

1501:13-1-02 **Definitions.**

As used in Chapters 1501:13-1 to 1501:13-14 of the Administrative Code:

- (A) "Abatement plan" means any individual technique or combination of techniques, the implementation of which may result in reduction of the base line pollution load. Abatement techniques may include but are not limited to best management practices such as: addition of alkaline material, daylighting old underground mines, special plans for managing toxic- and acid-forming material, regrading, and revegetation.
- (B) "Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned coal mine and reclamation operation or from an area affected by coal mining and reclamation operations.
- (C) "Acid-forming materials" means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will form acids that may create acid drainage.
- (D) "Acid water" means any waters, the pH of which, as determined by standard methods, is less than 6.0.
- (E) "Adjacent area" means the area outside the affected area or permit area where air, surface or ground water, fish, wildlife, vegetation or other resources protected by Chapter 1513. of the Revised Code, determined according to the context in which "adjacent area" is used, are or reasonably could be expected to be adversely affected by proposed coal mining and reclamation operations including probable impacts from underground workings. With respect to underground mining operations, "adjacent area" shall include, at a minimum, the surface areas above full coal recovery areas.
- (F) "Affected area" means any land or water surface area which is used to facilitate, or is physically altered by, coal mining and reclamation operations.
- (1) The affected area includes:
- (a) The disturbed area;
 - (b) Any area upon which coal mining and reclamation operations are conducted;
 - (c) Any adjacent lands the use of which is incidental to coal mining and

reclamation operations;

(d) All areas covered by new or existing roads used to gain access to, or for hauling coal to or from coal mining and reclamation operations, but may not include public roadways, provided that:

(i) The public roadway was in existence prior to the application for the permit;

(ii) The effect on the public roadway from mining use will be minor; and

(iii) The public roadway is incidentally, rather than directly, part of the mining operation;

(e) 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; and

(f) Any areas upon which are sited structures, facilities, or other property material on the surface resulting from, or incident to, coal mining and reclamation operations.

(2) The affected area does not include surface disturbance attributable solely to underground mine subsidence, provided that this exception shall not be construed as a limitation on the authority of the chief or his or her authorized representative to require submission of information about, or take enforcement or other actions in regard to, subsidence disturbances and conditions existing in areas overlying underground workings before, during, and after mining, which areas are not within the permit or affected area.

(G) "Angle of draw" means the angle with the vertical, made by a straight line extending away from the edge of the mined-out area to the ground surface, spanning the horizontal distance in which subsidence may occur.

(H) "Applicant" means any person seeking a permit, permit renewal or revision to a permit, or a transfer, assignment or sale of permit rights from the chief to conduct coal mining and reclamation operations.

(I) "Application" means the documents and other information filed with the chief under Chapter 1513. of the Revised Code, and rules adopted thereunder, for the issuance

of a permit, permit renewal or revision to a permit, or for a transfer, assignment or sale of permit rights for coal mining and reclamation operations.

- (J) "Approximate original contour" means that surface configuration achieved by backfilling and grading of a 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. Permanent water impoundments may remain where the chief determines that they are in compliance with division (A)(8) of section 1513.16 of the Revised Code.
- (K) "Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.
- (L) "Area mining" means a method of surface coal mining that involves making a series of parallel mining cuts against the highwall created from the initial mining cut. Spoil from each subsequent cut is placed in the preceding cut where coal has been removed and, as a result, area mining forms a series of parallel spoil ridges. Area mining along the contour differs from contour mining in that at least three successive parallel cuts are made from the initial cut.
- (M) "Auger mining" means a method of mining coal at a highwall by drilling holes or cutting into an exposed coal seam from the highwall and transporting the coal along an auger bit or by conveyors or other means to the surface.
- (N) "Backfill" or "backfilling" means to fill an excavation or pit with material to a predetermined configuration by reducing the peaks, valleys, and outslopes of the spoil, and filling the cut.
- (O) "Base line pollution load" means the characterization of the material being discharged from or on the pollution abatement area, described in terms of mass loading for pH, net acidity, total iron, and total manganese, and total suspended solids, including seasonal variations and variations in response to precipitation events.
- (P) "Best available technology economically achievable" means measures and practices which will abate or ameliorate to the maximum extent possible pollution discharges from or on the pollution abatement area. These measures include engineering, geochemical or other applicable practices.
- (Q) "Best management practice" means a practice implemented during the mining and reclamation of remining sites that is designed to reduce, if not completely eliminate, the pre-existing water pollution problems. Best management practices

are tailored to specific mining operations based largely on pre-existing site conditions, hydrology, and geology. Best management practices are designed to function in a physical and/or geochemical manner to reduce pollution loadings. These best management practices may include engineering, geochemical materials handling, daylighting, regrading, revegetation, diversion ditches or other applicable practices.

