

# Department of Geology and Mineral Industries

## Chapter 632

### Division 33

#### OREGON MINED LAND RECLAMATION ACT — APPLICABLE TO EXPLORATION ACTIVITIES OBTAINING PERMITS AFTER JULY 31, 1990

##### [632-033-0005](#)

##### **Purpose of These Rules and Regulations**

(1) For Mineral Exploration, these rules implement the purposes of the Mined Land Reclamation Act as declared by the Legislative Assembly that:

(a) To provide that the usefulness, productivity, and scenic values of all lands and water resources affected by surface and underground mining within this state receive the greatest practical degree of protection and reclamation necessary for their intended subsequent use.

(b) To provide for cooperation between private and government entities in carrying out the purposes of the Mined Land Reclamation Act.

(c) To encourage efficient and environmentally sound identification and development of mineral resources.

(2) These rules prescribe procedures for obtaining an Exploration Permit and for complying with the other requirements of the Oregon Mined Land Reclamation Act relating to exploration.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.702

##### **History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

##### [632-033-0010](#)

##### **Definitions**

The definitions in ORS 517.750 apply to these regulations:

(1) "Abandonment of Exploration" means the cessation of exploration without reclamation or notification to the department within a reasonable time.

(2) A "Period of 12 Consecutive Calendar Months" as used in these rules begins on the date the exploration permit is issued.

(3) "Board" means the Governing Board of the State Department of Geology and Mineral Industries.

(4) "Closure Order" is a written notice from the department requiring the operator to cease and desist from exploration activities at the site described in the written notice.

(5) "Department" means the Department of Geology and Mineral Industries.

(6) "Disturbed or Disturbance" is any alteration within the permit area boundary where surface or subsurface resources are altered as a result of permitted exploration activities.

(7) "Exploration" means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade, or economic viability of a deposit. Exploration does not include prospecting.

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(8) "Exploration Permit" is the permit issued by the department that allows the permittee to conduct exploration activities described in these rules and provides for reclamation as specified in ORS 517.750(13).

(g) "Groundwater" means any water except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.

(10) "Mined Land Reclamation Act" or "Act" means the statutes codified at ORS 517.702 to 517.992.

(11) "Permit Area" is defined by boundaries submitted on a map acceptable to the department and means the area to be covered by an Exploration Permit. The permit area shall be a contiguous parcel which is available to the permittee for exploration.

(12) "Prospecting" for the purpose of these rules means activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade, or economic viability, but does not disturb more than one cumulative acre.

(13) "Reclamation" means the employment in exploration of procedures reasonably designed to minimize as much as practicable the disruption of surface and subsurface resources from exploration (i.e., for example the use of measures to protect the surface and subsurface water resources including but not limited to drill hole abandonments, adit plugging/sealing and shaft plugging/sealing) and to provide for the rehabilitation of any surface resources adversely effected by such exploration through the rehabilitation of plant cover, soil stability water resources and other measures appropriate to subsequent beneficial use of such explored and reclaimed lands.

(14) "Exemption" means exploration that is exempted from the requirements of these rules. The department may require certain information to be provided under OAR 632-033-0016(1) to establish exemptions.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.750

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

#### **632-033-0016**

##### **Exemptions**

(1) The following exploration activities are exempt from these rules and do not require the payment of fees, posting of bond or submittal of reclamation plans:

(a) Exploration conducted solely within the beds and banks of any waters of this state are exempt from these rules when conducted pursuant to a permit issued under ORS 196.605 to 196.625 and 196.627 to 196.660.

(b) Prospecting where no exploration drill hole is drilled is exempt from these rules.

(c) Prospecting where exploration drilling is less than 50' deep on each hole is exempt from paying fees and the state financial security provisions of these rules, but must comply with the drill hole abandonment procedures of these rules.

