

**SMALL MINING OPERATIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Michael E. Noel

---

---

**LONG TITLE**

**General Description:**

This bill amends the definition of "small mining operations" in Title 40, Chapter 8, Utah Mined Land Reclamation Act.

**Highlighted Provisions:**

This bill:

▶ amends the definition of "small mining operations" in Title 40, Chapter 8, Utah Mined Land Reclamation Act.

**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 2009, Chapter 344

---

---

*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:



28 (a) a division or board action or proceeding determining the legal rights, duties,  
29 privileges, immunities, or other legal interests of one or more identifiable persons, including  
30 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,  
31 permit, or license; or

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

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

36 (3) (a) "Approved notice of intention" means a formally filed notice of intention to  
37 commence mining operations, including revisions to it, which has been approved under Section  
38 40-8-13.

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

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

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

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

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

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

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

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

59 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of  
60 discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral  
61 deposit, and identifying regions or specific areas in which deposits or mineral deposits are most  
62 likely to exist.

63 (b) "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling  
64 holes and digging pits or cuts; building of roads, and other access ways; and constructing and  
65 operating other facilities related to these activities.

66 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under  
67 its procedural rules.

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

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

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

78 (i) on-site private ways, roads, and railroads;

79 (ii) land excavations;

80 (iii) exploration sites;

81 (iv) drill sites or workings;

82 (v) refuse banks or spoil piles;

83 (vi) evaporation or settling ponds;

84 (vii) stockpiles;

85 (viii) leaching dumps;

86 (ix) placer areas;

87 (x) tailings ponds or dumps; and

88 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

89 (b) All lands shall be excluded from the provisions of Subsection (13)(a) that would:

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

92 (ii) lands in which mining operations have ceased prior to July 1, 1977.

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

97 (b) "Mining operation" does not include:

98 (i) the extraction of sand, gravel, and rock aggregate;

99 (ii) the extraction of oil and gas as defined in Title 40, Chapter 6, Board and Division  
100 of Oil, Gas, and Mining;

101 (iii) the extraction of geothermal steam;

102 (iv) smelting or refining operations;

103 (v) off-site operations and transportation;

104 (vi) reconnaissance activities; or

105 (vii) activities which will not cause significant surface resource disturbance or involve  
106 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

107 (15) "Notice" means:

108 (a) notice of intention, as defined in this chapter; or

109 (b) written information given to an operator by the division describing compliance  
110 conditions at a mining operation.

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

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

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

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

119 (19) "Operator" means a natural person, corporation, association, partnership, receiver,  
120 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or

121 representative, either public or private, owning, controlling, or managing a mining operation or  
 122 proposed mining operation.

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

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

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

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

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

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

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

140 (27) "Small mining operations" means mining operations ~~that~~ **which** that ~~disturb or~~  
 140a will disturb  
 141 ~~five~~ 10 or less surface acres at any given time ~~that~~ **in an unincorporated area of a county or five**  
 141a **or less surface acres at any given time in an incorporated area of a county** ~~that~~ .

142 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the  
 143 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack  
 144 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this  
 145 chapter due to indifference, lack of diligence, or lack of reasonable care.

**Legislative Review Note**  
 as of 2-25-11 6:34 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 282

SHORT TITLE: **Small Mining Operations**

SPONSOR: **Hinkins, D.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill will reduce the revenue of the Division of Oil, Gas, and Mining by \$8,000 per year in Dedicated Credits. The bill will also reduce the overall Division's workload which may result in a \$6,300 ongoing reduction in Dedicated Credits.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
Dedicated Credits	\$0	(\$8,000)	(\$8,000)
Total Revenue	\$0	(\$8,000)	(\$8,000)
<b>Expenditure:</b>			
Dedicated Credits	\$0	(\$6,300)	(\$6,300)
Total Expenditure	\$0	(\$6,300)	(\$6,300)
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$1,700)	(\$1,700)
Net Impact, General/Education Funds	\$0	\$0	\$0

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Mineral mining operators with large mining permits that currently have a permit to disturb more than 5 but less than 10 surface acres will have a fee reduction from \$500 to \$150 per year.