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**MINING OPERATIONS AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Bridger Bolinder**  
Senate Sponsor: David P. Hinkins

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**LONG TITLE**

**General Description:**

This bill addresses regulation of mining operations.

**Highlighted Provisions:**

This bill:

- modifies definition provisions;
- addresses judicial review;
- amends the process for approval of notice of intentions for large mining operations;
- addresses conversion between small and large mining operations;
- provides procedures for review of permit orders;
- clarifies the process of amending or revising a notice of intention; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 17-41-101**, as last amended by Laws of Utah 2023, Chapter 15
- 40-8-4**, as last amended by Laws of Utah 2022, Chapter 72
- 40-8-9**, as last amended by Laws of Utah 2007, Chapter 322
- 40-8-13**, as last amended by Laws of Utah 2013, Chapter 243
- 40-8-14**, as last amended by Laws of Utah 2011, Chapter 125
- 40-8-18**, as last amended by Laws of Utah 2003, Chapter 35

ENACTS:

28       **40-8-13.1**, Utah Code Annotated 1953

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

31           Section 1. Section **17-41-101** is amended to read:

32           **17-41-101 . Definitions.**

33       As used in this chapter:

34       (1) "Advisory board" means:

35           (a) for an agriculture protection area, the agriculture protection area advisory board  
36           created as provided in Section 17-41-201;

37           (b) for an industrial protection area, the industrial protection area advisory board created  
38           as provided in Section 17-41-201; and

39           (c) for a critical infrastructure materials protection area, the critical infrastructure  
40           materials protection area advisory board created as provided in Section 17-41-201.

41       (2) (a) "Agriculture production" means production for commercial purposes of crops,  
42       livestock, and livestock products.

43           (b) "Agriculture production" includes the processing or retail marketing of any crops,  
44           livestock, and livestock products when more than 50% of the processed or  
45           merchandised products are produced by the farm operator.

46       (3) "Agriculture protection area" means a geographic area created under the authority of  
47       this chapter that is granted the specific legal protections contained in this chapter.

48       (4) "Applicable legislative body" means:

49           (a) with respect to a proposed agriculture protection area, industrial protection area, or  
50           critical infrastructure materials protection area:

51           (i) the legislative body of the county in which the land proposed to be included in the  
52           relevant protection area is located, if the land is within the unincorporated part of  
53           the county; or

54           (ii) the legislative body of the city or town in which the land proposed to be included  
55           in the relevant protection area is located; and

56           (b) with respect to an existing agriculture protection area, industrial protection area, or  
57           critical infrastructure materials protection area:

58           (i) the legislative body of the county in which the relevant protection area is located,  
59           if the relevant protection area is within the unincorporated part of the county; or

60           (ii) the legislative body of the city or town in which the relevant protection area is  
61           located.

- 62 (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 63 (6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 64 (7) "Critical infrastructure materials operations" means the extraction, excavation,  
65 processing, or reprocessing of critical infrastructure materials.
- 66 (8) "Critical infrastructure materials operator" means a natural person, corporation,  
67 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,  
68 agent, or other organization or representative, either public or private, including a  
69 successor, assign, affiliate, subsidiary, and related parent company, that:
- 70 (a) owns, controls, or manages a critical infrastructure materials operation; and  
71 (b) has produced commercial quantities of critical infrastructure materials from the  
72 critical infrastructure materials operations.
- 73 (9) "Critical infrastructure materials protection area" means a geographic area created under  
74 the authority of this chapter on or after May 14, 2019, that is granted the specific legal  
75 protections contained in this chapter.
- 76 (10) "Crops, livestock, and livestock products" includes:
- 77 (a) land devoted to the raising of useful plants and animals with a reasonable expectation  
78 of profit, including:
- 79 (i) forages and sod crops;  
80 (ii) grains and feed crops;  
81 (iii) livestock as defined in Section 59-2-102;  
82 (iv) trees and fruits; or  
83 (v) vegetables, nursery, floral, and ornamental stock; or
- 84 (b) land devoted to and meeting the requirements and qualifications for payments or  
85 other compensation under a crop-land retirement program with an agency of the state  
86 or federal government.
- 87 (11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- 88 (12) "Industrial protection area" means a geographic area created under the authority of this  
89 chapter that is granted the specific legal protections contained in this chapter.
- 90 (13) "Mine operator" means a natural person, corporation, association, partnership,  
91 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other  
92 organization or representative, either public or private, including a successor, assign,  
93 affiliate, subsidiary, and related parent company, that, as of January 1, 2019:
- 94 (a) owns, controls, or manages a mining use under a large mine permit issued by the  
95 division or the board; and

- 96 (b) has produced commercial quantities of a mineral deposit from the mining use.
- 97 (14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.
- 98 (15) "Mining protection area" means land where a vested mining use occurs, including each  
99 surface or subsurface land or mineral estate that a mine operator with a vested mining  
100 use owns or controls.
- 101 (16) "Mining use":
- 102 (a) means:
- 103 (i) the full range of activities, from prospecting and exploration to reclamation and  
104 closure, associated with the exploitation of a mineral deposit; and
- 105 (ii) the use of the surface and subsurface and groundwater and surface water of an  
106 area in connection with the activities described in Subsection (16)(a)(i) that have  
107 been, are being, or will be conducted; and
- 108 (b) includes, whether conducted on-site or off-site:
- 109 (i) any sampling, staking, surveying, exploration, or development activity;
- 110 (ii) any drilling, blasting, excavating, or tunneling;
- 111 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,  
112 development rock, tailings, and other waste material;
- 113 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;
- 114 (v) any smelting, refining, autoclaving, or other primary or secondary processing  
115 operation;
- 116 (vi) the recovery of any mineral left in residue from a previous extraction or  
117 processing operation;
- 118 (vii) a mining activity that is identified in a work plan or permitting document;
- 119 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,  
120 structure, facility, equipment, machine, tool, or other material or property that  
121 results from or is used in a surface or subsurface mining operation or activity;
- 122 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,  
123 including a utility, private way or road, pipeline, land excavation, working,  
124 embankment, pond, gravel excavation, mining waste, conveyor, power line,  
125 trackage, storage, reserve, passive use area, buffer zone, and power production  
126 facility;
- 127 (x) the construction of a storage, factory, processing, or maintenance facility; and
- 128 (xi) an activity described in Subsection [~~40-8-4(17)(a).~~] 40-8-4(19)(a).
- 129 (17) (a) "Municipal" means of or relating to a city or town.

