

- 57 [17-27a-1004](#), Utah Code Annotated 1953
- 58 [17-27a-1005](#), Utah Code Annotated 1953
- 59 [78B-6-1115](#), Utah Code Annotated 1953

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

62 Section 1. Section **10-9a-901** is enacted to read:

63 **Part 9. Vested Critical Infrastructure Materials Operations**

64 **10-9a-901. Definitions.**

65 As used in this part:

66 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

67 (2) "Critical infrastructure materials operations" means the extraction, excavation,
68 processing, or reprocessing of critical infrastructure materials.

69 (3) "Critical infrastructure materials operator" means a natural person, corporation,
70 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or
71 other organization or representative, either public or private, including a successor, assign,
72 affiliate, subsidiary, and related parent company, that:

73 (a) owns, controls, or manages a critical infrastructure materials operations; and

74 (b) has produced commercial quantities of critical infrastructure materials from the
75 critical infrastructure materials operations.

76 (4) "Vested critical infrastructure materials operations" means critical infrastructure
77 materials operations operating in accordance with a legal nonconforming use or a permit issued
78 by the municipality that existed or was conducted or otherwise engaged in before ~~§~~ :

78a (a) ~~§~~ a political
79 subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials
80 operations ~~§~~ [:] ; and

80a (b) **January 1, 2019.** ~~§~~

81 Section 2. Section **10-9a-902** is enacted to read:

82 **10-9a-902. Vested critical infrastructure materials operations -- Conclusive**
83 **presumption.**

84 (1) (a) Critical infrastructure materials operations operating in accordance with a legal
85 nonconforming use or a permit issued by the municipality are conclusively presumed to be
86 vested critical infrastructure materials operations if the critical infrastructure materials
87 operations ~~§~~ permitted by the municipality, ~~§~~ existed or was conducted or otherwise engaged
87a in before ~~§~~ **January 1, 2019** and before when ~~§~~ a political subdivision

88 prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

89 (b) A person claiming that a vested critical infrastructure materials operations has been
 90 established has the burden of proof to show by the preponderance of the evidence that the
 91 vested critical infrastructure materials operations has been established.

92 (2) A vested critical infrastructure materials operations:

93 (a) runs with the land; and

94 (b) may be changed to another critical infrastructure materials operations conducted
 95 within the scope of a legal nonconforming use or the permit for the vested critical infrastructure
 96 materials operations without losing its status as a vested critical infrastructure materials
 97 operations.

98 Section 3. Section 10-9a-903 is enacted to read:

99 **10-9a-903. Rights of a critical infrastructure materials operator with a vested**
 100 **critical infrastructure materials operations** ~~§~~ → [== Expanding vested critical infrastructure
 101 **materials operations:**

102 ~~—— (1) ← §~~ Notwithstanding a political subdivision's prohibition, restriction, or other limitation
 103 on a critical infrastructure materials operations adopted after the establishment of the critical
 104 infrastructure materials operations, the rights of a critical infrastructure materials operator with
 105 vested critical infrastructure materials operations include the right to:

106 ~~§~~ → [(a)] (1) ← ~~§~~ use, operate, construct, reconstruct, restore, maintain, repair, alter,
 106a substitute,
 107 modernize, upgrade, and replace equipment, processes, facilities, and buildings ~~§~~ → [on any surface
 108 or subsurface land that the critical infrastructure materials operator owns or controls] ← ~~§~~ ; and

109 ~~§~~ → [(b)] (2) ← ~~§~~ discontinue, suspend, terminate, deactivate, or continue and reactivate,
 109a temporarily
 110 or permanently, all or any part of the critical infrastructure materials operations.

