
SENATE BILL 5502

State of Washington

53rd Legislature

1993 Regular Session

By Senators Sutherland and Prentice

Read first time 02/01/93. Referred to Committee on Natural Resources.

1 AN ACT Relating to state and local government regulation of surface
2 mining; amending RCW 78.44.010, 78.44.020, 78.44.040, 78.44.050,
3 78.44.060, 78.44.070, 78.44.150, 78.44.170, and 78.44.910; adding a new
4 section to chapter 36.70A RCW; adding new sections to chapter 78.44
5 RCW; creating new sections; recodifying RCW 78.44.150, 78.44.170,
6 78.44.175, and 78.44.910; repealing RCW 78.44.030, 78.44.035,
7 78.44.080, 78.44.090, 78.44.100, 78.44.110, 78.44.120, 78.44.130,
8 78.44.140, 78.44.160, and 78.44.180; prescribing penalties; providing
9 an effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The legislature recognizes that a recent
12 appellate court decision, *Baker v. Snohomish County*, No. 28573-4-I
13 (Div. I Dec. 28, 1992), has correctly interpreted the legislative
14 intent of the 1970 surface mining act and has reinforced the ability of
15 counties, cities, and towns to exercise regulatory oversight regarding
16 surface mining operations. The legislature also recognizes that the
17 extraction of minerals through surface mining has historically included
18 regulatory involvement by both state and local governments.

1 It is the intent of the legislature to clarify that surface mining
2 is a land use activity subject to the authority of counties, cities,
3 and towns to protect the health, safety, and welfare of the public and
4 the environment, that must be carried out giving consideration to
5 reclamation plans developed and administered by the department of
6 natural resources.

7 **Sec. 2.** RCW 78.44.010 and 1970 ex.s. c 64 s 2 are each amended to
8 read as follows:

9 The legislature recognizes that the extraction of minerals by
10 surface mining is ~~((a basic and))~~ an essential activity making an
11 important contribution to the economic well-being of the state and
12 nation. ~~((At the same time, proper reclamation of surface))~~ It is not
13 possible to extract minerals without producing some environmental
14 impacts. At the same time, comprehensive regulation of mining and
15 thorough reclamation of mined lands is necessary to prevent
16 ~~((undesirable land and water))~~ or mitigate conditions that would be
17 detrimental to the environment and to protect the general welfare,
18 health, safety, and property rights of the citizens of the state.
19 Surface mining takes place in diverse areas where the geologic,
20 topographic, climatic, biologic, and social conditions are
21 significantly different, and reclamation specifications must vary
22 accordingly. ~~((It is not practical to extract minerals required by our~~
23 ~~society without disturbing the surface of the earth and producing waste~~
24 ~~materials, and the very character of many types of surface mining~~
25 ~~operations precludes complete restoration of the land to its original~~
26 ~~condition. However, the legislature finds that reclamation of surface~~
27 ~~mined lands as provided in this chapter will allow the mining of~~
28 ~~valuable minerals and will provide for the protection and subsequent~~
29 ~~beneficial use of the mined and reclaimed land.))~~ Therefore, the
30 legislature finds that a balance between appropriate environmental
31 regulation and the production and conservation of minerals is in the
32 best interests of the citizens of the state.

33 **Sec. 3.** RCW 78.44.020 and 1970 ex.s. c 64 s 3 are each amended to
34 read as follows:

35 The purposes of this chapter ~~((is))~~ are to:

36 (1) Provide that the usefulness, productivity, and scenic values of
37 all lands and waters involved in surface mining within the state will

1 receive the greatest practical degree of protection and (~~restoration.~~
2 ~~It is a further purpose of this chapter to provide a means of~~
3 ~~cooperation between private and governmental entities in carrying this~~
4 ~~chapter into effect~~)) reclamation at the earliest opportunity following
5 completion of surface mining;

6 (2) Provide for the greatest practical degree of state-wide
7 consistency in the regulation of surface mines;

8 (3) Apportion regulatory authority between state and local
9 governments in order to minimize redundant regulation of mining; and

10 (4) Ensure that reclamation is consistent with local land use plans
11 proposed following actual reclamation.

12 NEW SECTION. Sec. 4. DEFINITIONS. Unless the context clearly
13 indicates otherwise, the definitions in this section apply throughout
14 this chapter.

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

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

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

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

27 (5) "Disturbed area" means any place where activities clearly in
28 preparation for, or during, surface mining have physically disrupted,
29 covered, compacted, moved, or otherwise altered the characteristics of
30 soil, bedrock, vegetation, or topography that existed prior to such
31 activity. Disturbed areas may include but are not limited to: Working
32 faces, water bodies created by mine-related excavation, pit floors, the
33 land beneath processing plant and stock pile sites, spoil pile sites,
34 and equipment staging areas.

35 Disturbed areas do not include:

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

1 (b) Lands that have been reclaimed to all standards outlined in
2 this chapter, rules of the department, any applicable SEPA document,
3 and the approved reclamation plan.

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

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

11 (8) "Operations" means all mine-related activities, exclusive of
12 reclamation, that include, but are not limited to activities that
13 affect noise generation, air quality, surface and ground water
14 quality, quantity, and flow, glare, pollution, traffic safety, ground
15 vibrations, and/or public safety impacts commonly regulated under
16 provisions of land use or other permits of local government and local
17 ordinances, or other state laws. Operations specifically include:

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

20 (b) Blasting, equipment maintenance, sorting, crushing, and
21 loading;

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

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

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

29 (10) "Permit holder" means any person or persons, any partnership,
30 limited partnership, or corporation, or any association of persons,
31 either natural or artificial, including every public or governmental
32 agency engaged in surface mining and/or the operation of surface mines,
33 whether individually, jointly, or through subsidiaries, agents,
34 employees, operators, or contractors who holds a state reclamation
35 permit.

36 (11) "Reclamation" means rehabilitation for the appropriate future
37 use of disturbed areas resulting from surface mining including areas
38 under associated mineral processing equipment and areas under
39 stockpiled materials. Although both the need for and the

1 practicability of reclamation will control the type and degree of
2 reclamation in any specific surface mine, the basic objective shall be
3 to reestablish on a perpetual basis the vegetative cover, soil
4 stability, and water conditions appropriate to the approved subsequent
5 use of the surface mine and to prevent or mitigate future environmental
6 degradation.