(2) The provisions of ORS 517.702-517.740 and OAR 632, division 33 do not apply if the applicant has obtained an Operating Permit, described in ORS 517.790 and OAR 632, division 30, for the area described in the exploration permit.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.715, 517.720 & 517.730

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

#### **632-033-0025**

##### **Exploration Permit Requirements**

(1) Applicants seeking Exploration Permits from the department should be aware that other state, federal and local agencies may require the applicant to obtain approval prior to operation. For example, the United States Forest Service (USFS) requires a notice of intent or plan of operations. Where feasible, the department shall coordinate with other agencies to avoid duplication on the part of applicants. An Exploration Permit from the department does not constitute authorization to proceed without approval of other agencies if required. It is the applicant's responsibility to obtain other necessary permits.

(2) Information Requirements. The department may require any information reasonably necessary to assess impacts of the proposed exploration and determine the status of any exploration. Any production records, mineral assessments or trade secrets submitted as part of an application shall be confidential.

(3) Exploration or drilling an exploration drill hole greater than 50' is subject to these rules.

(4) Exploration must be conducted to prevent a decrease in quality or loss of quantity to an existing or potential water supply to the greatest practicable extent.

(5) Exploration shall be conducted so as to minimize adverse effect upon wildlife.

(6) An applicant for an exploration permit is encouraged to contact the department at the Albany office at least 90 days prior to initiation of the proposed drilling activities.

(7) Information required in written form shall include but not be limited to:

(a) Contact Information:

(A) Name, address and telephone number of the applicant;

(B) Name, address, telephone number and verification of consent of the surface owner(s);

(C) Name, address, and telephone number of the project contact person;

(D) Name and address of the drilling contractor(s);

(E) Name, address, and telephone number of the mineral estate owner(s) and lessor if applicable;

(F) Name and address of any designated agent.

(b) Project Description:

(A) Legal description of the project area;

(B) Permit area map(s) of a suitable scale including but not limited to the following information:

(i) Proposed permit area boundary;

(ii) Locations of surface disturbance resulting from exploration activities;

(iii) Proposed location and identification of drill sites, trenches and bulk sampling sites; and

(iv) Proposed location and identification of stockpiles and wasterock dumps.

(C) Type of Drilling (air, mud, diamond, rotary, etc.);

(D) Maximum proposed depth and diameter of drill holes;

(E) Drill pad and mud pit dimensions;

(F) Bulk sample volume;

(G) Extent and location of all underground workings to be constructed;

(H) Length and width of roads constructed or upgraded within the project area. Existing road should be identified and documented on an aerial photo or on map(s) of suitable scale;

(I) General description of past land use. In addition, the applicant must comply with federal and state statutes and rules regarding threatened, endangered, or sensitive species;

(J) Proposed starting date and expected duration;

(K) Agreement to notify the department within 48 hours of commencement of exploration activities;

(L) Geologic setting of the project, if available;

(M) Groundwater information, if available.

(c) Reclamation Plan:

(A) These rules recognize that specific field conditions may require alternative reclamation, drill hole abandonment or plugging/sealing requirements other than those listed in these rules to accomplish the purpose of these rules.

Alternative reclamation, drill hole abandonment or plugging/sealing procedures shall be approved by the department when they meet the purposes of these rules;

(B) The purpose of the reclamation is to reclaim land disturbed by surface or underground exploration activities;

(C) Land disturbed by exploration activities must be reclaimed to a beneficial use approved by the department and consistent with county comprehensive plans or the appropriate federal agency;

(D) If there is no exploration conducted at the site for two years, reclamation of the site must commence or a written justification provided to the department as to why reclamation has not commenced;

(E) Unless alternative reclamation provisions are approved by the department reclamation of land disturbed by exploration shall include but not be limited to:

(i) Removal of all materials and supplies used in the exploration activity not approved to remain at the permit area.

