

1 **SMALL MINING OPERATIONS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David P. Hinkins**

5 House Sponsor: Michael E. Noel

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the definition of "small mining operations" in Title 40, Chapter 8,
10 Utah Mined Land Reclamation Act.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends the definition of "small mining operations" in Title 40, Chapter 8, Utah
14 Mined Land Reclamation Act.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **40-8-4**, as last amended by Laws of Utah 2009, Chapter 344

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **40-8-4** is amended to read:

25 **40-8-4. Definitions.**

26 As used in this chapter:

27 (1) "Adjudicative proceeding" means:

28 (a) a division or board action or proceeding determining the legal rights, duties,
29 privileges, immunities, or other legal interests of one or more identifiable persons, including

30 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,
31 permit, or license; or

32 (b) judicial review of a division or board action or proceeding specified in Subsection
33 (1)(a).

34 (2) "Applicant" means a person who has filed a notice of intent to commence mining
35 operations, or who has applied to the board for a review of a notice or order.

36 (3) (a) "Approved notice of intention" means a formally filed notice of intention to
37 commence mining operations, including revisions to it, which has been approved under Section
38 40-8-13.

39 (b) An approved notice of intention is not required for small mining operations.

40 (4) "Board" means the Board of Oil, Gas, and Mining.

41 (5) "Conference" means an informal adjudicative proceeding conducted by the division
42 or board.

43 (6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the
44 form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,
45 beneath the surface, or in the waters of the land from which any product useful to man may be
46 produced, extracted, or obtained or which is extracted by underground mining methods for
47 underground storage.

48 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water,
49 geothermal steam, and oil and gas as defined in Title 40, Chapter 6, Board and Division of Oil,
50 Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

51 (7) "Development" means the work performed in relation to a deposit following its
52 discovery but prior to and in contemplation of production mining operations, aimed at, but not
53 limited to, preparing the site for mining operations, defining further the ore deposit by drilling
54 or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and
55 other related activities.

56 (8) "Division" means the Division of Oil, Gas, and Mining.

57 (9) "Emergency order" means an order issued by the board in accordance with the

58 provisions of Title 63G, Chapter 4, Administrative Procedures Act.

59 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of
60 discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral
61 deposit, and identifying regions or specific areas in which deposits or mineral deposits are most
62 likely to exist.

63 (b) "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling
64 holes and digging pits or cuts; building of roads, and other access ways; and constructing and
65 operating other facilities related to these activities.

66 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under
67 its procedural rules.

68 (12) (a) "Imminent danger to the health and safety of the public" means the existence
69 of a condition or practice, or a violation of a permit requirement or other requirement of this
70 chapter in a mining operation, which condition, practice, or violation could reasonably be
71 expected to cause substantial physical harm to persons outside the permit area before the
72 condition, practice, or violation can be abated.

73 (b) A reasonable expectation of death or serious injury before abatement exists if a
74 rational person, subjected to the same conditions or practices giving rise to the peril, would not
75 expose himself or herself to the danger during the time necessary for abatement.

76 (13) (a) "Land affected" means the surface and subsurface of an area within the state
77 where mining operations are being or will be conducted, including, but not limited to:

- 78 (i) on-site private ways, roads, and railroads;
- 79 (ii) land excavations;
- 80 (iii) exploration sites;
- 81 (iv) drill sites or workings;
- 82 (v) refuse banks or spoil piles;
- 83 (vi) evaporation or settling ponds;
- 84 (vii) stockpiles;
- 85 (viii) leaching dumps;

- 86 (ix) placer areas;
- 87 (x) tailings ponds or dumps; and
- 88 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.
- 89 (b) All lands shall be excluded from the provisions of Subsection (13)(a) that would:
- 90 (i) be includable as land affected, but which have been reclaimed in accordance with an
- 91 approved plan, as may be approved by the board; and
- 92 (ii) lands in which mining operations have ceased prior to July 1, 1977.
- 93 (14) (a) "Mining operation" means activities conducted on the surface of the land for
- 94 the exploration for, development of, or extraction of a mineral deposit, including, but not
- 95 limited to, surface mining and the surface effects of underground and in situ mining, on-site
- 96 transportation, concentrating, milling, evaporation, and other primary processing.
- 97 (b) "Mining operation" does not include:
- 98 (i) the extraction of sand, gravel, and rock aggregate;
- 99 (ii) the extraction of oil and gas as defined in Title 40, Chapter 6, Board and Division
- 100 of Oil, Gas, and Mining;
- 101 (iii) the extraction of geothermal steam;
- 102 (iv) smelting or refining operations;
- 103 (v) off-site operations and transportation;
- 104 (vi) reconnaissance activities; or
- 105 (vii) activities which will not cause significant surface resource disturbance or involve
- 106 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.
- 107 (15) "Notice" means:
- 108 (a) notice of intention, as defined in this chapter; or
- 109 (b) written information given to an operator by the division describing compliance
- 110 conditions at a mining operation.
- 111 (16) "Notice of intention" means a notice to commence mining operations, including
- 112 revisions to the notice.
- 113 (17) "Off-site" means the land areas that are outside of or beyond the on-site land.

114 (18) (a) "On-site" means the surface lands on or under which surface or underground
115 mining operations are conducted.

116 (b) A series of related properties under the control of a single operator, but separated
117 by small parcels of land controlled by others, will be considered to be a single site unless an
118 exception is made by the division.

119 (19) "Operator" means a natural person, corporation, association, partnership, receiver,
120 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
121 representative, either public or private, owning, controlling, or managing a mining operation or
122 proposed mining operation.

123 (20) "Order" means written information provided by the division or board to an
124 operator or other parties, describing the compliance status of a permit or mining operation.

125 (21) "Owner" means a natural person, corporation, association, partnership, receiver,
126 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
127 representative, either public or private, owning, controlling, or managing a mineral deposit or
128 the surface of lands employed in mining operations.

129 (22) "Permit area" means the area of land indicated on the approved map submitted by
130 the operator with the application or notice to conduct mining operations.

131 (23) "Permit" means a permit or notice to conduct mining operations issued by the
132 division.

133 (24) "Permittee" means a person holding, or who is required by Utah law to hold, a
134 valid permit or notice to conduct mining operations.

135 (25) "Person" means an individual, partnership, association, society, joint stock
136 company, firm, company, corporation, or other governmental or business organization.

137 (26) "Reclamation" means actions performed during or after mining operations to
138 shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable,
139 ecological condition and use which will be consistent with local environmental conditions.

140 (27) "Small mining operations" means mining operations [~~which~~] that disturb or will
141 disturb [~~five~~] 10 or less surface acres at any given time in an unincorporated area of a county or

142 five or less surface acres at any given time in an incorporated area of a county.

143 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the
144 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack
145 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this
146 chapter due to indifference, lack of diligence, or lack of reasonable care.