- 130 (b) "Municipality" means a city or town.
- 131 (18) "New land" means surface or subsurface land or mineral estate that a mine operator  
132 gains ownership or control of, whether that land or mineral estate is included in the mine  
133 operator's large mine permit.
- 134 (19) "Off-site" means the same as that term is defined in Section 40-8-4.
- 135 (20) "On-site" means the same as that term is defined in Section 40-8-4.
- 136 (21) "Planning commission" means:
- 137 (a) a countywide planning commission if the land proposed to be included in the  
138 agriculture protection area, industrial protection area, or critical infrastructure  
139 materials protection area is within the unincorporated part of the county and not  
140 within a planning advisory area;
- 141 (b) a planning advisory area planning commission if the land proposed to be included in  
142 the agriculture protection area, industrial protection area, or critical infrastructure  
143 materials protection area is within a planning advisory area; or
- 144 (c) a planning commission of a city or town if the land proposed to be included in the  
145 agriculture protection area, industrial protection area, or critical infrastructure  
146 materials protection area is within a city or town.
- 147 (22) "Political subdivision" means a county, city, town, school district, special district, or  
148 special service district.
- 149 (23) "Proposal sponsors" means the owners of land in agricultural production, industrial  
150 use, or critical infrastructure materials operations who are sponsoring the proposal for  
151 creating an agriculture protection area, industrial protection area, or critical  
152 infrastructure materials protection area.
- 153 (24) "State agency" means each department, commission, board, council, agency,  
154 institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
155 library, unit, bureau, panel, or other administrative unit of the state.
- 156 (25) "Unincorporated" means not within a city or town.
- 157 (26) "Vested mining use" means a mining use:
- 158 (a) by a mine operator; and
- 159 (b) that existed or was conducted or otherwise engaged in before a political subdivision  
160 prohibits, restricts, or otherwise limits a mining use.

161 Section 2. Section **40-8-4** is amended to read:

162 **40-8-4 . Definitions.**

163 As used in this chapter:

- 164 (1) "Adjudicative proceeding" means:
- 165 (a) a division or board action or proceeding determining the legal rights, duties,
- 166 privileges, immunities, or other legal interests of one or more identifiable persons,
- 167 including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend
- 168 an authority, right, permit, or license; or
- 169 (b) judicial review of a division or board action or proceeding specified in Subsection
- 170 (1)(a).
- 171 (2) "Amendment" means a request for an insignificant change to a notice of intention, as
- 172 defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 173 Rulemaking Act.
- 174 [~~2~~] (3) "Applicant" means a person who has filed a notice of intent to commence mining
- 175 operations, or who has applied to the board for a review of a notice or order.
- 176 [~~3~~] (4) (a) "Approved notice of intention" means a formally filed notice of intention to
- 177 commence mining operations, including revisions or amendments to the notice of
- 178 intention that is approved under Section 40-8-13.
- 179 (b) An approved notice of intention is not required for small mining operations.
- 180 [~~4~~] (5) (a) "Basalt" means fine-grained mafic igneous rock formed in the tertiary or
- 181 quaternary periods.
- 182 (b) A Utah Geological Survey published map or a United States Geological Survey
- 183 published map that classifies material as "basalt" is prima facie evidence that the
- 184 material meets the requirements of Subsection [~~4~~](a) (5)(a). An unmapped area may
- 185 be classified by a Utah Geological Survey geologist or a professional geologist
- 186 licensed in the state.
- 187 [~~5~~] (6) "Board" means the Board of Oil, Gas, and Mining.
- 188 [~~6~~] (7) "Boulder" means a naturally occurring consolidated rock fragment greater than 75
- 189 millimeters in size that is associated with unconsolidated material and detached from
- 190 bedrock.
- 191 [~~7~~] (8) "Conference" means an informal adjudicative proceeding conducted by the division[
- 192 ~~or board~~].
- 193 [~~8~~] (9) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in
- 194 the form of consolidated rock, unconsolidated material, solutions, or occurring on the
- 195 surface, beneath the surface, or in the waters of the land from which any product
- 196 useful to man may be produced, extracted, or obtained or which is extracted by
- 197 underground mining methods for underground storage.

- 198 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt,  
199 boulders, water, geothermal steam, and oil and gas as defined in Chapter 6, Board  
200 and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands  
201 extracted by mining operations.
- 202 ~~[(9)]~~ (10) "Development" means the work performed in relation to a deposit following the  
203 deposit's discovery but before and in contemplation of production mining operations,  
204 aimed at preparing the site for mining operations, defining further the ore deposit by  
205 drilling or other means, conducting pilot plant operations, constructing roads or ancillary  
206 facilities, and other related activities.
- 207 ~~[(10)]~~ (11) "Division" means the Division of Oil, Gas, and Mining.
- 208 ~~[(11)]~~ (12) "Emergency order" means an order issued by the board in accordance with [Title  
209 63G, Chapter 4, Administrative Procedures Act] Section 63G-4-502.
- 210 ~~[(12)]~~ (13) (a) "Exploration" means surface-disturbing activities conducted for the  
211 purpose of:
- 212 (i) discovering a deposit or mineral deposit;
  - 213 (ii) delineating the boundaries of a deposit or mineral deposit; and
  - 214 (iii) identifying regions or specific areas in which deposits or mineral deposits are  
215 most likely to exist.
- 216 (b) "Exploration" includes:
- 217 (i) sinking shafts;
  - 218 (ii) tunneling;
  - 219 (iii) drilling holes and digging pits or cuts;
  - 220 (iv) building of roads, and other access ways; and
  - 221 (v) constructing and operating other facilities related to the activities described in this  
222 Subsection ~~[(12)(b)]~~ (13)(b).
- 223 ~~[(13)]~~ (14) "Gravel" means a naturally occurring unconsolidated to moderately consolidated  
224 accumulation of rock and mineral particles, the dominant size range being between 4  
225 millimeters and 75 millimeters, that has been deposited by sedimentary processes.
- 226 ~~[(14)]~~ (15) "Hearing" means a formal adjudicative proceeding conducted by the board under  
227 the board's procedural rules.
- 228 ~~[(15)]~~ (16) (a) "Imminent danger to the health and safety of the public" means the  
229 existence of a condition or practice, or a violation of a permit requirement or other  
230 requirement of this chapter in a mining operation, which condition, practice, or  
231 violation could reasonably be expected to cause substantial physical harm to persons

