

# House Bill 2777

Sponsored by Representative SMITH G (Pre-session filed.)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes some changes to the mining laws. (Flesch Readability Score: 94.3).

Exempts from the requirement to obtain an onshore exploration permit wells from which sample materials are acquired, if the well is constructed by a licensed well constructor. Provides that the State Department of Geology and Mineral Industries may not impose additional conditions on the transfer of an operating permit. Provides that the department or other permitting agency may not require a land use compatibility statement for activities already authorized by a local jurisdiction.

## A BILL FOR AN ACT

1  
2 Relating to mining; amending ORS 517.705, 517.830 and 517.833.

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

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

5 517.705. (1) A person may not engage in onshore exploration that disturbs more than one surface  
6 acre or involves drilling to greater than 50 feet except in compliance with a permit issued by the  
7 State Department of Geology and Mineral Industries under this section.

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

9 (a) The name and address of the surface owner and mineral owner.

10 (b) The names and addresses of the persons conducting the exploration.

11 (c) The name and address of any designated agent.

12 (d) A brief description of the exploration activities, including:

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

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

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

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

17 (e) Provisions for the reclamation of surface disturbance caused by exploration activities.

18 (f) Exploration drill hole or monitoring well abandonment procedures, including:

19 (A) The capping of all holes;

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

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

22 (g) An exploration boundary map with the location of the proposed exploration and delineation  
23 of exploration boundaries.

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

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

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

**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 (4) Any production records, mineral assessments or trade secrets submitted as part of the ap-  
 2 plication under subsection (2) of this section are confidential.

3 **(5) This section does not apply to a well from which sample materials are acquired, if the**  
 4 **well was constructed by a water well constructor who is licensed under ORS 537.747.**

5 **SECTION 2.** ORS 517.833 is amended to read:

6 517.833. (1) A person who by sale, assignment, lease or other means has succeeded in interest  
 7 to an uncompleted surface mining operation may request that the State Department of Geology and  
 8 Mineral Industries release the existing operator from any reclamation obligations and transfer the  
 9 operating permit to the successor. The department [*shall*] **may not deny a request to transfer**  
 10 **[the] an operating permit, unless one more of the following conditions occurs:**

11 (a) The successor does not agree to full assumption of the reclamation requirements in the op-  
 12 erating permit and reclamation plan;

13 (b) The successor fails to provide a bond or security as required by ORS 517.810;

14 (c) More than one person has a claim to the property or operating permit and there is a dispute  
 15 between the claimants that presents a justiciable controversy; or

16 (d) The successor, as the operator of another permitted site in this state, has failed to substan-  
 17 tially comply with the conditions of an operating permit or reclamation plan, the provisions of ORS  
 18 517.702 to 517.989 or the rules adopted by the department to carry out the purposes of ORS 517.702  
 19 to 517.989.

20 (2) The governing board of the State Department of Geology and Mineral Industries may adopt  
 21 rules relating to the responsibilities and duties of a person requesting a transfer of an operating  
 22 permit under this section. **Rules adopted under this subsection may not impose conditions on**  
 23 **the transfer of an operating permit in addition to those described in subsection (1) of this**  
 24 **section.**

25 **(3) A person requesting a transfer of a permit shall pay to the department a fee not to**  
 26 **exceed \$250.**

27 **SECTION 3.** ORS 517.830 is amended to read:

28 517.830. (1) Upon receipt of an application for an operating permit, the State Department of  
 29 Geology and Mineral Industries shall:

30 (a) Inspect the operating site described in the application;

31 (b) Provide notice to the local jurisdiction and an opportunity for the local jurisdiction to,  
 32 within 30 days after the date of the notice, request that the department delay a decision on an op-  
 33 erating permit and reclamation plan as provided in subsection (4) of this section; and

34 (c) If the application is not subject to the consolidated application process under ORS 517.952  
 35 to 517.989, provide notice to each federal and state permitting agency, as defined in ORS 517.952,  
 36 and each cooperating agency and provide an opportunity for the agencies to, within 30 days after  
 37 the date of the notice, respond in writing to the department identifying reasonably expected adverse  
 38 effects of the proposed mining operation on land, air, water or wildlife resources.

39 (2) Within 90 days after the date that the application and the required permit fee are received,  
 40 the department shall issue the operating permit applied for or, if it considers the application in-  
 41 complete, return the application to the applicant for correction of the deficiencies indicated by the  
 42 department. An operating permit that is not subject to ORS 517.952 to 517.989 shall contain rea-  
 43 sonable conditions designed to avoid or minimize an adverse effect identified by an agency pursuant  
 44 to subsection (1)(c) of this section, provided:

45 (a) A permit issued by a federal, state or local permitting agency approving the mining operation

1 does not include provisions to mitigate the adverse effect; and

2 (b) The land use decision issued by the local government approving the mining operation does  
3 not include provisions to mitigate the adverse effect.

