

1 **UTAH COAL REGULATOR PROGRAM**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Mike Dmitrich**

6 House Sponsor: Brad King

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the requirements for obtaining a coal mining permit.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ reduces the application requirements that the division may waive; and
- 14 ▶ clarifies that parts of the application are to be filed for public inspection.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **40-10-10**, as last amended by Chapter 179, Laws of Utah 2002

22

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

24 Section 1. Section **40-10-10** is amended to read:

25 **40-10-10. Permit application fee -- Submission of application and reclamation**
26 **plan -- Determinations, tests, and samplings -- Filing of application -- Insurance required**
27 **-- Blasting plan.**



28 (1) Each application for a surface coal mining and reclamation permit under the
29 provisions of this chapter shall be accompanied by a fee as determined by the division. The fee
30 specified in this Subsection (1) may not exceed the cost by the division to process and review
31 the application.

32 (2) (a) The permit application and the reclamation plan submitted as part of a permit
33 application shall be submitted in the manner, form, and with the content specified by the
34 division in its rules, and shall include the names and addresses of:

- 35 (i) the permit applicant;
- 36 (ii) every legal owner of record of the surface and mineral estate to be mined;
- 37 (iii) the holders, of record, of any leasehold interest in the property;
- 38 (iv) any purchaser, of record, of the property under a real estate contract;
- 39 (v) the operator, if he is a person different from the applicant; and
- 40 (vi) the names and addresses of the principals, officers, and resident agent for service
41 of process, if any of these are business entities other than a single proprietor.

42 (b) (i) A permit application shall include:

43 (A) an accurate map or plan, to an appropriate scale, clearly showing the land to be
44 affected as of the date of the application, and the area of land within the permit area upon
45 which the applicant has the legal right to enter and commence surface mining operations; and

46 (B) a statement of those documents upon which the applicant bases his legal right to
47 enter and commence surface mining operations on the area affected, and whether that right is
48 the subject of pending court litigation.

49 (ii) This chapter may not be construed as vesting in the division the jurisdiction to
50 adjudicate property title disputes.

51 (c) (i) A permit application shall also include a:

52 (A) determination of the probable hydrologic consequences of the mining and
53 reclamation operations, both on and off the mine site with respect to the hydrologic regime;

54 (B) determination of the quantity and quality of water in surface and groundwater
55 systems, including the dissolved and suspended solids under seasonal flow conditions; and

56 (C) collection of sufficient data for the mine site and surrounding areas so that an
57 assessment can be made by the division of the probable cumulative impacts of all anticipated
58 mining in the area upon the hydrology of the area and, particularly, upon water availability.

59 (ii) The determination required under Subsection (2)(c)(i) shall not be required until
60 the hydrologic information on the general area prior to mining is made available from an
61 appropriate federal or state agency.

62 (iii) The permit shall not be approved until the information required under this section
63 is available and is incorporated into the application.

64 (d) (i) A permit application will also include the following information:

65 (A) the result of test borings or core samplings from the permit area, including logs of
66 the drill holes;

67 (B) the thickness of the coal seam found;

68 (C) an analysis of the chemical properties of the coal;

69 (D) the sulfur content of any coal seam;

70 (E) chemical analysis of potentially acid or toxic-forming sections of the overburden;

71 and

72 (F) chemical analysis of the stratum lying immediately underneath the coal to be
73 mined.

74 (ii) Application requirements of [~~this~~] Subsection (2)(d)(i) may be waived by the
75 division if there is a written determination that these requirements are unnecessary.

76 (3) (a) If the division finds that the probable total annual production at all locations of a
77 coal surface mining operator will not exceed 300,000 tons, and if funding is available under the
78 Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. Sec. 1201 et seq., the cost of
79 the following activities shall be paid by the division, upon the written request of the operator in
80 connection with a permit application:

81 (i) the determination of probable hydrologic consequences required by Subsection
82 (2)(c), including the engineering analyses and designs necessary for the determination;

83 (ii) the development of cross-section maps and plans of the land to be affected,
84 including the area to be mined;

85 (iii) the geologic drilling and statement of results of test borings and core samplings
86 required by Subsection(2)(d);

87 (iv) the collection of archaeological and historical information required by the division,
88 and the preparation of those plans;

89 (v) preblast surveys required by Subsection 40-10-17(2)(o); and

90 (vi) the collection of site-specific resource information and production of protection
91 and enhancement plans for fish and wildlife habitats and other environmental values required
92 by the division under this act.

93 (b) The activities specified in Subsection (3)(a) shall be performed by a qualified
94 public or private laboratory or other qualified public or private entity designated by the
95 division.

96 (c) A coal operator who has received assistance pursuant to this Subsection (3) shall
97 reimburse the division for the cost of the services rendered, if the division finds that the
98 operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons
99 during the 12 months immediately following the date on which the operator is issued the
100 surface coal mining and reclamation permit.

101 (4) (a) Information pertaining to coal seams, test borings, core samplings, or soil
102 samples or other equivalent information, as required by this section, shall be made available to
103 a person whose interest is, or may be, adversely affected.

104 (b) Information which pertains only to the analysis of the chemical and physical
105 properties of the coal, except information regarding any mineral or elemental content which is
106 potentially toxic to the environment, shall be kept confidential and not made a matter of public
107 record.

108 (5) An applicant for a surface coal mining and reclamation permit shall file a copy of
109 the application for public inspection with the county clerk of the county, or an appropriate
110 public office approved by the division where the mining is proposed to occur, except for
111 information pertaining to the coal seam itself.

112 (6) (a) An applicant for a permit shall be required to submit to the division as part of
113 the permit application a certificate issued by an insurance company, authorized to do business
114 in the state, certifying that the applicant has a public liability insurance policy in force for the
115 surface mining and reclamation operation for which the permit is sought, or evidence that the
116 applicant has satisfied other state or federal self-insurance requirements.

117 (b) The policy shall:

118 (i) provide for personal injury and property damage protection in an amount adequate
119 to compensate any persons damaged as a result of surface coal mining and reclamation
120 operations, including the use of explosives, and entitled to compensation under the applicable

121 provisions of state law; and

122 (ii) be maintained in full force and effect during the terms of the permit or any renewal,
123 including the length of all reclamation operations.

124 (7) An applicant for a surface coal mining and reclamation permit shall submit to the
125 division, as part of the permit application, a blasting plan which shall outline the procedures
126 and standards by which the operator will meet the provisions of Subsection 40-10-17(2)(o).

Legislative Review Note
as of 12-6-05 7:05 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel