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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



28 [40-8-13](#), as last amended by Laws of Utah 2013, Chapter 243

29 [40-8-14](#), as last amended by Laws of Utah 2011, Chapter 125

30 [40-8-18](#), as last amended by Laws of Utah 2003, Chapter 35

31 ENACTS:

32 [40-8-13.1](#), Utah Code Annotated 1953



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

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

36 **17-41-101. Definitions.**

37 As used in this chapter:

38 (1) "Advisory board" means:

39 (a) for an agriculture protection area, the agriculture protection area advisory board  
40 created as provided in Section [17-41-201](#);

41 (b) for an industrial protection area, the industrial protection area advisory board  
42 created as provided in Section [17-41-201](#); and

43 (c) for a critical infrastructure materials protection area, the critical infrastructure  
44 materials protection area advisory board created as provided in Section [17-41-201](#).

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

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

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

52 (4) "Applicable legislative body" means:

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

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

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

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

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

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

65 (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

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

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

69 (8) "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 operation; and

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

76 (9) "Critical infrastructure materials protection area" means a geographic area created  
77 under the authority of this chapter on or after May 14, 2019, that is granted the specific legal  
78 protections contained in this chapter.

79 (10) "Crops, livestock, and livestock products" includes:

80 (a) land devoted to the raising of useful plants and animals with a reasonable  
81 expectation of profit, including:

82 (i) forages and sod crops;

83 (ii) grains and feed crops;

84 (iii) livestock as defined in Section 59-2-102;

85 (iv) trees and fruits; or

86 (v) vegetables, nursery, floral, and ornamental stock; or

87 (b) land devoted to and meeting the requirements and qualifications for payments or  
88 other compensation under a crop-land retirement program with an agency of the state or federal  
89 government.

90 (11) "Division" means the Division of Oil, Gas, and Mining created in Section  
91 40-6-15.

92 (12) "Industrial protection area" means a geographic area created under the authority of  
93 this chapter that is granted the specific legal protections contained in this chapter.

94 (13) "Mine operator" means a natural person, corporation, association, partnership,  
95 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
96 representative, either public or private, including a successor, assign, affiliate, subsidiary, and  
97 related parent company, that, as of January 1, 2019:

98 (a) owns, controls, or manages a mining use under a large mine permit issued by the  
99 division or the board; and

100 (b) has produced commercial quantities of a mineral deposit from the mining use.

101 (14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

102 (15) "Mining protection area" means land where a vested mining use occurs, including  
103 each surface or subsurface land or mineral estate that a mine operator with a vested mining use  
104 owns or controls.

105 (16) "Mining use":

106 (a) means:

107 (i) the full range of activities, from prospecting and exploration to reclamation and  
108 closure, associated with the exploitation of a mineral deposit; and

109 (ii) the use of the surface and subsurface and groundwater and surface water of an area  
110 in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or  
111 will be conducted; and

112 (b) includes, whether conducted on-site or off-site:

113 (i) any sampling, staking, surveying, exploration, or development activity;

114 (ii) any drilling, blasting, excavating, or tunneling;

115 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,  
116 development rock, tailings, and other waste material;

117 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;

118 (v) any smelting, refining, autoclaving, or other primary or secondary processing  
119 operation;

120 (vi) the recovery of any mineral left in residue from a previous extraction or processing

- 121 operation;
- 122 (vii) a mining activity that is identified in a work plan or permitting document;
- 123 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,  
124 structure, facility, equipment, machine, tool, or other material or property that results from or is  
125 used in a surface or subsurface mining operation or activity;
- 126 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,  
127 including a utility, private way or road, pipeline, land excavation, working, embankment, pond,  
128 gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use  
129 area, buffer zone, and power production facility;
- 130 (x) the construction of a storage, factory, processing, or maintenance facility; and
- 131 (xi) an activity described in Subsection [~~40-8-4(17)(a)~~]. 40-8-4(19)(a).
- 132 (17) (a) "Municipal" means of or relating to a city or town.
- 133 (b) "Municipality" means a city or town.
- 134 (18) "New land" means surface or subsurface land or mineral estate that a mine  
135 operator gains ownership or control of, whether that land or mineral estate is included in the  
136 mine operator's large mine permit.
- 137 (19) "Off-site" means the same as that term is defined in Section 40-8-4.
- 138 (20) "On-site" means the same as that term is defined in Section 40-8-4.
- 139 (21) "Planning commission" means:
- 140 (a) a countywide planning commission if the land proposed to be included in the  
141 agriculture protection area, industrial protection area, or critical infrastructure materials  
142 protection area is within the unincorporated part of the county and not within a planning  
143 advisory area;
- 144 (b) a planning advisory area planning commission if the land proposed to be included  
145 in the agriculture protection area, industrial protection area, or critical infrastructure materials  
146 protection area is within a planning advisory area; or
- 147 (c) a planning commission of a city or town if the land proposed to be included in the  
148 agriculture protection area, industrial protection area, or critical infrastructure materials  
149 protection area is within a city or town.
- 150 (22) "Political subdivision" means a county, city, town, school district, special district,  
151 or special service district.

