
**Rules of
Department of Natural Resources
Division 40—Land Reclamation Commission
Chapter 8—Definitions and General Requirements**

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 40—Land Reclamation
Commission
Chapter 8—Definitions and General
Requirements**

10 CSR 40-8.010 Definitions.

PURPOSE: This rule sets forth definitions applicable to 10 CSR 40-3—10 CSR 40-9, pursuant to section 444.810, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the rule has been filed with the secretary of state. ASTM Standard D 388-77 is incorporated by reference as it exists on February 11, 1980. The entire text of this rule may be found at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Definitions.

(A) As used throughout 10 CSR 40-3—10 CSR 40-9, the following terms have the specified meaning except where otherwise indicated:

1. Acid drainage means water with a pH of less than six (6) and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations;

2. Acid-forming materials mean earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weathering processes, form acids that may create acid drainage;

3. Act means the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87);

4. Adjacent area means land located outside the affected area, permit area or mine area, depending on the context in which adjacent area is used, where air, surface or ground water, fish, wildlife, vegetation or other resources may be adversely impacted by surface coal mining and reclamation operations including probable impacts from underground workings;

5. Affected area means any land or water surface area which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes the disturbed area; any area upon which surface coal mining and reclamation operations are conducted; any adjacent lands the use of which is incidental to surface coal mining and reclamation operations; all areas covered by new and existing roads used to gain access to, or for hauling coal to or from surface

coal mining and reclamation operations, except as provided in this definition; any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas; any area upon which are sited structures, facilities or other property material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings. Public roads may be included in the affected area and regulated on a case-by-case basis, as determined by the extent of mining-related use;

6. Agricultural use means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing and watering of livestock and the cropping, cultivation and harvesting of plants;

7. Anthracite means coal classified as anthracite in ASTM Standard D 388-77. Coal classifications are published by the American Society for Testing and Materials (ASTM) under the title, *Standard Specification for Classification of Coals by Rank*, ASTM D 388-77, on pages 220—224. Table I which classifies the coals by rank is presented on page 223. This publication is incorporated by reference as it exists on February 11, 1980;

8. Applicant means any person seeking a permit from the commission or director to conduct surface coal mining and reclamation operations or a revision or renewal of the permit;

9. Approximate original contour means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain with all highwalls, spoil piles and coal refuse may be permitted where it is determined that they comply with 10 CSR 40-3.049(9) and (16) and 10 CSR 40-3.130;

10. Aquifer means a zone, stratum or group of strata that can store and transmit water in sufficient quantities for a specific use;

11. Auger mining means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface;

12. Best technology currently available means equipment, devices, systems, methods or techniques which will—

A. Prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area,

but in no event result in contributions of suspended solids in excess of requirements set by applicable state or federal laws; and

B. Minimize, to the extent possible, disturbance and adverse impact on fish, wildlife and related environmental values and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods or techniques which are currently available anywhere even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 10 CSR 40-3. Within the constraints of the permanent program, the commission and director will determine the best technology currently available on a case-by-case basis;

13. Buffer zone means a boundary which establishes a limit of mining-related disturbance beyond which a variance to the regulations must be obtained before disturbance;

14. Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous or lignite by ASTM Standard D 388-77, referred to and incorporated by reference in the definition of anthracite in paragraph (1)(A)7.;

15. Coal exploration means the field gathering of—

A. Surface or subsurface geologic, physical or chemical data by mapping, trenching, drilling, geophysical or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

B. Environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of the regulatory program;

16. Coal mine waste means coal processing waste and underground development waste;

17. Coal preparation area means that portion of the permitted area used for the beneficiation of raw coal and structures related to the beneficiation process, such as the washer, tippie, crusher, slurry pond(s), gob pile and all waste material directly connected with the cleaning, preparation and shipping of coal, but does not include subsurface coal waste disposal areas;

18. Coal preparation area reclamation means the reclamation of the coal preparation area by disposal or burial, or both, of coal waste according to the approved reclamation plan, the replacement of topsoil and initial seeding;

19. Coal processing plant or coal preparation plant means a facility where coal is subjected to chemical or physical processing or

cleaning, concentrating or other processing or preparation. It includes facilities associated with coal preparation activities, including, but not limited to, the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; and roads, railroad and other transport facilities;

20. Coal processing waste means earth materials which are separated and wasted from the product coal during the cleaning, concentrating or other processing or preparation of coal;

21. Coal processing waste bank means a surface deposit of coal mine waste that does not impound water, slurry or other liquid or semiliquid material;

22. Combustible material means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise;

23. Commission means the Land Reclamation Commission created by section 444.520, RSMo;

24. Compaction means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort, such as from repeated application of wheel, track or roller loads from heavy equipment;

