

**SMALL MINING OPERATIONS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill addresses small mining operations.

**Highlighted Provisions:**

This bill:

- modifies the definition of small mining operations; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **40-8-4** is amended to read:**40-8-4. Definitions.**

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties,



privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

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

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

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

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

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

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

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

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

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

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

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

(10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:  
(i) discovering a deposit or mineral deposit~~;~~;  
(ii) delineating the boundaries of a deposit or mineral deposit~~;~~; and  
(iii) identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) "Exploration" includes~~[-but is not limited to]~~:  
(i) sinking shafts;  
(ii) tunneling;  
(iii) drilling holes and digging pits or cuts;  
(iv) building of roads, and other access ways; and  
(v) constructing and operating other facilities related to ~~[these]~~ the activities described  
in this Subsection (10)(b).

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

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

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

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

- (i) on-site private ways, roads, and railroads;
- (ii) land excavations;
- (iii) exploration sites;
- (iv) drill sites or workings;
- (v) refuse banks or spoil piles;
- (vi) evaporation or settling ponds;

- (vii) stockpiles;
- (viii) leaching dumps;
- (ix) placer areas;
- (x) tailings ponds or dumps; and
- (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

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

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

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

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

(b) "Mining operation" does not include:

- (i) the extraction of sand, gravel, and rock aggregate;
- (ii) the extraction of oil and gas as defined in ~~[Title 40,]~~ Chapter 6, Board and Division of Oil, Gas, and Mining;
- (iii) the extraction of geothermal steam;
- (iv) smelting or refining operations;
- (v) off-site operations and transportation;
- (vi) reconnaissance activities; or
- (vii) activities ~~[which]~~ that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

(15) "Notice" means:

- (a) notice of intention, as defined in this chapter; or
- (b) written information given to an operator by the division describing compliance conditions at a mining operation.

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

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

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

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

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

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

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

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

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

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

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

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

(27) "Small mining operations" means mining operations that disturb or will disturb ~~[+0]~~ 20 or less surface acres at any given time in an unincorporated area of a county or ~~[five]~~ 10 or less surface acres at any given time in an incorporated area of a county.

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