111 ~~§~~ → [(2) A vested critical infrastructure materials operator may expand a vested critical
 112 infrastructure materials operation only if:

113 ~~—— (a) the land to which the vested critical infrastructure materials operator expands is~~
 114 ~~contiguous with land that the vested critical infrastructure materials operator owns or controls;~~

115 ~~—— (b) the vested critical infrastructure materials operator owns or leases the land to which~~
 116 ~~the vested critical infrastructure materials operator expands as of February 1, 2019;~~

117 ~~—— (c) the land is zoned for vested critical infrastructure materials operations; and~~

118 ~~—— (d) the expansion is in accordance with a legal nonconforming use or a permit issued~~ ⊕

119 ~~by the municipality:] ←§~~

120 Section 4. Section 10-9a-904 is enacted to read:

121 **10-9a-904. Notice.**

122 For any new subdivision development located in whole or in part within 1,000 feet of
123 the boundary of a vested critical infrastructure materials operations, the owner of the
124 development shall provide notice on any plat filed with the county recorder the following
125 notice:

126 "Vested Critical Infrastructure Materials Operations

127 This property is located in the vicinity of an established vested critical infrastructure
128 materials operations in which critical infrastructure materials operations have been afforded the
129 highest priority use status. It can be anticipated that such operations may now or in the future
130 be conducted on property included in the critical infrastructure materials protection area. The
131 use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or
132 inconvenience that may result from such normal critical infrastructure materials operations."

133 Section 5. Section 10-9a-905 is enacted to read:

134 **10-9a-905. Abandonment of a vested critical infrastructure materials operations.**

135 (1) A critical infrastructure materials operator may abandon some or all of a vested
136 critical infrastructure materials operations use only as provided in this section.

137 (2) To abandon some or all of a vested critical infrastructure materials operations, a
138 critical infrastructure materials operator shall record a written declaration of abandonment with
139 the recorder of the county in which the vested critical infrastructure materials operations being
140 abandoned is located.

141 (3) The written declaration of abandonment under Subsection (2) shall specify the
142 vested critical infrastructure materials operations or the portion of the vested critical
143 infrastructure materials operations being abandoned.

144 Section 6. Section 17-27a-1001 is enacted to read:

145 **Part 10. Vested Critical Infrastructure Materials Operations**

146 **17-27a-1001. Definitions.**

147 As used in this part:

148 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

149 (2) "Critical infrastructure materials operations" means the extraction, excavation,

150 processing, or reprocessing of critical infrastructure materials.

151 (3) "Critical infrastructure materials operator" means a natural person, corporation,
 152 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or
 153 other organization or representative, either public or private, including a successor, assign,
 154 affiliate, subsidiary, and related parent company, that:

155 (a) owns, controls, or manages a critical infrastructure materials operations; and

156 (b) has produced commercial quantities of critical infrastructure materials from the
 157 critical infrastructure materials operations.

158 (4) "Vested critical infrastructure materials operations" means critical infrastructure
 159 materials operations operating in accordance with a legal nonconforming use or a permit issued
 160 by the county that existed or was conducted or otherwise engaged in before ~~§~~ :

160a (a) ~~§~~ a political

161 subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials

162 operations ~~§~~ [:] ; and

162a (b) January 1, 2019. ~~§~~

163 Section 7. Section 17-27a-1002 is enacted to read:

164 **17-27a-1002. Vested critical infrastructure materials operations -- Conclusive**
 165 **presumption.**

166 (1) (a) Critical infrastructure materials operations operating in accordance with a legal
 167 nonconforming use or a permit issued by the county are conclusively presumed to be vested
 168 critical infrastructure materials operations if the critical infrastructure materials operations ~~§~~
 168a **permitted by the county, ~~§~~**

169 existed or was conducted or otherwise engaged in before ~~§~~ January 1, 2019 and before
 169a **when ~~§~~ a political subdivision prohibits,**

170 restricts, or otherwise limits the critical infrastructure materials operations.

171 (b) A person claiming that a vested critical infrastructure materials operations has been
 172 established has the burden of proof to show by the preponderance of the evidence that the
 173 vested critical infrastructure materials operations has been established.

174 (2) A vested critical infrastructure materials operations:

175 (a) runs with the land; and

176 (b) may be changed to another critical infrastructure materials operations conducted
 177 within the scope of a legal nonconforming use or the permit for the vested critical infrastructure
 178 materials operations without losing its status as a vested critical infrastructure materials
 179 operations.

