

Enrolled
Senate Bill 191

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CHAPTER

AN ACT

Relating to surface mining operations; amending ORS 517.770, 517.775 and 517.780; and declaring an emergency.

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

SECTION 1. ORS 517.770 is amended to read:

517.770. (1) The following mining operations are exempt from the reclamation requirements set forth in ORS 517.702 to 517.989:

(a) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surfaces and contours, provided that the State Department of Geology and Mineral Industries [*issues*] **issued** a certificate of exemption to the mining operation on or before October 31, 2000[;].

(b) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surfaces and contours, provided that:

(A) The surface mining operations at the site were allowed under a comparable certificate of exemption that was issued by a county and current on the date of repeal of a county zoning law or ordinance described in ORS 517.780 (1); and

(B) The landowner or operator applies for and receives a certificate of exemption from the department. An application for a certificate of exemption must be filed with the department within 90 days after the date the county's repeal of a zoning law or ordinance becomes effective. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application will be deemed to be approved. [*and*]

~~[(b)]~~ (c) Lands within the surfaces and contours of surface mining operations that are owned or operated by a person that, on July 1, 1972, was a party to a surface mining contract that was valid on January 1, 1971, provided that the department issued a certificate of exemption to the mining operation on or before September 20, 1985.

(2) A certificate of exemption terminates if the landowner or operator does not renew the certificate annually.

SECTION 2. ORS 517.775 is amended to read:

517.775. Notwithstanding the provisions of ORS 517.770:

(1) Any landowner or operator conducting surface mining on July 1, 1972, shall pay the permit fee as provided in ORS 517.800; and

(2) The State Department of Geology and Mineral Industries shall require the landowner or operator to complete erosion stabilization upon completion of mining at *[the limited exempt site]* a **mining operation exempt from reclamation under ORS 517.770.**

SECTION 3. ORS 517.780 is amended to read:

517.780. (1)(a) The provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder do not supersede any **county** zoning laws or ordinances in effect on July 1, 1972. However, if the **county** zoning laws or ordinances are repealed on or after July 1, 1972, the provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder are controlling. The governing board of the State Department of Geology and Mineral Industries may adopt rules and regulations with respect to matters covered by **county** zoning laws and ordinances in effect on July 1, 1972.

(b) If the county zoning laws or ordinances specified in paragraph (a) of this subsection are repealed by a county:

(A) The department may allow a surface mining operation that previously operated under a valid county operating permit and reclamation plan to continue to operate for a period not to exceed one year if the landowner or operator applies for an operating permit under ORS 517.790 within 60 days after the date the county's repeal of the zoning laws or ordinances becomes effective, pays all applicable fees to the department and submits a bond or security to the department as required by ORS 517.810. Pending issuance of an operating permit and approval of a reclamation plan by the department, the county permit is deemed to remain in effect and is enforceable by the department.

(B) The department, in issuing a permit and approving a reclamation plan for a surface mining operation that previously operated under a valid county operating permit as described in paragraph (a) of this subsection, may incorporate any provisions from the county operating permit into the permit issued by the department and the reclamation plan approved by the department if the department determines that the provisions provide adequate protection of the public health, safety and welfare and the environment.

(C) The department may issue a certificate of exemption from reclamation requirements as described in ORS 517.770 (1)(b).

(2) City or county operated surface mining operations that sell less than 5,000 cubic yards of minerals within a period of 12 consecutive calendar months are exempt from the state mining permit requirements of ORS 517.702 to 517.989 if the city or county adopts an ordinance that includes a general reclamation scheme establishing the means and methods of achieving reclamation for city or county operated surface mining sites exempted from the state permit requirements by this subsection.

SECTION 4. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate April 1, 2009

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Secretary of Senate

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President of Senate

Passed by House May 28, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State