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

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

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

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

19 (a) Has characteristics of topography, drainage, slope stability,
20 ownership, mining development, or mineral distribution, that make
21 reclamation necessary;

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

24 (c) Is smaller than seven acres and has less than five hundred
25 linear feet of working face except as provided in a segmental
26 reclamation agreement approved by the department.

27 (16) "SEPA" means the state environmental policy act, chapter
28 43.21C RCW and rules adopted thereunder.

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

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

33 (ii) Mined slopes greater than thirty feet high and steeper than
34 1.0 foot horizontal to 1.0 foot vertical; or

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

38 (b) Surface mines include areas where mineral extraction from the
39 surface occurs by the auger method or by reworking mine refuse or

1 tailings, when these activities exceed the size or height thresholds
2 listed in (a) of this subsection.

3 (c) Surface mining shall exclude excavations or grading used:

4 (i) Primarily for on-site construction, on-site road maintenance,
5 or on-site landfill construction;

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

8 (iii) For the purpose of removing stockpiles;

9 (iv) For forest or farm road construction or maintenance on-site or
10 on contiguous lands; and

11 (v) For underground mines.

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

16 NEW SECTION. **Sec. 5.** SEGMENTAL RECLAMATION. The permit holder
17 shall reclaim each segment of the mine within two years of completion
18 of surface mining on that segment except as provided in a segmental
19 reclamation agreement approved in writing by the department. The
20 primary objective of a segmental reclamation agreement should be to
21 enhance final reclamation.

22 **Sec. 6.** RCW 78.44.040 and 1984 c 215 s 2 are each amended to read
23 as follows:

24 The department of natural resources is charged with the
25 administration of reclamation under this chapter. In order to
26 implement ~~((the chapter's terms and provisions))~~ and enforce this
27 chapter, the department, under the ~~((provisions of the))~~ administrative
28 procedure act (chapter 34.05 RCW), ~~((as now or hereafter amended,))~~ may
29 from time to time ~~((promulgate))~~ adopt those rules ~~((and regulations))~~
30 necessary to carry out the purposes of this chapter.

31 **Sec. 7.** RCW 78.44.050 and 1970 ex.s. c 64 s 6 are each amended to
32 read as follows:

33 The department shall have the exclusive authority to regulate
34 surface mine reclamation. All counties, cities, or towns shall have
35 the authority to zone surface mines and regulate surface mine siting
36 and operations, except that county, city, or town operations ordinances

1 may be preempted by the department during the emergencies outlined in
2 section 29 of this act and related rules.

3 This chapter shall not ~~((affect))~~ alter or preempt any ~~((of the))~~
4 provisions of the state fisheries laws (Title 75 RCW), the state water
5 pollution control laws (Title 90 RCW), the state ~~((game))~~ wildlife laws
6 (Title 77 RCW), ~~((or any other state laws, and shall be cumulative and~~
7 ~~nonexclusive))~~ state noise laws or air quality laws (Title 70 RCW),
8 shoreline management (chapter 90.58 RCW), the state environmental
9 policy act (chapter 43.21C RCW), state growth management (chapter
10 36.70A RCW) except as provided in section 17 of this act, or any other
11 state laws, and shall be cumulative and nonexclusive.

12 **Sec. 8.** RCW 78.44.060 and 1970 ex.s. c 64 s 7 are each amended to
13 read as follows:

14 The department shall have the authority to conduct ~~((or)),~~
15 authorize, and/or participate in investigations, research, experiments,
16 and demonstrations, and to collect and disseminate information relating
17 to surface mining and reclamation of surface mined lands.

18 **Sec. 9.** RCW 78.44.070 and 1970 ex.s. c 64 s 8 are each amended to
19 read as follows:

20 The department may cooperate with other governmental and private
21 agencies ~~((in this state and other states))~~ and agencies of the federal
22 government, and may reasonably reimburse them for any services the
23 department requests that they provide. The department may also receive
24 any federal funds, state funds and any other funds and expend them for
25 reclamation of land affected by surface mining and for purposes
26 enumerated in RCW 78.44.060.

27 NEW SECTION. **Sec. 10.** SURFACE MINING RECLAMATION ACCOUNT. The
28 surface mining reclamation account is created in the state treasury.
29 Annual mining fees, funds received by the department from state, local,
30 or federal agencies for research purposes, as well as other mine-
31 related funds and fines received by the department shall be deposited
32 into this account. The surface mine reclamation account may be used by
33 the department only to:

- 34 (1) Administer its regulatory program pursuant to this chapter;
35 (2) Undertake research relating to surface mine regulation,
36 reclamation of surface mine lands, and related issues; and

1 (3) Cover costs arising from appeals from determinations made under
2 this chapter.

3 Fines, interest, and other penalties collected by the department
4 under the provisions of this chapter shall be used to reclaim surface
5 mines abandoned prior to 1971.

6 Only the commissioner of public lands or the commissioner's
7 designee may authorize expenditures from the account. The account is
8 subject to chapter 43.88 RCW, but no appropriation is required for
9 expenditures.

10 NEW SECTION. Sec. 11. RECLAMATION PERMITS REQUIRED--APPLICATIONS.
11 After July 1, 1993, no miner or permit holder may engage in surface
12 mining without having first obtained a reclamation permit from the
13 department. Operating permits issued by the department between January
14 1, 1971, and June 30, 1993, shall be considered reclamation permits
15 provided such permits substantially meet the protections, mitigations,
16 and reclamation goals of sections 12 and 22 of this act within five
17 years after the effective date of this section. State agencies and
18 local government shall be exempt from this time limit for inactive
19 sites. Prior to the use of an inactive site, the reclamation plan must
20 be brought up to current standards. A separate permit shall be
21 required for each noncontiguous surface mine. The reclamation permit
22 shall consist of the permit forms and any exhibits attached thereto.
23 The permit holder shall comply with the provisions of the reclamation
24 permit unless waived and explained in writing by the department.

25 Prior to receiving a reclamation permit, an applicant must submit
26 an application on forms provided by the department that shall contain
27 the following information and shall be considered part of the
28 reclamation permit:

29 (1) Name and address of the legal landowner, or purchaser of the
30 land under a real estate contract;

31 (2) The name of the applicant and, if the applicants are
32 corporations or other business entities, the names and addresses of
33 their principal officers and resident agent for service of process;

34 (3) A reasonably accurate description of the minerals to be surface
35 mined;

36 (4) Type of surface mining to be performed;

37 (5) Estimated starting date, date of completion, and date of
38 completed reclamation of surface mining;

- 1 (6) Size and legal description of the permit area and maximum
- 2 lateral and vertical extent of the disturbed area;
- 3 (7) Expected area to be disturbed by surface mining during (a) the
- 4 next twelve months, and (b) the following twenty-four months;
- 5 (8) Any applicable SEPA documents; and
- 6 (9) Other pertinent data as required by the department.