152 (23) "Proposal sponsors" means the owners of land in agricultural production,  
153 industrial use, or critical infrastructure materials operations who are sponsoring the proposal  
154 for creating an agriculture protection area, industrial protection area, or critical infrastructure  
155 materials protection area.

156 (24) "State agency" means each department, commission, board, council, agency,  
157 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
158 unit, bureau, panel, or other administrative unit of the state.

159 (25) "Unincorporated" means not within a city or town.

160 (26) "Vested mining use" means a mining use:

161 (a) by a mine operator; and

162 (b) that existed or was conducted or otherwise engaged in before a political subdivision  
163 prohibits, restricts, or otherwise limits a mining use.

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

165 **40-8-4. Definitions.**

166 As used in this chapter:

167 (1) "Adjudicative proceeding" means:

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

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

174 (2) "Amendment" means a request for an insignificant change to a notice of intention,  
175 as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
176 Rulemaking Act.

177 [~~2~~] (3) "Applicant" means a person who has filed a notice of intent to commence  
178 mining operations, or who has applied to the board for a review of a notice or order.

179 [~~3~~] (4) (a) "Approved notice of intention" means a formally filed notice of intention  
180 to commence mining operations, including revisions or amendments to the notice of intention  
181 that is approved under Section **40-8-13**.

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

183            [(4)] (5) (a) "Basalt" means fine-grained mafic igneous rock formed in the tertiary or  
184 quaternary periods.

185            (b) A Utah Geological Survey published map or a United States Geological Survey  
186 published map that classifies material as "basalt" is prima facie evidence that the material  
187 meets the requirements of Subsection [(4)(a)] (5)(a). An unmapped area may be classified by a  
188 Utah Geological Survey geologist or a professional geologist licensed in the state.

189            [(5)] (6) "Board" means the Board of Oil, Gas, and Mining.

190            [(6)] (7) "Boulder" means a naturally occurring consolidated rock fragment greater than  
191 75 millimeters in size that is associated with unconsolidated material and detached from  
192 bedrock.

193            [(7)] (8) "Conference" means an informal adjudicative proceeding conducted by the  
194 division [~~or board~~].

195            [(8)] (9) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in  
196 the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,  
197 beneath the surface, or in the waters of the land from which any product useful to man may be  
198 produced, extracted, or obtained or which is extracted by underground mining methods for  
199 underground storage.

200            (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt,  
201 boulders, water, geothermal steam, and oil and gas as defined in Chapter 6, Board and Division  
202 of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining  
203 operations.

204            [(9)] (10) "Development" means the work performed in relation to a deposit following  
205 the deposit's discovery but before and in contemplation of production mining operations, aimed  
206 at preparing the site for mining operations, defining further the ore deposit by drilling or other  
207 means, conducting pilot plant operations, constructing roads or ancillary facilities, and other  
208 related activities.

209            [(10)] (11) "Division" means the Division of Oil, Gas, and Mining.

210            [(11)] (12) "Emergency order" means an order issued by the board in accordance with  
211 [~~Title 63G, Chapter 4, Administrative Procedures Act~~] [Section 63G-4-502](#).

212            [(12)] (13) (a) "Exploration" means surface-disturbing activities conducted for the  
213 purpose of:

- 214 (i) discovering a deposit or mineral deposit;
- 215 (ii) delineating the boundaries of a deposit or mineral deposit; and
- 216 (iii) identifying regions or specific areas in which deposits or mineral deposits are most
- 217 likely to exist.

