

# D R A F T

## SUMMARY

Provides that certain activities at landfills are not considered surface mining and are exempt from surface mining permit requirements of State Department of Geology and Mineral Industries.

### A BILL FOR AN ACT

Relating to surface mining; amending ORS 517.750.

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

**SECTION 1.** ORS 517.750 is amended to read:

517.750. As used in ORS 517.702 to 517.989, unless the context requires otherwise:

(1) “Board” means the governing board of the State Department of Geology and Mineral Industries.

(2) “Completion” means termination of surface mining activities including reclamation of the surface-mined land in accordance with the approved reclamation plan and operating permit.

(3) “Department” means the State Department of Geology and Mineral Industries.

(4) “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 or chemical processing of minerals.

(5) “Explorer” means, notwithstanding the provisions of ORS 517.810 (2), any individual, public or private corporation, political subdivision, agency, board or department of this state, any municipality, partnership, association,

1 firm, trust, estate or any other legal entity whatsoever that is engaged in  
2 exploration.

3 (6) "Landowner" means:

4 (a) The person possessing fee title to the natural mineral deposit being  
5 surface mined or explored; and

6 (b) The owner of an equitable interest in land that is subject to a deed  
7 of trust.

8 (7) "Minerals" includes soil, coal, clay, stone, sand, gravel, metallic ore  
9 and any other solid material or substance excavated for commercial, indus-  
10 trial or construction use from natural deposits situated within or upon lands  
11 in this state.

12 (8) "Operator" means any individual, public or private corporation, poli-  
13 tical subdivision, agency, board or department of this state, any municipality,  
14 partnership, association, firm, trust, estate or any other legal entity what-  
15 soever that is engaged in surface mining operations.

16 (9) "Overburden" means the soil, rock and similar materials that lie above  
17 natural deposits of minerals.

18 (10) "Person" means any person, any federal agency or any public body,  
19 as defined in ORS 174.109.

20 (11) "Processing" includes, but is not limited to, crushing, washing, mill-  
21 ing and screening as well as the batching and blending of mineral aggregate  
22 into asphalt and portland cement concrete located within the operating per-  
23 mit area.

24 (12) "Reclamation" means the employment in a surface mining operation  
25 or exploration of procedures reasonably designed to:

26 (a) Minimize, as much as practicable, the adverse effects of the surface  
27 mining operation or exploration on land, air and water resources; and

28 (b) Provide for the rehabilitation of surface resources adversely affected  
29 by the surface mining operations or exploration through the rehabilitation  
30 of plant cover, soil stability and water resources and through other measures  
31 that contribute to the subsequent beneficial use of the explored, mined or

1 reclaimed lands.

2 (13) "Reclamation plan" means a written proposal, submitted to the de-  
3 partment as required by ORS 517.702 to 517.989 and subsequently approved  
4 by the department as provided in ORS 517.702 to 517.989, for the reclamation  
5 of the land area adversely affected by a surface mining operation or explo-  
6 ration and including, but not limited to the following information:

7 (a) Proposed measures to be undertaken by the operator in protecting the  
8 natural resources of adjacent lands.

9 (b) Proposed measures for the rehabilitation of the explored or surface-  
10 mined lands and the procedures to be applied.

11 (c) The procedures to be applied in the surface mining operation or ex-  
12 ploration to control the discharge of contaminants and the disposal of sur-  
13 face mining refuse.

14 (d) The procedures to be applied in the surface mining operation or ex-  
15 ploration in the rehabilitation of affected stream channels and stream banks  
16 to a condition minimizing erosion, sedimentation and other factors of pol-  
17 lution.

18 (e) The map required by ORS 517.790 (1)(e) and such other maps and  
19 supporting documents as may be requested by the department.

20 (f) A proposed time schedule for the completion of reclamation operations.

21 (g) Requirements of the exploration permit.

22 (14) "Surface impacts of underground mining" means all waste materials  
23 produced by underground mining and placed upon the surface including, but  
24 not limited to, waste dumps, mill tailings, washing plant fines and all surface  
25 subsidence related to underground mining.

26 (15)(a) "Surface mining" includes:

27 (A) All or any part of the process of mining minerals by the removal of  
28 overburden and the extraction of natural mineral deposits thereby exposed  
29 by any method by which more than 5,000 cubic yards of minerals are ex-  
30 tracted or by which at least one acre of land is affected within a period of  
31 12 consecutive calendar months, including open-pit mining operations, auger

1 mining operations, processing, surface impacts of underground mining, pro-  
2 duction of surface mining refuse and the construction of adjacent or off-site  
3 borrow pits (except those constructed for use as access roads).

4 (B) Removal or filling, or both, within the beds or banks of any waters  
5 of this state that is the subject of a memorandum of agreement between the  
6 Department of State Lands and the State Department of Geology and Mineral  
7 Industries in which the State Department of Geology and Mineral Industries  
8 is assigned sole responsibility for permitting as described in ORS 517.797.

9 (b) "Surface mining" does not include:

10 (A) Excavations of sand, gravel, clay, rock or other similar materials  
11 conducted by the landowner or tenant for the primary purpose of con-  
12 struction, reconstruction or maintenance of access roads on the same parcel  
13 or on an adjacent parcel that is under the same ownership as the parcel that  
14 is being excavated;

15 (B) Excavation or grading operations, reasonably necessary for farming;

16 (C) Nonsurface effects of underground mining;

17 (D) Removal of rock, gravel, sand, silt or other similar substances re-  
18 moved from the beds or banks of any waters of this state pursuant to a  
19 permit issued under ORS 196.800 to 196.900; *[or]*

20 (E) Excavations or reprocessing of aggregate material, or grading oper-  
21 ations, within the highway right of way reasonably necessary for the con-  
22 struction, reconstruction or maintenance of a highway as defined in ORS  
23 801.305; **or**

24 **(F) Excavation or movement of materials on site at a landfill, as**  
25 **defined in ORS 459.005, for the primary purpose of construction, re-**  
26 **construction or maintenance of access roads or for landfill operations,**  
27 **including but not limited to landfill cell construction and daily, in-**  
28 **terim and final cover operations, and for which the Department of**  
29 **Environmental Quality has issued a permit under ORS 459.205 to**  
30 **459.385.**

31 (16) "Surface mining refuse" means all waste materials, soil, rock, min-

1 eral, liquid, vegetation and other materials resulting from or displaced by  
2 surface mining operations within the operating permit area, including all  
3 waste materials deposited in or upon lands within the operating permit area.

4 (17) "Underground mining" means all human-made excavations below the  
5 surface of the ground through shafts or adits for the purpose of exploring for,  
6 developing or producing valuable minerals.

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