25. Cropland means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes and includes row crops, small grain crops, hay crops, nursery crops, orchard crops and other similar specialty crops;

26. Cumulative impact area means the area, including the permit area within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and ground water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

A. The proposed operation;

B. All existing operations;

C. Any operations for which a permit application has been submitted to the Land Reclamation Program; and

D. All operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available;

27. Department means the Department of the Interior;

28. Director means the director of the Land Reclamation Commission;

29. Director of the office means the director of the Office of Surface Mining Reclamation and Enforcement or the representative of the director of the office;

30. Disturbed area means an area where vegetation, topsoil or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond required by 10 CSR 40-7 is released;

31. Diversion means a channel, embankment or other man-made structure constructed to divert water from one (1) area to another;

32. Downslope means the land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor;

33. Embankment means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert or store water, support roads or railways or for other similar purposes;

34. Ephemeral stream means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and which has a channel bottom that is always above the local water table;

35. Existing structure means a structure or facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to the approval of a state program;

36. Federal lands means any land, including mineral interest, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands;

37. Federal lands program means a program established by the secretary pursuant to Section 523 of the Act to regulate surface coal mining and reclamation operations on federal lands;

38. Federal program means a program established by the secretary pursuant to Section 504 of the Act to regulate coal exploration and surface coal mining and reclamation operations on nonfederal and non-Indian lands within a state in accordance with the Act and 30 CFR 736;

39. Fugitive dust means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation operations it may include: emissions from haul roads; wind erosion of exposed surfaces, storage piles and spoil piles; reclamation operations; and other activities in which

material is either removed, stored, transported or redistributed;

40. Groundwater means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated;

41. Half-shrub means a perennial plant with a woody base whose annually produced stems die back each year;

42. Head-of-hollow fill means a fill structure consisting of any material, other than coal processing waste and organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty degrees ($>20^\circ$) or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten degrees ($>10^\circ$). In fills with less than two hundred fifty thousand ($<250,000$) cubic yards of material, associated with contour mining, the top surface of the fill will be at the elevation of the coal seam. In all other head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area;

43. Highwall means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities;

44. Historically used for cropland means—

A. Lands that have been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the acquisition, including purchase, lease or option, of the land for the purpose of conducting or allowing through resale, lease or option the conduct of surface coal mining and reclamation operations;

B. Lands determined on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific five (5)-year-in-ten (10) criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

C. Lands that would likely have been used as cropland for any five (5) out of the last ten (10) years immediately preceding acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land;

45. Hydrologic balance means the relationship between the quality and quantity of water inflow to, water outflow from and water storage in a hydrologic unit, such as a drainage basin, aquifer, soil zone, lake or reservoir. It encompasses the dynamic

relationships among precipitation, runoff, evaporation and changes in ground and surface water storage;

46. Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface and returns to the atmosphere as vapor by means of evaporation and transpiration;

47. Imminent danger to the health and safety of the public means the existence of any condition or practice, or any violation of a permit or other requirements of the law in a surface coal mining and reclamation operation, which condition, practice or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice or violation can be abated. A reasonable expectation of death or serious injury before abatement exists, if a rational person subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement;

48. Impounding structure means a dam, embankment or other structure used to impound water, slurry or other liquid or semiliquid material;

49. Impoundment means all water, sediment, slurry or other liquid or semiliquid holding structures and depressions, either naturally formed or artificially built;

50. *In situ* processes means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching or other chemical or physical processing of coal. The term includes, but is not limited to, *in situ* gasification, *in situ* leaching, slurry mining, solution mining, bore-hole mining and fluid recovery mining;

51. Intermittent stream means a stream or reach of a stream that—

A. Drains a watershed of at least one (1) square mile; or

B. Is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and groundwater discharge;

52. Land use means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use or uses from one (1) of the following categories to another shall be considered as a change to an alternative land use which is subject to approval in the permit and plan:

A. Cropland means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes and

includes row crops, small grain crops, hay crops, nursery crops, orchard crops and other similar specialty crops. Land used for facilities in support of cropland farming operations which is adjacent to or an integral part of these operations is also included for purposes of these land use categories;

B. Pasture means land used primarily for the long-term production of adapted, domesticated, forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. Land used for facilities in support of pastureland or land occasionally cut for hay which is adjacent to or an integral part of these operations is also included;

C. Prime farmland means an area which has been historically used for crop production, as defined previously, and which has prime farmland soils as defined by the United States Department of Agriculture, Soil Conservation Service in 7 CFR 657;

D. Woodland means land used or managed for the long-term production of wood, wood fiber or wood-derived products. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included;

E. Residential includes single- and multi-family housing, mobile home parks and other residential lodgings. Land used for facilities in support of residential operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, vehicle parking and open space that directly relate to the residential use;