218 (b) "Exploration" includes:

- 219 (i) sinking shafts;
- 220 (ii) tunneling;
- 221 (iii) drilling holes and digging pits or cuts;
- 222 (iv) building of roads, and other access ways; and
- 223 (v) constructing and operating other facilities related to the activities described in this

224 Subsection [~~(12)(b)~~] (13)(b).

225 [~~(13)~~] (14) "Gravel" means a naturally occurring unconsolidated to moderately  
226 consolidated accumulation of rock and mineral particles, the dominant size range being  
227 between 4 millimeters and 75 millimeters, that has been deposited by sedimentary processes.

228 [~~(14)~~] (15) "Hearing" means a formal adjudicative proceeding conducted by the board  
229 under the board's procedural rules.

230 [~~(15)~~] (16) (a) "Imminent danger to the health and safety of the public" means the  
231 existence of a condition or practice, or a violation of a permit requirement or other requirement  
232 of this chapter in a mining operation, which condition, practice, or violation could reasonably  
233 be expected to cause substantial physical harm to persons outside the permit area before the  
234 condition, practice, or violation can be abated.

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

238 [~~(16)~~] (17) (a) "Land affected" means the surface and subsurface of an area within the  
239 state where mining operations are being or will be conducted, including:

- 240 (i) on-site private ways, roads, and railroads;
- 241 (ii) land excavations;
- 242 (iii) exploration sites;
- 243 (iv) drill sites or workings;
- 244 (v) refuse banks or spoil piles;



- 245 (vi) evaporation or settling ponds;
- 246 (vii) stockpiles;
- 247 (viii) leaching dumps;
- 248 (ix) placer areas;
- 249 (x) tailings ponds or dumps; and
- 250 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.
- 251 (b) Lands are excluded from Subsection [~~(16)~~(a)] (17)(a) that would:
- 252 (i) be includable as land affected, but which have been reclaimed in accordance with an
- 253 approved plan, as may be approved by the board; and
- 254 (ii) include lands in which mining operations have ceased before July 1, 1977.
- 255 (18) "Large mining operation" means a mining operation that is not a small mining
- 256 operation and, for purposes of filing a notice of intention, does not include an exploration
- 257 mining operation.
- 258 [~~(17)~~] (19) (a) "Mining operation" means activities conducted on the surface of the
- 259 land for the exploration for, development of, or extraction of a mineral deposit, including
- 260 surface mining and the surface effects of underground and in situ mining, on-site
- 261 transportation, concentrating, milling, evaporation, and other primary processing.
- 262 (b) "Mining operation" does not include:
- 263 (i) the extraction of sand, gravel, rock aggregate, and boulders;
- 264 (ii) the extraction of basalt for an area not to exceed 50 acres under active surface
- 265 mining;
- 266 (iii) the extraction of oil and gas as defined in Chapter 6, Board and Division of Oil,
- 267 Gas, and Mining;
- 268 (iv) the extraction of geothermal steam;
- 269 (v) smelting or refining operations;
- 270 (vi) off-site operations and transportation;
- 271 (vii) reconnaissance activities; or
- 272 (viii) activities that will not cause significant surface resource disturbance or involve
- 273 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.
- 274 [~~(18)~~] (20) "Notice" means:
- 275 (a) notice of intention, as defined in this chapter; or

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

278 ~~[(19)]~~ (21) "Notice of intention" means a notice to commence mining operations,  
279 including revisions to the notice.

280 ~~[(20)]~~ (22) "Off-site" means the land areas that are outside of or beyond the on-site  
281 land.

282 ~~[(21)]~~ (23) (a) "On-site" means the surface lands on or under which surface or  
283 underground mining operations are conducted.

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

287 ~~[(22)]~~ (24) "Operator" means a natural person, corporation, association, partnership,  
288 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
289 representative, either public or private, owning, controlling, or managing a mining operation or  
290 proposed mining operation.

291 ~~[(23)]~~ (25) "Order" means written information provided by the division or board to an  
292 operator or other parties, describing the compliance status of a permit or mining operation.

293 ~~[(24)]~~ (26) "Owner" means a natural person, corporation, association, partnership,  
294 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
295 representative, either public or private, owning, controlling, or managing a mineral deposit or  
296 the surface of lands employed in mining operations.

297 (27) "Permit" means a permit order.

298 ~~[(25)]~~ (28) "Permit area" means the area of land indicated on the approved map  
299 submitted by the operator with the application or notice to conduct mining operations.