7 The reclamation permit shall be granted for the period required to
8 deplete essentially all minerals identified in the reclamation permit
9 on the land covered by the reclamation plan. The reclamation permit
10 shall be valid until the reclamation is complete unless the permit is
11 canceled by the department.

12 NEW SECTION. **Sec. 12.** RECLAMATION PLANS. An applicant shall
13 provide a reclamation plan and copies acceptable to the department
14 prior to obtaining a reclamation permit. The department shall have the
15 sole authority to approve reclamation plans. Reclamation plans or
16 modified reclamation plans submitted to the department after June 30,
17 1993, shall meet or exceed the minimum reclamation standards set forth
18 in this chapter and by the department in rule. Each applicant shall
19 also supply copies of the proposed plans and final reclamation plan
20 approved by the department to the county, city, or town in which the
21 mine will be located. The department shall solicit comment from local
22 government prior to approving a reclamation plan. The reclamation plan
23 shall include:

24 (1) A written narrative describing the proposed mining and
25 reclamation scheme with:

26 (a) A statement of a proposed subsequent use of the land after
27 reclamation that is consistent with the local land use designation.
28 Approval of the reclamation plan shall not vest the proposed subsequent
29 use of the land;

30 (b) If the permit holder is not the sole landowner, a copy of the
31 conveyance or a written statement that expressly grants or reserves the
32 right to extract minerals by surface mining methods;

33 (c) A simple and accurate legal description of the permit area and
34 disturbed areas;

35 (d) The maximum depth of mining;

36 (e) A reasonably accurate description of the minerals to be mined;

37 (f) A description of the method of mining;

1 (g) A description of the sequence of mining that will provide,
2 within limits of normal procedures of the industry, for completion of
3 surface mining and associated disturbance on each segment of the permit
4 area so that reclamation can be initiated at the earliest possible time
5 on each segment of the mine;

6 (h) A schedule for progressive reclamation of each segment of the
7 mine;

8 (i) Where mining on flood plains or in river or stream channels is
9 contemplated, a thoroughly documented hydrogeologic evaluation that
10 will outline measures that would protect against or would mitigate
11 avulsion and erosion as determined by the department;

12 (j) Where mining is contemplated within critical aquifer recharge
13 areas, special protection areas as defined by chapter 90.48 RCW and
14 implementing rules, public water supply watersheds, sole source
15 aquifers, wellhead protection areas, and designated aquifer protection
16 areas as set forth in chapter 36.36 RCW, a thoroughly documented
17 hydrogeologic analysis of the reclamation plan may be required; and

18 (k) Additional information as required by the department including
19 but not limited to: The positions of reclamation setbacks and
20 screening, conservation of topsoil, interim reclamation, revegetation,
21 postmining erosion control, drainage control, slope stability, disposal
22 of mine wastes, control of fill material, development of wetlands,
23 ponds, lakes, and impoundments, and rehabilitation of topography.

24 (2) Maps of the surface mine showing:

25 (a) All applicable data required in the narrative portion of the
26 reclamation plan;

27 (b) Existing topographic contours;

28 (c) Contours depicting specifications for surface gradient
29 restoration appropriate to the proposed subsequent use of the land and
30 meeting the minimum reclamation standards;

31 (d) Locations and names of all roads, railroads, and utility lines
32 on or adjacent to the area;

33 (e) Locations and types of proposed access roads to be built in
34 conjunction with the surface mining;

35 (f) Detailed and accurate boundaries of the permit area, screening,
36 reclamation setbacks, and maximum extent of the disturbed area; and

37 (g) Estimated depth to ground water and the locations of surface
38 water bodies and wetlands both prior to and after mining.

1 (3) At least two cross sections of the mine including all
2 applicable data required in the narrative and map portions of the
3 reclamation plan.

4 (4) Evidence that the proposed surface mine has been approved under
5 local zoning and land use regulations.

6 (5) Written approval of the reclamation plan by the landowner for
7 mines permitted after June 30, 1993.

8 (6) Other supporting data and documents regarding the surface mine
9 as reasonably required by the department.

10 If the department refuses to approve a reclamation plan in the form
11 submitted by an applicant or permit holder, it shall notify the
12 applicant or permit holder stating the reasons for its determination
13 and describe such additional requirements to the applicant or permit
14 holder's reclamation plan as are necessary for the approval of the plan
15 by the department. If the department refuses to approve a complete
16 reclamation plan within one hundred twenty days, the miner or permit
17 holder may appeal this determination under the provisions of this
18 chapter.

19 Only insignificant deviations may occur from the approved
20 reclamation plan without prior written approval by the department for
21 the proposed change.

22 The department retains the authority to require that the
23 reclamation plan be updated to the satisfaction of the department at
24 least every ten years.

25 NEW SECTION. **Sec. 13.** JOINT RECLAMATION PLANS. Where two or more
26 surface mines join along a common boundary, the department may require
27 submission of a joint reclamation plan in order to provide for optimum
28 reclamation or to avoid waste of mineral resources. Such joint
29 reclamation plans may be in the form of a single collaborative plan
30 submitted by all affected permit holders or as individual reclamation
31 plans in which the schedule of reclamation, finished contours, and
32 revegetation match reclamation plans of adjacent permit holders.

33 NEW SECTION. **Sec. 14.** RECLAMATION PERMITS--TIME LIMITS. The
34 county shall issue a SEPA threshold determination within one hundred
35 eighty days of receipt of a complete permit application. Reclamation
36 permits shall not be issued until SEPA review of the entire proposal is
37 complete.

1 NEW SECTION. **Sec. 15.** FEES. (1) An applicant for a public or
2 private reclamation permit shall pay an application fee to the
3 department before being granted a surface mining permit. The amount of
4 the application fee shall be six hundred fifty dollars.

5 (2) After June 30, 1993, each public or private permit holder shall
6 pay an annual permit fee of six hundred fifty dollars. The annual
7 permit fee shall be payable to the department on the first anniversary
8 of the permit date and each year thereafter.

