshore exploration sites and oil, gas and geothermal wells.

A BILL FOR AN ACT

1
2 Relating to geological permits; amending ORS 517.705, 517.710, 517.715,
3 517.730, 517.753, 517.800, 517.973, 520.017, 520.025, 522.055, 522.115 and
4 522.135.

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

6 **SECTION 1.** ORS 517.705 is amended to read:

7 517.705. (1) [*Any person engaging*] **A person may not engage** in onshore
8 exploration that disturbs more than one surface acre or involves drilling to
9 greater than 50 feet [*shall obtain an exploration permit. Prior to receiving an*
10 *exploration permit, an applicant shall submit a permit application on a form*
11 *provided by the State Department of Geology and Mineral Industries. Infor-*
12 *mation required shall include the information necessary to assess impacts of*
13 *the proposed exploration, including but not limited to:*] **except in compliance**
14 **with a permit issued by the State Department of Geology and Mineral**
15 **Industries under this section.**

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

- 17 (a) The name and address of the surface owner and mineral owner.
18 (b) The names and addresses of the persons conducting the exploration.
19 (c) The name and address of any designated agent.

1 (d) A brief description of the exploration activities, including [*but not*
2 *limited to*]:

3 (A) The amount of road to be constructed;

4 (B) The number, depth and location of proposed drill holes;

5 (C) The number, depth and location of proposed monitoring wells; and

6 (D) The number, length, width and depth of exploration trenches.

7 (e) Provisions for the reclamation of surface disturbance caused by ex-
8 ploration activities.

9 (f) Exploration drill hole or monitoring well abandonment procedures,
10 including [*but not limited to*]:

11 (A) The capping of all holes;

12 (B) The plugging of any hole producing surface flow; and

13 (C) Appropriate sealing for any holes which have encountered aquifers.

14 (g) [A] **An exploration boundary** map with the location of the proposed
15 exploration and delineation of exploration boundaries.

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

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

19 **(3) Each permit application may include a single contiguous explo-**
20 **ration boundary that is no more than 640 acres.**

21 [(2)] **(4) Any production records, mineral assessments or trade secrets**
22 **submitted as part of the application under subsection [(1)] (2) of this section**
23 **[shall be] are confidential.**

24 **SECTION 2.** ORS 517.710 is amended to read:

25 517.710. (1) [*A fee, not to exceed \$400 shall accompany the application de-*
26 *scribed in ORS 517.705. The State Department of Geology and Mineral In-*
27 *dustries may]* **If the person conducting an exploration under a permit**
28 **issued under ORS 517.705 is not in violation of ORS 517.702 to 517.740**
29 **or 517.810 or any terms of the permit and has paid an annual renewal**
30 **fee not to exceed \$1,460 prior to the anniversary date of the permit as**
31 **established by the State Department of Geology and Mineral Indus-**

1 **tries, the department shall** renew the permit. [*annually on the anniversary*
2 *date of the issuance of the permit, provided the person conducting the explo-*
3 *ration is not in violation of any provision of ORS 517.702 to 517.755, 517.790,*
4 *517.810, 517.910 and 517.920 and pays a renewal fee not to exceed \$300.]*

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

7 **(2) Nothing in this section prevents the department from suspend-**
8 **ing or revoking a permit for violations of ORS 517.702 to 517.740 or**
9 **517.810 or taking any other action authorized under ORS chapter 517.**

10 **SECTION 3.** ORS 517.753 is amended to read:

11 517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750
12 (16), a person [*must obtain an exclusion certificate from the State Department*
13 *of Geology and Mineral Industries to*] **may not** engage in surface mining that
14 results in the extraction of 5,000 cubic yards or less of minerals or affects
15 less than one acre of land within a period of 12 consecutive calendar months
16 **except in compliance with an exclusion certificate issued by the State**
17 **Department of Geology and Mineral Industries under this section.** Ex-
18 cept as provided in ORS 517.755, a mining operation subject to a valid ex-
19 clusion certificate is not subject to the operating permit or reclamation
20 requirements set forth in ORS 517.702 to 517.989.

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

26 (3) Each holder of an exclusion certificate shall annually pay to the de-
27 partment a renewal fee [*of \$150*] **not to exceed \$165**, accompanied by a de-
28 scription of:

29 (a) The amount of minerals extracted pursuant to the certificate during
30 the previous 12 months;

31 (b) The total acreage of surface disturbance by the mining operation as

1 of the date that the renewal is submitted; and

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

4 **SECTION 4.** ORS 517.800 is amended to read:

5 517.800. (1)(a) Except for an application for a mining operation submitted
6 under ORS 517.910 to 517.989, each applicant for an operating permit under
7 ORS 517.702 to 517.989 shall pay to the State Department of Geology and
8 Mineral Industries a fee established by the State Geologist in an amount not
9 to exceed [~~\$1,750~~] **\$2,000**.