300 (29) "Permit order" means an action by the division that:

301 (a) (i) approves a notice of intention to commence a large mining operation or revise or  
302 amend a large mining operation; or

303 (ii) declares a notice of intention for a large mining operation deficient;

304 (b) (i) accepts as complete a notice of intention to commence a small mining operation  
305 or revise or amend a small mining operation; and

306 (ii) approves the amount and form of surety for a notice of intention; or

307 (c) approves a notice of intention to conduct an exploration operation or revise or  
308 amend an exploration operation.

309 [~~(26)~~] "Permit" means a permit or notice to conduct mining operations issued by the  
310 division.]

311 [~~(27)~~] (30) "Permittee" means a person holding, or who is required by Utah law to  
312 hold, a valid permit or notice to conduct mining operations.

313 [~~(28)~~] (31) "Person" means an individual, partnership, association, society, joint stock  
314 company, firm, company, corporation, or other governmental or business organization.

315 [~~(29)~~] (32) "Reclamation" means actions performed during or after mining operations  
316 to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable  
317 ecological condition and use that is consistent with local environmental conditions.

318 (33) "Review proceeding" means a proceeding under this chapter to address a  
319 challenge to a permit order.

320 (34) "Revision" means a request for a change to a notice of intention that is not an  
321 amendment to a notice of intention.

322 [~~(30)~~] (35) (a) "Rock aggregate" means those consolidated rock materials associated  
323 with a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by alluvial  
324 sedimentary processes.

325 (b) "Rock aggregate" excludes any solid rock in the form of bedrock, other than basalt,  
326 that is exposed at the surface of the earth or overlain by unconsolidated material.

327 [~~(31)~~] (36) "Sand" means a naturally occurring unconsolidated to moderately  
328 consolidated accumulation of rock and mineral particles, the dominant size range being  
329 between .004 millimeters to 4 millimeters, that has been deposited by sedimentary processes.

330 [~~(32)~~] (37) "Small mining operations" means mining operations that disturb or will  
331 disturb 20 or less surface acres at any given time in an unincorporated area of a county or 10 or  
332 less surface acres at any given time in an incorporated area of a county.

333 (38) "Substantive public comment" means a public comment that:

334 (a) is specific to a proposed action;

335 (b) has a direct relationship to the proposed action;

336 (c) includes supporting reasons for the division to consider; and

337 (d) addresses issues that are within the scope of the division's jurisdiction.

338            [~~(33)~~] (39) "Unwarranted failure to comply" means the failure of a permittee to prevent  
339 the occurrence of a violation of the permit or a requirement of this chapter due to indifference,  
340 lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or  
341 this chapter due to indifference, lack of diligence, or lack of 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, abatement**  
345 **notice, or show cause order -- Suspension or revocation of permit -- Review -- Division**  
346 **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, willfully or  
349 knowingly makes or causes to be made any false entry in any report, record, account, or  
350 memorandum required by this chapter, or by the order, or who willfully or knowingly omits or  
351 causes to be omitted from a report, record, account, or memorandum, full, true, and correct  
352 entries as required by this chapter, or by the order, or who willfully or knowingly removes from  
353 this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is  
354 guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than  
355 \$10,000 for each violation.

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

358            (2) No suit, action, or other proceeding based upon a violation of this chapter, or any  
359 rule or 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 violation.

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

366            (b) (i) If, on the basis of an inspection, the division determines that a condition or  
367 practice exists, or that a permittee is in violation of a requirement of this chapter or a permit  
368 condition required by this chapter, and the condition, practice, or violation also creates an

369 imminent danger to the health or safety of the public, or is causing, or can reasonably be  
370 expected to cause significant, imminent environmental harm to land, air, or water resources,  
371 the division shall immediately order a cessation of mining and operations or the portion  
372 relevant to the condition, practice, or violation.

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

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

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

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

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

396 (iv) In the order of cessation issued by the division under this Subsection (3), the  
397 division shall determine the steps necessary to abate the violation in the most expeditious  
398 manner possible and shall include the necessary measures in the order.

399 (d) (i) Notices and orders issued under this section shall set forth with reasonable

400 specificity:

401 (A) the nature of the violation and the remedial action required;

402 (B) the period of time established for abatement; and

403 (C) a reasonable description of the portion of the mining and reclamation operation to  
404 which the notice or order applies.

405 (ii) Each notice or order issued under this section shall be given promptly to the  
406 permittee or ~~his~~ the permittee's agent by the division, and the notices and orders shall be in  
407 writing and shall be signed by the director, or ~~his~~ the director's authorized representative who  
408 issues notices or orders.