9 (3) After July 1, 1995, the department may modify annual permit
10 fees by rule if:

11 (a) The total annual permit fees are reasonably related to the
12 approximate costs of administering the department's surface mining
13 regulatory program;

14 (b) The annual fee does not exceed five thousand dollars; and

15 (c) The mines are small mines in remote areas that are used
16 primarily for public service, then lower annual permit fees may be
17 established.

18 (4) Appeals from any determination of the department shall not stay
19 the requirement to pay any annual permit fee. Failure to pay the
20 annual fee may constitute grounds for an order to suspend surface
21 mining or cancellation of the reclamation permit as provided in this
22 chapter.

23 (5) All fees collected by the department shall be deposited into
24 the surface mining reclamation account.

25 NEW SECTION. **Sec. 16.** PERFORMANCE SECURITY. The department shall
26 not issue a reclamation permit until the applicant has deposited with
27 the department an acceptable performance security on forms prescribed
28 and furnished by the department. A public or governmental agency shall
29 not be required to post performance security nor shall a permit holder
30 be required to post surface mining performance security with more than
31 one state, local, or federal agency.

32 This performance security may be:

33 (1) Bank letters of credit acceptable to the department;

34 (2) A cash deposit;

35 (3) Negotiable securities acceptable to the department;

36 (4) An assignment of a savings account;

37 (5) A savings certificate in a Washington bank on an assignment
38 form prescribed by the department; or

1 (6) A corporate surety bond executed in favor of the department by
2 a corporation authorized to do business in the state of Washington
3 under Title 48 RCW and authorized by the department.

4 The performance security shall be conditioned upon the faithful
5 performance of the requirements set forth in this chapter and of the
6 rules adopted under it.

7 The department shall have the authority to determine the amount of
8 the performance security using a standardized performance security
9 formula developed by the department. The amount of the security shall
10 be determined by the department and based on the estimated costs of
11 completing reclamation according to the approved plan or minimum
12 standards and related administrative overhead for the area to be
13 surface mined during (a) the next twelve-month period, (b) the
14 following twenty-four months, and (c) any previously disturbed areas on
15 which the reclamation has not been satisfactorily completed and
16 approved.

17 The department may increase or decrease the amount of the
18 performance security at any time to compensate for a change in the
19 disturbed area, the depth of excavation, a modification of the
20 reclamation plan, or any other alteration in the conditions of the mine
21 that affects the cost of reclamation.

22 The amount of the performance security shall not be subject to
23 appeal. The department may, for any reason, refuse any performance
24 security not deemed adequate.

25 Liability under the performance security shall be maintained until
26 reclamation is completed according to the approved reclamation plan to
27 the satisfaction of the department unless released as hereinafter
28 provided. Liability under the performance security may be released
29 only upon written notification by the department. Notification shall
30 be given upon completion of compliance or acceptance by the department
31 of a substitute performance security. The liability of the surety
32 shall not exceed the amount of security required by this section and
33 the department's reasonable legal fees to recover the security.

34 Any interest or appreciation on the performance security shall be
35 held by the department until reclamation is completed to its
36 satisfaction. At such time, the interest shall be remitted to the
37 permit holder; except that such interest or appreciation may be used by
38 the department to effect reclamation in the event that the permit

1 holder fails to comply with the provisions of this chapter and the
2 costs of reclamation exceed the face value of the performance security.

3 No other state agency or local government shall require performance
4 security for the purposes of surface mine reclamation and only one
5 agency of government shall require and hold the performance security.
6 The department may enter into written agreements with federal agencies
7 in order to avoid redundant bonding of surface mines straddling
8 boundaries between federally controlled and other lands within
9 Washington state.

10 NEW SECTION. **Sec. 17.** A new section is added to chapter 36.70A
11 RCW to read as follows:

12 Where mineral resource lands of long-term commercial significance
13 exist, a county, city, or town shall designate sufficient mineral
14 resource lands to meet the projected twenty-year, county-wide need.
15 Once designated, mineral resource uses, including operations as defined
16 in section 4 of this act, shall be established as a permitted use in
17 local development regulations. Regulation of mineral resource uses
18 shall be accomplished under this chapter.

19 The county shall designate mineral resource deposits, both active
20 and inactive, in economically viable proximity to locations where the
21 deposits are likely to be used.

22 The county shall discourage the location of incompatible uses
23 adjacent to mineral resource industries by careful designation of those
24 lands around mineral resource industries, deposits, and holdings.

25 For purposes of this section, "long-term commercial significance"
26 includes the mineral composition of the land for long-term economically
27 viable commercial production, in consideration with the mineral
28 resource land's proximity to population areas, product markets, and the
29 possibility of more intense uses of the land.

30 NEW SECTION. **Sec. 18.** **AUTHORITY OF COUNTIES, CITIES, AND TOWNS.**
31 Counties, cities, and towns shall have full authority to protect the
32 health, safety, and welfare of the public and the environment from
33 adverse impacts of existing and future surface mines and related
34 activities through zoning and through operations regulations. A
35 county, city, or town may require that completed reclamation be
36 compatible with permitted surrounding land uses.

1 NEW SECTION. **Sec. 19.** A surface mining model ordinance advisory
2 committee is hereby created. The committee shall be composed of
3 representatives of local government, state agencies, surface mining
4 interests, and the environmental community. The department of
5 community development shall appoint the members of the committee and
6 the department shall staff the committee. This temporary advisory
7 committee shall draft model ordinances for different surface-mining
8 settings and shall assist counties, cities, and towns in developing
9 ordinances. The committee shall complete its work and shall expire by
10 December 31, 1994. Participants on the committee shall pay their own
11 expenses, and the department of natural resources shall fund the
12 involvement of both the department of natural resources and the
13 department of community development.

14 NEW SECTION. **Sec. 20.** RECLAMATION SETBACKS. Reclamation setbacks
15 shall be as follows unless waived by the department:

16 (1) The reclamation setback for unconsolidated deposits within
17 mines permitted after June 30, 1993, shall be equal to the maximum
18 anticipated height of the adjacent working face or as determined by the
19 department. Setbacks and buffers may be destroyed as part of final
20 reclamation of each segment if approved by the department.

21 (2) The minimum reclamation setback for consolidated materials
22 within mines permitted after June 30, 1993, shall be thirty feet or as
23 determined by the department.