(ii) Vegetation cleared from the site shall be properly disposed of or dispersed;

(iii) Drill cuttings must be spread to a depth no greater than one inch or buried in an approved location;

(iv) Roads, drill pads, mud pits, trenches, and other disturbances shall be backfilled to the approximate original contour and graded to blend with the surrounding land surface;

(v) Roads not to be reclaimed require written approval from the landowner and shall be left in a stable condition acceptable to the department;

(vi) If vegetative cover was destroyed, a department approved revegetation plan shall be used in the first period favorable for planting;

(vii) If necessary to assure successful revegetation, the disturbed areas shall be scarified, fertilized, and mulched to approved specifications;

(d) Exploration Drill Holes Completed As Wells: An exploration drill hole converted to a monitoring well or to a water well shall be completed in accordance with Department of Environmental Quality or Water Resources Department statutes and rules prior to release of the financial security.

(e) Drill Hole Abandonment Provisions:

(A) The purpose of the abandonment plan is to:

(i) Prevent loss of quality and minimize to the greatest extent practicable, loss of quantity to all surface and groundwaters and prevent interaquifer mixing;

(ii) Prevent aquifer contamination from surface drainage.

(B) Unless alternative abandonment procedures are approved by the department all exploration drill holes shall be abandoned as follows;

(C) Any drill hole which produces a natural flow of water to the surface must be filled with neat cement slurry from the bottom of the hole to two feet below either the reclaimed land surface or the collar of the hole, whichever is the lowest elevation. Neat cement slurry should be American Petroleum Institute (API) class A or B, or ASTM C-150 Type I or II neat cement with no additives, mixed in the proportion of 5.2 gallons of water per standard 94 pound sack and having a mud weight of 15.6 pounds per gallon;

(D) Any exploration drill hole that encounters groundwater that does not flow to the surface shall be sealed with a hole volume of:

(i) A high quality sodium bentonite product specifically formulated for drill hole abandonment;

(ii) Cement grout;

(iii) Other appropriate drill hole abandonment material.

(E) Whenever a cased drill hole is not completed as a water well, if reasonably possible the surface casing shall be pulled. If the casing cannot be pulled the casing shall be cut off and capped at a minimum depth compatible with local cultivation practices or at the surface in rangeland;

(F) All drill holes shall be surface capped to reduce the potential of downhole contamination from the surface and to prevent injury to wildlife and domestic stock. The surface cap shall consist of a non-slip hole cap placed at a point five feet below the upper surface of bedrock or seven feet below the land surface whichever is the lower elevation. A minimum five foot column of Portland cement or concrete cap shall be placed above the non-slip plug. The top of the

Portland cement or concrete cap shall be a minimum of two feet below either the original land surface or the top of the casing whichever is the lower elevation. The remainder of the hole shall be backfilled with native materials and reclaimed consistent with the reclamation provision of the rules. Drill hole abandonment material may constitute a surface cap where abandonment materials remain at or close to the surface and is compatible with local cultivation practices. Void space between the top of the cap and the land surface shall be backfilled with native materials and reclaimed consistent with the reclamation provision of these rules.

(8) Reporting Procedures: SMLR form 33 and appropriate map(s) shall be submitted on or before January 31 of each year. All information in SMLR 33 identified by the permittee as trade secrets and consistent with ORS 192 shall be exempt from public disclosure. Any production records, mineral assessments or trade secrets submitted as part of an application shall be confidential. SMLR-33 and appropriate map(s) shall include but not be limited to the following information:

(a) Map(s) showing completed bore and core hole locations to a degree of accuracy reasonably obtainable with a Brunton type instrument;

(b) The date each hole was completed, and abandoned;

(c) Total depth and diameter of each hole drilled;

(d) Trade name and amount of abandonment material used on each drilled hole;

(e) Viscosity (in seconds/quart) of drilling medium before and after abandonment material was added;

(f) Viscosity of abandonment material;

(g) Depth of water bearing zones as determined through use of equipment and technique normally available to exploration personnel for each hole drilled including a statement describing any flow to the surface encountered; and

(h) Location of any shaft or adits constructed during exploration.