409 (iii) A notice or order issued under this section may be modified, vacated, or  
410 terminated by the division, but any notice or order issued under this section which requires  
411 cessation of mining by the operator shall expire within 30 days of the actual notice to the  
412 operator, unless a conference is held with the division.

413 (4) (a) The division may request the attorney general to institute a civil action for relief,  
414 including a permanent or temporary injunction, restraining order, or any other appropriate order  
415 in the district court for the district in which the mining and reclamation operation is located, or  
416 in which the permittee of the operation has ~~his~~ the permittee's principal office, if the  
417 permittee or ~~his~~ the permittee's agent:

418 (i) violates or fails or refuses to comply with an order or decision issued by the division  
419 under this chapter;

420 (ii) interferes with, hinders, or delays the division, or its authorized representatives, in  
421 carrying out the provisions of this chapter;

422 (iii) refuses to admit the authorized representatives to the mine;

423 (iv) refuses to permit inspection of the mine by the authorized representative; or

424 (v) refuses to furnish any information or report requested by the division in furtherance  
425 of the provisions of this chapter.

426 (b) (i) The court shall have jurisdiction to provide the appropriate relief.

427 (ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall  
428 continue in effect until the completion or final termination of all proceedings for review of that  
429 order under this chapter, unless, prior to this completion or termination, the district court  
430 granting the relief sets it aside or modifies the order.

431 (5) (a) (i) A permittee issued a notice or order by the division, pursuant to the  
432 provisions of Subsections (3)(b) and (3)(c), or a person having an interest [~~which~~] that may be  
433 adversely affected by the notice or order, may apply to the board for review of the notice or  
434 order within 30 days of receipt of the notice or order, or within 30 days of a modification,  
435 vacation, or termination of the notice or order.

436 (ii) Upon receipt of this application, the board shall pursue an investigation as it  
437 considers appropriate.

438 (iii) The investigation shall provide an opportunity for a public hearing at the request of  
439 the applicant or the person having an interest which is or may be adversely affected, to enable  
440 the applicant or that person to present information relating to the issuance and continuance of  
441 the notice or order of the modification, vacation, or termination of the notice or order.

442 (iv) The filing of an application for review under this Subsection (5)(a) shall not  
443 operate as a stay of an order or notice.

444 (b) (i) The permittee and other interested persons shall be given written notice of the  
445 time and place of the hearing at least five days prior to the hearing.

446 (ii) This hearing shall be of record and shall be subject to judicial review.

447 (c) (i) Pending completion of the investigation and hearing required by this section, the  
448 applicant may file with the board a written request that the board grant temporary relief from  
449 any notice or order issued under this section, with a detailed statement giving the reasons for  
450 granting this relief.

451 (ii) The board shall issue an order or decision granting or denying this relief  
452 expeditiously.

453 (d) (i) Following the issuance of an order to show cause as to why a permit should not  
454 be suspended or revoked pursuant to this section, the board shall hold a public hearing, after  
455 giving written notice of the time, place, and date of the hearing.

456 (ii) The hearing shall be of record and shall be subject to judicial review.

457 (iii) Within 60 days following the public hearing, the board shall issue and furnish to  
458 the permittee and all other parties to the hearing, a written decision, and the reasons for the  
459 decision, regarding suspension or revocation of the permit.

460 (iv) If the board revokes the permit, the permittee shall immediately cease mining  
461 operations on the permit area and shall complete reclamation within a period specified by the

462 board, or the board shall declare the performance bonds forfeited for the operation.

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

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

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

468 **40-8-13. Notice of intention required before mining operations -- Assurance of**  
469 **reclamation required in notice of intention -- When contents confidential -- Approval of**  
470 **notice of intention not required for small mining operations -- Procedure for reviewing**  
471 **notice of intention.**

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

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

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

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

479 (iii) locations of drill holes;

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

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

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

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

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

491 (3) Information provided in the notice of intention, and its attachments relating to the  
492 location, size, or nature of the deposit that is marked confidential by the operator shall be



493 protected as confidential information by the board and the division and is not a matter of public  
494 record unless the board or division obtains a written release from the operator, or until the  
495 mining operation has been terminated as provided in Subsection 40-8-21(2).