24 (3) An exemption from this section may be granted by the department
25 following a written request. The department may require submission of
26 a plan for backfilling acceptable to the department, a geotechnical
27 slope-stability study, proof of a dedicated source of fill materials,
28 written approval of contiguous landowners, and other information before
29 granting an exemption.

30 NEW SECTION. **Sec. 21.** WATER CONTROL. Water control as regulated
31 by the department shall be limited to those provisions necessary to
32 effect surface mine reclamation and to protect ground and surface water
33 resources after reclamation is complete. The department shall solicit
34 recommendations from all agencies with expertise in relevant water
35 control laws when evaluating reclamation plans for surface mines in or
36 near water. Control of surface mine water pollution, water
37 availability, and protection of fisheries and wildlife habitats shall

1 be regulated under the provisions of ordinances of any local
2 jurisdiction, fisheries laws (Title 75 RCW), water pollution control
3 laws (Title 90 RCW), wildlife laws (Title 77 RCW), federal storm water
4 regulations, and/or national pollutant discharge elimination system
5 regulations.

6 NEW SECTION. **Sec. 22.** RECLAMATION. The need for, and the
7 practicability of, reclamation shall control the type and degree of
8 reclamation in any specific instance. However, the basic objective of
9 reclamation is to reestablish on a continuing basis the vegetative
10 cover, slope stability, water conditions, and safety conditions
11 suitable to the proposed subsequent use consistent with local land use
12 plans for the surface mine site.

13 Each permit holder shall comply with the minimum reclamation
14 standards in effect on the date the permit was issued and any
15 additional reclamation standards set forth in the approved reclamation
16 plan.

17 Reclamation activities, particularly those relating to control of
18 erosion and mitigation of impacts of mining to adjacent areas, shall,
19 to the extent feasible, be conducted simultaneously with surface
20 mining, and in any case shall be initiated at the earliest possible
21 time after completion of surface mining on any segment of the permit
22 area.

23 All reclamation activities shall be completed not more than two
24 years after completion or abandonment of surface mining on each segment
25 of the area for which a reclamation permit is in force.

26 NEW SECTION. **Sec. 23.** MINIMUM RECLAMATION STANDARDS. Reclamation
27 of surface mines permitted after June 30, 1993, and reclamation of
28 surface mine segments addressed by reclamation plans modified after
29 June 30, 1994, shall meet the following minimum standards except as
30 waived in writing by the department.

31 (1) Prior to surface mining, permit holders shall carefully
32 stockpile all topsoil on the site for use in reclamation, or
33 immediately move topsoil to reclaim adjacent segments, except when the
34 approved subsequent use does not require replacing the topsoil.
35 Topsoil needed for reclamation shall not be sold as a mineral nor mixed
36 with sterile soils. Stockpiled materials used as screening shall not

1 be used for reclamation until such time as the appropriate county or
2 municipal government has given its approval.

3 (2) The department may require that clearly visible, permanent
4 monuments delineating the permit boundaries and maximum extent of the
5 disturbed area be set at appropriate places around the mine site. The
6 permit holder shall maintain the monuments until termination of the
7 reclamation permit.

8 (3) All minimum reclamation standards may be waived in writing by
9 the department in order to accommodate unique and beneficial
10 reclamation schemes such as parks, swimming facilities, buildings, and
11 wildlife reserves. Such waivers shall be granted only after written
12 approval by the department of a reclamation plan describing the
13 variances to the minimum reclamation standards, receipt of
14 documentation of SEPA compliance, and written approvals from the
15 landowner and by the local land use authority.

16 (4) All surface-mined slopes shall be reclaimed to the following
17 minimum standards:

18 (a) In surface mines in soil, sand, gravel, and other
19 unconsolidated materials, all reclaimed slopes shall:

20 (i) Have varied steepness;

21 (ii) Have a sinuous appearance in both profile and plan view;

22 (iii) Have no large rectilinear topographic elements;

23 (iv) Generally have slopes of between 2.0 and 3.0 feet horizontal
24 to 1.0 foot vertical or flatter except in limited areas where steeper
25 slopes are necessary in order to create sinuous topography and to
26 control drainage;

27 (v) Not exceed 1.5 feet horizontal to 1.0 foot vertical except as
28 necessary to blend with adjacent natural slopes;

29 (vi) Be compacted if significant backfilling is required to produce
30 the final reclaimed slopes and if the department determines that
31 compaction is necessary.

32 (b) Slopes in consolidated materials shall have no prescribed slope
33 angle or height, but where a severely hazardous condition is created by
34 mining and that is not indigenous to the immediate area, the slopes
35 shall be 2.0 feet horizontal to 1.0 foot vertical. Steeper slopes
36 shall be acceptable in forest or mountainous areas or where evidence is
37 submitted that such slopes constitute an acceptable subsequent use
38 under local land use regulations.

1 (c) Surface mines in which the seasonal or permanent water tables
2 have been penetrated, thereby creating swamps, ponds, or lakes useful
3 for recreational, wildlife habitat, water quality control, or other
4 beneficial wetland purposes shall be reclaimed in the following manner:

5 (i) For slopes that are below the permanent water table in soil,
6 sand, gravel, and other unconsolidated materials, the slope angle shall
7 be no steeper than 1.5 feet horizontal to 1.0 foot vertical;

8 (ii) Generally, solid rock banks shall be shaped so that a person
9 can escape from the water, however steeper slopes and lack of water
10 egress shall be acceptable in rural, forest, or mountainous areas or
11 where evidence is provided that such slopes would constitute an
12 acceptable subsequent use under local land use regulations;

13 (iii) Both standpipes and armored spillways or other measures to
14 prevent undesirable overflow or seepage shall be provided to stabilize
15 all such water bodies within the disturbed area; and

16 (iv) Where lakes, ponds, or swamps are created, the permit holder
17 shall provide measures to establish a beneficial wetland by developing
18 natural wildlife habitat and incorporating such measures as irregular
19 shoreline configurations, sinuous bathymetry and shorelines, varied
20 water depths, peninsulas, islands, and subaqueous areas less than 1.5
21 foot deep during summer low-water levels. Clay-bearing material placed
22 below water level may be required to avoid creating sterile wetlands.

23 (d) Final topography shall generally comprise sinuous contours,
24 chutes and buttresses, spurs, and rolling mounds and hills, all of
25 which shall blend with adjacent topography to a reasonable extent.
26 Straight planar slopes and right angles should be avoided.

