

A-Engrossed
Senate Bill 1036

Ordered by the Senate April 21
Including Senate Amendments dated April 21

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

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.

Provides that certain activities [*at landfills*] are not considered surface mining and are exempt from surface mining permit requirements of State Department of Geology and Mineral Industries.

A BILL FOR AN ACT

1
2 Relating to surface mining; amending ORS 517.750.

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

4 **SECTION 1.** ORS 517.750 is amended to read:

5 517.750. As used in ORS 517.702 to 517.989, unless the context requires otherwise:

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

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

10 (3) "Department" means the State Department of Geology and Mineral Industries.

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

14 (5) "Explorer" means, notwithstanding the provisions of ORS 517.810 (2), any individual, public
15 or private corporation, political subdivision, agency, board or department of this state, any munici-
16 pality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is en-
17 gaged in exploration.

18 (6) "Landowner" means:

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

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

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

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

28 (9) "Overburden" means the soil, rock and similar materials that lie above natural deposits of

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 minerals.

2 (10) "Person" means any person, any federal agency or any public body, as defined in ORS
3 174.109.

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

7 (12) "Reclamation" means the employment in a surface mining operation or exploration of pro-
8 cedures reasonably designed to:

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

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

15 (13) "Reclamation plan" means a written proposal, submitted to the department as required by
16 ORS 517.702 to 517.989 and subsequently approved by the department as provided in ORS 517.702
17 to 517.989, for the reclamation of the land area adversely affected by a surface mining operation or
18 exploration and including, but not limited to the following information:

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

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

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

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

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

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

31 (g) Requirements of the exploration permit.

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

35 (15)(a) "Surface mining" includes:

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

43 (B) Removal or filling, or both, within the beds or banks of any waters of this state that is the
44 subject of a memorandum of agreement between the Department of State Lands and the State De-
45 partment of Geology and Mineral Industries in which the State Department of Geology and Mineral

1 Industries is assigned sole responsibility for permitting as described in ORS 517.797.

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

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

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

8 (C) Nonsurface effects of underground mining;

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

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

14 **(F) Excavation or movement of materials on site at a landfill, as defined in ORS 459.005,**
15 **for the primary purpose of construction, reconstruction or maintenance of access roads or**
16 **for landfill operations, including but not limited to landfill cell construction and daily, interim**
17 **and final cover operations, if the excavation or movement of materials is covered by a permit**
18 **issued by the Department of Environmental Quality under ORS 459.205 to 459.385; or**

19 **(G) Excavation or grading operations necessary for construction and maintenance of**
20 **utilities, drainage facilities and irrigation facilities, where the excavated material is used on**
21 **site and is not sold into the commercial market as aggregate material.**

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

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

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