496 (4) (a) ~~[Within]~~ Subject to Subsection (6) for large mining operations, within 30 days  
497 from the receipt of a notice of intention, the division shall complete its review of the notice of  
498 intention and shall make further inquiries, inspections, or examinations that are necessary to  
499 properly evaluate the notice of intention.

500 (b) The division shall notify the operator of any objections to the notice of intention  
501 and shall grant the operator a reasonable opportunity to take action that may be required to  
502 remove the objections or obtain a ruling relative to the objections from the board.

503 (5) Except for the form and amount of surety, an approval of a notice of intention for  
504 small mining operations is not required.

505 (6) (a) The notice of intention for large mining operations ~~[other than small mining~~  
506 ~~operations;]~~ shall be reviewed as provided in this Subsection (6).

507 ~~[(a) Within 30 days after receipt of a notice of intention or within 30 days following the~~  
508 ~~last action of the operator or the division on the notice of intention, the division shall make a~~  
509 ~~tentative decision to approve or disapprove the notice of intention.]~~

510 ~~[(b) The division shall:]~~

511 ~~[(i) mail the information relating to the land affected and the tentative decision to the~~  
512 ~~operator; and]~~

513 ~~[(ii) publish the information and the decision, in abbreviated form:]~~

514 ~~[(A) one time only, in all newspapers of general circulation published in the county~~  
515 ~~where the land affected is situated;]~~

516 ~~[(B) in a daily newspaper of general circulation in Salt Lake City, Utah; and]~~

517 ~~[(C) as required in Section 45-1-101.]~~

518 ~~[(c) The division shall also mail a copy of the abbreviated information and tentative~~  
519 ~~decision to the zoning authority of the county in which the land affected is situated and to the~~  
520 ~~owner of record of the land affected.]~~

521 ~~[(d) (i) Any person or agency aggrieved by the tentative decision may file a request for~~  
522 ~~agency action with the division.]~~

523 ~~[(ii) If no requests for agency action are received by the division within 30 days after~~

524 ~~the last date of publication, the tentative decision on the notice of intention is final and the~~  
525 ~~division shall notify the operator.]~~

526 ~~[(iii) If written objections of substance are received, the division shall hold an informal~~  
527 ~~adjudicative proceeding.]~~

528 ~~[(e) This Subsection (6) does not apply to exploration.]~~

529 (b) (i) Within 30 days after receipt of a notice of intention for a large mining operation,  
530 the division shall complete the division's review of the notice of intention for completeness and  
531 notify the operator in writing that the notice of intention:

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

534 or

535 (B) is incomplete.

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

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

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

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

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

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

546 (A) on a public legal notice website as required in Section [45-1-101](#); and

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

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

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

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

552 (d) (i) The division shall accept public comment on a complete notice of intention for  
553 30 days from the day on which notice is posted on the public legal notice website described in  
554 Subsection (6)(c)(ii)(A).

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

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

562 (iv) Only a person, municipality, or county who submits a timely, substantive public  
563 comment during the public comment period is eligible to seek intervention in a review  
564 proceeding for the division's final permit order on the notice of intention for a large mining  
565 operation.

566 (e) (i) Within 15 days after the close of public comment under Subsection (6)(d), the  
567 division shall review the public comments received and identify all substantive public  
568 comments.

569 (ii) The division shall transmit a copy of the substantive public comments received to  
570 the operator and shall file a copy for public inspection at the division.

571 (iii) The division may hold a public meeting to discuss issues raised by public  
572 comment.

573 (iv) If the division determines that a public meeting is necessary, the division shall hold  
574 the public meeting within 45 days after the end of the period to review public comments under  
575 Subsection (6)(d).

576 (f) (i) By no later than 30 days of the later of the following, the division shall take an  
577 action described in Subsection (6)(f)(ii):

578 (A) the day on which time period under Subsection (6)(d) for accepting public  
579 comment ends; or

580 (B) the day on which the division holds a public hearing under Subsection (6)(e).

581 (ii) By no later than the day described in Subsection (6)(f)(i), the division shall:

582 (A) approve the notice of intention; or

583 (B) provide the operator written notice of any deficiency and grant the operator a  
584 reasonable opportunity to take an action that is required to remove the deficiency.

585 (g) Upon approving a notice of intention, the division shall provide the operator notice

586 of the approval and post a permit order approving the notice of intention on the division's  
587 public website.

588 (7) An operator may convert a small mining operation to a large mining operation or  
589 may convert a large mining operation to a small mining operation by filing a notice of intention  
590 with the division requesting the conversion. The division shall review the notice of intention  
591 according to the procedures provided in this section for the resulting mining operation.

