

A-Engrossed
Senate Bill 46

Ordered by the Senate April 12
Including Senate Amendments dated April 12

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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.

Clarifies applicability of surface mining exclusion certificate to multiple sites and on federal and state lands. Exempts activities extracting [1,000] **500** cubic yards or less from certificate requirements.

Raises maximum renewal fee for exclusion certificate.

Exempts construction excavation necessary for authorized construction project from surface mining laws.

A BILL FOR AN ACT

1
2 Relating to surface mining; amending ORS 517.750 and 517.753.

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

4 **SECTION 1.** ORS 517.753 is amended to read:

5 517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (16), a person [*must*]
6 **shall** obtain an exclusion certificate from the State Department of Geology and Mineral Industries
7 [*to engage in surface mining that results in the extraction of 5,000 cubic yards or less of minerals or*
8 *affects less than one acre of land within a period of 12 consecutive calendar months.*] **for each surface**
9 **mining operation that, within a 12-month period, results in the extraction of between 500 and**
10 **5,000 cubic yards of minerals.**

11 **(2) Mining conducted under a valid exclusion certificate may expand the affected area by**
12 **not more than one acre of land within any 12-month period unless the total acreage of sur-**
13 **face disturbance by the mining operation exceeds five acres.**

14 **(3)** Except as provided in ORS 517.755, [*a mining operation subject to*] **surface mining con-**
15 **ducted under** a valid exclusion certificate is [*not subject to*] **exempt from** the operating permit
16 [*or*] **and** reclamation requirements set forth in ORS 517.702 to 517.989.

17 [(2)] **(4)** A person shall submit an exclusion certificate application on a form provided by the
18 department, accompanied by a fee not to exceed \$400. [*If the*] **Unless the** department [*does not ap-*
19 *prove or disapprove*] **denies** the application within 90 days after [*the date the application is filed with*
20 *the department,*] **filing,** the application [*shall be*] **is** deemed approved.

21 [(3)] **(5)** Each holder of an exclusion certificate shall annually pay to the department a renewal
22 fee [*of \$150*] **not to exceed \$165,** accompanied by a description of:

23 (a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;

24 (b) The total acreage of surface disturbance by the mining operation as of the date that the re-
25 newal is submitted; 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 (c) Any additional information required by the department to determine *[that]* **whether** the
2 mining operation continues to qualify for an exclusion certificate.

3 **SECTION 2.** ORS 517.750 is amended to read:

4 517.750. As used in ORS 517.702 to 517.989, unless the context requires otherwise:

5 (1) "Board" means the governing board of the State Department of Geology and Mineral Indus-
6 tries.

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

9 (3) "Cooperating agency" means the State Department of Agriculture, the State Department of
10 Fish and Wildlife or any agency that has statutory responsibility related to a mining operation but
11 that does not issue a permit for the mining operation.

12 (4) "Department" means the State Department of Geology and Mineral Industries.

13 (5) "Exploration" means all activities conducted on or beneath the surface of the earth for the
14 purpose of determining presence, location, extent, grade or economic viability of a deposit. "Explo-
15 ration" does not include prospecting or chemical processing of minerals.

16 (6) "Explorer" means[, *notwithstanding the provisions of ORS 517.810 (2), any individual, public*
17 *or private corporation, political subdivision, agency, board or department of this state, any munici-*
18 *pality, partnership, association, firm, trust, estate or any other legal entity whatsoever]* **a person** that
19 is engaged in exploration.

20 (7) "Landowner" means:

21 (a) The person possessing fee title to the natural mineral deposit being surface mined or ex-
22 plored; and

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

24 (8) "Minerals" includes soil, coal, clay, stone, sand, gravel, metallic ore and any other solid
25 material or substance excavated for commercial, industrial or construction use from natural deposits
26 situated within or upon lands in this state.

27 (9) "Operator" means any individual, public or private corporation, political subdivision, agency,
28 board or department of this state, any municipality, partnership, association, firm, trust, estate or
29 any other legal entity whatsoever that is engaged in surface mining operations.

30 (10) "Overburden" means the soil, rock and similar materials that lie above natural deposits of
31 minerals.

32 (11) "Person" means any person, any federal agency or any public body, as defined in ORS
33 174.109.