- 232 outside the permit area before the condition, practice, or violation can be abated.
- 233 (b) A reasonable expectation of death or serious injury before abatement exists if a  
234 rational person, subjected to the same conditions or practices giving rise to the peril,  
235 would not expose the rational person to the danger during the time necessary for  
236 abatement.
- 237 ~~[(16)]~~ (17) (a) "Land affected" means the surface and subsurface of an area within the  
238 state where mining operations are being or will be conducted, including:
- 239 (i) on-site private ways, roads, and railroads;  
240 (ii) land excavations;  
241 (iii) exploration sites;  
242 (iv) drill sites or workings;  
243 (v) refuse banks or spoil piles;  
244 (vi) evaporation or settling ponds;  
245 (vii) stockpiles;  
246 (viii) leaching dumps;  
247 (ix) placer areas;  
248 (x) tailings ponds or dumps; and  
249 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.
- 250 (b) Lands are excluded from Subsection ~~[(16)(a)]~~ (17)(a) that would:
- 251 (i) be includable as land affected, but which have been reclaimed in accordance with  
252 an approved plan, as may be approved by the board; and  
253 (ii) include lands in which mining operations have ceased before July 1, 1977.
- 254 (18) "Large mining operation" means a mining operation that is not a small mining  
255 operation and, for purposes of filing a notice of intention, does not include an  
256 exploration mining operation.
- 257 ~~[(17)]~~ (19) (a) "Mining operation" means activities conducted on the surface of the land  
258 for the exploration for, development of, or extraction of a mineral deposit, including  
259 surface mining and the surface effects of underground and in situ mining, on-site  
260 transportation, concentrating, milling, evaporation, and other primary processing.
- 261 (b) "Mining operation" does not include:
- 262 (i) the extraction of sand, gravel, rock aggregate, and boulders;  
263 (ii) the extraction of basalt for an area not to exceed 50 acres under active surface  
264 mining;  
265 (iii) the extraction of oil and gas as defined in Chapter 6, Board and Division of Oil,



- 266 Gas, and Mining;
- 267 (iv) the extraction of geothermal steam;
- 268 (v) smelting or refining operations;
- 269 (vi) off-site operations and transportation;
- 270 (vii) reconnaissance activities; or
- 271 (viii) activities that will not cause significant surface resource disturbance or involve
- 272 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.
- 273 ~~[(18)]~~ (20) "Notice" means:
- 274 (a) notice of intention, as defined in this chapter; or
- 275 (b) written information given to an operator by the division describing compliance
- 276 conditions at a mining operation.
- 277 ~~[(19)]~~ (21) "Notice of intention" means a notice to commence mining operations, including
- 278 revisions to the notice.
- 279 ~~[(20)]~~ (22) "Off-site" means the land areas that are outside of or beyond the on-site land.
- 280 ~~[(21)]~~ (23) (a) "On-site" means the surface lands on or under which surface or
- 281 underground mining operations are conducted.
- 282 (b) A series of related properties under the control of a single operator, but separated by
- 283 small parcels of land controlled by others, are considered to be a single site unless an
- 284 exception is made by the division.
- 285 ~~[(22)]~~ (24) "Operator" means a natural person, corporation, association, partnership,
- 286 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other
- 287 organization or representative, either public or private, owning, controlling, or managing
- 288 a mining operation or proposed mining operation.
- 289 ~~[(23)]~~ (25) "Order" means written information provided by the division or board to an
- 290 operator or other parties, describing the compliance status of a permit or mining
- 291 operation.
- 292 ~~[(24)]~~ (26) "Owner" means a natural person, corporation, association, partnership, receiver,
- 293 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
- 294 representative, either public or private, owning, controlling, or managing a mineral
- 295 deposit or the surface of lands employed in mining operations.
- 296 (27) "Permit" means a permit order.
- 297 ~~[(25)]~~ (28) "Permit area" means the area of land indicated on the approved map submitted
- 298 by the operator with the application or notice to conduct mining operations.
- 299 (29) "Permit order" means an action by the division that:

- 300        (a) (i) approves a notice of intention to commence a large mining operation or revise  
 301        or amend a large mining operation; or  
 302        (ii) declares a notice of intention for a large mining operation deficient;  
 303        (b) (i) accepts as complete a notice of intention to commence a small mining  
 304        operation or revise or amend a small mining operation; and  
 305        (ii) approves the amount and form of surety for a notice of intention; or  
 306        (c) approves a notice of intention to conduct an exploration operation or revise or amend  
 307        an exploration operation.
- 308    [~~26~~] "Permit" means a permit or notice to conduct mining operations issued by the  
 309        division.]
- 310    [~~27~~] (30) "Permittee" means a person holding, or who is required by Utah law to hold, a  
 311        valid permit or notice to conduct mining operations.
- 312    [~~28~~] (31) "Person" means an individual, partnership, association, society, joint stock  
 313        company, firm, company, corporation, or other governmental or business organization.
- 314    [~~29~~] (32) "Reclamation" means actions performed during or after mining operations to  
 315        shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable  
 316        ecological condition and use that is consistent with local environmental conditions.
- 317    (33) "Review proceeding" means a proceeding under this chapter to address a challenge to a  
 318        permit order.
- 319    (34) "Revision" means a request for a change to a notice of intention that is not an  
 320        amendment to a notice of intention.
- 321    [~~30~~] (35) (a) "Rock aggregate" means those consolidated rock materials associated with  
 322        a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by  
 323        alluvial sedimentary processes.
- 324        (b) "Rock aggregate" excludes any solid rock in the form of bedrock, other than basalt,  
 325        that is exposed at the surface of the earth or overlain by unconsolidated material.
- 326    [~~31~~] (36) "Sand" means a naturally occurring unconsolidated to moderately consolidated  
 327        accumulation of rock and mineral particles, the dominant size range being between .004  
 328        millimeters to 4 millimeters, that has been deposited by sedimentary processes.
- 329    [~~32~~] (37) "Small mining operations" means mining operations that disturb or will disturb  
 330        20 or less surface acres at any given time in an unincorporated area of a county or 10 or  
 331        less surface acres at any given time in an incorporated area of a county.
- 332    (38) "Substantive public comment" means a public comment that:  
 333        (a) is specific to a proposed action;