~~(Q)~~(R) "Best technology currently available" means equipment, devices, systems, methods, or techniques which:

- (1) Will 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;
- (2) Will minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife, and related environmental values, and achieve enhancement of those resources where practicable; and
- (3) Are currently available anywhere as determined by the chief. 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.

~~(R)~~(S) "Cemetery" means any area of land where human bodies are interred.

~~(S)~~(T) "Chief" means chief of the division of mineral resources management.

~~(T)~~(U) "Coal exploration" means the field gathering of environmental data and surface or subsurface geologic, physical, or chemical data by trenching, drilling or other techniques that disturb the natural land surface and that are necessary to determine the quality and quantity of overburden and coal of an area.

~~(U)~~(V) "Coal exploration permit" means a permit to conduct coal exploration operations that substantially disturb the natural land surface, issued by the chief pursuant to section 1513.072 of the Revised Code.

~~(V)~~(W) "Coal mine waste" means coal processing waste and underground development waste.

~~(W)~~(X) "Coal mining and reclamation operations" means coal mining operations and all activities necessary and incidental to the reclamation of such operations.

~~(X)~~(Y) "Coal mining operation" means:

- (1) Activities conducted on the surface of lands in connection with a coal mine, the removal of coal from coal refuse piles, and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal at or near the mine site. Such activities do not include the following:
 - (a) The extraction of coal incidental to the extraction of other minerals if the weight of coal extracted is less than one-sixth the total weight of minerals removed, including coal;
 - (b) The extraction of coal as an incidental part of federal, state, or local highway or other government-financed construction when approved by the chief; or
 - (c) Coal exploration subject to section 1513.072 of the Revised Code; and
- (2) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or improvement or use of existing roads to gain access to the site of such activities, and for hauling, excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, 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 such activities. Separation by a stream, roadway, or utility easement does not preclude two or more contiguous tracts of land from being considered contiguous.

~~(Y)~~(Z) "Coal preparation" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

~~(Z)~~(AA) "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 the coal preparation plant, 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; and coal processing and other waste disposal areas.

~~(AA)~~(BB) "Coal processing waste" means earth materials which are wasted or otherwise separated from the product coal after physical or chemical processing, cleaning, or concentrating of coal.

~~(BB)~~(CC) "Collateral bond" means an indemnity agreement in a sum certain payable only to the state and executed by the permittee or applicant as principal which is supported by one or more of the following:

- (1) The deposit of cash in one or more federally insured accounts, payable only to the state upon demand;
- (2) Negotiable bonds of the United States or the state of Ohio endorsed to the order of, and placed in the possession of, the state;
- (3) Negotiable certificates of deposit, payable to, and in possession of, the state; or
- (4) An irrevocable letter of credit of any bank organized or authorized to transact business in the state of Ohio, payable only to the state upon presentation by the chief.

~~(CC)~~(DD) "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.

~~(DD)~~(EE) "Community or institutional building" means any building other than a public building or an occupied dwelling, which:

- (1) Is used primarily for meetings, gatherings, or functions of local civic organizations or other community groups;
- (2) Functions as an educational, cultural, historic, religious, scientific, correctional, mental health, or physical health care facility; or
- (3) Is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

~~(EE)~~(FF) "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.

~~(FF)~~(GG) "Complete application" means an application for the issuance of a permit, permit renewal or revision to a permit, or for a transfer, assignment or sale of permit rights for coal mining and reclamation operations which contains all the information required under Chapter 1513. of the Revised Code and these rules and necessary to initiate processing and public review.

~~(GG)~~(HH) "Contour mining" means a method of surface coal mining that involves making an initial mining cut along the contour of a hillside to the maximum highwall height and then making subsequent cuts along the same contour, placing spoil in the preceding cut where the coal has been removed.

~~(HH)~~(II) "Cropland" means land used for the production of cultivated 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 will not be considered as having been used for the production of cultivated crops on the basis of use as woodland or rangeland, or where the only cultivation has been disking to establish or help maintain grass used as a forage, or where the only cultivation has been disking to plant small grain for a quick cover to be used as forage and not as a grain crop.

~~(II)~~(JJ) "Cumulative hydrologic impact assessment" means the assessment of the probable cumulative impact of all anticipated mining in the general and adjacent area upon the hydrologic balance of the area and particularly upon water availability.

~~(JJ)~~(KK) "D permit" means a permit issued pursuant to an application filed with the division of mineral resources management pursuant to section 1513.07 of the Revised Code, effective September 1, 1981.

~~(KK)~~(LL) "Developed spring" means a spring regularly being used for domestic or agricultural purposes.