10 (b) If an application for a new permit or an amendment to an existing
11 permit requires extraordinary department resources because of concerns
12 about slope stability or proximity to waters of the state or other environ-
13 mentally sensitive areas, the applicant shall pay to the department an addi-
14 tional fee in an amount [*determined by*] the State Geologist [*to be*] **deems**
15 adequate to cover the additional costs for staff and other related expenses.
16 The State Geologist shall consult with the applicant when determining the
17 amount of the fee.

18 [*(2) Annually, each holder of an operating permit shall pay to the depart-*
19 *ment a base fee of \$850, plus \$0.0095 per ton of aggregate or mineral ore ex-*
20 *tracted during the previous 12-month period.*]

21 **(2) A holder of an operating permit that did not extract minerals**
22 **during the preceding 12-month period shall pay to the department an**
23 **annual renewal fee of \$1,200. A holder of an operating permit that ex-**
24 **tracted minerals during the preceding 12-month period shall pay to the**
25 **department an annual renewal fee of \$1,460 and \$0.0125 per ton of**
26 **minerals extracted during the preceding 12-month period.**

27 (3) If a reclamation plan is changed, the operator may be assessed for staff
28 time and other related costs an amount not to exceed [~~\$1,750~~] **\$2,000** in ad-
29 dition to the annual renewal fee. This subsection does not apply to a mining
30 operation that is subject to the fee established by ORS 517.973 (2)(a).

31 (4) If[, *at*] **an** operator [*request,*] **requests that** the department

1 [*responds*] **respond** to requests for information required by a local govern-
2 ment in making a land use planning decision [*on behalf of the operator for*
3 *a specific site*], the State Geologist may require the operator to pay the de-
4 partment a fee for staff time and related costs. The department shall notify
5 the operator in advance of the estimated costs of providing the information,
6 and the [*actual amount assessed shall*] **assessment may** not exceed the es-
7 timate [*provided by the department*].

8 (5) The State Geologist may require the operator of a site to pay to the
9 department a special inspection fee in an amount not to exceed [*\$500*] **\$2,000**
10 for an inspection conducted under the following circumstances:

11 (a) Investigation of surface mining operations conducted without the op-
12 erating permit required under ORS 517.790; or

13 (b) Investigation of surface mining operations conducted outside the area
14 authorized in an operating permit.

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

18 (7) Notwithstanding the per ton fee established in subsection (2) of this
19 section, the governing board of the department may lower to zero or raise
20 the per ton fee up to [*\$0.0095 if necessary to provide financial certainty to the*
21 *department or*] **\$0.015** to reflect actual expenses of the department in admin-
22 istering ORS 517.702 to 517.951.

23 (8) All fees collected by the department under this section shall be de-
24 posited in the Mined Land Regulation and Reclamation Program Subaccount
25 within the Geology and Mineral Industries Account. The department shall
26 prepare and submit to the governing board of the [*State Department of*
27 *Geology and Mineral Industries*] **department** an annual report on the fi-
28 nancial status of the Mined Land Regulation and Reclamation Program
29 Subaccount.

30 (9) The governing board of the department **shall adopt rules establish-**
31 **ing:**

1 (a) *[Shall adopt by rule a procedure]* **Procedures** for the administrative
2 review of the determinations of fees under this section.

3 (b) *[Shall adopt rules establishing]* The payment date for *[annual]* fees
4 required under this section.

5 (c) *[May adopt rules establishing a]* Late *[fee]* **fees** of up to five percent
6 of the unpaid amount of *[an annual]* a fee owed under this section if the
7 *[annual]* fee is more than 60 days past due.

8 **SECTION 5.** ORS 517.973 is amended to read:

9 517.973. (1) In addition to any permit fee required by any other permitting
10 agency, each notice of intent to submit a consolidated application under ORS
11 517.961 *[shall]* **must** be accompanied by an initial fee established by the
12 State Geologist in an amount not to exceed *[\$1,260]* **\$2,000**.