592 ~~[(7)]~~ (8) Within 30 days after receipt of a notice of intention concerning exploration  
593 operations [other than small mining operations], the division will review the notice of intention  
594 and approve or disapprove [it] the notice of intention.

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

596 **40-8-13.1. Procedures for review of permit orders.**

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

598 (a) the division;

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

600 (c) if granted intervention by the board:

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

603 (ii) a person.

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

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

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

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

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

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

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

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

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

- 617 (C) a statement setting forth the specific contentions that the party seeks to have  
618 litigated in the review proceeding;
- 619 (D) each of the party's arguments in support of the party's requested relief;  
620 (E) a detailed description of any permit condition to which the party is objecting;  
621 (F) any modification or addition to a permit order that the party is requesting; and  
622 (G) a claim for relief; and
- 623 (v) for a large mining operation permit order, if the party is not the division or the  
624 operator, include a statement and supporting documentation demonstrating that the party timely  
625 provided a substantive public comment that is compliant with rules made by the board in  
626 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as required by  
627 Subsection 40-8-13(6)(d)(iv).
- 628 (b) A party who files a petition for review may only raise a contention in the party's  
629 petition for review or during the review proceeding that:
- 630 (i) is within the board's jurisdiction;  
631 (ii) is supported with information or documentation that:  
632 (A) is cited with reasonable specificity; and  
633 (B) sufficiently enables the board to fully consider the substance and significance of  
634 the issue; and
- 635 (iii) for a party other than the division or operator and with regard to a large mining  
636 operation permit order, the party raised as a substantive public comment.
- 637 (4) (a) A municipality, county, or other person who is not a party may not participate in  
638 a review proceeding under this section unless granted the right to intervene by the board.
- 639 (b) A municipality, county, or person seeking to intervene in a review proceeding shall  
640 file a petition with the board by no later than the sooner of:
- 641 (i) 15 days of the day on which a petition for review is filed under Subsection (2); or  
642 (ii) 30 days after the date on which the permit order is issued if the person submits the  
643 petition to intervene under Subsection (4)(c).
- 644 (c) A person wanting to initiate a review of a permit order who has not been granted  
645 intervention by the board shall file a petition to intervene at the same time that the person files  
646 a petition for review under Subsections (2) and (3).
- 647 (d) A petition to intervene shall include:

- 648 (i) the petitioner's name, address, and telephone number;  
649 (ii) the nature and extent of the petitioner's property, financial, or other interest in the  
650 review proceeding;  
651 (iii) the possible effect of a decision or order that may be entered in the review  
652 proceeding on the petitioner's interest described in Subsection (4)(d)(ii);  
653 (iv) a statement setting forth the specific contentions that the petitioner seeks to have  
654 litigated in the review proceeding;  
655 (v) a brief explanation of the basis for the contention and a concise statement of the  
656 alleged facts or evidence the petitioner intends to rely on in proving the contention at the  
657 hearing; and  
658 (vi) a statement of the relief that the petitioner seeks from the board.  
659 (e) (i) A petitioner may only raise a contention under Subsection (4)(d) on a matter  
660 within the scope of the board's jurisdiction.  
661 (ii) A petitioner may only raise a contention under Subsection (4)(d) related to a large  
662 mining operation permit order on a matter for which the person raised a substantive public  
663 comment.  
664 (f) The board shall grant a petition for intervention if the board determines that:  
665 (i) the petitioner's legal interests may be substantially affected by the review  
666 proceeding; and  
667 (ii) the interests of justice and the orderly and prompt conduct of the review  
668 proceedings will not be materially impaired by allowing the intervention.  
669 (g) (i) The board may delegate the determination of the right to intervene to a hearing  
670 examiner in accordance with rules made under Title 63G, Chapter 3, Utah Administrative  
671 Rulemaking Act.  
672 (ii) A party aggrieved by a hearing examiner determination on a petition for  
673 intervention may appeal that determination to the board. The board shall make a determination  
674 on the appeal of the petition for intervention before hearing the merits of the case.  
675 (5) In a review proceeding, the operator and the division are parties to the review  
676 proceeding regardless of who files the petition for review and the operator and division do not  
677 need to file a separate petition to intervene.  
678 (6) (a) If a petition for review of a permit order is filed under this section, the board

679 shall:

680 (i) within 30 days from the day on which the petition for review is filed schedule:

681 (A) an intervention hearing pursuant to Subsection (4); or

682 (B) an administrative hearing before the board at the next regularly scheduled board

683 public meeting; and

684 (ii) issue the decision of the board by no later than 30 days from the day on which the

685 administrative hearing described in Subsection (6)(a)(i)(B) is held.