~~(LL)~~(MM) "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 coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance security or other assurance of performance required by section 1513.08 of the Revised Code is released.

~~(MM)~~(NN) "Diversion" means a channel, embankment, or other man-made structure constructed for the purpose of diverting water from one area to another.

~~(NN)~~(OO) "Downslope" means the land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor.

~~(OO)~~(PP) "Drainage plan" means a description or illustration of the method of collection, treatment, and discharge of all or any of the waters within, flowing onto, or being discharged from the permit area.

(OO) "Effluent limitations" means a specific, numeric, measurable set of limits on the amount of various pollutants that are placed on point source discharges through the national pollutant discharge elimination system (NPDES). For a remining NPDES permit that uses non-numeric limitations, "effluent limitations" means the best management practice as required under that NPDES permit.

~~(PP)~~(RR) "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.

~~(QQ)~~(SS) "Engineer" means a professional engineer registered in accordance with the requirements of Chapter 4733. of the Revised Code.

~~(RR)~~(TT) "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.

~~(SS)~~(UU) "Excess spoil" means spoil material disposed of in a location other than the mined-out area, except that spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in non-steep slope areas shall not be considered excess spoil, provided that the blending will be done in accordance with paragraph (E) of rule 1501:13-9-14 of the Administrative Code.

~~(TT)~~(VV) "Existing structure" means a structure or facility used in connection with or to facilitate coal mining and reclamation operations for which construction began prior to August 16, 1982.

~~(UU)~~(WW) "Forfeiture of performance security" means that the chief shall proceed against the permittee in the manner set forth in rule 1501:13-7-06 of the Administrative Code.

~~(VV)~~(XX) "Fragile lands" means areas containing natural, ecologic, scientific, or esthetic resources that could be significantly damaged by coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, paleontological sites, national natural landmarks, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and esthetic features, and areas of recreational value due to high environmental quality.

~~(WW)~~(YY) "Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or coal mining and reclamation operations or both. During 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.

~~(XX)~~(ZZ) "Full coal recovery" means recovery of a high percentage of the in-place coal reserve by pillar removal, longwall mining, or other underground mining method in which support is removed from the roof of the mine under a large enough area that a full or partial collapse or subsidence of the mine roof is planned as part of the method of mining.

~~(YY)~~(AAA) "General area" means, with respect to hydrology, the topographic and ground-water basin in and surrounding a permit area which is of sufficient size to include the area to be affected by all anticipated mining activities, including one or more watersheds containing perennial streams and ground-water zones, and to allow assessment of the probable cumulative impacts on the quality and quantity of surface and ground-water systems in the basins. Anticipated mining shall include, at a minimum, the entire projected lives, through performance security releases, of:

- (1) The proposed operation;
- (2) All existing operations; and
- (3) Any operation for which a permit application has been submitted to the chief.

~~(ZZ)~~(BBB) "Grading" means the shaping of material to conform to the approved mining and reclamation plan.

~~(AAA)~~(CCC) "Ground water" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

~~(BBB)~~(DDD) "Head-of-hollow fill" means a fill structure consisting of any material, other than 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 or the average slope of the profile of the existing hollow from the toe of the fill to the top of the fill is greater than ten degrees. In 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.

~~(CCC)~~(EEE) "Higher or better uses" means postmining land uses that have a higher economic value or nonmonetary benefit to the landowner or the community than the premining land uses.

~~(DDD)~~(FFF) "Highwall" means the face of exposed overburden and coal in an open cut of a coal mining operation or for entry to underground mining operations.

~~(EEE)~~(GGG) "Highwall remnant" means that portion of a highwall that remains after backfilling and grading of a remining permit area.

~~(FFF)~~(HHH) "Historic lands" means areas containing historic, cultural, or scientific resources. Examples of historic lands include archeological sites, properties listed on or eligible for listing on a state or national register of historic places, national historic landmarks, properties having religious or cultural significance to native Americans or religious groups, and properties for which historic designation is pending.

~~(GGG)~~(III) "Historically used for cropland" means:

- (1) Lands that have been used for cropland for any five years or more out of the ten 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 coal mining and reclamation operations;
- (2) Lands that the chief determines, 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-years-in-ten 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
- (3) Lands that would likely have been used as cropland for any five out of the last ten years, immediately preceding such acquisition but for the same fact of

ownership or control of the land unrelated to the productivity of the land.

~~(HHH)~~(JJJ) "Hydrologic balance" means the relationship between the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the quantity and quality relationships between precipitation, runoff, evaporation, and the change in ground and surface water storage.