F. Industrial/commercial means land used for—

(I) Extraction or transformation of materials for fabrication of products, wholesaling of products or for long-term storage of products. This includes all heavy and light manufacturing facilities such as lumber and wood processing, chemical manufacturing, petroleum refining and fabricated metal products manufactured. Land used for facilities in support of these operations which is adjacent to or an integral part of that operation is also included. Support facilities include, but are not limited to, all railroad or other transportation facilities; and

(II) Retail or trade of goods or services, including hotels, motels, stores, restaurants and other commercial establishments. Land used for facilities in support of commercial operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, parking, storage or shipping facilities;

G. Recreation means land used for public or private leisure-time use, including developed recreation facilities such as parks, camps and amusement areas, as well as areas for less intensive uses such as hiking, canoeing and other undeveloped recreational uses;

H. Fish and wildlife habitat means land dedicated wholly or partially to the production, protection or management of species of fish or wildlife;

I. Water includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control and water supply; and

J. Undeveloped land means land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession;

53. Law, the law, this law, state surface coal mining and reclamation law or surface coal mining law means sections 444.800—444.940, RSMo;

54. Mine plan area means the same as the permit area. Other terms defined in this rule which relate closely to mine plan area are—

A. Affected area, which will always be within or the same as the permit area; and

B. Adjacent area, which may surround or extend beyond the affected area, permit area or mine plan area;

55. Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing microclimatic conditions suitable for germination and growth;

56. Noxious plants means species that have been included on official state lists of noxious plants;

57. Office means the Office of Surface Mining Reclamation and Enforcement (OSMRE) established under Title II of the Act;

58. Operator means any person engaged in coal mining;

59. Other treatment facilities means any chemical treatments, such as flocculation or mechanical structures, such as clarifiers, that have a point source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

60. Outslope means the face of the spoil or embankment sloping downward from the highest elevation to the toe;

61. Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit excluding topsoil;

62. Perennial stream means a stream or part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream;

63. Performance bond means a surety bond, personal bond or a combination of them, by which a permittee assures faithful performance of all the requirements of the regulatory program and the requirements of the permit and reclamation plan;

64. Permanent diversion means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention in the permit and plan and other appropriate state and federal agencies;

65. Permit means a permit to conduct surface coal mining and reclamation operations or coal exploration operations issued by the commission pursuant to the regulatory program;

66. Permit area means the area of land indicated on the approved map submitted by the operator with his/her application, which area of land shall be covered by the operator's bond and shall be readily identifiable by appropriate markers on the site;

67. Permittee means a person holding a permit or required by this law to hold a permit issued by the commission or director pursuant to this law to conduct surface coal mining and reclamation operations and coal exploration;

68. Person means any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties;

69. Person having an interest which is or may be adversely affected or person with a valid legal interest shall include any person:

A. Who uses any resource of economic, recreational, aesthetic or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the commission or director; or

B. Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the commission or director;

70. Plan means the reclamation plan submitted by an applicant as a condition precedent to receiving a permit;

71. Precipitation event means a quantity of water resulting from drizzle, rain, snow, sleet or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these rules, precipitation event also includes that quantity of water emanating from snow cover as snow melts in a limited period of time;

72. Previously mined area means land affected by surface coal mining operations prior to August 3, 1977, that has not been

reclaimed to the standards of 10 CSR 40 Chapters 3—8;

73. Prime farmland means land which historically has been used for cropland and which meets the technical criteria established by the secretary of agriculture in 7 CFR 657 (FR Vol. 4, No. 21) on the basis of factors such as moisture, availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding and erosion characteristics;

74. Public office means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours;

75. Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation;

76. Reclamation means those actions taken to restore mined land, as required by the regulatory program, to postmining land use approved in the permit and plan;

77. Reclamation plan means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations;

78. Recurrence interval means the interval of time in which a precipitation event is expected to occur once on the average. For example, the ten (10)-year, twenty-four (24)-hour precipitation event would be that twenty-four (24)-hour precipitation event expected to occur on the average once in ten (10) years;

79. Reference area means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by crop production methods approved in the permit and plan. Reference areas must be representative of geology, soil, slope and vegetation in the permit area;

80. Refuse pile means a surface deposit of coal mine waste that does not impound water, slurry or other liquid or semiliquid material;

81. Regional director means a regional director of the office or a regional director's representative;

82. Regulatory program means the law and all regulations adopted pursuant to the law and submitted to and approved by the secretary of the office;

83. Renewable resource lands means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber and grazing lands;

84. Road means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the

entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, structures, ditches, and surface. The term includes access and haul roads constructed, used, reconstructed, improved or maintained for use in coal exploration or surface coal mining and reclamation operations, including use by coal-hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

