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**SUBSTITUTE HOUSE BILL 1600**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Natural Resources (originally sponsored by Representatives Sheldon and Buck)

Read first time 03/04/97.

1 AN ACT Relating to surface mining; and amending RCW 78.44.081,  
2 78.44.091, and 78.44.151.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 78.44.081 and 1993 c 518 s 11 are each amended to read  
5 as follows:

6 After July 1, 1993, no miner or permit holder may engage in surface  
7 mining without having first obtained a reclamation permit from the  
8 department. Operating permits issued by the department between January  
9 1, 1971, and June 30, 1993, shall be considered reclamation permits  
10 (~~provided such permits substantially meet the protections,~~  
11 ~~mitigations, and reclamation goals of RCW 78.44.091 and 78.44.131~~  
12 ~~within five years after July 1, 1993. State agencies and local~~  
13 ~~government shall be exempt from this time limit for inactive sites.~~  
14 ~~Prior to the use of an inactive site, the reclamation plan must be~~  
15 ~~brought up to current standards)). A separate permit shall be required~~  
16 for each noncontiguous surface mine. The reclamation permit shall  
17 consist of the permit forms and any exhibits attached thereto. The  
18 permit holder shall comply with the provisions of the reclamation  
19 permit unless waived and explained in writing by the department.

1 Prior to receiving a reclamation permit, an applicant must submit  
2 an application on forms provided by the department that shall contain  
3 the following information and shall be considered part of the  
4 reclamation permit:

5 (1) Name and address of the legal landowner, or purchaser of the  
6 land under a real estate contract;

7 (2) The name of the applicant and, if the applicants are  
8 corporations or other business entities, the names and addresses of  
9 their principal officers and resident agent for service of process;

10 (3) A reasonably accurate description of the minerals to be surface  
11 mined;

12 (4) Type of surface mining to be performed;

13 (5) Estimated starting date, date of completion, and date of  
14 completed reclamation of surface mining;

15 (6) Size and legal description of the permit area and maximum  
16 lateral and vertical extent of the disturbed area;

17 (7) Expected area to be disturbed by surface mining during (a) the  
18 next twelve months, and (b) the following twenty-four months;

19 (8) Any applicable SEPA documents; and

20 (9) Other pertinent data as required by the department.

21 The reclamation permit shall be granted for the period required to  
22 deplete essentially all minerals identified in the reclamation permit  
23 on the land covered by the reclamation plan. The reclamation permit  
24 shall be valid until the reclamation is complete unless the permit is  
25 canceled by the department.

26 **Sec. 2.** RCW 78.44.091 and 1993 c 518 s 12 are each amended to read  
27 as follows:

28 An applicant shall provide a reclamation plan and copies acceptable  
29 to the department prior to obtaining a reclamation permit. The  
30 department shall have the sole authority to approve reclamation plans.  
31 Reclamation plans or modified reclamation plans submitted to the  
32 department after June 30, 1993, shall meet or exceed the minimum  
33 reclamation standards set forth in this chapter and by the department  
34 in rule. Each applicant shall also supply copies of the proposed plans  
35 and final reclamation plan approved by the department to the county,  
36 city, or town in which the mine will be located. The department shall  
37 solicit comment from local government prior to approving a reclamation  
38 plan. The reclamation plan shall include:

1 (1) A written narrative describing the proposed mining and  
2 reclamation scheme with:

3 (a) A statement of a proposed subsequent use of the land after  
4 reclamation that is consistent with the local land use designation.  
5 Approval of the reclamation plan shall not vest the proposed subsequent  
6 use of the land;

7 (b) If the permit holder is not the sole landowner, a copy of the  
8 conveyance or a written statement that expressly grants or reserves the  
9 right to extract minerals by surface mining methods;

10 (c) A simple and accurate legal description of the permit area and  
11 disturbed areas;

12 (d) The maximum depth of mining;

13 (e) A reasonably accurate description of the minerals to be mined;

14 (f) A description of the method of mining;

15 (g) A description of the sequence of mining that will provide,  
16 within limits of normal procedures of the industry, for completion of  
17 surface mining and associated disturbance on each portion of the permit  
18 area so that reclamation can be initiated at the earliest possible time  
19 on each segment of the mine;

20 (h) A schedule for progressive reclamation of each segment of the  
21 mine;