~~(HH)~~(KKK) "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 and falls as precipitation, moves then along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

~~(JJ)~~(LLL) "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 Chapter 1513. of the Revised Code or these rules in a coal mining and reclamation operation, which 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 exists if a rational person, subjected to the same condition or practice giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

~~(KKK)~~(MMM) "Impounding structure" means a dam, embankment or other structure used to impound sediment, water, slurry, or other liquid or semi-liquid material.

~~(LLL)~~(NNN) "Impoundments" means all water, sediment, slurry or other liquid or semi-liquid holding structures and depressions, either naturally formed or artificially built.

~~(MMM)~~(OOO) "Incremental area" for a particular permit year applies only to permits for which the applicant or permittee provides performance security together with reliance on the reclamation forfeiture fund in accordance with paragraph (C)(2) of rule 1501:13-7-01 of the Administrative Code and means:

- (1) That area within the permit area which the permittee affects by coal mining and reclamation operations in the particular permit year and which the permittee does not intend to affect in the coming permit year; and
- (2) In the permit year in which mining operations are completed on the permit area, all of the affected area not already designated as an incremental area under paragraph (A)(6)(a) of rule 1501:13-7-01 of the Administrative Code.

~~(NNN)~~(PPP) "Incremental mining unit" applies only to permits for which the applicant or permittee provides performance security without reliance on the reclamation forfeiture fund in accordance with paragraph (C)(1) of rule 1501:13-7-01 of the Administrative Code. Incremental mining unit means an area within a permit of sufficient size and configuration to provide for efficient mining and reclamation operations, subject to approval by the chief, where mining and reclamation activities are authorized by the chief and a specific amount of performance security has been determined by the chief pursuant to paragraph (B) of rule 1501:13-7-01 of the Administrative Code.

~~(OOO)~~(QQQ) "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, borehole mining, and fluid recovery mining.

~~(PPP)~~(RRR) "Intermittent stream" means a stream that is below the local water table and flows for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

~~(QQQ)~~(SSS) "Lands eligible for re-mining" means those lands that would otherwise be eligible for expenditures under section 1513.37 of the Revised Code.

~~(RRR)~~(TTT) "Leachate" means a liquid that has percolated through soil, rock, or waste and has extracted dissolved or suspended materials.

~~(SSS)~~(UUU) "Monitoring" means the collection of environmental data by either continuous or periodic sampling methods.

~~(TTT)~~(VVV) "Mountaintop removal mining" means coal mining operations in which the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill except as otherwise provided for in paragraph (B)(1) of rule 1501:13-13-04 of the Administrative Code, by removing substantially all of the overburden off the bench and creating a level plateau or a gently rolling contour, with no highwalls remaining, and capable of supporting postmining land uses in accordance with the requirements of paragraph (C) of rule 1501:13-4-12 of the Administrative Code.

~~(UUU)~~(WWW) "MSHA" means the mine safety and health administration.

~~(VVV)~~(XXX) "Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing conditions suitable

for germination and growth.

(YYY) "National pollutant discharge elimination system" and "NPDES" means the national permit program authorized under the Clean Water Act, 33 U.S.C. 1251 et seq., that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

~~(WWW)~~(ZZZ) "Natural hazard lands" means geographic areas in which natural conditions exist which pose or, as a result of coal mining operations, may pose a threat to the health, safety, or welfare of people, property or the environment, including areas subject to landslides, cave-ins, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

~~(XXX)~~(AAAA) "Notice of intention to explore" means the documents and other information filed with the chief for coal exploration, pursuant to section 1513.072 of the Revised Code and rule 1501:13-4-02 of the Administrative Code.

~~(YYY)~~(BBBB) "Noxious plants" means species that have been included on the official list of noxious plants for the state of Ohio.

~~(ZZZ)~~(CCCC) "Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

~~(AAA)~~(DDDD) "Operation" means coal mining operation.

~~(BBB)~~(EEEE) "Operator" means any person conducting a coal mining operation and includes the permittee if the permittee is conducting the mining operation or a contract operator if a person under contract with the permittee is conducting the mining operation.

~~(CCC)~~(FFFF) "Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

~~(DDD)~~(GGGG) "Perennial stream" means a stream or a part of a stream that flows continuously during all of the calendar year as a result of ground-water discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

~~(EEE)~~(HHHH) "Performance security" means a form of financial assurance, including a surety bond; a collateral bond; a trust fund; a self bond; or a combination thereof, by which a permittee assures faithful performance of all the requirements of Chapter 1513. of the Revised Code, these rules, and the requirements of the permit and reclamation plan.

~~(FFFF)~~(IIII) "Permanent diversion" means a diversion remaining after coal mining and reclamation operations are completed which has been approved for retention by the chief.

