

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5439**

55th Legislature  
1997 Regular Session

Passed by the Senate March 15, 1997  
YEAS 46 NAYS 1

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**President of the Senate**

Passed by the House April 10, 1997  
YEAS 62 NAYS 36

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**Speaker of the  
House of Representatives**

Approved

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5439** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SENATE BILL 5439**

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Passed Legislature - 1997 Regular Session

**State of Washington                      55th Legislature                      1997 Regular Session**

**By Senators Morton, Hargrove, Stevens and Benton**

Read first time 01/27/97. Referred to Committee on Natural Resources & Parks.

1            AN ACT Relating to small public works surface mines; and amending  
2 RCW 78.44.031.

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

4            **Sec. 1.** RCW 78.44.031 and 1993 c 518 s 4 are each amended to read  
5 as follows:

6            Unless the context clearly indicates otherwise, the definitions in  
7 this section apply throughout this chapter.

8            (1) "Approved subsequent use" means the post surface-mining land  
9 use contained in an approved reclamation plan and approved by the local  
10 land use authority.

11            (2) "Completion of surface mining" means the cessation of mining  
12 and directly related activities in any segment of a surface mine that  
13 occurs when essentially all minerals that can be taken under the terms  
14 of the reclamation permit have been depleted except minerals required  
15 to accomplish reclamation according to the approved reclamation plan.

16            (3) "Department" means the department of natural resources.

17            (4) "Determination" means any action by the department including  
18 permit issuance, reporting, reclamation plan approval or modification,  
19 permit transfers, orders, fines, or refusal to issue permits.

1 (5) "Disturbed area" means any place where activities clearly in  
2 preparation for, or during, surface mining have physically disrupted,  
3 covered, compacted, moved, or otherwise altered the characteristics of  
4 soil, bedrock, vegetation, or topography that existed prior to such  
5 activity. Disturbed areas may include but are not limited to: Working  
6 faces, water bodies created by mine-related excavation, pit floors, the  
7 land beneath processing plant and stock pile sites, spoil pile sites,  
8 and equipment staging areas.

9 Disturbed areas do not include:

10 (a) Surface mine access roads unless these have characteristics of  
11 topography, drainage, slope stability, or ownership that, in the  
12 opinion of the department, make reclamation necessary; and

13 (b) Lands that have been reclaimed to all standards outlined in  
14 this chapter, rules of the department, any applicable SEPA document,  
15 and the approved reclamation plan.

16 (6) "Miner" means any person or persons, any partnership, limited  
17 partnership, or corporation, or any association of persons, including  
18 every public or governmental agency engaged in mining from the surface.

19 (7) "Minerals" means clay, coal, gravel, industrial minerals,  
20 metallic substances, peat, sand, stone, topsoil, and any other similar  
21 solid material or substance to be excavated from natural deposits on or  
22 in the earth for commercial, industrial, or construction use.

23 (8) "Operations" means all mine-related activities, exclusive of  
24 reclamation, that include, but are not limited to activities that  
25 affect noise generation, air quality, surface and ground water quality,  
26 quantity, and flow, glare, pollution, traffic safety, ground  
27 vibrations, and/or significant or substantial impacts commonly  
28 regulated under provisions of land use or other permits of local  
29 government and local ordinances, or other state laws.

30 Operations specifically include:

31 (a) The mining or extraction of rock, stone, gravel, sand, earth,  
32 and other minerals;

33 (b) Blasting, equipment maintenance, sorting, crushing, and  
34 loading;

35 (c) On-site mineral processing including asphalt or concrete  
36 batching, concrete recycling, and other aggregate recycling;

37 (d) Transporting minerals to and from the mine, on site road  
38 maintenance, road maintenance for roads used extensively for surface  
39 mining activities, traffic safety, and traffic control.

1 (9) "Overburden" means the earth, rock, soil, and topsoil that lie  
2 above mineral deposits.

3 (10) "Permit holder" means any person or persons, any partnership,  
4 limited partnership, or corporation, or any association of persons,  
5 either natural or artificial, including every public or governmental  
6 agency engaged in surface mining and/or the operation of surface mines,  
7 whether individually, jointly, or through subsidiaries, agents,  
8 employees, operators, or contractors who holds a state reclamation  
9 permit.

10 (11) "Reclamation" means rehabilitation for the appropriate future  
11 use of disturbed areas resulting from surface mining including areas  
12 under associated mineral processing equipment and areas under  
13 stockpiled materials. Although both the need for and the  
14 practicability of reclamation will control the type and degree of  
15 reclamation in any specific surface mine, the basic objective shall be  
16 to reestablish on a perpetual basis the vegetative cover, soil  
17 stability, and water conditions appropriate to the approved subsequent  
18 use of the surface mine and to prevent or mitigate future environmental  
19 degradation.

20 (12) "Reclamation setbacks" include those lands along the margins  
21 of surface mines wherein minerals and overburden shall be preserved in  
22 sufficient volumes to accomplish reclamation according to the approved  
23 plan and the minimum reclamation standards. Maintenance of reclamation  
24 setbacks may not preclude other mine-related activities within the  
25 reclamation setback.

26 (13) "Recycling" means the reuse of minerals or rock products.

27 (14) "Screening" consists of vegetation, berms or other topography,  
28 fencing, and/or other screens that may be required to mitigate impacts  
29 of surface mining on adjacent properties and/or the environment.

30 (15) "Segment" means any portion of the surface mine that, in the  
31 opinion of the department:

32 (a) Has characteristics of topography, drainage, slope stability,  
33 ownership, mining development, or mineral distribution, that make  
34 reclamation necessary;

35 (b) Is not in use as part of surface mining and/or related  
36 activities; and

37 (c) Is larger than seven acres and has more than five hundred  
38 linear feet of working face except as provided in a segmental  
39 reclamation agreement approved by the department.

1 (16) "SEPA" means the state environmental policy act, chapter  
2 43.21C RCW and rules adopted thereunder.

3 (17)(a) "Surface mine" means any area or areas in close proximity  
4 to each other, as determined by the department, where extraction of  
5 minerals from the surface results in:

6 (i) More than three acres of disturbed area;

7 (ii) Mined slopes greater than thirty feet high and steeper than  
8 1.0 foot horizontal to 1.0 foot vertical; or

9 (iii) More than one acre of disturbed area within an eight acre  
10 area, when the disturbed area results from mineral prospecting or  
11 exploration activities.

12 (b) Surface mines include areas where mineral extraction from the  
13 surface occurs by the auger method or by reworking mine refuse or  
14 tailings, when these activities exceed the size or height thresholds  
15 listed in (a) of this subsection.

16 (c) Surface mining shall exclude excavations or grading used:

17 (i) Primarily for on-site construction, on-site road maintenance,  
18 or on-site landfill construction;

19 (ii) For the purpose of public safety or restoring the land  
20 following a natural disaster;

21 (iii) For the purpose of removing stockpiles;

22 (iv) For forest or farm road construction or maintenance on site or  
23 on contiguous lands;

24 (v) Primarily for public works projects if the mines are owned or  
25 primarily operated by counties with 1993 populations of less than  
26 twenty thousand persons, and if each mine has less than seven acres of  
27 disturbed area;

28 (vi) For sand authorized by RCW 43.51.685; and

29 (~~(vi)~~) (vii) For underground mines.

30 (18) "Topsoil" means the naturally occurring upper part of a soil  
31 profile, including the soil horizon that is rich in humus and capable  
32 of supporting vegetation together with other sediments within four  
33 vertical feet of the ground surface.

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