

**COAL MINING AND RECLAMATION
AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Dmitrich

This act modifies the Mines and Mining Code to provide that the Division of Oil, Gas and Mining pay certain costs relating to the filing of a surface coal mining and reclamation application and plan, and providing for the reimbursement of certain costs from the coal operator to the division.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

40-10-10, as last amended by Chapter 219, Laws of Utah 1994

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

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

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

(1) Each application for a surface coal mining and reclamation permit under the provisions of this chapter shall be accompanied by a fee as determined by the division~~[, but]~~. The fee specified in this Subsection (1) may not [to] exceed the cost [of] by the division to process and review the application[~~, review, and processing~~].

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

- (i) the permit applicant;
- (ii) every legal owner of record of the ~~[property (]surface and mineral[)]~~ estate to be mined;
- (iii) the holders₂ of record₂ of any leasehold interest in the property;
- (iv) any purchaser₂ of record₂ of the property under a real estate contract;

(v) the operator, if he is a person different from the applicant; and

(vi) ~~[if any of these are business entities other than a single proprietor,]~~ the names and addresses of the principals, officers, and resident agent for service of process, if any of these are business entities other than a single proprietor.

(b) ~~[A]~~ (i) A permit application shall include:

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

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

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

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

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

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

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

(ii) The determination required under Subsection (2)(c)(i) shall not be required until ~~[such time as]~~ the hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency.

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

(d) (i) A ~~[statement of]~~ permit application will also include the following information:

(A) the result of test borings or core samplings from the permit area, including logs of the

drill holes;

(B) the thickness of the coal seam found;

(C) an analysis of the chemical properties of ~~[such]~~ the coal;

(D) the sulfur content of any coal seam;

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

(F) chemical analysis of the stratum lying immediately underneath the coal to be mined[;

~~except that the provisions].~~

(ii) Application requirements of this Subsection (2) may be waived by the division ~~[with respect to the specific application by]~~ if there is a written determination that these requirements are unnecessary.

~~[(3) If the division finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 100,000 tons, the determination of probable hydrologic consequences required by Subsection (2)(c) and the statement of the result of test borings or core samplings required by Subsection (2)(d) shall, upon the written request of the operator, be performed by a qualified public or private laboratory designated by the division, and the cost of the preparation of this determination and statement shall be assumed by the division.]~~

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

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

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

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

(iv) the collection of archaeological and historical information required by the division, and

the preparation of those plans;

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

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

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

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

(4) ~~(a)~~ Information pertaining to coal seams, test borings, core samplings, or soil samples or other equivalent information, as required by this section, shall be made available to ~~[any]~~ a person ~~[with an]~~ whose interest ~~[which]~~ is, or may be, adversely affected~~[; but information]~~.

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

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

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

(b) The policy shall:

(i) provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law[~~-. The policy shall~~]; and

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

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