27 (e) The floors of mines shall generally grade gently into
28 postmining drainages to preclude sheet-wash erosion during intense
29 precipitation, except where backgrading is appropriate for drainage
30 control, to establish wetlands, or to trap sediment.

31 (f) Topsoil shall be restored as necessary to promote effective
32 revegetation and to stabilize slopes. Where limited topsoil is
33 available, topsoil shall be placed and revegetated in such a way as to
34 ensure that little topsoil is lost to erosion.

35 (g) Where surface mining has exposed natural materials that may
36 create polluting conditions, including but not limited to acid-forming
37 coals and metalliferous rock or soil, such materials shall be covered
38 according to a method approved by the department. The final ground

1 surface shall be graded so that surface water drains away from these
2 materials.

3 (h) All grading and backfilling shall be made with nonnoxious,
4 noncombustible, and relatively incompactible solids unless the permit
5 holder provides:

6 (i) Written approval from all appropriate solid waste regulatory
7 agencies; and

8 (ii) Any and all revisions to such written approval during the
9 entire time the reclamation permit is in force.

10 (i) Final reclaimed slopes should be left roughly graded,
11 preserving equipment tracks, depressions, and small mounds to trap
12 clay-bearing soil and promote natural revegetation. Where reasonable,
13 final equipment tracks should be oriented in order to trap soil and
14 seeds and to inhibit erosion.

15 (j) Pit floors should be bulldozed or ripped to foster
16 revegetation.

17 (5) Drainages shall be graded and contain adequate energy
18 dissipation devices so that essentially natural conditions of water
19 velocity, volume, and turbidity are reestablished within six months of
20 reclamation of each segment of the mine. Ditches and other artificial
21 drainages shall be constructed on each reclaimed segment to control
22 surface water, erosion, and siltation and to direct runoff to a safe
23 outlet. Diversion ditches including but not limited to channels,
24 flumes, tightlines and retention ponds shall be capable of carrying the
25 peak flow at the mine site that has the probable recurrence frequency
26 of once in twenty-five years as determined from data for the twenty-
27 five year, twenty-four hour precipitation event published by the
28 national oceanic and atmospheric administration. The grade of such
29 ditches and channels shall be constructed to limit erosion and
30 siltation. Natural and other drainage channels shall be kept free of
31 equipment, wastes, stockpiles, and overburden.

32 (6) Impoundment of water shall be an acceptable reclamation
33 technique provided that approvals of other agencies with jurisdiction
34 are obtained and:

35 (a) Proper measures are taken to prevent undesirable seepage that
36 could cause flooding outside the permitted area or adversely affect the
37 stability of impoundment dikes or adjacent slopes;

38 (b) Both standpipes and armored spillways or other measures
39 necessary to control overflow are provided.

1 (7) Revegetation shall be required as appropriate to stabilize
2 slopes, generate new topsoil, reduce erosion and turbidity, mask
3 rectilinear contours, and restore the scenic value of the land to the
4 extent feasible as appropriate to the approved subsequent use.
5 Although the scope of and necessity for revegetation will vary
6 according to the geography, precipitation, and approved subsequent use
7 of the site, the objective of segmental revegetation is to reestablish
8 self-sustaining vegetation and conditions of slope stability, surface
9 water quality, and appearance before release of the reclamation permit.
10 Revegetation shall normally meet the following standards:

11 (a) Revegetation shall commence during the first proper growing
12 season following restoration of slopes on each segment unless the
13 department has granted the permit holder a written time extension.

14 (b) In eastern Washington, the permit holder may not be able to
15 achieve continuous ground cover owing to arid conditions or sparse
16 topsoil. However, revegetation shall be as continuous as reasonably
17 possible as determined by the department.

18 (c) Revegetation generally shall include but not be limited to
19 diverse evergreen and deciduous trees, shrubs, grasses, and deep-rooted
20 ground cover.

21 (i) For western Washington, nitrogen-fixing species including but
22 not limited to alder, white clover, and lupine should be included in
23 dry areas. In wet areas, tubers, sedges, wetland grasses, willow,
24 cottonwood, cedar, and alder are appropriate.

25 (ii) In eastern Washington, lupine, white clover, Russian olive,
26 black locust, junipers, and pines are among appropriate plants. In wet
27 areas, cottonwood, tubers, and sedges are appropriate.

28 (d) The requirements for revegetation may be reduced or waived by
29 the department where erosion will not be a problem in rural areas where
30 precipitation exceeds thirty inches per annum, or where revegetation is
31 inappropriate for the approved subsequent use of the surface mine.

32 (e) In areas where revegetation is critical and conditions are
33 harsh, the department may require irrigation, fertilization, and
34 importation of clay or humus-bearing soils to establish effective
35 revegetation.

36 (f) The department may refuse to release a reclamation permit or
37 performance security until it deems that effective revegetation has
38 commenced.

1 NEW SECTION. **Sec. 24.** PERMIT TRANSFERS. Reclamation permits
2 shall be transferred to a subsequent permit holder and the department
3 shall release the former permit holder from the duties imposed by this
4 chapter if:

5 (1) Both permit holders comply with all rules of the department
6 addressing requirements for transferring a permit; and

7 (2) Unless waived by the department, the mine and all others
8 operated by both the former and subsequent permit holders and their
9 principal officers or owners are in compliance with this chapter and
10 rules.

11 The department shall not require that a reclamation permit be
12 transferred without the written agreement of the permit holder; except
13 that, in the event the legal interest or right of use of a permit
14 holder expires and is not renewed in property owned by a public agency,
15 the permit shall be transferred to the public agency provided that all
16 other requirements for transferring the permit are satisfied. In such
17 case, the department shall not require the consent of the former permit
18 holder.

19 NEW SECTION. **Sec. 25.** MODIFICATION OF RECLAMATION PLANS. The
20 department and the permit holder may modify the reclamation plan at any
21 time during the term of the permit for any of the following reasons:

22 (1) To modify the requirements so that they do not conflict with
23 existing or new laws;

24 (2) If the department determines that the previously adopted
25 reclamation plan is impossible or impracticable to implement and
26 maintain; or

27 (3) The previously approved reclamation plan is not accomplishing
28 the intent of this chapter as determined by the department.

29 Modified reclamation plans shall be reviewed by the department
30 under SEPA. Such SEPA analyses shall consider only those impacts
31 relating directly to the proposed modifications. Copies of
32 modifications shall be sent to the appropriate county, city, or town.