- 334        (b) has a direct relationship to the proposed action;  
 335        (c) includes supporting reasons for the division to consider; and  
 336        (d) addresses issues that are within the scope of the division's jurisdiction.

337 [~~(33)~~] (39) "Unwarranted failure to comply" means the failure of a permittee to prevent the  
 338 occurrence of a violation of the permit or a requirement of this chapter due to  
 339 indifference, lack of diligence, or lack of reasonable care, or the failure to abate a  
 340 violation of the permit or this chapter due to indifference, lack of diligence, or lack of  
 341 reasonable care.

342        Section 3. Section **40-8-9** is amended to read:

343        **40-8-9 . Evasion of chapter or orders -- Penalties -- Limitations of actions --**  
 344 **Violation of chapter or permit conditions -- Inspection -- Cessation order,**  
 345 **abatement notice, or show cause order -- Suspension or revocation of permit --**  
 346 **Review -- Division enforcement authority -- Appeal provisions.**

347 (1) (a) A person, owner, or operator who willfully or knowingly evades this chapter, or  
 348 who for the purpose of evading this chapter or any order issued under this chapter,  
 349 willfully or knowingly makes or causes to be made any false entry in any report,  
 350 record, account, or memorandum required by this chapter, or by the order, or who  
 351 willfully or knowingly omits or causes to be omitted from a report, record, account,  
 352 or memorandum, full, true, and correct entries as required by this chapter, or by the  
 353 order, or who willfully or knowingly removes from this state or destroys, mutilates,  
 354 alters, or falsifies any record, account, or memorandum, is guilty of a class B  
 355 misdemeanor and, upon conviction, is subject to a fine of not more than \$10,000 for  
 356 each violation.

357        (b) Each day of willful failure to comply with an emergency order is a separate violation.

358 (2) No suit, action, or other proceeding based upon a violation of this chapter, or any rule or  
 359 order issued under this chapter, may be commenced or maintained unless the suit,  
 360 action, or proceeding is commenced within five years from the date of the alleged  
 361 violation.

362 (3) (a) If, on the basis of information available, the division has reason to believe that a  
 363 person is in violation of a requirement of this chapter or a permit condition required  
 364 by this chapter, the division shall immediately order inspection of the mining  
 365 operation at which the alleged violation is occurring, unless the information available  
 366 to the division is a result of a previous inspection of the mining operation.

367        (b) (i) If, on the basis of an inspection, the division determines that a condition or

368 practice exists, or that a permittee is in violation of a requirement of this chapter  
369 or a permit condition required by this chapter, and the condition, practice, or  
370 violation also creates an imminent danger to the health or safety of the public, or  
371 is causing, or can reasonably be expected to cause significant, imminent  
372 environmental harm to land, air, or water resources, the division shall immediately  
373 order a cessation of mining and operations or the portion relevant to the condition,  
374 practice, or violation.

375 (ii) The cessation order shall remain in effect until the division determines that the  
376 condition, practice, or violation has been abated, or until modified, vacated, or  
377 terminated by the division.

378 (iii) If the division finds that the ordered cessation of mining operations, or a portion  
379 of the operation, will not completely abate the imminent danger to the health or  
380 safety of the public or the significant imminent environmental harm to land, air, or  
381 water resources, the division shall, in addition to the cessation order, impose  
382 affirmative obligations on the operator requiring [~~him~~] the operator to take  
383 whatever steps the division considers necessary to abate the imminent danger or  
384 the significant environmental harm.

385 (c) (i) If, on the basis of an inspection, the division determines that a permittee is in  
386 violation of a requirement of this chapter or a permit condition required by this  
387 chapter, but the violation does not create an imminent danger to the health or  
388 safety of the public or cannot be reasonably expected to cause significant,  
389 imminent environmental harm to land, air, or water resources, the division shall  
390 issue a notice to the permittee or [~~his~~] the permittee's agent specifying a reasonable  
391 time, but not more than 90 days, for the abatement of the violation and providing  
392 an opportunity for a conference with the division.

393 (ii) If, upon expiration of the period of time as originally fixed or subsequently  
394 extended, for good cause shown, and upon the written finding of the division, the  
395 division finds that the violation has not been abated, it shall immediately order a  
396 cessation of mining operations or the portion of the mining operation relevant to  
397 the violation.

398 (iii) The cessation order shall remain in effect until the division determines that the  
399 violation has been abated or until modified, vacated, or terminated by the division  
400 pursuant to this Subsection (3).