4 (3) Failure by the department to act upon the reclamation plan submitted with an application  
5 for an operating permit within the 90-day period referred to in subsection (2) of this section is not  
6 a denial by the department of the operating permit applied for. The department, pending final ap-  
7 proval of a reclamation plan, may issue a provisional permit subject to reasonable limitations that  
8 may be prescribed by the department and conditioned upon the applicant's compliance with the bond  
9 and security requirements established by ORS 517.810.

10 (4)(a) Notwithstanding subsections (2) and (3) of this section, if an application involves an ag-  
11 gregate site that requires a permit issued pursuant to ORS 215.427 or 227.178, and if the local ju-  
12 risdiction requests that the application not be decided until the local jurisdiction has taken final  
13 action, the department shall make a final decision on the operating permit and reclamation plan no  
14 later than 165 days after the date a complete land use application is submitted to the local juris-  
15 diction, unless the applicant agrees to allow additional time under ORS 215.427, 215.429, 227.178 or  
16 227.179. If a plan amendment is required as part of issuance of a permit, the provisions of paragraph  
17 (b) of this subsection apply. The department may not approve an operating permit and reclamation  
18 plan if the land use application is denied.

19 (b) Notwithstanding subsections (2) and (3) of this section, if an application involves an aggre-  
20 gate site that requires amendment to a comprehensive plan, as defined in ORS 197.015, and if the  
21 local jurisdiction requests that the application not be decided until the local jurisdiction has taken  
22 final action on the plan amendment, the department may not make a final decision on the operating  
23 permit and reclamation plan until the local jurisdiction has taken final action on the plan amend-  
24 ment. The department shall make its final decision within 45 days of the date that the local juris-  
25 diction has taken final action on the plan amendment. The department may not approve an operating  
26 permit and reclamation plan if the plan amendment is denied.

27 (5)(a) Conditions and requirements imposed on an operating permit and reclamation plan, and  
28 modifications thereto, issued subsequent to issuance of a local jurisdiction permit shall be compat-  
29 ible with the requirements and conditions of the local government permit, unless more stringent  
30 requirements are necessary to comply with the provisions of ORS 517.750 to 517.901.

31 **(b) The department, or any other permitting agency pursuant to the consolidated appli-**  
32 **cation process under ORS 517.952 to 517.989, may not require a land use compatibility state-**  
33 **ment for a proposed activity if the proposed activity has been authorized in a local**  
34 **jurisdiction permit or other special land use authorization.**

35 (6)(a) If a local jurisdiction does not request that the department delay a decision on an oper-  
36 ating permit and reclamation plan as provided in subsections (1)(b) and (4) of this section, the de-  
37 partment shall, prior to issuing the operating permit, give the local jurisdiction notice and an  
38 opportunity to provide comments and the following information about the proposed operating permit  
39 and reclamation plan:

40 (A) Information about any applicable local land use regulations;

41 (B) Whether the site described in the proposed operating permit and reclamation plan is in-  
42 cluded on a local government inventory required by any open spaces, scenic and historic areas and  
43 natural resources land use planning goal;

44 (C) A statement that an application has or has not been filed for local approval; and

45 (D) Any other information that the local jurisdiction considers pertinent in its review of the

1 application.

2 (b) A local jurisdiction shall respond to a notice provided under paragraph (a) of this subsection  
3 within 35 days after the date of the notice.

4 (7) If the department refuses to approve a submitted reclamation plan, it shall notify the appli-  
5 cant, in writing, of its reasons for the refusal to approve the reclamation plan, including additional  
6 requirements as may be prescribed by the department for inclusion in the reclamation plan. Within  
7 60 days after the receipt of the notice, the applicant shall comply with the additional requirements  
8 prescribed by the department for the reclamation plan or file with the department a notice of appeal  
9 from the decision of the department with respect to the reclamation plan. If a notice of appeal is  
10 filed with the department by the applicant, the department may issue a provisional permit to the  
11 applicant.

12 (8) If an application is submitted as part of the consolidated application process under ORS  
13 517.952 to 517.989, review of the application and approval or denial of the application shall be in  
14 accordance with ORS 517.952 to 517.989. However, the review and approval or denial shall take into  
15 consideration all policy considerations for issuing a permit under ORS 517.702 to 517.989.

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