

1 **MINING AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Scott H. Chew

6

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses mining.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the definition of small mining operations; and
- 13 ▶ addresses eligibility of a mining company or mining services company for certain
- 14 grants;
- 15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **40-8-4**, as last amended by Laws of Utah 2011, Chapter 231

23 **63N-4-404**, as last amended by Laws of Utah 2019, Chapters 45 and 136

24

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

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

27 **40-8-4. Definitions.**

28 As used in this chapter:

29 (1) "Adjudicative proceeding" means:

30 (a) a division or board action or proceeding determining the legal rights, duties,
31 privileges, immunities, or other legal interests of one or more identifiable persons, including
32 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,
33 permit, or license; or

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

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

38 (3) (a) "Approved notice of intention" means a formally filed notice of intention to
39 commence mining operations, including revisions to ~~[it, which has been]~~ the notice of intention
40 that is approved under Section [40-8-13](#).

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

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

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

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

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

54 (7) "Development" means the work performed in relation to a deposit following ~~[its]~~
55 the deposit's discovery but ~~[prior to]~~ before and in contemplation of production mining

56 operations, aimed at, but not limited to, preparing the site for mining operations, defining
57 further the ore deposit by drilling or other means, conducting pilot plant operations,
58 constructing roads or ancillary facilities, and other related activities.

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

60 (9) "Emergency order" means an order issued by the board in accordance with ~~[the~~
61 ~~provisions of]~~ Title 63G, Chapter 4, Administrative Procedures Act.

62 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:

63 (i) discovering a deposit or mineral deposit~~[;]~~;

64 (ii) delineating the boundaries of a deposit or mineral deposit~~[;]~~; and

65 (iii) identifying regions or specific areas in which deposits or mineral deposits are most
66 likely to exist.

67 (b) "Exploration" includes~~[, but is not limited to]~~:

68 (i) sinking shafts;

69 (ii) tunneling;

70 (iii) drilling holes and digging pits or cuts;

71 (iv) building of roads, and other access ways; and

72 (v) constructing and operating other facilities related to ~~[these]~~ the activities described
73 in this Subsection (10)(b).

74 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under
75 ~~[its]~~ the board's procedural rules.

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

81 (b) A reasonable expectation of death or serious injury before abatement exists if a
82 rational person, subjected to the same conditions or practices giving rise to the peril, would not

83 expose [~~himself or herself~~] the rational person to the danger during the time necessary for
84 abatement.

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

- 87 (i) on-site private ways, roads, and railroads;
- 88 (ii) land excavations;
- 89 (iii) exploration sites;
- 90 (iv) drill sites or workings;
- 91 (v) refuse banks or spoil piles;
- 92 (vi) evaporation or settling ponds;
- 93 (vii) stockpiles;
- 94 (viii) leaching dumps;
- 95 (ix) placer areas;
- 96 (x) tailings ponds or dumps; and
- 97 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

98 (b) [~~All lands shall be~~] Lands are excluded from [~~the provisions of~~] Subsection (13)(a)
99 that would:

100 (i) be includable as land affected, but which have been reclaimed in accordance with an
101 approved plan, as may be approved by the board; and

102 (ii) include lands in which mining operations have ceased [~~prior to~~] before July 1,
103 1977.

104 (14) (a) "Mining operation" means activities conducted on the surface of the land for
105 the exploration for, development of, or extraction of a mineral deposit, including[~~, but not~~
106 ~~limited to~~], surface mining and the surface effects of underground and in situ mining, on-site
107 transportation, concentrating, milling, evaporation, and other primary processing.

108 (b) "Mining operation" does not include:

- 109 (i) the extraction of sand, gravel, and rock aggregate;

110 (ii) the extraction of oil and gas as defined in [~~Title 40,~~] Chapter 6, Board and Division
111 of Oil, Gas, and Mining;

112 (iii) the extraction of geothermal steam;

113 (iv) smelting or refining operations;

114 (v) off-site operations and transportation;

115 (vi) reconnaissance activities; or

116 (vii) activities [~~which~~] that will not cause significant surface resource disturbance or
117 involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

118 (15) "Notice" means:

119 (a) notice of intention, as defined in this chapter; or

120 (b) written information given to an operator by the division describing compliance
121 conditions at a mining operation.

122 (16) "Notice of intention" means a notice to commence mining operations, including
123 revisions to the notice.

124 (17) "Off-site" means the land areas that are outside of or beyond the on-site land.

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

127 (b) A series of related properties under the control of a single operator, but separated
128 by small parcels of land controlled by others, [~~will be~~] are considered to be a single site unless
129 an exception is made by the division.