~~(GGGG)~~(JJJJ) "Permanent impoundment" means an impoundment which is approved by the chief and, if required, by other state and federal agencies for retention as part of the postmining land use.

~~(HHHH)~~(KKKK) "Permit" means a permit to conduct coal mining and reclamation operations issued by the chief pursuant to section 1513.07 or 1513.074 of the Revised Code.

~~(HH)~~(LLLL) "Permit area" means the area of land to be affected indicated on the approved map submitted by the applicant or operator with the application required by section 1513.07 or 1513.074 of the Revised Code. This area shall include, at a minimum, all areas which are or will be affected by the coal mining and reclamation operations during the term of the permit. With respect to underground mining operations, "permit area" shall not include those surface areas overlying underground workings and not included within the affected area.

~~(JJJ)~~(MMMM) "Permit year" means the year beginning on the date on which the permit was issued or the year beginning on any yearly anniversary of the permit issuance. Permit years are identified by sequence. For example, the permit year beginning on the date the permit was issued is the "first permit year," the permit year beginning on the first yearly anniversary of the permit is the "second permit year," and so on.

~~(KKKK)~~(NNNN) "Permittee" means a person holding or required by Chapter 1513. of the Revised Code to hold a permit.

~~(LLL)~~(OOOO) "Person" means ~~a person~~an individual, partnership, corporation, business trust, estate, trust, association or other legal entity, or any political subdivision, instrumentality or agency of the state ~~or~~of the United States.

~~(MMMM)~~(PPPP) "Person having an interest which is or may be adversely affected or person with a valid legal interest" means any person:

- (1) Who uses any resource of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or coal mining and reclamation operations or any related action of the chief; or
- (2) Whose property is or may be adversely affected by coal exploration or coal

mining and reclamation operations or any related action of the chief.

~~(NNNN)~~(QQQQ) "Pit" or "strip mine pit" means that part of the operation prior to backfilling from which coal is being or has been removed from its natural state.

~~(RRRR)~~ "Point source discharge" means any discernible, confined or discrete conveyance from which a pollutant is, or may be, discharged to the waters of the state.

~~(OOOO)~~(SSSS) "Pollution abatement area" means that part or parts of the permit area which are causing or contributing to the base line pollution load, and which must be affected to bring about potential improvement of the base line pollution load, and which may include the immediate location of the discharge(s). The pollution abatement area shall include, to the extent practicable, areas within the permit area which are adjacent to and nearby the remaining operation and which also must be affected to reduce the pollution load of the pre-existing discharges, and may include the immediate location of the pre-existing discharges.

~~(PPPP)~~(TTTT) "Precipitation event" means a quantity of water resulting from drizzle, rain, snow, sleet, hail, or that quantity of water emanating from snow cover as snowmelt in a limited period of time.

~~(QQQQ)~~(UUUU) "Pre-existing discharge" means a discharge from surface or subsurface waters which is located on previously mined area as defined in this rule. This term shall include a pre-existing discharge that is relocated as a result of the implementation of best management practices in the permit.

~~(RRRR)~~(VVVV) "Previously mined area" means land affected by coal mining operations prior to August 3, 1977 that has not been reclaimed to the standards of Chapter 1513. of the Revised Code, as effective September 1, 1981 and thereafter.

~~(SSSS)~~(WWWW) "Prime farmland" means those lands that both:

- (1) Are defined by the secretary of agriculture in 7 C.F.R. 657; and
- (2) Have been historically used for cropland.

~~(TTTT)~~(XXXX) "Principal shareholder" means any person who is the record or beneficial owner of ten per cent or more of any class of voting stock.

~~(UUUU)~~(YYYY) "Probable hydrologic consequences" means the projected result of proposed coal mining and reclamation operations which may reasonably be

expected to change the quantity or quality of the surface and ground water, the flow, timing, or pattern of the surface and ground water, and the stream channel conditions on the permit area and adjacent area.

~~(VVVV)~~(ZZZZ) "Productivity" means the vegetative yield produced by a unit area for a unit of time.

~~(WWWW)~~(AAAAA) "Property to be mined" means the surface estates and mineral estates within the permit area. For those areas covered by underground workings, "property to be mined" means the mineral estates to be mined and the surface estates.

~~(XXXX)~~(BBBBB) "Public building" means any building that is owned by a public agency or used primarily for public business or meetings.

~~(YYYY)~~(CCCCC) "Public park" means an area or portion of an area dedicated or designated by any federal, state, or local agency primarily for public recreational use, whether or not such is limited to certain times or days, including any land leased, reserved, or held open to the public because of that use.

~~(ZZZZ)~~(DDDDD) "Public roadway" means a road which is:

- (1) Designated as a public road in the jurisdiction within which it is located;
- (2) Constructed in a manner consistent with other public roads within the jurisdiction within which it is located;
- (3) Regularly maintained with public funds; and
- (4) Subject to, and available for, substantial use by the public.