(9) Financial Security:

(a) The applicant shall submit adequate financial security for the purpose of assuring performance of the requirements of the Exploration Permit. All land must have department approved and accepted financial security prior to disturbance. The department shall determine the amount of the financial security required by estimating the cost of reclamation if the department were to perform the reclamation. The department may accept a blanket financial security covering two or more exploration projects. The total financial security amount of the individual projects shall not exceed the amount of the blanket financial security;

(b) Factors the department will consider in determining the amount of security may include, but are not limited to, the following:

(A) Supervision;

(B) Mobilization;

(C) Costs of equipment;

(D) Equipment capability;

(E) Costs of labor;

(F) Removal or appropriate disposition of debris, junk, equipment, structures, and unwanted chemicals;

(G) Backfilling, contouring, or regarding and topsoil replacement;

(H) Draining, establishment of drainage, and erosion control;

(I) Soil tests;

(J) Seedbed preparation, seeding, mulching, fertilizing, netting, tackifiers or other stabilizing agents;

(K) Tree and shrub planting;

(L) Fencing;

(M) Liability insurance;

(N) Long-term stabilization, control, containment or disposal of waste solids and liquids;

(O) Drill hole abandonment provisions; and

(P) Adit or shaft sealing or plugging requirements.

(c) Cost estimate information shall be derived from sources such as:

(A) Comparable costs from similar projects;

(B) Catalog prices;

(C) Guides and cost estimates obtained from appropriate government and private sources;

(D) Applicant estimates;

(E) Equipment handbooks; and

(F) Qualified local contractors.

(d) Seed mixes, fertilizer rates, and other requirements will be derived from departmental experience combined with advice from appropriate sources;

(e) The security amount shall be based on the cost of reclamation. Security amounts shall not include conversion of drill holes to water wells.

(10) Fees. Maximum fees are established by statute and specific fees are set by rule.

(a) Each application for an Exploration Permit shall be accompanied by an initial application fee of \$400. Additional processing and inspection fees are anticipated only when the permittee seeks to transition the exploration activity to a mining facility or if a non-compliance is identified. For sites requiring special review or monitoring the department shall assess a processing fee sufficient to cover costs of the department in processing the application and regulating the site. The application fee must accompany the application; any balance due may be requested by the department in writing and must be submitted prior to issuance of the permit;

(b) To renew an exploration permit each permit holder shall pay an annual fee on or before the last day of the month shown on the permit as the expiration month. The annual renewal fee shall be \$300, plus the balance of any additional actual cost the department incurs from inspections or review in accordance with ORS 517.920. The annual report SMLR-33 shall be submitted to the department by January 31 of each year. As a courtesy, the Department may notify the permittee with a notice of these requirements at least 45 days prior to the due date. Failure of the permittee to pay the fee may result in the issuance of a Closure Order by the department;

(c) Application fees are not refundable. Unspent balances of processing fees are refundable;

(d) Fees may be prorated at the applicant's request. The prorated fee will be on the basis of 1/12th the annual fee per month;

(e) For sites on which a processing fee is assessed the operator shall be provided with periodic cost summaries;

(f) The department may require a lesser fee, upon completion of all reclamation, exploration, all reclamation with the exception vegetation establishment.

(11) Closure Orders and Invalidation.

(a) The department may issue a Closure Order when it finds that a permittee is conducting exploration:

(A) For which a permit is required but has not been obtained;

(B) Outside the approved permit area;

(C) That is in violation of these rules, the reclamation plan, or permit conditions; or

(D) Without having submitted the appropriate fee.