401 (iv) In the order of cessation issued by the division under this Subsection (3), the

- 402                   division shall determine the steps necessary to abate the violation in the most  
403                   expeditious manner possible and shall include the necessary measures in the order.
- 404       (d) (i) Notices and orders issued under this section shall set forth with reasonable  
405           specificity:
- 406                   (A) the nature of the violation and the remedial action required;  
407                   (B) the period of time established for abatement; and  
408                   (C) a reasonable description of the portion of the mining and reclamation  
409                   operation to which the notice or order applies.
- 410       (ii) Each notice or order issued under this section shall be given promptly to the  
411           permittee or ~~his~~ the permittee's agent by the division, and the notices and orders  
412           shall be in writing and shall be signed by the director, or ~~his~~ the director's  
413           authorized representative who issues notices or orders.
- 414       (iii) A notice or order issued under this section may be modified, vacated, or  
415           terminated by the division, but any notice or order issued under this section which  
416           requires cessation of mining by the operator shall expire within 30 days of the  
417           actual notice to the operator, unless a conference is held with the division.
- 418   (4) (a) The division may request the attorney general to institute a civil action for relief,  
419           including a permanent or temporary injunction, restraining order, or any other  
420           appropriate order in the district court for the district in which the mining and  
421           reclamation operation is located, or in which the permittee of the operation has ~~his~~  
422           the permittee's principal office, if the permittee or ~~his~~ the permittee's agent:
- 423                   (i) violates or fails or refuses to comply with an order or decision issued by the  
424                   division under this chapter;
- 425                   (ii) interferes with, hinders, or delays the division, or its authorized representatives, in  
426                   carrying out the provisions of this chapter;
- 427                   (iii) refuses to admit the authorized representatives to the mine;
- 428                   (iv) refuses to permit inspection of the mine by the authorized representative; or  
429                   (v) refuses to furnish any information or report requested by the division in  
430                   furtherance of the provisions of this chapter.
- 431   (b) (i) The court shall have jurisdiction to provide the appropriate relief.
- 432       (ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall  
433           continue in effect until the completion or final termination of all proceedings for  
434           review of that order under this chapter, unless, prior to this completion or  
435           termination, the district court granting the relief sets it aside or modifies the order.

- 436 (5) (a) (i) A permittee issued a notice or order by the division, pursuant to the  
437 provisions of Subsections (3)(b) and (3)(c), or a person having an interest [~~which~~]  
438 that may be adversely affected by the notice or order, may apply to the board for  
439 review of the notice or order within 30 days of receipt of the notice or order, or  
440 within 30 days of a modification, vacation, or termination of the notice or order.
- 441 (ii) Upon receipt of this application, the board shall pursue an investigation as it  
442 considers appropriate.
- 443 (iii) The investigation shall provide an opportunity for a public hearing at the request  
444 of the applicant or the person having an interest which is or may be adversely  
445 affected, to enable the applicant or that person to present information relating to  
446 the issuance and continuance of the notice or order of the modification, vacation,  
447 or termination of the notice or order.
- 448 (iv) The filing of an application for review under this Subsection (5)(a) shall not  
449 operate as a stay of an order or notice.
- 450 (b) (i) The permittee and other interested persons shall be given written notice of the  
451 time and place of the hearing at least five days prior to the hearing.
- 452 (ii) This hearing shall be of record and shall be subject to judicial review.
- 453 (c) (i) Pending completion of the investigation and hearing required by this section,  
454 the applicant may file with the board a written request that the board grant  
455 temporary relief from any notice or order issued under this section, with a detailed  
456 statement giving the reasons for granting this relief.
- 457 (ii) The board shall issue an order or decision granting or denying this relief  
458 expeditiously.
- 459 (d) (i) Following the issuance of an order to show cause as to why a permit should  
460 not be suspended or revoked pursuant to this section, the board shall hold a public  
461 hearing, after giving written notice of the time, place, and date of the hearing.
- 462 (ii) The hearing shall be of record and shall be subject to judicial review.
- 463 (iii) Within 60 days following the public hearing, the board shall issue and furnish to  
464 the permittee and all other parties to the hearing, a written decision, and the  
465 reasons for the decision, regarding suspension or revocation of the permit.
- 466 (iv) If the board revokes the permit, the permittee shall immediately cease mining  
467 operations on the permit area and shall complete reclamation within a period  
468 specified by the board, or the board shall declare the performance bonds forfeited  
469 for the operation.

470 (e) Action by the board taken under this section or any other provision of the state  
471 program shall be subject to judicial review~~[by the appropriate district court within~~  
472 ~~the state]~~.

473 (6) A criminal proceeding for a violation of this chapter, or a regulation or order issued  
474 under this chapter, shall be commenced within five years from the date of the alleged  
475 violation.

476 Section 4. Section **40-8-13** is amended to read:

477 **40-8-13 . Notice of intention required before mining operations -- Assurance of**  
478 **reclamation required in notice of intention -- When contents confidential --**  
479 **Approval of notice of intention not required for small mining operations --**  
480 **Procedure for reviewing notice of intention.**

481 (1) (a) Before any operator begins mining operations, or continues mining operations  
482 pursuant to Section 40-8-23, the operator shall file a notice of intention for each  
483 individual mining operation with the division.

484 (b) The notice of intention referred to in Subsection (1)(a) shall include:

485 (i) identification of ~~[a]H~~ the owners of any interest in a mineral deposit, including any  
486 ownership interest in surface land affected by the notice;

487 (ii) copies of underground and surface mine maps;

488 (iii) locations of drill holes;

489 (iv) accurate area maps of existing and proposed operations; and

490 (v) information regarding the amount of material extracted, moved, or proposed to be  
491 moved, relating to the mining operation.

492 (c) The notice of intention for small mining operations shall include a statement that the  
493 operator shall conduct reclamation as required by rules promulgated by the board.

494 (d) The notice of intention for large mining operations~~[, other than small mining~~  
495 ~~operations,]~~ shall include a plan for reclamation of the lands affected as required by  
496 rules promulgated by the board.

497 (2) The division may require that the operator rehabilitate, close, or mitigate the impacts of  
498 each drill hole, shaft, or tunnel when no longer needed as part of the mining operation.

499 (3) Information provided in the notice of intention, and its attachments relating to the  
500 location, size, or nature of the deposit that is marked confidential by the operator shall  
501 be protected as confidential information by the board and the division and is not a matter  
502 of public record unless the board or division obtains a written release from the operator,  
503 or until the mining operation has been terminated as provided in Subsection 40-8-21(2).

