



# Oregon

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## COMMENTS FOR THE RECORD ON SENATE BILL 2841A

Submitted by the Oregon Department of Environmental Quality

Senate Environment and Natural Resources Committee

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House Bill 2841A with the -1 amendments clarify existing statutory language directing agencies to consult with affected parties when adopting rules pertaining to recreational or small scale mining. The bill would also extend this requirement to the issuance of general permits. DEQ formerly issued placer mining permits through rulemaking, but is currently issuing them by order as authorized in ORS 468B.050(2). The statute was amended in 2005 to allow this.

DEQ has worked extensively with Representative Bentz and representatives of the mining community to develop an amendment to HB 2841A that reflects the agency's commitment to stakeholder involvement in the permit development process. If enacted, there would be a small amount of additional work beyond what DEQ already does when developing general permits or conducting rulemaking, and therefore no quantifiable fiscal impact to the agency.

DEQ would like to submit the following into the public record to describe DEQ's understanding of the legislative intent of this amendment.

The amendment would establish a requirement for agencies to consult with parties likely to engage in recreational or small scale mining activities prior to issuing for public notice a rule or general permit specifically intended to regulate recreational or small scale mining. DEQ interprets this to mean rules relating to these mining permit themselves and not general water quality standards or implementation measures.

The consultation would focus on the agency's proposed changes to rules or orders regulating recreational or small scale mining. This does not, however, establish a requirement or expectation that the agency and mining interests achieve consensus on permit language or that all disputes be resolved during the consultation process. During the consultation process, the agency is not required to discuss or respond to issues that pertain to policy, regulatory or legal issues beyond the scope of the rule or order.

The bill would direct the agencies to make *reasonable* efforts to identify/notify people likely to undertake mining about the consultation process and to consider all *reasonably* available and relevant scientific studies. In recognition of the indeterminable population of persons likely to undertake mining and the undefinable universe of reasonably available and relevant studies, the agency expects that the parties involved in the consultation will assist the agency in fulfilling this requirement and maintain reasonable expectations about what can be accomplished.

With regard to the requirement to consider relevant scientific studies, we understand this to mean published, peer reviewed scientific studies and agency reports (such as NEPA or state equivalent), and not include anecdotal information or unsubstantiated observations.