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

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

136 (21) "Owner" means a natural person, corporation, association, partnership, receiver,

137 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
138 representative, either public or private, owning, controlling, or managing a mineral deposit or
139 the surface of lands employed in mining operations.

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

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

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

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

148 (26) "Reclamation" means actions performed during or after mining operations to
149 shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable[;]
150 ecological condition and use [~~which will be~~] that is consistent with local environmental
151 conditions.

152 (27) "Small mining operations" means mining operations that disturb or will disturb
153 [~~10~~] 20 or less surface acres at any given time in an unincorporated area of a county or [~~five~~] 10
154 or less surface acres at any given time in an incorporated area of a county.

155 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the
156 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack
157 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this
158 chapter due to indifference, lack of diligence, or lack of reasonable care.

159 Section 2. Section **63N-4-404** is amended to read:

160 **63N-4-404. Rural employment expansion grant application process.**

161 (1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to
162 receive a rural employment expansion grant as provided in this part shall provide the office
163 with an application for a rural employment expansion grant in a form approved by the office

164 that includes:

165 (a) a certification, by an officer of the business entity, of each signature on the
166 application;

167 (b) a document that specifies the projected number and anticipated wage level of the
168 new full-time employee positions that the business entity plans to create as the basis for
169 qualifying for a rural employment expansion grant; and

170 (c) any additional information required by the office.

171 (2) (a) If, after review of an application provided by a business entity as described in
172 Subsection (1), the office determines that the application is inadequate to provide a reasonable
173 justification for authorizing the rural employment expansion grant, the office shall:

174 (i) deny the application; or

175 (ii) inform the business entity that the application is inadequate and ask the business
176 entity to submit additional documentation.

177 (b) (i) If the office denies an application, the business entity may appeal the denial to
178 the office.

179 (ii) The office shall review any appeal within 10 business days and make a final
180 determination of the business entity's eligibility for a grant under this part.

181 (3) If, after review of an application provided by a business entity as described in
182 Subsection (1), the office determines that the application provides reasonable justification for
183 authorizing a rural employment expansion grant and if there are available funds for the grant,
184 the office shall enter into a written agreement with the business entity that:

185 (a) indicates the maximum rural employment expansion grant amount the business
186 entity is authorized to receive;

187 (b) includes a document signed by an officer of the business entity that expressly
188 directs and authorizes the State Tax Commission to disclose to the office the business entity's
189 tax returns and other information that would otherwise be subject to confidentiality under
190 Section [59-1-403](#) or Section 6103, Internal Revenue Code;

191 (c) describes the documentation required to demonstrate that the business entity has
192 created the new full-time employee positions described in the application provided under
193 Subsection (1); and

194 (d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

195 (4) (a) Subject to available funds, the office may award a rural employment expansion
196 grant to a business entity as follows:

197 (i) \$4,000 for each new full-time employee position in a county where the average
198 county wage is equal to or greater than the state average wage;

199 (ii) \$5,000 for each new full-time employee position in a county where the average
200 county wage is between 85% and 99% of the state average wage; and

201 (iii) \$6,000 for each new full-time employee position in a county where the average
202 county wage is less than 85% of the state average wage.

203 (b) A business entity may qualify for no more than \$250,000 in rural employment
204 expansion grants in any fiscal year.

205 (5) (a) Subject to available funds, the office shall award a business entity a grant in the
206 amount allowed under this part if the business entity provides documentation to the office:

207 (i) in a form prescribed by the office under Subsection (3)(c);

208 (ii) before the deadline described in Subsection (3)(d); and

209 (iii) that demonstrates that the business applicant has created new full-time employee
210 positions.

211 (b) If a business entity does not provide the documentation described in Subsection
212 (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to
213 receive a rural employment expansion grant unless the business entity submits a new
214 application to be reviewed by the office in accordance with Subsection (1).

215 (6) Nothing in this part prevents a business entity that has received a rural employment
216 expansion grant from concurrently applying for or receiving another grant or incentive
217 administered by the office.

218 (7) (a) As used in this Subsection (7):

219 (i) "Mining company" means an entity whose primary business is the exploration for or
220 extraction of minerals from the earth.

221 (ii) "Mining services company" means an entity whose primary business is providing
222 support services for a mining company, including drilling or geological modeling.

223 (b) If an applicant for a rural employment expansion grant is a mining company or
224 mining services company having business operations within five miles of a rural county, the
225 applicant shall be treated as if the applicant were located within the adjacent rural county in
226 determining whether the applicant qualifies for the rural employment expansion program.