686 (b) The board may consolidate two or more petitions for review of a permit order if the

687 board finds that consolidation will aid the just, speedy, and economical determination of the

688 issues presented before the board.

689 (c) The board shall conduct a de novo review of a permit order for which a petition for

690 review has been filed under this section.

691 (7) Review of a permit order is subject to Title 63G, Chapter 4, Administrative

692 Procedures Act, to the extent that the chapter does not conflict with this section.

693 (8) A person shall exhaust administrative remedies under this section before the person

694 may seek judicial review of a permit order.

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

696 **40-8-14. Surety requirement -- Liability of small mining operations for failure to**

697 **reclaim -- Forfeiture of surety.**

698 (1) (a) After receiving notification that a notice of intention for mining operations has

699 been approved, but prior to commencement of those operations, the operator shall provide

700 surety to the division, in a form and amount determined by the division or board as provided in

701 this section.

702 (b) In determining the amount of surety under this section, the division may use the

703 average cost of reclamation per acre.

704 (c) The board shall annually establish a figure representing the average cost of

705 reclamation per acre after receiving a presentation from the division concerning the average

706 cost of reclamation per acre and providing opportunity for public comment.

707 (2) (a) Except as provided in Subsection (3), the division shall approve the amount and

708 form of surety.

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

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

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

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

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

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

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

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

724 (A) collateral;

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

726 (C) deposited securities; or

727 (D) cash.

728 (3) (a) If the operator proposes reclamation surety in the form of a written contractual  
729 agreement, the board shall approve the form of surety.

730 (b) In making this decision, the board shall consider:

731 (i) the operator's:

732 (A) financial status;

733 (B) assets within the state;

734 (C) past performance in complying with contractual agreements; and

735 (D) facilities available to carry out the planned work;

736 (ii) the magnitude, type, and costs of approved reclamation activities planned for the  
737 land affected; and

738 (iii) the nature, extent, and duration of operations under the approved notice.

739 (4) In determining the amount and form of surety to be provided under this section,  
740 consideration shall be given to similar requirements made on the operator by landowners,



741 governmental agencies, or others, with the intent that surety requirements shall be coordinated  
742 and not duplicated.

743 (5) The liability under surety provisions shall continue until liability, in part, or in its  
744 entirety, is released by the division.

745 (6) (a) If the operator of a mining operation, including a small mining operation, fails  
746 or refuses to carry out the necessary land reclamation as outlined in the approved notice of  
747 intention, the board may, after notice and hearing, declare any surety filed for this purpose  
748 forfeited.

749 (b) With respect to the surety filed with the division, the board shall request the  
750 attorney general to take the necessary legal action to enforce and collect the amount of liability.

751 (c) If surety or a bond has been filed with the Division of Forestry, Fire, and State  
752 Lands, the School and Institutional Trust Lands Administration, or any agency of the federal  
753 government, the board shall certify a copy of the transcript of the hearing and transmit it to the  
754 agency together with a request that the necessary forfeiture action be taken.

755 (d) The forfeited surety shall be used only for the reclamation of the land to which it  
756 relates, and any residual amount returned to the rightful claimant.

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

758 **40-8-18. Notice of intention to amend or revise operations -- Procedure.**

759 (1) (a) [~~Since mining operations and related reclamation plans may need to be revised~~  
760 ~~to accommodate changing conditions or new technology, an~~ An operator conducting mining  
761 operations under an approved notice of intention for a large mining operation or a complete  
762 notice of intention for a small mining operation shall submit to the division [a] an amended or  
763 revised notice of intention when [revising] a change in mining operations will occur.

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

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

770 [~~(b) An~~]

771 (2) (a) The division shall review and approve or disapprove an amendment of a notice

772 of intention [~~will be reviewed and considered for approval or disapproval by the division~~] for a  
773 large mining operation within 30 days of receipt of a notice of intention to [~~revise~~] amend  
774 mining operations.

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

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

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

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

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

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

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

794 Section 8. **Effective date.**

795 This bill takes effect on May 1, 2024.