33 NEW SECTION. **Sec. 26.** REPORTS. On the anniversary date of the
34 reclamation permit and each year thereafter until reclamation is
35 completed and approved, the permit holder shall file a report of
36 activities completed during the preceding year. The report shall be on
37 a form prescribed by the department.

1 NEW SECTION. **Sec. 27.** INSPECTION OF PERMIT AREA. The department
2 may order at any time an inspection of the disturbed area to determine
3 if the miner or permit holder has complied with the reclamation permit,
4 rules, and this chapter.

5 NEW SECTION. **Sec. 28.** ORDER TO RECTIFY DEFICIENCIES. The
6 department may issue an order to rectify deficiencies when a miner or
7 permit holder is conducting surface mining in any manner not authorized
8 by:

- 9 (1) This chapter;
- 10 (2) The rules adopted by the department;
- 11 (3) The authorized reclamation plan; or
- 12 (4) The reclamation permit.

13 The order shall describe the deficiencies and shall require that
14 the miner or permit holder correct all deficiencies no later than sixty
15 days from issuance of the order. The department may extend the period
16 for correction for delays clearly beyond the miner or permit holder's
17 control, but only when the miner or permit holder is, in the opinion of
18 the department, making every reasonable effort to comply.

19 NEW SECTION. **Sec. 29.** EMERGENCY NOTICE AND ORDER TO RECTIFY
20 DEFICIENCIES--EMERGENCY ORDER TO SUSPEND SURFACE MINING. When the
21 department finds that a permit holder is conducting surface mining in
22 any manner not authorized by:

- 23 (1) This chapter;
- 24 (2) The rules adopted by the department;
- 25 (3) The approved reclamation plan; or
- 26 (4) The reclamation permit;

27 and that activity has created a situation involving an immediate danger
28 to the public health, safety, welfare, or environment requiring
29 immediate action, the department may issue an emergency notice and
30 order to rectify deficiencies, and/or an emergency order to suspend
31 surface mining. These orders shall be effective when entered. The
32 department may take such action as is necessary to prevent or avoid the
33 danger to the public health, safety, welfare, or environment that
34 justifies use of emergency adjudication. The department shall give
35 such notice as is practicable to the permit holder or miner who is
36 required to comply with the order. The order shall comply with the
37 requirements of the administrative procedure act.

1 Regulations of surface mining operations administered by other
2 state and local agencies shall be preempted by this section to the
3 extent that the time schedule and procedures necessary to rectify the
4 emergency situation, as determined by the department, conflict with
5 such local regulation.

6 NEW SECTION. **Sec. 30.** ORDER TO SUSPEND SURFACE MINING. The
7 department may issue an order to suspend surface mining when a miner or
8 permit holder is conducting surface mining in any manner not authorized
9 by:

- 10 (1) This chapter;
- 11 (2) The rules adopted by the department;
- 12 (3) The approved reclamation plan;
- 13 (4) The reclamation permit; or
- 14 (5) If the miner or permit holder fails to comply with any final
15 order of the department.

16 The order to suspend surface mining shall require the miner or
17 permit holder to suspend part or all of the miner's or permit holder's
18 mining operations until the conditions resulting in the issuance of the
19 order have been mitigated to the satisfaction of the department.

20 The attorney general may take the necessary legal action to enjoin,
21 or otherwise cause to be stopped, surface mining in violation of an
22 order to suspend surface mining.

23 NEW SECTION. **Sec. 31.** DECLARATION OF ABANDONMENT. The department
24 may issue a declaration of abandonment when it determines that all
25 surface mining has ceased for a period of one hundred eighty
26 consecutive days not set forth in the permit holder's reclamation plan
27 or when, by reason of inspection of the permit area, or by any other
28 means, the department determines that the mine has in fact been
29 abandoned by the permit holder. Abandonment shall not include normal
30 interruptions of surface mining resulting from cyclical demand for
31 minerals.

32 Following a declaration of abandonment, the department shall
33 require the permit holder to complete reclamation in accordance with
34 this chapter. If the permit holder fails to do so, the department
35 shall proceed to do the necessary reclamation work pursuant to section
36 33 of this act.

1 If another miner applies for a permit on a site that has been
2 declared abandoned, the department may, in its discretion, cancel the
3 reclamation permit of the permit holder and issue a new reclamation
4 permit to the applicant. The department shall not issue a new permit
5 unless it determines that such issuance will be an effective means of
6 assuring that the site will ultimately be reclaimed. The applicant
7 must agree to assume the reclamation responsibilities left unfinished
8 by the first miner, in addition to meeting all requirements for
9 issuance of a new permit.

10 NEW SECTION. **Sec. 32.** CANCELLATION OF THE RECLAMATION PERMIT.
11 When the department determines that a surface mine has been abandoned,
12 it may cancel the reclamation permit. The permit holder shall be
13 informed of such actions by a department notification of illegal
14 abandonment and cancellation of the reclamation permit.

15 NEW SECTION. **Sec. 33.** ORDER TO SUBMIT PERFORMANCE SECURITY--
16 RECLAMATION BY THE DEPARTMENT. The department may, with the staff,
17 equipment, and material under its control, or by contract with others,
18 reclaim the disturbed areas when it finds that reclamation has not
19 occurred in any segment of a surface mine within two years of
20 completion of mining or of declaration of abandonment and the permit
21 holder is not actively pursuing reclamation.

22 If the department intends to undertake the reclamation, the
23 department shall issue an order to submit performance security
24 requiring the permit holder or surety to submit to the department the
25 amount of moneys posted pursuant to section 16 of this act. If the
26 amount specified in the order to submit performance security is not
27 paid within twenty days after issuance of the notice, the attorney
28 general upon request of the department shall bring an action on behalf
29 of the state in a superior court to recover the amount specified and
30 associated legal fees.

31 The department may proceed at any time after issuing the order to
32 submit performance security with reclamation of the site according to
33 the approved reclamation plan or according to a plan developed by the
34 department that meets the minimum reclamation standards.

35 The department shall keep a record of all expenses incurred in
36 carrying out any reclamation project or activity authorized under this
37 section, including:

1 (1) Reclamation;

2 (2) A reasonable charge for the services performed by the state's
3 personnel and the state's equipment and materials utilized; and

4 (3) Administrative and legal expenses related to reclamation of the
5 surface mine.

