



Utah Division of Oil, Gas and Mining

Surety Modernization Study - October 2025 Legislative Report

Introduction

In response to the Utah Legislature's directive under Section 40-8-14.5(2), the Division of Oil, Gas and Mining (division) is conducting a comprehensive study to assess the need to modernize surety requirements for mining operators in Utah. The study examines the adequacy, structure, and potential alternatives to existing surety mechanisms, with the goal of ensuring financial assurance for reclamation while supporting responsible resource development, particularly in Utah's growing critical minerals sector.

Purpose and Context

The Legislature tasked the division to evaluate the following areas of analysis:

- The appropriate forms and amounts of surety to require from operators;
- Factors for determining surety type and amount;
- Coordination with other surety requirements to avoid duplication;
- Procedures for release, forfeiture, and enforcement of surety;
- Surety practices in other states;
- Feasibility of insurance and captive insurance mechanisms;
- Potential for a state-administered surety pool; and
- Other measures to modernize Utah's surety framework.

Study Approach

1. Review of Regulatory and Financial Requirements

The division is evaluating current bonding regulations under both state law and federal law. The review will identify opportunities to streamline financial assurance mechanisms while maintaining environmental protection and reclamation accountability.

2. Captive Cell Feasibility

Through collaboration with the Division of Risk Management and is referenced in official state financial reports. Its purpose is to recognize certain revenues and expenses for the State of Utah's own operations). The division is analyzing the feasibility of establishing a reclamation bond captive cell to provide bonding capacity for metal mining and critical mineral operations. This captive model could allow the state to underwrite surety coverage internally, improving accessibility for smaller operators and lowering costs without increasing taxpayer exposure.

3. Coordination with Broader Mineral Policy

The study was influenced by Utah's critical mineral development outlook, which emphasizes the need for





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regulatory predictability, investment incentives, and modernized permitting. Ensuring that surety mechanisms are efficient, scalable, and compatible with federal and private bonding systems is essential to advancing Utah's role as a national leader in critical mineral production.

Initial Findings and Recommendations

1. Forms of Surety

Utah should continue to accept traditional surety bonds, letters of credit, and cash deposits, while expanding to include captive insurance-backed bonds via a state-managed cell, pooled surety programs for small operators, and qualified insurance products tailored to reclamation performance.

2. Determining Amounts and Factors

Bonding amounts should be risk-adjusted based on project size, reclamation complexity, operator history, and commodity type. The division recommends establishing standardized cost-estimation tools to improve consistency.

3. Coordination and Non-Duplication

The division is establishing an interagency permit coordinator to streamline permitting actions and reduce redundancy. In addition, the division is developing a memorandum of understanding with the Bureau of Land Management (BLM) to delegate inspection and enforcement duties and to formalize cooperative and coordinating agreements between agencies.

4. Release, Forfeiture, and Enforcement

Reclamation completion milestones should be more clearly tied to staged surety release. Enforcement protocols should include direct access to collateral and defined timelines for forfeiture actions.

5. Captive and Pool Options

A state Surety Pool or Captive Cell Program offers potential cost savings, particularly for emerging critical mineral operations with limited access to commercial bonding. Actuarial analysis indicates financial viability with appropriate capitalization and risk management oversight.

6. Insurance Alternatives

Emerging insurance products and captive structures can partially or wholly replace traditional surety, offering greater flexibility while maintaining reclamation security.

7. Policy Integration

Surety modernization should be coordinated with Utah's critical minerals initiative, including permitting reform, tax incentives, and infrastructure investments.

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Conclusion

Utah's current surety framework has served the state well but requires modernization to support the next generation of mining, particularly in critical minerals essential to national security and clean energy. A combination of traditional surety, captive insurance mechanisms, and pooled financial assurance programs would provide a balanced, resilient, and efficient system.

While the final report will come later this year, The division will likely recommend proceeding with detailed feasibility and legislative development for a reclamation bond captive cell, while aligning bonding requirements with state and federal partners. Modernizing surety will not only enhance environmental protection but also strengthen Utah's competitiveness in the rapidly evolving critical minerals economy.

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