

# House Bill 3098

Sponsored by Representative CLEM (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) A landowner or operator may not allow or engage in surface mining on land not  
6 surface mined on July 1, 1972, without holding a valid operating permit from the State Department  
7 of Geology and Mineral Industries for the surface mining operation. A separate permit is required  
8 for each separate surface mining operation. A person seeking an operating permit from the depart-  
9 ment shall submit an application on a form provided by the department that contains the following  
10 information:

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

13 (b) The materials for which the operation is to be conducted.

14 (c) The type of surface mining to be employed in the operation.

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

16 (e) The size and legal description of the lands that will be affected by the operation, and, if more  
17 than 10 acres of land will be affected by the operation and if the department determines that the  
18 conditions warrant it, a map of the lands to be surface mined that includes the boundaries of the  
19 affected lands, topographic details of the lands, the location and names of all streams, roads, rail-  
20 roads, utility facilities, wells, irrigation ditches, ponds, stockpiles, buffers, setbacks and excavation  
21 boundaries within or adjacent to the lands, the location of all proposed access roads to be protected  
22 or constructed in conducting the operation and the names and addresses of the owners of all surface  
23 and mineral interests of the lands included within the surface mining area.

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

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

28 (h) A proposed reclamation plan that is acceptable to and approved by the **State Department**  
29 **of Geology and Mineral Industries and the State Department of Agriculture. On a mining site**  
30 **containing 25 percent or more of any one or a combination of prime, unique, Class I or Class**  
31 **II soils, a reclamation plan may be approved by the State Department of Geology and Mineral**

**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 **Industries and the State Department of Agriculture only if the site will be reclaimed to the**  
 2 **same quality farmland at the same finished elevation and the same contour of the landscape**  
 3 **that was present before the operating permit was approved. A reclamation plan shall provide**  
 4 **for concurrent reclamation, and no more than 40 acres of lands may be unreclaimed at any**  
 5 **one time under a reclamation plan.**

6 (i) Any other information that the **State Department of Geology and Mineral Industries** con-  
 7 siders pertinent in its review of the application.

8 (2) The **State Department of Geology and Mineral Industries and the State Department of**  
 9 **Agriculture** may waive the requirement for preparation and approval of a reclamation plan if:

10 (a) The operation is conducted as part of the on-site construction of a building, public works  
 11 project or other physical improvement of the subject property;

12 (b) The operation is reasonably necessary for such construction; and

13 (c) The proposed improvements are authorized by the local jurisdiction with land use authority.

14 (3) The **State Department of Geology and Mineral Industries** may not issue an operating  
 15 permit to an operator other than the owner or owners of the surface and mineral interests of the  
 16 lands included within the surface mining area unless the operator:

17 (a) Has written approval from the owner or owners of all surface and mineral interests of the  
 18 lands included within the surface mining area; and

19 (b) Maintains a legal interest in the lands that is sufficient to ensure that the operator has the  
 20 authority to operate and reclaim the lands as provided in the operating permit and reclamation plan.

21 (4) The **State Department of Geology and Mineral Industries** may refuse to issue an operating  
 22 permit to a person who has not, in the determination of the department, substantially complied with  
 23 the conditions of an operating permit or reclamation plan, the provisions of this chapter or the rules  
 24 adopted by the department to carry out the purposes of this chapter.

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

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

30 517.810. (1) Before issuing or reissuing an operating permit for any surface mining operation or  
 31 issuing or reissuing an exploration permit for any exploration activity, the State Department of  
 32 Geology and Mineral Industries shall require that the applicant for the permit file with it a bond  
 33 or security acceptable to the department in a sum to be determined by the department but in an  
 34 amount not to exceed the total cost for reclamation if the department were to perform the recla-  
 35 mation. The decision of the department may be appealed to the governing board of the State De-  
 36 partment of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security  
 37 shall be conditioned upon the faithful performance of the reclamation plan and of the other re-  
 38 quirements of ORS 517.702 to 517.989 and the rules adopted thereunder.

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

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

44 (4) In lieu of the bond required by subsection (1) of this section, the department may accept a  
 45 blanket bond covering two or more surface mining sites or exploration projects operated by a single

1 company, owned by a single landowner or operated by all members of an established trade associ-  
2 ation, in an amount, established by the department, not to exceed the amount of the bonds that  
3 would be required for separate sites.

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

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

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

11 **(6) For the purpose of determining the amount of a bond required of an applicant for an**  
12 **operating permit issued under ORS 517.790 for an operation that is located on land that is**  
13 **zoned for exclusive farm use and features prime, unique, Class I or Class II soils, the de-**  
14 **partment may not accept a bond under this section for a sum that is less than 100 percent**  
15 **of the projected cost of any reclamation required by ORS 517.790.**