(b) The Department may refer violations of Closure Orders to the Attorney General for legal proceedings under the provisions of ORS 517.880 or to the District Attorney for prosecution according to the provisions of ORS 517.990(3) and (4);

(c) An Exploration Permit becomes invalid after the expiration date if the annual renewal fee and annual report form have not been received by the Department or at any time, if the financial security has expired or has been canceled without replacement. Reclamation obligations incurred prior to the date of cancellation of any bond or other security continue until the site is reclaimed.

(12) Reclamation by the department.

(a) Upon a finding of abandonment, the department may perform the reclamation outlined in the reclamation plan to the extent possible, given the condition of the site when abandoned;

(b) The department may perform alternative reclamation depending on site conditions;

(c) The department may reclaim the site to:

(A) Eliminate or minimize hazards to the health and safety of the public;

(B) Eliminate or minimize any pollution or erosion;

(C) Rectify adverse affects to surface and subsurface resources; or

(D) Reach a condition compatible with local comprehensive plan and with federal and state laws.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.705, 517.710, 517.730 & 517.810

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

### **632-033-0030**

#### **Department Action on an Exploration Permit Application**

(1) The department shall approve or deny a complete application in writing within 30 days of receipt. If an application is incomplete, the department shall notify the applicant of that fact in writing within 30 days of receipt and the department will specify the deficiencies therein. Within 60 days of receipt of a notice of incompleteness the applicant may appeal the determination of incompleteness or may resubmit the application with deficiencies corrected. The applicant may appeal by filing a written notice in accordance with OAR 632-033-0050.

(2) The department may attach conditions to the Exploration Permit. These conditions may be added to reflect special concerns which are not adequately addressed in the reclamation or drill hole abandonment provisions and fall within the scope of these rules. The permittee may appeal these conditions by filing a written notice of appeal in accordance with OAR 632-033-0050.

(3) Inspections. As provided by ORS 517.725 the department may inspect any exploration site to determine status or compliance.

(a) Initial inspections may be conducted by the department. Reasons for the inspections include but are not limited to:

(A) Determine existing environmental conditions;

(B) Review the proposed exploration-activity;

(C) Review the proposed reclamation;

(D) Collect data to calculate a bond and;

(E) Determine if a permit is required.

(b) Annual inspections may be conducted by the Department. Reasons for such inspection include but are not limited to:

(A) Reviewing exploration permit compliance;

(B) Investigating public complaints;

(C) Evaluating the permit bond level; and

(D) Evaluating the reclamation and drill hole abandonment for bond release.

(4) The Department will notify local planning authorities and other appropriate public agencies that it has received the application for review. If the Exploration Permit cannot be reviewed and accepted or rejected by the department within 30 days after receipt the department will notify the applicant.

(5) If the department refuses to approve the Exploration Permit application for any reason, the department will notify the applicant in writing within five days of refusal stating the reasons, and including additional requirements as may be prescribed by the department for inclusion in the reclamation plan. Within 60 days after the receipt of a deficiency list or permit conditions, the applicant shall comply with the additional requirements prescribed by the department or file a written notice of appeal of the decision to the department in accordance with OAR 632-033-0050. Failure to comply with the additional requirements or file a notice of appeal within the 60-day period, unless an extension is granted by

the department, shall result in the application for an Exploration Permit being denied. Informal requests for reconsideration may be submitted as provided for in OAR 632-033-0050.

(6) The department will approve the applicant's Exploration Permit if it adequately meets the provisions of the rules.

(7) The approval of the reclamation plan and the issuance of the Exploration Permit by the department do not constitute a finding of compliance with statewide planning goals or local regulations implementing acknowledged comprehensive land use plans. The Exploration Permit may be issued prior to the local land use agency making such a determination. The permittee is responsible for obtaining local land use approval if required.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.725

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

### **632-033-0035**

#### **Modification of an Exploration Permit**

Modification of a permit may be initiated at any time by the permittee or by the department. An Exploration Permit may be modified by approval of the department after timely notice and opportunity for review if the Department determines that modification is needed to comply with existing laws, or to accommodate unforeseen developments which may affect the reclamation or drill hole abandonment plan as previously approved. Expansion of an operation beyond the original permit area, depth or significant intensification of activity shall require permit modification.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.740