- 504 (4) (a) ~~[Within]~~ Subject to Subsection (6) for large mining operations, within 30 days  
 505 from the receipt of a notice of intention, the division shall complete its review of the  
 506 notice of intention and shall make further inquiries, inspections, or examinations that  
 507 are necessary to properly evaluate the notice of intention.
- 508 (b) The division shall notify the operator of any objections to the notice of intention and  
 509 shall grant the operator a reasonable opportunity to take action that may be required  
 510 to remove the objections or obtain a ruling relative to the objections from the board.
- 511 (5) Except for the form and amount of surety, an approval of a notice of intention for small  
 512 mining operations is not required.
- 513 (6) (a) The notice of intention for large mining operations ~~[other than small mining~~  
 514 ~~operations,]~~ shall be reviewed as provided in this Subsection (6).
- 515 ~~[(a) Within 30 days after receipt of a notice of intention or within 30 days following the~~  
 516 ~~last action of the operator or the division on the notice of intention, the division shall~~  
 517 ~~make a tentative decision to approve or disapprove the notice of intention.]~~
- 518 ~~[(b) The division shall:]~~
- 519 ~~[(i) mail the information relating to the land affected and the tentative decision to the~~  
 520 ~~operator; and]~~
- 521 ~~[(ii) publish the information and the decision, in abbreviated form:]~~
- 522 ~~[(A) one time only, in all newspapers of general circulation published in the county~~  
 523 ~~where the land affected is situated;]~~
- 524 ~~[(B) in a daily newspaper of general circulation in Salt Lake City, Utah; and]~~
- 525 ~~[(C) as required in Section 45-1-101.]~~
- 526 ~~[(c) The division shall also mail a copy of the abbreviated information and tentative~~  
 527 ~~decision to the zoning authority of the county in which the land affected is situated~~  
 528 ~~and to the owner of record of the land affected.]~~
- 529 ~~[(d) (i) Any person or agency aggrieved by the tentative decision may file a request for~~  
 530 ~~agency action with the division.]~~
- 531 ~~[(ii) If no requests for agency action are received by the division within 30 days after~~  
 532 ~~the last date of publication, the tentative decision on the notice of intention is final~~  
 533 ~~and the division shall notify the operator.]~~
- 534 ~~[(iii) If written objections of substance are received, the division shall hold an informal~~  
 535 ~~adjudicative proceeding.]~~
- 536 ~~[(e) This Subsection (6) does not apply to exploration.]~~
- 537 (b) (i) Within 30 days after receipt of a notice of intention for a large mining



538 operation, the division shall complete the division's review of the notice of  
539 intention for completeness and notify the operator in writing that the notice of  
540 intention:

541 (A) is complete because the notice of intention is in a form approved by the  
542 division on which the operator provides a substantive response to each  
543 applicable request for information; or

544 (B) is incomplete.

545 (ii) If the notice of intention is incomplete, the division shall give the operator a  
546 reasonable opportunity to take action required to complete the notice of intention.

547 (c) Within five business days of the day on which the division notifies the operator  
548 under Subsection (6)(b) that a notice of intention is complete, the division shall:

549 (i) submit for publication notice of the notice of intention and an opportunity for  
550 public comment:

551 (A) one time in the newspapers of general circulation published in the county  
552 where the land affected is situated; and

553 (B) one time in a newspaper of general circulation in Salt Lake City, Utah;

554 (ii) publish notice of the notice of intention and an opportunity for public comment:

555 (A) on a public legal notice website as required in Section 45-1-101; and

556 (B) on the division's public website; and

557 (iii) mail notice of the notice of intention to:

558 (A) the zoning authority of the county or municipality where the land affected is  
559 situated; and

560 (B) the owner of record of the land affected.

561 (d) (i) The division shall accept public comment on a complete notice of intention for  
562 30 days from the day on which notice is posted on the public legal notice website  
563 described in Subsection (6)(c)(ii)(A).

564 (ii) The division shall include with a notice published under Subsection (6)(c)(ii), an  
565 electronic link by which a person may electronically submit public comment in  
566 the form and manner required by rule made by the board in accordance with Title  
567 63G, Chapter 3, Utah Administrative Rulemaking Act.

568 (iii) If a person wants to submit public comment through the mail, the person shall  
569 submit the public comment in writing in the form and manner required by rule  
570 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative  
571 Rulemaking Act.

- 572 (iv) Only a person, municipality, or county who submits a timely, substantive public  
573 comment during the public comment period is eligible to seek intervention in a  
574 review proceeding for the division's final permit order on the notice of intention  
575 for a large mining operation.
- 576 (e) (i) Within 15 days after the close of public comment under Subsection (6)(d), the  
577 division shall review the public comments received and identify all substantive  
578 public comments.
- 579 (ii) The division shall transmit a copy of the substantive public comments received to  
580 the operator and shall file a copy for public inspection at the division.
- 581 (iii) The division may hold a public meeting to discuss issues raised by public  
582 comment.
- 583 (iv) If the division determines that a public meeting is necessary, the division shall  
584 hold the public meeting within 45 days after the end of the period to review public  
585 comments under Subsection (6)(d).
- 586 (f) (i) By no later than 30 days of the later of the following, the division shall take an  
587 action described in Subsection (6)(f)(ii):
- 588 (A) the day on which time period under Subsection (6)(d) for accepting public  
589 comment ends; or
- 590 (B) the day on which the division holds a public hearing under Subsection (6)(e).
- 591 (ii) By no later than the day described in Subsection (6)(f)(i), the division shall:
- 592 (A) approve the notice of intention; or
- 593 (B) provide the operator written notice of any deficiency and grant the operator a  
594 reasonable opportunity to take an action that is required to remove the  
595 deficiency.
- 596 (g) Upon approving a notice of intention, the division shall provide the operator notice  
597 of the approval and post a permit order approving the notice of intention on the  
598 division's public website.
- 599 (7) An operator may convert a small mining operation to a large mining operation or may  
600 convert a large mining operation to a small mining operation by filing a notice of  
601 intention with the division requesting the conversion. The division shall review the  
602 notice of intention according to the procedures provided in this section for the resulting  
603 mining operation.
- 604 [(7)] (8) Within 30 days after receipt of a notice of intention concerning exploration  
605 operations[~~other than small mining operations~~], the division will review the notice of

606 intention and approve or disapprove [it] the notice of intention.

