

Requested by Representative SMITH DB

**PROPOSED AMENDMENTS TO
HOUSE BILL 3309**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; and amending ORS 517.750”.

3 After line 8, insert:

4 **“SECTION 2.** ORS 517.750 is amended to read:

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

7 “(1) ‘Board’ means the governing board of the State Department of
8 Geology and Mineral Industries.

9 “(2) ‘Completion’ means termination of surface mining activities including
10 reclamation of the surface-mined land in accordance with the approved rec-
11 lamation plan and operating permit.

12 “(3) ‘Cooperating agency’ means the State Department of Agriculture, the
13 State Department of Fish and Wildlife or any agency that has statutory re-
14 sponsibility related to a mining operation but that does not issue a permit
15 for the mining operation.

16 “(4) ‘Department’ means the State Department of Geology and Mineral
17 Industries.

18 “(5) ‘Exploration’ means all activities conducted on or beneath the surface
19 of the earth for the purpose of determining presence, location, extent, grade
20 or economic viability of a deposit. ‘Exploration’ does not include prospecting
21 or chemical processing of minerals.

1 “(6) ‘Explorer’ means[, *notwithstanding the provisions of ORS 517.810 (2)*,
2 *any individual, public or private corporation, political subdivision, agency,*
3 *board or department of this state, any municipality, partnership, association,*
4 *firm, trust, estate or any other legal entity whatsoever]* **a person** that is en-
5 gaged in exploration.

6 “(7) ‘Landowner’ means:

7 “(a) The person possessing fee title to the natural mineral deposit being
8 surface mined or explored; and

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

11 “(8) ‘Minerals’ includes soil, coal, clay, stone, sand, gravel, metallic ore
12 and any other solid material or substance excavated for commercial, indus-
13 trial or construction use from natural deposits situated within or upon lands
14 in this state.

15 “(9) ‘Operator’ means any individual, public or private corporation, poli-
16 tical subdivision, agency, board or department of this state, any municipality,
17 partnership, association, firm, trust, estate or any other legal entity what-
18 soever that is engaged in surface mining operations.

19 “(10) ‘Overburden’ means the soil, rock and similar materials that lie
20 above natural deposits of minerals.

21 “(11) ‘Person’ means any person, any federal agency or any public body,
22 as defined in ORS 174.109.

23 “(12) ‘Processing’ includes, but is not limited to, crushing, washing, mill-
24 ing and screening as well as the batching and blending of mineral aggregate
25 into asphalt and portland cement concrete located within the operating per-
26 mit area.

27 “(13) ‘Reclamation’ means the employment in a surface mining operation
28 or exploration of procedures reasonably designed to:

29 “(a) Minimize, as much as practicable, the adverse effects of the surface
30 mining operation or exploration on land, air and water resources; and

1 “(b) Provide for the rehabilitation of surface resources adversely affected
2 by the surface mining operations or exploration through the rehabilitation
3 of plant cover, soil stability and water resources and through other measures
4 that contribute to the subsequent beneficial use of the explored, mined or
5 reclaimed lands.

6 “(14) ‘Reclamation plan’ means a written proposal, submitted to the de-
7 partment as required by ORS 517.702 to 517.989 and subsequently approved
8 by the department as provided in ORS 517.702 to 517.989, for the reclamation
9 of the land area adversely affected by a surface mining operation or explo-
10 ration and including, but not limited to the following information:

11 “(a) Proposed measures to be undertaken by the operator in protecting the
12 natural resources of adjacent lands.

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

15 “(c) The procedures to be applied in the surface mining operation or ex-
16 ploration to control the discharge of contaminants and the disposal of sur-
17 face mining refuse.

18 “(d) The procedures to be applied in the surface mining operation or ex-
19 ploration in the rehabilitation of affected stream channels and stream banks
20 to a condition minimizing erosion, sedimentation and other factors of pol-
21 lution.

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

24 “(f) A proposed time schedule for the completion of reclamation oper-
25 ations.

26 “(g) Requirements of the exploration permit.

27 “(15) ‘Surface impacts of underground mining’ means all waste materials
28 produced by underground mining and placed upon the surface including, but
29 not limited to, waste dumps, mill tailings, washing plant fines and all surface
30 subsidence related to underground mining.

1 “(16)(a) ‘Surface mining’ includes:

2 “(A) All or any part of the process of mining minerals by the removal of
3 overburden and the extraction of natural mineral deposits thereby exposed
4 by any method by which more than 5,000 cubic yards of minerals are ex-
5 tracted or by which at least one acre of land is affected within a period of
6 12 consecutive calendar months, including open-pit mining operations, auger
7 mining operations, processing, surface impacts of underground mining, pro-
8 duction of surface mining refuse and the construction of adjacent or off-site
9 borrow pits, [(except those constructed for use as access roads)].

10 “(B) Removal or filling, or both, within the beds or banks of any waters
11 of this state that is the subject of a memorandum of agreement between the
12 Department of State Lands and the State Department of Geology and Mineral
13 Industries in which the State Department of Geology and Mineral Industries
14 is assigned sole responsibility for permitting as described in ORS 517.797.

15 “(b) ‘Surface mining’ does not include:

16 “(A) Excavations of sand, gravel, clay, rock or other similar materials
17 conducted by the landowner or tenant for the primary purpose of con-
18 struction, reconstruction or maintenance of access roads on the same parcel
19 or on an adjacent parcel that is under the same ownership as the parcel that
20 is being excavated;

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

22 “(C) Nonsurface effects of underground mining;

23 “(D) Removal of rock, gravel, sand, silt or other similar substances re-
24 moved from the beds or banks of any waters of this state pursuant to a
25 permit issued under ORS 196.800 to 196.900;

26 “(E) Excavations or reprocessing of aggregate material, or grading oper-
27 ations, within the highway right of way reasonably necessary for the con-
28 struction, reconstruction or maintenance of a highway as defined in ORS
29 801.305;

30 “(F) Excavation or movement of materials on site at a landfill, as defined

1 in ORS 459.005, for the primary purpose of construction, reconstruction or
2 maintenance of access roads or for landfill operations, including but not
3 limited to landfill cell construction and daily, interim and final cover oper-
4 ations, if the excavation or movement of materials is covered by a permit
5 issued by the Department of Environmental Quality under ORS 459.205 to
6 459.385; [or]

7 “(G) Excavation or grading operations necessary for construction and
8 maintenance of utilities or drainage facilities, where the excavated material
9 is used on site and is not sold into the commercial market as aggregate
10 material[.]; **or**

11 **“(H) Excavation or grading operations that:**

12 **“(i) Are associated with on-site construction activities; and**

13 **“(ii) Do not result in any excavated materials being sold into the**
14 **commercial market.**

15 “(17) ‘Surface mining refuse’ means all waste materials, soil, rock, min-
16 eral, liquid, vegetation and other materials resulting from or displaced by
17 surface mining operations within the operating permit area, including all
18 waste materials deposited in or upon lands within the operating permit area.

19 “(18) ‘Underground mining’ means all human-made excavations below the
20 surface of the ground through shafts or adits for the purpose of exploring for,
21 developing or producing valuable minerals.”.

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