

House Bill 3461

Sponsored by Representative CLEM; Representatives BARNHART, KOMP (at the request of Oregon Farm Bureau)

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**.

Requires certain conditions for approval of reclamation plan for surface mining operation. Allows for concurrent reclamation in certain cases. Requires 100 percent bond for certain types of reclamation in order to obtain operating permit.

A BILL FOR AN ACT

1
2 Relating to land reclamation; amending ORS 517.790 and 517.810.

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

4 **SECTION 1.** ORS 517.790 is amended to read:

5 517.790. (1) Except as otherwise provided by ORS 517.780 (2), after July 1, 1972, no landowner
6 or operator shall permit or engage in surface mining on land not surface mined on July 1, 1972,
7 without having first applied for and received an operating permit from the State Department of
8 Geology and Mineral Industries for such surface mining operation. A separate permit shall be re-
9 quired for each separate surface mining operation. Prior to receiving an operating permit from the
10 department the landowner or operator must submit an application on a form provided by the de-
11 partment that contains information considered by the department to be pertinent in its review of the
12 application, including but not limited to:

13 (a) The name and address of the landowner and the operator and the names and addresses of
14 any persons designated by them as their agents for the service of process.

15 (b) The materials for which the surface mining operation is to be conducted.

16 (c) The type of surface mining to be employed in such operation.

17 (d) The proposed date for the initiation of such operation.

18 (e) The size and legal description of the lands that will be affected by such operation, and, if
19 more than 10 acres of land will be affected by such operation and if the department considers the
20 conditions to warrant it, a map of the lands to be surface mined that shall include the boundaries
21 of the affected lands, topographic details of such lands, the location and names of all streams, roads,
22 railroads and utility facilities within or adjacent to such lands, the location of all proposed access
23 roads to be constructed in conducting such operation and the names and addresses of the owners
24 of all surface and mineral interests of the lands included within the surface mining area.

25 (f) If economically practicable, a plan for visual screening by vegetation or otherwise that will
26 be established and maintained on the lands within such operation for the purpose of screening such
27 operation from the view of persons using adjacent public highways, public parks and residential
28 areas.

29 (g) The type of monitoring well abandonment procedures.

30 (2)(a) The application referred to in subsection (1) of this section must also contain a proposed
31 reclamation plan that is acceptable to and approved by the **State Department of Geology and**

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 **Mineral Industries and the State Department of Agriculture.**

2 (b) **On a mining site containing 25 percent or more of any one or a combination of prime,**
 3 **unique, Class I or Class II soils, a reclamation plan may be approved by the State Depart-**
 4 **ment of Geology and Mineral Industries and the State Department of Agriculture only if the**
 5 **site will be reclaimed to the same quality farmland at the same finished elevation and the**
 6 **same contour of the landscape that was present before the mining permit was approved.**

7 (c) **The plan shall provide for concurrent reclamation if no more than 40 acres of lands**
 8 **are unreclaimed at any one time under the plan.**

9 (3) **As used in this section, "same quality farmland" means a minimum of 18 inches of**
 10 **soil from the A horizon of prime, unique, Class I and Class II soils immediately over a min-**
 11 **imum of six feet of sandy clay, loam and silt loam soils as referenced by the Natural Re-**
 12 **sources Conservation Service of the United States Department of Agriculture.**

13 **SECTION 2.** ORS 517.810 is amended to read:

14 517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or
 15 issuing or reissuing an exploration permit for any exploration activity, the State Department of
 16 Geology and Mineral Industries shall require that the applicant for the permit file with it a bond
 17 or security acceptable to the department in a sum to be determined by the department but in an
 18 amount not to exceed the total cost for reclamation if the department were to perform the recla-
 19 mation. The decision of the department may be appealed to the governing board of the State De-
 20 partment of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security
 21 shall be conditioned upon the faithful performance of the reclamation plan and of the other re-
 22 quirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

23 (2) Nothing in this section shall apply to any public body, as defined in ORS 174.109.

24 (3) In lieu of the bond or other security required of the applicant in subsection (1) of this sec-
 25 tion, the department may accept a similar security from the landowner, equal to the estimated cost
 26 of reclamation as determined by the department in consultation with the operator or explorer. The
 27 decision of the department may be appealed to the governing board as provided in ORS chapter 183.

28 (4) In lieu of the bond required by subsection (1) of this section, the department may accept a
 29 blanket bond covering two or more surface mining sites or exploration projects operated by a single
 30 company, owned by a single landowner or operated by all members of an established trade associ-
 31 ation, in an amount, established by the department, not to exceed the amount of the bonds that
 32 would be required for separate sites.

33 (5) The governing board shall identify by rule the procedures for the determination of the
 34 amount of the bond or other security required of an applicant for an operating permit or exploration
 35 permit. The rules:

36 (a) Shall provide an opportunity for participation by the applicant as part of the procedures; and

37 (b) May allow for the amount of the bond to be calculated and adjusted based upon the total
 38 area expected to be in a disturbed condition in the following year as a result of the surface mining
 39 or exploration operation.

40 (6) **For the purpose of determining the amount of a bond required of an applicant for a**
 41 **permit issued under ORS 517.790 for a site that is located on land that is zoned for exclusive**
 42 **farm use and features prime, unique, Class I or Class II soils, the department may not accept**
 43 **a bond under this section for a sum that is less than 100 percent of the projected cost of the**
 44 **reclamation required by ORS 517.790.**