607 Section 5. Section **40-8-13.1** is enacted to read:

608 **40-8-13.1 . Procedures for review of permit orders.**

609 (1) As used in this section, "party" means:

610 (a) the division;

611 (b) the operator whose proposed mining operation is at issue in the permit order; or

612 (c) if granted intervention by the board:

613 (i) the municipality or county in which the proposed mining operation at issue in the  
614 permit order is located; or

615 (ii) a person.

616 (2) (a) A party may obtain the review of a permit order by filing a petition for review  
617 before the board within 30 days after the date on which a permit order is issued.

618 (b) Only a party may file a petition for review of a permit order.

619 (3) (a) A petition for review shall:

620 (i) be filed and served in accordance with the board rules made in accordance with  
621 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

622 (ii) include the party's name, address, and telephone number;

623 (iii) describe the nature and extent of the party's property, financial, or other interest  
624 in the review proceeding;

625 (iv) include a statement of the party's contentions, including, as applicable:

626 (A) the legal authority under which the petition for review is requested;

627 (B) the legal authority under which the board has jurisdiction to review the  
628 petition for review;

629 (C) a statement setting forth the specific contentions that the party seeks to have  
630 litigated in the review proceeding;

631 (D) each of the party's arguments in support of the party's requested relief;

632 (E) a detailed description of any permit condition to which the party is objecting;

633 (F) any modification or addition to a permit order that the party is requesting; and

634 (G) a claim for relief; and

635 (v) for a large mining operation permit order, if the party is not the division or the  
636 operator, include a statement and supporting documentation demonstrating that  
637 the party timely provided a substantive public comment that is compliant with  
638 rules made by the board in accordance with Title 63G, Chapter 3, Utah  
639 Administrative Rulemaking Act, as required by Subsection 40-8-13(6)(d)(iv).

- 640 (b) A party who files a petition for review may only raise a contention in the party's  
641 petition for review or during the review proceeding that:
- 642 (i) is within the board's jurisdiction;  
643 (ii) is supported with information or documentation that:  
644 (A) is cited with reasonable specificity; and  
645 (B) sufficiently enables the board to fully consider the substance and significance  
646 of the issue; and  
647 (iii) for a party other than the division or operator and with regard to a large mining  
648 operation permit order, the party raised as a substantive public comment.
- 649 (4) (a) A municipality, county, or other person who is not a party may not participate in  
650 a review proceeding under this section unless granted the right to intervene by the  
651 board.
- 652 (b) A municipality, county, or person seeking to intervene in a review proceeding shall  
653 file a petition with the board by no later than the sooner of:  
654 (i) 15 days of the day on which a petition for review is filed under Subsection (2); or  
655 (ii) 30 days after the date on which the permit order is issued if the person submits  
656 the petition to intervene under Subsection (4)(c).
- 657 (c) A person wanting to initiate a review of a permit order who has not been granted  
658 intervention by the board shall file a petition to intervene at the same time that the  
659 person files a petition for review under Subsections (2) and (3).
- 660 (d) A petition to intervene shall include:  
661 (i) the petitioner's name, address, and telephone number;  
662 (ii) the nature and extent of the petitioner's property, financial, or other interest in the  
663 review proceeding;  
664 (iii) the possible effect of a decision or order that may be entered in the review  
665 proceeding on the petitioner's interest described in Subsection (4)(d)(ii);  
666 (iv) a statement setting forth the specific contentions that the petitioner seeks to have  
667 litigated in the review proceeding;  
668 (v) a brief explanation of the basis for the contention and a concise statement of the  
669 alleged facts or evidence the petitioner intends to rely on in proving the contention  
670 at the hearing; and  
671 (vi) a statement of the relief that the petitioner seeks from the board.
- 672 (e) (i) A petitioner may only raise a contention under Subsection (4)(d) on a matter  
673 within the scope of the board's jurisdiction.

- 674           (ii) A petitioner may only raise a contention under Subsection (4)(d) related to a large  
675           mining operation permit order on a matter for which the person raised a  
676           substantive public comment.
- 677       (f) The board shall grant a petition for intervention if the board determines that:  
678           (i) the petitioner's legal interests may be substantially affected by the review  
679           proceeding; and  
680           (ii) the interests of justice and the orderly and prompt conduct of the review  
681           proceedings will not be materially impaired by allowing the intervention.
- 682       (g) (i) The board may delegate the determination of the right to intervene to a hearing  
683           examiner in accordance with rules made under Title 63G, Chapter 3, Utah  
684           Administrative Rulemaking Act.  
685           (ii) A party aggrieved by a hearing examiner determination on a petition for  
686           intervention may appeal that determination to the board. The board shall make a  
687           determination on the appeal of the petition for intervention before hearing the  
688           merits of the case.
- 689       (5) In a review proceeding, the operator and the division are parties to the review  
690           proceeding regardless of who files the petition for review and the operator and division  
691           do not need to file a separate petition to intervene.
- 692       (6) (a) If a petition for review of a permit order is filed under this section, the board shall:  
693           (i) within 30 days from the day on which the petition for review is filed schedule:  
694            (A) an intervention hearing pursuant to Subsection (4); or  
695            (B) an administrative hearing before the board at the next regularly scheduled  
696            board public meeting; and  
697           (ii) issue the decision of the board by no later than 30 days from the day on which the  
698            administrative hearing described in Subsection (6)(a)(i)(B) is held.
- 699       (b) The board may consolidate two or more petitions for review of a permit order if the  
700           board finds that consolidation will aid the just, speedy, and economical determination  
701           of the issues presented before the board.
- 702       (c) The board shall conduct a de novo review of a permit order for which a petition for  
703           review has been filed under this section.
- 704       (7) Review of a permit order is subject to Title 63G, Chapter 4, Administrative Procedures  
705           Act, to the extent that the chapter does not conflict with this section.
- 706       (8) A person shall exhaust administrative remedies under this section before the person may  
707           seek judicial review of a permit order.

708 Section 6. Section **40-8-14** is amended to read:

709 **40-8-14 . Surety requirement -- Liability of small mining operations for failure to**  
710 **reclaim -- Forfeiture of surety.**

711 (1) (a) After receiving notification that a notice of intention for mining operations has  
712 been approved, but prior to commencement of those operations, the operator shall  
713 provide surety to the division, in a form and amount determined by the division or  
714 board as provided in this section.