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

### **632-033-0040**

#### **Maintaining an Exploration Permit**

(1) An Exploration Permit issued by the department shall be granted for a period of 12 consecutive months. The new permittee shall renew each Exploration Permit prior to the anniversary date by submitting the required annual fee. As a courtesy, the department may notify the permittee by mail at least 45 days prior to the anniversary date of the permit and will provide the necessary renewal forms and fee schedule for permit renewal. In cases of non-renewal, a second notice may be sent prior to issuance of a Closure Order. The permittee shall maintain an Exploration Permit until exploration and reclamation, including revegetation (if required), have been completed.

(2) If the department determines from inspections conducted pursuant to ORS 517.850 or from any other source, that the exploration is not in compliance with the approved Exploration Permit, permit conditions, the Mined Land Reclamation Act, or the rules adopted thereunder, the department shall give written notice of noncompliance to the permittee.

(3) The permittee must begin rectifying all deficiencies within 30 days of receipt of the notice of noncompliance as required in ORS 517.860(1), or file a written appeal to the notice of noncompliance in accordance with OAR 632-033-0050. If the permittee appeals the notice within 30 days of receipt, the Department will not issue a Closure Order or revoke the permit pending the appeal, except in cases of reasonable probability of danger to human life, property, water resources, or wildlife. The department will provide the permittee a written statement of the specific facts leading to that finding and corrective action for the elimination of such danger.

(4) The department will notify the permittee in writing within ten working days of the date verification of compliance.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.740

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

### **632-033-0043**

#### **Expiration of an Exploration Permit Obligation**

An Exploration Permit obligation expires upon:



(l) Transferring of the permit to another obligee.

(2) The area within the permit area coming under an Operating Permit.

(3) Completing the obligation of the Exploration Permit.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.720

**History:**

GE 1-1990, f. & cert. ef. 8-3-90

#### **632-033-0045**

##### **Obtaining Financial Security Releases**

(1) The permittee shall notify the department when the provisions of the permit have been completed.

(2) The department shall inspect the reclaimed site. If the permittee has fulfilled the requirements of the Exploration Permit, the financial security shall be released, the permit terminated and the permittee notified. The department may authorize financial security reduction if the reclamation or drill hole abandonment procedures are partially completed or for other reasons if the financial security is greater than the anticipated obligation for the next 12 months.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.725

**History:**

GE 1-1990, f. & cert. ef. 8-3-90

#### **632-033-0050**

##### **Appeals**

(l) Prior to the initiation of an appeal of any departmental order pursuant to the Mined Land Reclamation Act or these rules the applicant or permittee shall first request that the State Geologist informally review and resolve the matter. The State Geologist shall provide a written decision within 20 days of receipt of such a request. Thereafter, the applicant or permittee may request a contested case hearing as provided in ORS 183.310–183.550.

(2) An applicant or permittee requesting a contested case hearing shall state the reasons for requesting the hearing and the objections to the department's order in accordance with ORS Chapter 183 and the Attorney General's Model Rules of Procedure.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.890

**History:**

DGMI 1-2000, f. & cert. ef. 7-20-00

GE 1-1990, f. & cert. ef. 8-3-90

#### **632-033-0055**

##### **Penalties**

(l) Any person who conducts an exploration activity without a valid Exploration Permit as required by the Mined Land Reclamation Act shall be punished upon conviction, by a fine of not more than \$10,000.

(2) Violation of any provision of the Mined Land Reclamation Act, or of any rule or order made pursuant to the Act, or of any conditions of an Exploration Permit, is punishable, upon conviction, by a fine of not more than \$10,000.

**Statutory/Other Authority:** ORS 517

**Statutes/Other Implemented:** ORS 517.990

**History:**

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