

CERTIFICATION OF ENROLLMENT

SENATE BILL 5307

Chapter 252, Laws of 1999

56th Legislature
1999 Regular Session

UNDERGROUND MINING--SURFACE DISTURBANCES

EFFECTIVE DATE: 7/25/99

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

BRAD OWEN
President of the Senate

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

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 10, 1999

GARY LOCKE
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.

TONY M. COOK
Secretary

FILED

May 10, 1999 - 4:42 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5307

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.

Passed the Senate April 20, 1999.

Passed the House April 7, 1999.

Approved by the Governor May 10, 1999.

Filed in Office of Secretary of State May 10, 1999.