

### **350.010 Definitions for chapter.**

As used in this chapter, unless the context requires otherwise:

- (1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; 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 KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the 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 the activities and for haulage, and 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, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;
- (2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar

months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; 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; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

- (3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;
- (4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;
- (5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;
- (6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;
- (7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;
- (8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;
- (9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;
- (10) "Cabinet" means the Energy and Environment Cabinet;
- (11) "Secretary" means the secretary of the Energy and Environment Cabinet;
- (12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;
- (13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;
- (14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

- (15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area 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 and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;
- (16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee;
- (17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20);
- (19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- (20) "Permit applicant" or "applicant" means a person applying for a permit;
- (21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations;
- (22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit;
- (23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2);
- (24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents;
- (25) "NAD 83" means the North American Datum, 1983 version, in feet units; and
- (26) "Single Zone Projection" means the Kentucky Single Zone State Plane Coordinate System of 1983, based on the Lambert Conformal map projection with double standard parallels on the North American Datum, as established in 10 KAR 5:010.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1873, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 79, sec. 10, effective June 25, 2009. -- Amended 2005 Ky. Acts ch. 123, sec. 49, effective June 20, 2005. -- Amended 1994 Ky. Acts ch. 172, sec. 1, effective July 15, 1994; ch. 178, sec. 1, effective July 15, 1994; ch. 390, sec. 35, effective July 15, 1994; and ch. 459, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 105, sec. 59; ch. 107, sec. 15; ch. 120, sec. 1; ch. 429, sec. 1. -- Amended 1992 Ky. Acts ch. 105, sec. 59, effective July 14, 1992, ch. 107; sec. 15, effective July 1, 1992; ch. 120, sec. 1; effective July 14, 1992; and ch. 429, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 205, sec. 1, effective July 13, 1990; and ch. 306, sec. 4, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 383, sec. 18, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 145, sec. 5, effective March 28, 1984. -- Amended 1982 Ky. Acts ch. 283, sec. 1, effective April 2, 1982; and ch. 357, sec. 1, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 62, sec. 1, effective March 21, 1980. -- Amended 1978 Ky. Acts ch. 330, sec. 14, effective May 3, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. III, sec. 13(2), (7). -- Amended 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 58. -- Amended 1972 Ky. Acts ch. 270, sec. 1. -- Amended 1968 Ky. Acts ch. 152, sec. 149. -- Amended 1966 Ky. Acts ch. 4, sec. 1. -- Amended 1964 Ky. Acts ch. 61, sec. 1. -- Amended 1962 Ky. Acts ch. 105, sec. 1. -- Amended 1960 Ky. Acts ch. 143, sec. 3. -- Amended 1956 (1st Extra. Sess.) Ky. Acts ch. 7, Art. VII, sec. 1. -- Created 1954 Ky. Acts ch. 8, sec. 1.

**Legislative Research Commission Note** (2/9/99). Under KRS 7.136(1)(e), the prior reference to "KRS 154.01-010(19)" in subsection (18) of this statute has been changed to "KRS 154.01-010(20)" because of the renumbering of the referenced subsection in 1996 Ky. Acts ch. 113, sec. 6.

**Legislative Research Commission Note** (7/14/92). This section was amended by four 1992 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which prevails is ch. 105 pursuant to sec. 79 of that Act.