22 (i) Where mining on flood plains or in river or stream channels is  
23 contemplated, a thoroughly documented hydrogeologic evaluation that  
24 will outline measures that would protect against or would mitigate  
25 avulsion and erosion as determined by the department;

26 (j) Where mining is contemplated within critical aquifer recharge  
27 areas, special protection areas as defined by chapter 90.48 RCW and  
28 implementing rules, public water supply watersheds, sole source  
29 aquifers, wellhead protection areas, and designated aquifer protection  
30 areas as set forth in chapter 36.36 RCW, a thoroughly documented  
31 hydrogeologic analysis of the reclamation plan may be required; and

32 (k) Additional information as required by the department including  
33 but not limited to: The positions of reclamation setbacks and  
34 screening, conservation of topsoil, interim reclamation, revegetation,  
35 postmining erosion control, drainage control, slope stability, disposal  
36 of mine wastes, control of fill material, development of wetlands,  
37 ponds, lakes, and impoundments, and rehabilitation of topography.

38 (2) Maps of the surface mine showing:

1 (a) All applicable data required in the narrative portion of the  
2 reclamation plan;

3 (b) Existing topographic contours;

4 (c) Contours depicting specifications for surface gradient  
5 restoration appropriate to the proposed subsequent use of the land and  
6 meeting the minimum reclamation standards;

7 (d) Locations and names of all roads, railroads, and utility lines  
8 on or adjacent to the area;

9 (e) Locations and types of proposed access roads to be built in  
10 conjunction with the surface mining;

11 (f) Detailed and accurate boundaries of the permit area, screening,  
12 reclamation setbacks, and maximum extent of the disturbed area; and

13 (g) Estimated depth to ground water and the locations of surface  
14 water bodies and wetlands both prior to and after mining.

15 (3) At least two cross sections of the mine including all  
16 applicable data required in the narrative and map portions of the  
17 reclamation plan.

18 (4) Evidence that the proposed surface mine has been approved under  
19 local zoning and land use regulations.

20 (5) Written approval of the reclamation plan by the landowner for  
21 mines permitted after June 30, 1993.

22 (6) Other supporting data and documents regarding the surface mine  
23 as reasonably required by the department.

24 If the department refuses to approve a reclamation plan in the form  
25 submitted by an applicant or permit holder, it shall notify the  
26 applicant or permit holder stating the reasons for its determination  
27 and describe such additional requirements to the applicant or permit  
28 holder's reclamation plan as are necessary for the approval of the plan  
29 by the department. If the department refuses to approve a complete  
30 reclamation plan within one hundred twenty days, the miner or permit  
31 holder may appeal this determination under the provisions of this  
32 chapter.

33 Only insignificant deviations may occur from the approved  
34 reclamation plan without prior written approval by the department for  
35 the proposed change.

36 (~~The department retains the authority to require that the~~  
37 ~~reclamation plan be updated to the satisfaction of the department at~~  
38 ~~least every ten years.))~~

1       **Sec. 3.** RCW 78.44.151 and 1993 c 518 s 23 are each amended to read  
2 as follows:

3       (~~The department and~~) (1) The permit holder may modify the  
4 reclamation plan at any time during the term of the permit (~~for any of~~  
5 ~~the following reasons:~~

6       (1) ~~To modify the requirements so that they do not conflict with~~  
7 ~~existing or new laws;~~

8       (2) ~~If the department determines that the previously adopted~~  
9 ~~reclamation plan is impossible or impracticable to implement and~~  
10 ~~maintain; or~~

11       (3) ~~The previously approved reclamation plan is not accomplishing~~  
12 ~~the intent of this chapter as determined by the department)) provided~~  
13 ~~that the modified reclamation plan meets the protections, mitigations,~~  
14 ~~and reclamation goals of RCW 78.44.091, 78.44.131, and 78.44.141.~~

15       (2) The department may require a permit holder to modify the  
16 reclamation plan if the department determines:

17       (a) That the previously approved reclamation plan has not been  
18 modified during the past ten years; or

19       (b) That the permit holder has violated or is not substantially  
20 following the previously approved reclamation plan.

21       (3) Modified reclamation plans shall be reviewed by the department  
22 as lead agency under SEPA. Such SEPA analyses shall consider only  
23 those impacts relating directly to the proposed modifications. Copies  
24 of proposed and approved modifications shall be sent to the appropriate  
25 county, city, or town.

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