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

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

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

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

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

25 (3) Subject to the provisions of subsection (5) of this section, the pro-
26 spective applicant or applicant shall pay all expenses incurred by the de-
27 partment and the permitting and cooperating agencies related to the
28 consolidated application process under ORS 517.952 to 517.989. These ex-
29 penses may include legal expenses, expenses incurred in processing and
30 evaluating the consolidated application, issuing a permit or final order and
31 expenses of hiring a third party contractor under ORS 517.979 and 517.980.

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

11 (5) All expenses incurred by the department and the permitting and co-
 12 operating agencies under ORS 517.952 to 517.989 that are charged to or al-
 13 located to the fee paid by a prospective applicant or an applicant shall be
 14 necessary, just and reasonable. Upon request, the department shall provide
 15 a detailed justification for all charges to the prospective applicant or appli-
 16 cant.

17 **SECTION 6.** ORS 520.017 is amended to read:

18 520.017. (1) The following fees are established under this chapter:

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

20 *[(b) The fee for a request to extend the period for completion of drilling,*
 21 *\$500.]*

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

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

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

26 *[(f)]* **(c)** The annual renewal fee for *[operation and maintenance of a well,*
 27 *\$1,500 the first renewal year and \$500 for each subsequent year]* **a well per-**
 28 **mit, information hole permit or seismic program permit is \$1,160.**

29 *[(g)]* **(d)** The application fee for a permit to drill an information hole *[is*
 30 *to be determined by the State Department of Geology and Mineral Industries*
 31 *based]* **may not exceed \$2,000 per five information holes drilled in a**

1 **contiguous 640-acre area. The State Department of Geology and Min-**
2 **eral Industries shall base the fee** on the estimated cost of review and
3 approval[,] and the number and location of **information** holes to be drilled.

4 [*The fee may not exceed \$1,000 per information hole.*]

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

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

12 (2) The governing board of the [*State Department of Geology and Mineral*
13 *Industries*] **department** by rule may specify a schedule of fees for costs in-
14 curred by the department for activities related to field designation for pur-
15 poses of this section.

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

20 **SECTION 7.** ORS 520.025 is amended to read:

21 520.025. (1) A person may not drill or use a well without first obtaining
22 a permit from the State Department of Geology and Mineral Industries and
23 posting any bond that may be required pursuant to ORS 520.095 (1). [*Drilling*
24 *must be completed within one year from the date the permit is issued unless*
25 *an extension is granted under subsection (2) of this section.*] When drilling
26 has been completed, the well must be maintained under a permit until it is
27 properly plugged and the site is reclaimed.

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

1 [(3)] (2) A permittee maintaining or operating a well shall provide the
2 department with an annual report on a form provided by the department.
3 Subject to the determinations in subsection [(4)] (3) of this section, a
4 permittee shall renew the permit for a well by paying the fee established
5 under ORS 520.017.

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

10 (b) The department may refuse to issue, refuse to renew or revoke a per-
11 mit issued pursuant to this section if the department determines that meth-
12 ods or equipment to be used or being used in drilling or operating the well
13 do not comply with applicable laws or rules, or that the well will not be
14 operated and maintained or is not being operated or maintained in compli-
15 ance with the permit and applicable laws or rules.

16 **SECTION 8.** ORS 522.055 is amended to read:

17 522.055. (1) *[No person shall]* **A person may not** engage in drilling a
18 prospect well **except in compliance with a permit issued by the State**
19 **Department of Geology and Mineral Industries under this section**
20 *[without first obtaining a permit issued under the authority of the State De-*
21 *partment of Geology and Mineral Industries and without complying with the*
22 *conditions of such permit].*

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

26 (a) A plugging and decommissioning plan¹, *and shall be accompanied by*
27 *];*

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

30 (c) A nonrefundable fee *[in the amount]* **as** determined by the department
31 **based on** *[to be]* the estimated cost of review of the proposed prospect

1 wells, **not to exceed \$2,000 per application or permit modification.**

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

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

8 [(3)] (5) The permittee shall [*provide*] **pay the department** an annual
9 nonrefundable **renewal** fee of [*\$500*] **\$2,725** on or before the anniversary of
10 [*the issuance date of*] each active permit.

11 [(4)] (6) [*A request by*] A permittee **that requests** to transfer a permit
12 issued under this section shall [*be accompanied by*] **pay** a nonrefundable fee
13 of [*\$500*] **\$2,000 at the time of the request.**

14 [(5)] (7) All moneys received by the department under this section shall
15 be paid into the State Treasury and deposited in the General Fund to the
16 credit of the Geology and Mineral Industries Account established by ORS
17 516.070.