~~(AAAAA)~~(EEEE) "Publicly owned park" means a public park that is owned by a federal, state or local governmental entity.

~~(BBBBB)~~(FFFFF) "Reasonably available spoil" means spoil and suitable coal mine waste material generated by the remaining operation or other spoil or suitable coal mine waste material located in the permit area and in the immediate vicinity of the permit area that is accessible and available for use and that, when rehandled, will not cause a hazard to public safety or significant damage to the environment.

~~(CCCCC)~~(GGGGG) "Recharge capacity" means the ability of the soils and underlying

materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

(HHHHH) "Receiving water" means the specific water body of the waters of the state into which point and non-point sources flow.

~~(DDDDD)~~(IIII) "Reclamation" means those actions taken to restore mined land as required by Chapter 1513. of the Revised Code to a postmining land use approved by the chief.

~~(EEEE)~~(JJJJ) "Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. Magnitude of such events are as defined by the "National Weather Service Technical Paper No. 40, Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom. This technical report is available from NOAA's national weather service website <http://www.nws.noaa.gov/ohd/hdsc/currentpf.htm>.

~~(FFFF)~~(KKKK) "Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

~~(GGGG)~~(LLLL) "Remining" means conducting coal mining and reclamation operations which affect previously mined areas.

~~(HHHHH)~~(MMMM) "Remining NPDES permit" means a national pollutant discharge elimination system permit issued by the Ohio environmental protection agency for a discharge which is in compliance with the permit requirements of 33 U. S.C. section 1311(p).

~~(HHH)~~(NNNNN) "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.

~~(JJJ)~~(OOOOO) "Road" means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches and surface. The term includes any access or haul road constructed, used, reconstructed, improved, or maintained for use in coal exploration or within the affected area of coal mining and reclamation operations, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include ramps and routes of travel within the mining area or within spoil or coal mine waste disposal areas. The term may not include public roadways outside the permitted area, provided that

the public roadway was in existence prior to the application for the permit, the effect on the public roadway from mining use will be minor, and the public roadway is incidentally, rather than directly, part of the mining operation.

~~(KKKKK)~~(PPPPP) "Rules promulgated thereunder," "rules adopted thereunder," or "these rules" means all rules contained in Chapters 1501:13-1 to 1501:13-14 of the Administrative Code.

~~(LLLLL)~~(QQQQQ) "Runoff" means ~~precipitation that is not absorbed by the strata and may flow overland before entering the waters of the state~~ the overland flow caused by excess rainfall.

~~(MMMMM)~~(RRRRR) "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.

~~(NNNNN)~~(SSSSS) "Sediment" means undissolved organic and inorganic material transported or deposited by water.

~~(OOOOO)~~(TTTTT) "Sedimentation pond" means an impoundment used to remove solids from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

~~(PPPPP)~~(UUUUU) "Self-bond" means an indemnity agreement in a sum certain payable upon demand to the state executed by the permittee or applicant and by each individual and business organization capable of influencing and controlling the investment or financial practices of the permittee or applicant by virtue of his or her authority as an officer or ownership of all or a significant part of the permittee or applicant.

~~(QQQQQ)~~(VVVVV) "Shadow area" means the surface areas above the underground workings and surface areas that are within the angle of draw of such workings.

~~(RRRRR)~~(WWWWW) "Significant, imminent environmental harm to land, air or water resources" means:

- (1) An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life.
- (2) An environmental harm is imminent, if a condition, practice, or violation exists which:

(a) Is causing such harm; or

(b) May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under section 1513.02 of the Revised Code.

(3) An environmental harm is significant if that harm is appreciable and not immediately reparable.

~~(SSSSS)~~(XXXXX) "Slope" means average inclination of a surface, measured from the horizontal.

~~(TTTTT)~~(YYYYY) "Soil horizons" means contrasting layers of soils parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four master soil horizons are:

(1) "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;

(2) "E horizon." The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly differentiated from an underlying B horizon in the same sequum by color of higher value or lower chroma, by coarser texture, or by a combination of these properties;

(3) "B horizon." The layer that typically is immediately beneath the E horizon. This middle layer commonly contains more clay, iron, or aluminum than the A, E or C horizon; and

(4) "C horizon." The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

~~(UUUUU)~~(ZZZZZ) "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 such soils for use. Soil surveys must meet the standards of the national cooperative soil survey.

~~(VVVVV)~~(AAAAA) "Spoil" means overburden that has been removed during coal

mining operations, including underground development materials, but does not include topsoil.

