



2011 Legislative Concept Paper  
December 6, 2010

## **Surface Mining Reclamation Enforcement at Mines with Potential Slope Failures, & Reporting Accurate Annual Mined Tonnage**

**ISSUE** Mining of unstable slopes sometimes has the potential for damaging property, the environment, and injuring or killing people. Under the state Surface Mining Act's Emergency Suspension Provision, DNR may issue an emergency order to suspend mining only if a violation can be shown to occur, and it poses an immediate danger to the public health, safety, welfare, or environment. **DNR staff possess geologic hazard and mining expertise and should be authorized to take appropriate action to protect the public from immediate danger, when necessary.**



Also, currently, a Surface Mining Reclamation permit holder is required to report for their mine the quantity of annually mined materials, within one of three broad tonnage categories. **This approach allows the tonnage data collected to be overly general, and DNR has little confidence in the accuracy as currently reported, which can limit the geologic science that informs local government planning and can limit economic analysis affecting roads and the mining industry statewide.**

**BACKGROUND** DNR regulates about 1,100 permitted surface mines in Washington—under the Surface Mining Reclamation Act, RCW 78.44. The Surface Mining Reclamation Program monitors mines to ensure that reclamation occurs, with future beneficial use, and there is consistency in the approach throughout the state. Mines often are reclaimed for fish and wildlife habitat, grazing, forestry, as wetlands, and for developed subsequent uses.

DNR formed a broad-based Surface Mine Advisory Committee to offer ideas, concepts and language for the legislative change. The committee consisted of large and small mining interests, county and state government, and environmental interests. They agreed that both issues were important, and also agreed to support DNR's request bill.

### **To effectively regulate surface mines:**

- PROPOSAL**
- ✓ **RCW 78.44.200 needs to be amended to authorize DNR to issue an emergency order to suspend or correct deficiencies where a potential for slope failure is identified that threatens the public health, safety, welfare or environment.**
  - ✓ **Statutory revision is needed for RCW 78.44.085(4) (a) to allow DNR to collect accurate data**

relative to surface mining tonnage. This confidential information will be useful to confirm reported Surface Mining Reclamation permit invoices—both for economic analysis, and for Growth Management Act (GMA) planning purposes.

- ✓ **Revision of the statutory language of the Surface Mining Reclamation Act is needed for the “Emergency Order to Suspend Mining” section, RCW 78.44.200, and the “Annual Permit Fee” section, RCW 78.44.085(4) (a), to address these gaps.**

**FISCAL  
IMPACT**

**No fiscal impact is anticipated** as a result of a revision to the Surface Mining Reclamation Act under the “Emergency Order to Suspend Mining”, RCW 78.44.200, or the “Annual Permit Fee” section, RCW 78.44.085(4) (a).