A. Class I road means a road that is utilized for transportation of coal.

B. Class II road means any road, other than a Class I road, planned to be used over a six (6)-month period or longer.

C. Class III road means any road, other than a Class I road, planned to be used over a period of fewer than six (6) months;

85. Safety factor means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices;

86. Secretary of the office means the secretary of the interior or the secretary's representative;

87. Sedimentation pond means a primary sediment control structure designed, constructed and maintained in accordance with 10 CSR 40-3.040(6) and including, but not limited to, barrier, dam or excavated depression which slows down water runoff to allow sediment to settle out. A sedimentation pond shall not include secondary sedimentation control structures, such as straw dikes, riprap, check dams, mulches, dugouts and other measures that reduce overland flow velocity, reduce runoff volume or trap sediment, to the extent that those secondary sedimentation structures drain to the sedimentation pond;

88. Significant, imminent environmental harm to land, air or water resources means an environmental harm is—

A. An adverse impact on land, air or water resources, which resources include, but are not limited to, plant and animal life;

B. Imminent, if a condition, practice or violation exists which—

(I) Is causing harm; or

(II) May reasonably be expected to cause harm at any time before the end of the reasonable abatement time that would be set under section 444.855.2., RSMo; and

C. Significant if that harm is appreciable and not immediately reparable;

89. Slope means average inclination of a surface, measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (for example, 1v:5h (20%)).

It may also be expressed as a percent or in degrees;

90. Soil horizons means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three (3) major soil horizons are—

A. A horizon. The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant and leaching of soluble or suspended particles is typically the greatest;

B. B horizon. The layer that typically is immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizon; and

C. C horizon. The deepest layer of soil profile. It consists of loose material or weathered rock that is relatively unaffected by biological activity;

91. Soil survey means a field and other investigation resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies and interprets those soils for use. Soil surveys must meet the standards of the National Cooperative Soil Surveys incorporated by reference in 10 CSR 40-6.060(4)(B)1.;

92. Spoil means overburden that has been removed during surface coal mining operations;

93. Stabilize means to control movement of soil, spoil piles or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating;

94. Steep slope means any slope of more than twenty degrees (20°) or a lesser slope as may be designated in the permit and plan after consideration of soil, climate and other characteristics of a region;

95. Substantially disturb means, for purposes of coal exploration, to significantly impact upon land, air or water resources by blasting; removal of vegetation, topsoil or overburden; construction of roads or other access routes; placement of excavated earth or waste material on the natural land surface or other activities; or to remove more than two hundred fifty (250) tons of coal;

96. Surface coal mining operations means—

A. Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine. The activities include excavation for the purpose of obtaining coal, including common methods such as contour, strip, auger, mountaintop removal, box cut, open pit and area mining, the

uses of explosives and blasting, and *in situ* distillation or retorting, leaching or other chemical or physical processing and the cleaning, concentrating or other processing or preparation, loading of coal for interstate commerce at or near the minesite; provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to section 444.845, RSMo; and provided further that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

B. Areas upon which the activities described in subparagraph (1)(A)14.A. of this rule occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities, and for haulage and excavation, working, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other property or material on the surface, resulting from or incident to those activities;

97. Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary or incidental to the reclamation of these operations. This term includes the term surface coal mining operations;

98. Surface mining activities means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location;

99. Suspended solids or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials, carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for wastewater and analyses (40 CFR 136);

100. Temporary diversion means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and not approved in the permit and plan to remain after reclamation as part of the approved post-mining land use;

101. Ton means two thousand pounds (2000 lbs.) *avoirdupois* (.90718 metric ton);

102. Topsoil means the A soil horizon layer of the three (3) major soil horizons;

103. Toxic-forming materials means earth materials or wastes which, if acted upon by air, water, weathering or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water;

104. Toxic mine drainage means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill, injure or impair biota commonly present in the area that might be exposed to it;

105. Underground development waste means waste rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone or related materials that are excavated, moved and disposed of during development and preparation of areas incident to underground mining activities;

106. Underground mining activities means a combination of—

A. Surface operations incident to underground extraction of coal or *in situ* processing, such as construction, use, maintenance and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

B. Underground operations such as underground construction, operation and reclamation of shafts, adits, underground support facilities, *in situ* processing and underground mining, hauling, storage and blasting;

107. Valley fill means a fill structure consisting of any material other than coal waste and organic material that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than twenty degrees (20°) or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees (10°); and

108. Water table means the upper surface of a zone of saturation, where the body of groundwater is not confined by an overlying impermeable zone.

*Auth: sections 444.530 and 444.810, RSMo (1994). * Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Dec. 10, 1980,*