18 **SECTION 9.** ORS 522.115 is amended to read:

19 522.115. (1) [*No person shall*] **A person may not** engage in the drilling
20 or operating of any geothermal well **except in compliance with a permit**
21 **issued by the State Department of Geology and Mineral Industries**
22 **under this section** [*without first obtaining a permit issued under the au-*
23 *thority of the State Department of Geology and Mineral Industries, and with-*
24 *out complying with the conditions of such permit*].

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

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

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

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

31 (d) The nature and character of the geothermal resource sought.

1 (e) A reclamation plan for the well pad.

2 (f) Such other information as the [*governing board of the State Department*
3 *of Geology and Mineral Industries*] **department** by rule may require **to as-**
4 **sess the impact of the proposed geothermal well.**

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

7 [(4)] **(3)** The permittee shall [*provide*] **pay** an annual nonrefundable re-
8 newal fee **of \$2,725** on or before the anniversary of [*the issuance date of*] each
9 active permit. [*as follows:*]

10 [(a)] *\$1,500 for the first renewal year.*

11 [(b)] *\$500 for each subsequent renewal year.*

12 [(5)] **(4)** A request by a permittee to modify a permit shall be accompanied
13 by a nonrefundable fee not to exceed [*\$1,500*] **\$2,000.**

14 [(6)] **(5)** A request by a permittee to transfer a permit issued under this
15 section [*shall*] **must** be accompanied by a nonrefundable fee of [*\$500*]
16 **\$2,000.**

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

19 [(8)] **(6)** All moneys received by the department under this section shall
20 be paid into the State Treasury and deposited in the General Fund to the
21 credit of the Geology and Mineral Industries Account established by ORS
22 516.070.

23 **SECTION 10.** ORS 522.135 is amended to read:

24 522.135. (1) Within 60 days after receipt of a complete application for a
25 permit to drill or operate a geothermal well, the State Department of
26 Geology and Mineral Industries shall by order issue or deny the permit un-
27 less the department determines that a longer period is necessary to respond
28 to comments or new information or for other good cause.

29 (2) Except as provided in ORS 522.145, the department shall issue the
30 permit if, after receipt of comments from the agencies referred to in ORS
31 522.125, the department determines that issuance of the permit would be

1 consistent with the provisions of this chapter and ORS chapters 468A, 468B
2 and 537, any rule adopted under this chapter by the governing board of the
3 [*State Department of Geology and Mineral Industries*] **department**, any rule
4 adopted by the Water Resources Commission under ORS chapter 537 and any
5 rule adopted under ORS chapter 468 or 468B by the Environmental Quality
6 Commission.

7 (3) If the department issues a permit pursuant to this section, the de-
8 partment shall impose such conditions as the department considers necessary
9 to carry out the provisions of this chapter and ORS chapters 468A, 468B and
10 537, any rule adopted under this chapter by the governing board of the de-
11 partment, any rule adopted by the Water Resources Commission under ORS
12 chapter 537 and any rule adopted under ORS chapter 468 or 468B by the
13 Environmental Quality Commission. The department shall include in the
14 permit a statement that issuance of the permit does not relieve any person
15 from any obligation to comply with ORS 468B.035, 468B.050, 468B.195, 537.090
16 or 537.535 or any other applicable state or federal environmental laws.

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

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

20 (b) Any conditions made by the Department of Environmental Quality
21 necessary to comply with the purposes set forth in ORS 468A.010 and
22 468B.015.

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

30 **SECTION 11.** ORS 517.715 is amended to read:

31 517.715. (1) When exploration will result in less than one acre of surface

1 disturbance or drilling to 50 feet or less, any person conducting exploration
2 is exempted from the requirements of the permit procedure described in ORS
3 517.702 to 517.740. However, nothing in this section exempts a person from
4 the requirements of ORS chapter 273 or the requirements of other depart-
5 ments.

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

8 **SECTION 12.** ORS 517.730 is amended to read:

9 517.730. (1) The State Department of Geology and Mineral Industries shall
10 consult with the Water Resources Department on the development of rules
11 covering drill hole or monitoring well abandonment procedures, including
12 procedures for the abandonment of holes and wells for which no exploration
13 permit is required in ORS 517.705.

14 (2) Nothing in ORS 517.702 to [517.755, 517.790, 517.810, 517.910 and
15 517.920] **517.740** prohibits the conversion of exploration drill holes or moni-
16 toring wells to water wells, provided that the conversion conforms to the
17 standards and rules of the Water Resources Department.

18