180 Section 8. Section 17-27a-1003 is enacted to read:

181 17-27a-1003. Rights of a critical infrastructure materials operator with a vested
 182 critical infrastructure materials operations ~~§→ [==Expanding vested critical infrastructure~~
 183 materials operations:

184 ~~——(1) ←§~~ Notwithstanding a political subdivision's prohibition, restriction, or other limitation
 185 on a critical infrastructure materials operations adopted after the establishment of the critical
 186 infrastructure materials operations, the rights of a critical infrastructure materials operator with
 187 vested critical infrastructure materials operations include the right to:

188 ~~§→ [(a)] (1) ←§~~ use, operate, construct, reconstruct, restore, maintain, repair, alter,
 188a substitute,
 189 modernize, upgrade, and replace equipment, processes, facilities, and buildings ~~§→ [on any surface~~
 190 or subsurface land that the critical infrastructure materials operator owns or controls] ~~←§~~ ; and
 191 ~~§→ [(b)] (2) ←§~~ discontinue, suspend, terminate, deactivate, or continue and reactivate,
 191a temporarily
 192 or permanently, all or any part of the critical infrastructure materials operations.

193 ~~§→ [(2) A vested critical infrastructure materials operator may expand a vested critical~~
 194 infrastructure materials operator only if:

195 ~~——(a) the land to which the vested critical infrastructure materials operator expands is~~
 196 contiguous with land that the vested critical infrastructure materials operator owns or controls;
 197 ~~——(b) the vested critical infrastructure materials operator owns or leases the land to which~~
 198 the vested critical infrastructure materials operator expands as of February 1, 2019;
 199 ~~——(c) the land is zoned for vested critical infrastructure materials operations; and~~
 200 ~~——(d) the expansion is in accordance with a legal nonconforming use or a permit issued~~
 201 by the county.] ←§

202 Section 9. Section ~~17-27a-1004~~ is enacted to read:

203 17-27a-1004. Notice.

204 For any new subdivision development located in whole or in part within 1,000 feet of
 205 the boundary of a vested critical infrastructure materials operations, the owner of the
 206 development shall provide notice on any plat filed with the county recorder the following
 207 notice:

208 "Vested Critical Infrastructure Materials Operations

209 This property is located in the vicinity of an established vested critical infrastructure
 210 materials operations in which critical infrastructure materials operations have been afforded the
 211 highest priority use status. It can be anticipated that such operations may now or in the future

398 (ii) the nature of agricultural production [~~or~~], industrial use, or critical infrastructure
 399 materials operations, as the case may be, within the proposed area;

400 (iii) the relation of agricultural production [~~or~~], industrial use, or critical infrastructure
 401 materials operations, as the case may be, in the area to the county as a whole; and

402 (iv) which agriculture production [~~or~~], industrial use, or critical infrastructure materials
 403 operations, should be allowed within the [~~agriculture~~] relevant protection area [~~or industrial~~
 404 ~~protection area, respectively~~]; and

405 (c) perform [~~all~~] the other duties required by this chapter.

406 Section 13. Section 17-41-301 is amended to read:

407 **17-41-301. Proposal for creation of a protection area.**

408 (1) (a) A proposal to create an agriculture protection area [~~or~~], an industrial protection
 409 area, or critical infrastructure materials protection area may be filed with:

410 (i) the legislative body of the county in which the area is located, if the area is within
 411 the unincorporated part of a county; or

412 (ii) the legislative body of the city or town in which the area is located, if the area is
 413 within a city or town.

414 (b) A proposal to create a critical infrastructure protection area can only be initiated by
 415 the legislative body of the municipality or county. Creation of a critical infrastructure materials
 416 protection area is ~~S~~→ [an administrative] a legislative ←~~S~~ act.

417 [~~(b)~~] (c) (i) To be accepted for processing by the applicable legislative body, a proposal
 418 under Subsection (1)(a) shall be signed by a majority in number of all owners of real property
 419 and the owners of a majority of the land area in agricultural production [~~or~~], industrial use, or
 420 critical infrastructure materials operations within the proposed [~~agriculture protection area or~~
 421 ~~industrial~~] relevant protection area[, ~~respectively~~].

422 (ii) For purposes of Subsection (1)[~~(b)~~](c)(i), the owners of real property shall be
 423 determined by the records of the county recorder.

424 (2) The proposal shall identify:

425 (a) the boundaries of the land proposed to become part of [~~an agriculture protection~~
 426 ~~area or industrial~~] the relevant protection area;

427 (b) any limits on the types of agriculture production [~~or~~], industrial use, or critical
 428 infrastructure materials operations to be allowed within the [~~agriculture protection area or~~