

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5307**

56th Legislature  
1999 Regular Session

Passed by the Senate April 20, 1999  
YEAS 45 NAYS 0

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**President of the Senate**

Passed by the House April 7, 1999  
YEAS 90 NAYS 0

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**Speaker of the  
House of Representatives**

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5307** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SENATE BILL 5307**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

**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; amending RCW 78.44.031; and adding a new section  
3 to 78.44 RCW.

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

5            **Sec. 1.** RCW 78.44.031 and 1997 c 142 s 1 are each amended to read  
6 as follows:

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

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

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

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

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

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

14 Disturbed areas do not include:

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

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

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

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

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

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

38 Operations specifically include:

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

3 (b) Blasting, equipment maintenance, sorting, crushing, and  
4 loading;

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

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

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

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

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

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

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

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

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

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

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

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

11 (16) "SEPA" means the state environmental policy act, chapter  
12 43.21C RCW and rules adopted thereunder.

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

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

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

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

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

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

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

29 (i) Primarily for on-site construction, on-site road maintenance,  
30 or on-site landfill construction;

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

33 (iii) For the purpose of removing stockpiles;

34 (iv) For forest or farm road construction or maintenance on site or  
35 on contiguous lands;

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

1 (vi) For sand authorized by RCW 43.51.685(~~and~~  
2 ~~(vii) For underground mines~~)).

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

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 78.44 RCW  
8 to read as follows:

9 Surface disturbances caused by an underground metals mining and  
10 milling operation are subject to the requirements of this chapter if  
11 the operation is proposed after June 30, 1999. An operation is  
12 proposed when an agency is presented with an application for an  
13 operation or expansion of an existing operation having a probable  
14 significant adverse environmental impact under chapter 43.21C RCW. The  
15 department of ecology shall retain authority for reclamation of surface  
16 disturbances caused by an underground operation operating at any time  
17 prior to June 30, 1999, unless the operator requests that authority for  
18 reclamation of surface disturbances caused by such operation be  
19 transferred to the department under the requirements of this chapter.

20 NEW SECTION. **Sec. 3.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

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