34 (12) "Processing" includes, but is not limited to, crushing, washing, milling and screening as well
35 as the batching and blending of mineral aggregate into asphalt and portland cement concrete located
36 within the operating permit area.

37 (13) "Reclamation" means the employment in a surface mining operation or exploration of pro-
38 cedures reasonably designed to:

39 (a) Minimize, as much as practicable, the adverse effects of the surface mining operation or ex-
40 ploration on land, air and water resources; and

41 (b) Provide for the rehabilitation of surface resources adversely affected by the surface mining
42 operations or exploration through the rehabilitation of plant cover, soil stability and water re-
43 sources and through other measures that contribute to the subsequent beneficial use of the explored,
44 mined or reclaimed lands.

45 (14) "Reclamation plan" means a written proposal, submitted to the department as required by

1 ORS 517.702 to 517.989 and subsequently approved by the department as provided in ORS 517.702
2 to 517.989, for the reclamation of the land area adversely affected by a surface mining operation or
3 exploration and including, but not limited to the following information:

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

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

8 (c) The procedures to be applied in the surface mining operation or exploration to control the
9 discharge of contaminants and the disposal of surface mining refuse.

10 (d) The procedures to be applied in the surface mining operation or exploration in the rehabili-
11 tation of affected stream channels and stream banks to a condition minimizing erosion,
12 sedimentation and other factors of pollution.

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

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

16 (g) Requirements of the exploration permit.

17 (15) "Surface impacts of underground mining" means all waste materials produced by under-
18 ground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings,
19 washing plant fines and all surface subsidence related to underground mining.

20 (16)(a) "Surface mining" includes:

21 (A) All or any part of the process of mining minerals by the removal of overburden and the
22 extraction of natural mineral deposits thereby exposed by any method by which more than 5,000
23 cubic yards of minerals are extracted or by which at least one acre of land is affected within a pe-
24 riod of 12 consecutive calendar months, including open-pit mining operations, auger mining oper-
25 ations, processing, surface impacts of underground mining, production of surface mining refuse and
26 the construction of adjacent or off-site borrow pits, [except those constructed for use as access
27 roads].

28 (B) Removal or filling, or both, within the beds or banks of any waters of this state that is the
29 subject of a memorandum of agreement between the Department of State Lands and the State De-
30 partment of Geology and Mineral Industries in which the State Department of Geology and Mineral
31 Industries is assigned sole responsibility for permitting as described in ORS 517.797.

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

33 (A) Excavations of sand, gravel, clay, rock or other similar materials conducted by the land-
34 owner or tenant for the primary purpose of construction, reconstruction or maintenance of access
35 roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel
36 that is being excavated;

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

38 (C) Nonsurface effects of underground mining;

39 (D) Removal of rock, gravel, sand, silt or other similar substances removed from the beds or
40 banks of any waters of this state pursuant to a permit issued under ORS 196.800 to 196.900;

41 (E) Excavations or reprocessing of aggregate material, or grading operations, within the high-
42 way right of way reasonably necessary for the construction, reconstruction or maintenance of a
43 highway as defined in ORS 801.305;

44 (F) Excavation or movement of materials on site at a landfill, as defined in ORS 459.005, for the
45 primary purpose of construction, reconstruction or maintenance of access roads or for landfill op-

1 erations, including but not limited to landfill cell construction and daily, interim and final cover
2 operations, if the excavation or movement of materials is covered by a permit issued by the De-
3 partment of Environmental Quality under ORS 459.205 to 459.385; *[or]*

4 (G) Excavation or grading operations necessary for construction and maintenance of utilities or
5 drainage facilities, where the excavated material is used on site and is not sold into the commercial
6 market as aggregate material[.]; **or**

7 **(H) Excavation or grading operations that:**

8 **(i) Are necessary for on-site construction activities that do not require a local govern-**
9 **ment land use decision or are expressly authorized under state law; and**

10 **(ii) Do not result in any excavated minerals being sold into the commercial market as**
11 **aggregate material.**

12 (17) "Surface mining refuse" means all waste materials, soil, rock, mineral, liquid, vegetation and
13 other materials resulting from or displaced by surface mining operations within the operating permit
14 area, including all waste materials deposited in or upon lands within the operating permit area.

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

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