715 (b) In determining the amount of surety under this section, the division may use the  
716 average cost of reclamation per acre.

717 (c) The board shall annually establish a figure representing the average cost of  
718 reclamation per acre after receiving a presentation from the division concerning the  
719 average cost of reclamation per acre and providing opportunity for public comment.

720 (2) (a) Except as provided in Subsection (3), the division shall approve the amount and  
721 form of surety.

722 (b) In determining the amount of surety to be provided, the division shall consider:

723 (i) the magnitude, type, and costs of approved reclamation activities planned for the  
724 land affected; and

725 (ii) the nature, extent, and duration of operations under the approved notice.

726 (c) The division shall approve a fixed amount estimated to be required to complete  
727 reclamation at any point in time covered by the notice of intent.

728 (d) (i) The division shall determine the amount of surety required for notices of  
729 intention, by using cost data from current large mining sureties.

730 (ii) The costs shall be adjusted to reflect the nature and scope of activities in the  
731 affirmative statement filed under [~~Subsection 40-8-18(4)~~] Section 40-8-18.

732 (e) (i) In determining the form of surety to be provided by the operator, the division  
733 shall approve a method acceptable to the operator consistent with the requirements  
734 of this chapter.

735 (ii) The form of surety that the operator may provide includes, but is not limited to,  
736 the following:

737 (A) collateral;

738 (B) a bond or other form of insured guarantee;

739 (C) deposited securities; or

740 (D) cash.

741 (3) (a) If the operator proposes reclamation surety in the form of a written contractual

- 742 agreement, the board shall approve the form of surety.
- 743 (b) In making this decision, the board shall consider:
- 744 (i) the operator's:
- 745 (A) financial status;
- 746 (B) assets within the state;
- 747 (C) past performance in complying with contractual agreements; and
- 748 (D) facilities available to carry out the planned work;
- 749 (ii) the magnitude, type, and costs of approved reclamation activities planned for the
- 750 land affected; and
- 751 (iii) the nature, extent, and duration of operations under the approved notice.
- 752 (4) In determining the amount and form of surety to be provided under this section,
- 753 consideration shall be given to similar requirements made on the operator by
- 754 landowners, governmental agencies, or others, with the intent that surety requirements
- 755 shall be coordinated and not duplicated.
- 756 (5) The liability under surety provisions shall continue until liability, in part, or in its
- 757 entirety, is released by the division.
- 758 (6) (a) If the operator of a mining operation, including a small mining operation, fails or
- 759 refuses to carry out the necessary land reclamation as outlined in the approved notice
- 760 of intention, the board may, after notice and hearing, declare any surety filed for this
- 761 purpose forfeited.
- 762 (b) With respect to the surety filed with the division, the board shall request the attorney
- 763 general to take the necessary legal action to enforce and collect the amount of
- 764 liability.
- 765 (c) If surety or a bond has been filed with the Division of Forestry, Fire, and State
- 766 Lands, the School and Institutional Trust Lands Administration, or any agency of the
- 767 federal government, the board shall certify a copy of the transcript of the hearing and
- 768 transmit it to the agency together with a request that the necessary forfeiture action be
- 769 taken.
- 770 (d) The forfeited surety shall be used only for the reclamation of the land to which it
- 771 relates, and any residual amount returned to the rightful claimant.

772 Section 7. Section **40-8-18** is amended to read:

773 **40-8-18 . Notice of intention to amend or revise operations -- Procedure.**

- 774 (1) (a) [~~Since mining operations and related reclamation plans may need to be revised to~~
- 775 ~~accommodate changing conditions or new technology, an~~] An operator conducting

776 mining operations under an approved notice of intention for a large mining operation  
 777 or a complete notice of intention for a small mining operation shall submit to the  
 778 division [a] an amended or revised notice of intention when [revising] a change in  
 779 mining operations will occur.

780 (b) The operator shall submit a notice of intention to amend or revise mining operations [  
 781 ~~shall be submitted~~] in the form required by the rules [~~promulgated~~] made by the board  
 782 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

783 [(2) (a) ~~The notice of intention to revise mining operations will be designated as an~~  
 784 ~~amendment to the existing notice of intention by the division, based on rules~~  
 785 ~~promulgated by the board.~~]

786 [(b) ~~An~~]

787 (2) (a) The division shall review and approve or disapprove an amendment of a notice of  
 788 intention [~~will be reviewed and considered for approval or disapproval by the division~~]  
 789 for a large mining operation within 30 days of receipt of a notice of intention to [  
 790 ~~revise~~] amend mining operations.

791 (b) The division shall review and determine that an amendment of a notice of intention  
 792 for a small mining operation is complete within 30 days of receipt of the notice of  
 793 intention to amend mining operations.

794 (c) The division is not required to provide for public comment for an amendment of a  
 795 notice of intention.

796 (3) [(a) ~~A~~] The division shall process and consider a notice of intention to revise mining  
 797 operations [~~, if not designated as an amendment of a notice of intention as set forth in~~  
 798 ~~Subsection (2), shall be processed and considered for approval by the division~~] in the  
 799 same manner and within the same time period as an original notice of intention.

800 [(b)] (4) The operator [~~shall be~~] is authorized and bound by the requirements of the existing  
 801 notice of intention until the division acts on the amendment or revision [~~is acted upon~~]  
 802 and any revised surety requirements are established and satisfied.

803 [(4) (a) ~~If a change in the operation occurs, a mining operation representative shall submit~~  
 804 ~~an amendment to the notice of intention.~~]

805 [(b)] (5) Although approval of an amendment to the notice of intention by small mining  
 806 operations is not required, the small mining operator shall file a revised surety [~~shall be~~  
 807 ~~filed by the permittee prior to~~] before implementing the amended notice of intention.

808 (6) An operator may not use this section to convert a small mining operation to a large  
 809 mining operation.



810 Section 8. **Effective date.**

811 This bill takes effect on May 1, 2024.