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SENATE BILL 5307

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State of Washington

56th Legislature

1999 Regular Session

By Senators Jacobsen, Swecker, Fraser and Kline; by request of  
Commissioner of Public Lands

Read first time 01/19/1999. Referred to Committee on Natural  
Resources, Parks & Recreation.

1 AN ACT Relating to the reclamation of surface disturbances caused  
2 by underground mining; and amending RCW 78.44.031.

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

4 **Sec. 1.** RCW 78.44.031 and 1997 c 142 s 1 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. Disturbed areas shall also include  
9 aboveground waste rock sites and tailing facilities, and other surface  
10 manifestations of underground mines.

11 Disturbed areas do not include:

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

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

18 (c) Subsurface aspects of underground mines, such as portals,  
19 tunnels, shafts, pillars, and stopes.

20 (6) "Miner" means any person or persons, any partnership, limited  
21 partnership, or corporation, or any association of persons, including  
22 every public or governmental agency engaged in surface mining ~~((from~~  
23 ~~the surface))~~.

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

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

35 Operations specifically include:

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

38 (b) Blasting, equipment maintenance, sorting, crushing, and  
39 loading;

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

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

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

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

15 (11) "Reclamation" means rehabilitation for the appropriate future  
16 use of disturbed areas resulting from surface mining including areas  
17 under associated mineral processing equipment (~~and~~), areas under  
18 stockpiled materials, and aboveground waste rock and tailing  
19 facilities, and all other surface disturbances associated with  
20 underground mines. Although both the need for and the practicability  
21 of reclamation will control the type and degree of reclamation in any  
22 specific surface mine, the basic objective shall be to reestablish on  
23 a perpetual basis the vegetative cover, soil stability, and water  
24 conditions appropriate to the approved subsequent use of the surface  
25 mine and to prevent or mitigate future environmental degradation.

26 (12) "Reclamation setbacks" include those lands along the margins  
27 of surface mines wherein minerals and overburden shall be preserved in  
28 sufficient volumes to accomplish reclamation according to the approved  
29 plan and the minimum reclamation standards. Maintenance of reclamation  
30 setbacks may not preclude other mine-related activities within the  
31 reclamation setback.

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

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

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

1 (a) Has characteristics of topography, drainage, slope stability,  
2 ownership, mining development, or mineral distribution, that make  
3 reclamation necessary;

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

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

9 (16) "SEPA" means the state environmental policy act, chapter  
10 43.21C RCW and rules adopted thereunder.

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

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

15 (ii) Surface mined slopes greater than thirty feet high and steeper  
16 than 1.0 foot horizontal to 1.0 foot vertical; or

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

20 (b) Surface mines include areas where mineral extraction from the  
21 surface or subsurface occurs by the auger method or by reworking mine  
22 refuse or tailings, when (~~((these activities))~~) the disturbed area  
23 exceeds the size or height thresholds listed in (a) of this subsection.

24 (c) Surface mining occurs when operations have created or are  
25 intended to create a surface mine as defined by this subsection.

26 (d) Surface mining shall exclude excavations or grading used:

27 (i) Primarily for on-site construction, on-site road maintenance,  
28 or on-site landfill construction;

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

31 (iii) For the purpose of removing stockpiles;

32 (iv) For forest or farm road construction or maintenance on site or  
33 on contiguous lands;

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

38 (vi) For sand authorized by RCW 43.51.685(~~((+and~~

39 ~~((vii) For underground mines))~~).

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

5       NEW SECTION.   **Sec. 2.**   If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

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