~~(WWWWW)~~(BBBBBB) "Stabilize" means any method used to control movement of soil, spoil piles, or areas of disturbed earth and includes, but is not limited to, increasing bearing capacity, increasing shear strength, draining, compacting or revegetating.

~~(XXXXXX)~~(CCCCCC) "Subirrigation" means the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation.

~~(YYYYYY)~~(DDDDDD) "Subsoil" means the B and C horizons or, in instances where the area has been disturbed by agricultural practices, that soil below the soil ordinarily moved in the tillage or its equivalent in uncultivated soil.

~~(ZZZZZ)~~(EEEEEE) "Substantial legal and financial commitments in a coal mining operation" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or of the right to mine it without an existing mine, as described in the above example, alone are not sufficient to constitute substantial legal and financial commitments.

~~(AAAAAA)~~(FFFFFF) "Substantially disturb" means, for purposes of coal exploration, to affect significantly land or water resources by blasting, by removal of vegetation, topsoil, or overburden, by construction of roads or other access routes, by placement of excavated earth or waste material on the natural land surface, or by other such activities.

~~(BBBBBB)~~(GGGGGG) "Support facilities" means those facilities resulting from or incident to coal mining and reclamation operations and the areas upon which such facilities are located. Support facilities may consist of, but are not limited to, the following facilities: mine buildings; bathhouses; coal loading facilities, coal crushing facilities; coal sizing facilities; coal storage facilities, equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; facilities used to treat and store water for mine consumption; and railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities, but not including public roads. "Resulting from or incident to" an activity connotes an element of proximity to that activity.

~~(CCCCCC)~~(HHHHHH) "Surety bond" means an indemnity agreement in a sum certain

payable only to the state, executed by the permittee or applicant as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in this state.

~~(DDDDDD)~~(IIIII) "Surface mining operations" means those 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.

~~(EEEEEE)~~(JJJJJ) "Surface water" means water, either flowing or standing on the surface of the earth.

~~(FFFFFF)~~(KKKKKK) "Surveyor" means a professional surveyor registered in accordance with the requirements of Chapter 4733. of the Revised Code.

~~(GGGGGG)~~(LLLLLL) "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 C.F.R. part 136).

~~(HHHHHH)~~(MMMMMM) "Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or coal mining and reclamation operations and not approved by the chief to remain after reclamation as part of the approved postmining land use.

~~(HHHH)~~(NNNNNN) "Temporary impoundment" means an impoundment used during coal mining and reclamation operations, but not approved by the chief to remain as part of the approved postmining land use.

~~(JJJJJ)~~(OOOOOO) "Topsoil" means the A and E horizon layers, or in instances in which the area has been disturbed by agricultural practices, the soil ordinarily moved in tillage, or its equivalent in uncultivated soil.

~~(KKKKKK)~~(PPPPPP) "Toxic forming materials" means earth materials or wastes having a pH of less than 4.0 or a calcium carbonate deficiency of five tons or more per one thousand tons of material. By order of the chief, such other earth materials or wastes shall be designated toxic 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.

~~(LLLLLL)~~(QQQQQQ) "Toxic-mine drainage" means water that is discharged from

active or abandoned mines and other areas affected by coal mining operations and which contains a substance which, 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.

~~(MMMMMM)~~(RRRRRR) "Trust fund" means money, securities or other property held by a trustee for the benefit of the state that is devoted to the purpose of providing assurance that funds will be available when needed to comply with Chapter 1513. of the Revised Code and rules adopted thereunder and that irrevocably establishes the state as the primary beneficiary.

~~(NNNNNN)~~(SSSSSS) "Unanticipated event or conditions" as used in rule 1501:13-5-01 of the Administrative Code, means an event or condition related to prior mining activity which arises from a surface coal mining and reclamation operation on lands eligible for remining and was not contemplated in the applicable permit.

~~(OOOOOO)~~(TTTTTT) "Underground development waste" means waste-rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed of from underground workings in connection with underground mining operations.

~~(PPPPPP)~~(UUUUUU) "Underground mining operations" means underground mining surface operations and underground workings.

~~(QQQQQQ)~~(VVVVVV) "Underground mining surface operations" means the 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 hoists and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed.

~~(RRRRRR)~~(WWWWWW) "Underground workings" means 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.

~~(SSSSSS)~~(XXXXXX) "Unwarranted failure to comply" means the failure of the permittee to prevent the occurrence of any violation of the permit or any requirement of Chapter 1513. of the Revised Code or these rules, due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or Chapter 1513. of the Revised Code or these rules due to indifference, lack of diligence, or lack of reasonable care.