6 The department shall refund to the surety or permit holder all
7 amounts received in excess of the amount of expenses incurred. If the
8 amount received is less than the expenses incurred, the attorney
9 general, upon request of the department, may bring an action against
10 the permit holder on behalf of the state in the superior court to
11 recover the remaining costs listed in this section.

12 NEW SECTION. **Sec. 34.** FINES. Each order of the department may
13 impose a fine or fines in the event that a miner or permit holder fails
14 to obey the order of the department. When a miner or permit holder
15 fails to comply with an order of the department, the miner or permit
16 holder shall be subject to a civil penalty in an amount not more than
17 ten thousand dollars for each violation plus interest based upon a
18 schedule of fines set forth by the department in rule. Each day on
19 which a miner or permit holder continues to disobey any order of the
20 department shall constitute a separate violation. If the penalty and
21 interest is not paid to the department after it becomes due and
22 payable, the attorney general, upon the request of the department, may
23 bring an action in the name of the state of Washington to recover the
24 penalty, interest, mitigation for environmental damages, and associated
25 legal fees.

26 All fines, interest, penalties, and other damage recovery costs
27 from mines regulated by the department shall be credited to the surface
28 mining reclamation account.

29 NEW SECTION. **Sec. 35.** REFUSAL TO ISSUE PERMITS. The department
30 shall refuse to issue a reclamation permit if it is determined during
31 the SEPA process that the impacts of a proposed surface mine cannot be
32 mitigated.

33 The department or county, city, or town may refuse to issue any
34 other permit at any other location to any miner or permit holder who
35 fails to rectify deficiencies set forth in an order of the department
36 within the requisite time schedule. However, the department or county,

1 city, or town shall issue all appropriate permits when all deficiencies
2 are corrected at each surface mining site.

3 **Sec. 36.** RCW 78.44.150 and 1970 ex.s. c 64 s 16 are each amended
4 to read as follows:

5 Any (~~operator~~) miner or permit holder conducting surface mining
6 within the state of Washington without a valid (~~operating~~)
7 reclamation permit shall be guilty of a gross misdemeanor. Surface
8 mining outside of the permitted area shall constitute illegal mining
9 without a valid reclamation permit. Each day of (~~operation~~) mining
10 without a valid reclamation permit shall constitute a separate offense.

11 **Sec. 37.** RCW 78.44.170 and 1989 c 175 s 166 are each amended to
12 read as follows:

13 Appeals from department determinations under this chapter shall be
14 made as follows:

15 Appeals from department determinations made under this chapter
16 shall be made under the provisions of the Administrative Procedure Act
17 (chapter 34.05 RCW), and shall be considered an adjudicative proceeding
18 within the meaning of the Administrative Procedure Act, chapter 34.05
19 RCW. A fee of five hundred dollars shall be charged for each appeal
20 under this section. Only a person aggrieved within the meaning of RCW
21 34.05.530 has standing and can file an appeal. This fee shall be
22 refunded to the appellant if the department finds in favor of the
23 appellant or waived if deemed appropriate by the department.

24 **Sec. 38.** RCW 78.44.910 and 1970 ex.s. c 64 s 22 are each amended
25 to read as follows:

26 (~~This act shall not direct itself to the reclamation of land~~
27 ~~mined~~) Miners and permit holders shall not be required to reclaim any
28 segment where all surface mining was completed prior to January 1,
29 1971. However, the department shall make an effort to reclaim
30 previously abandoned or completed surface mining segments.

31 NEW SECTION. **Sec. 39.** RECLAMATION AWARDS ESTABLISHED. The
32 department shall create reclamation awards in recognition of excellence
33 in reclamation or reclamation research. Such awards shall be presented
34 to individuals, miners, operators, companies, or government agencies
35 performing exemplary surface mining reclamation in the state of

1 Washington. The department shall designate a percent of the state
2 annual fees as funding of the awards.

3 NEW SECTION. **Sec. 40.** RECLAMATION SERVICE ESTABLISHED. The
4 department may establish a no-cost consulting service within the
5 department to assist miners, permit holders, local government, and the
6 public in technical matters related to mine regulation, mine
7 operations, and reclamation. The department may prepare concise,
8 printed information for the public explaining surface mining
9 activities, timelines for permits and reviews, laws, and the role of
10 governmental agencies involved in surface mining, including how to
11 contact all regulators. The department shall not be held liable for
12 any negligent advice.

13 NEW SECTION. **Sec. 41.** Mining of minerals on federal land is
14 exempt from this chapter.

15 NEW SECTION. **Sec. 42.** The following acts or parts of acts are
16 each repealed:

- 17 (1) RCW 78.44.030 and 1987 c 258 s 1, 1984 c 215 s 1, & 1970 ex.s.
18 c 64 s 4;
19 (2) RCW 78.44.035 and 1987 c 258 s 3;
20 (3) RCW 78.44.080 and 1970 ex.s. c 64 s 9;
21 (4) RCW 78.44.090 and 1970 ex.s. c 64 s 10;
22 (5) RCW 78.44.100 and 1984 c 215 s 3 & 1970 ex.s. c 64 s 11;
23 (6) RCW 78.44.110 and 1987 c 258 s 2, 1984 c 215 s 4, & 1970 ex.s.
24 c 64 s 12;
25 (7) RCW 78.44.120 and 1984 c 215 s 5, 1977 c 66 s 1, & 1970 ex.s.
26 c 64 s 13;
27 (8) RCW 78.44.130 and 1970 ex.s. c 64 s 14;
28 (9) RCW 78.44.140 and 1989 c 230 s 1, 1984 c 215 s 6, & 1970 ex.s.
29 c 64 s 15;
30 (10) RCW 78.44.160 and 1984 c 215 s 7 & 1970 ex.s. c 64 s 17; and
31 (11) RCW 78.44.180 and 1970 ex.s. c 64 s 20.

32 NEW SECTION. **Sec. 43.** The code reviser may recodify, as
33 necessary, RCW 78.44.150, 78.44.170, 78.44.175, and 78.44.910 within
34 chapter 78.44 RCW to accomplish the reorganization of chapter 78.44 RCW
35 as intended in this act.

1 NEW SECTION. **Sec. 44.** Captions used in this act do not constitute
2 any part of the law.

3 NEW SECTION. **Sec. 45.** Sections 4, 5, 10 through 16, 18, 20
4 through 35, and 39 through 41 of this act are each added to chapter
5 78.44 RCW.

6 NEW SECTION. **Sec. 46.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 47.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and shall take
13 effect July 1, 1993.

--- END ---