~~(TTTTTT)~~(YYYYYY) "Valid existing rights" means: a set of circumstances under which a person demonstrates compliance with the standards under paragraph (A) or (B) of rule 1501:13-3-01 of the Administrative Code and may, subject to the chief's approval, conduct coal mining operations on lands where division (D) of section 1513.073 of the Revised Code or rule 1501:13-3-03 of the Administrative Code would otherwise prohibit such operations.

~~(1) Except for haul roads:~~

~~(a) Those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document which authorizes the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, to produce coal by a mining operation; and~~

~~(b) The person proposing to conduct coal mining operations on such lands either:~~

~~(i) Had been validly issued, on or before August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or~~

~~(ii) Can demonstrate to the chief that the coal is both needed for, and immediately adjacent to, an ongoing coal mining operation for which all mine plan approvals and permits were obtained prior to August 3, 1977.~~

~~(2) For haul roads:~~

~~(a) A right of way or easement recorded prior to August 3, 1977, or a coal mining permit issued prior to August 3, 1977; or~~

~~(b) Any road in existence as of August 3, 1977.~~

~~(3) Where an area comes under the protection of division (D) of section 1513.073 of the Revised Code, valid existing rights shall be found if, on the date the protection comes into existence, a validly authorized coal mining operation exists on that area.~~

~~(4) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining operations for which the applicant claims a valid existing right;~~

~~(5) Valid existing rights do not mean mere expectation of a right to conduct surface coal mining or the right to conduct underground coal mining. Examples of rights which alone do not constitute valid existing rights include, but are not limited to, coal exploration permits or licenses, applications or bids for leases, or when a person has only applied for a permit.~~

~~(UUUUUU)(ZZZZZZ)~~ "Valley fill" means a fill structure consisting of any material, other than 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, or where the average slope of the profile of the existing valley from the toe of the fill to the top of the fill is greater than ten degrees.

~~(VVVVVV)(AAAAAAA)~~ "Violation notice" means any written notification from a governmental entity of a violation of law or rule whether by letter, memorandum, legal or administrative pleading, or other written communication.

~~(WWWWWW)(BBBBBBB)~~ "Water table" means the upper surface of a zone of saturation where the body of ground water is not confined by an overlying impermeable zone.

~~(CCCCCCC)~~ "Water quality standards" means the rules set forth in Chapter 3745-1 of the Administrative Code establishing stream use designations and water quality criteria protective of such uses for the surface waters of the state.

~~(XXXXXXX)(DDDDDDD)~~ "Willful violation" means an act or omission which violates a provision of Chapter 1513. of the Revised Code or these rules, other applicable state or federal laws, or a condition of a permit, committed by a person who intends the result which actually occurs.

~~(YYYYYYY)(EEEEEEE)~~ For dates of federal rules and federal laws referenced in this rule, see rule 1501:13-1-14 of the Administrative Code.

~~(1) The Code of Federal Regulations (CFR) references listed in these rules are those published in the July 1, 2008 CFR. These regulations can generally be found in public libraries or electronically at the website <http://www.gpoaccess.gov/index.html>.~~

~~(a) 7 CFR Part 657.~~

~~(b) 30 CFR 77.216, 77.216(a), 77.216-2(a), and 77.216-3.~~

~~(c) 30 CFR 710.12.~~

~~(d) 30 CFR 843.11.~~

- ~~(e) 30 CFR Chapter VII, Subchapter R.~~
 - ~~(f) 40 CFR Parts 122, 123, 136, and 434.~~
 - ~~(g) 43 CFR Parts 3480 to 3487.~~
- ~~(2) The federal laws listed in these rules can generally be found in public libraries or electronically at the website <http://www.gpoaccess.gov/index.html>. Titles 1 through 41 are based on the 2006 edition of the United States Code (U.S.C.), dated January 3, 2007. Titles 42 through 50 appendix are based on Supplement V of the 2000 edition of the U.S.C., dated January 3, 2006.~~
- ~~(a) The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., as amended.~~
 - ~~(b) The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa et seq.~~
 - ~~(c) The Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq., as amended.~~
 - ~~(d) The Bald and Golden Eagle Protection Act, 16 U.S.C. 668 et seq., as amended.~~
 - ~~(e) The Migratory Bird Treaty Act of 1918, 16 U.S.C. 703 et seq., as amended.~~
 - ~~(f) Section 5(a) of the Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq.~~
 - ~~(g) The Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as amended.~~
 - ~~(h) The Clean Water Act, 33 U.S.C. 1251 et seq.~~
 - ~~(i) Water pollution prevention and control effluent limitations, 33 U.S.C. 1311(p).~~
 - ~~(j) The Clean Air Act, 42 U.S.C. 7401 et seq.~~

Effective: 10/28/2010

R.C. 119.032 review dates: 06/11/2010 and 10/15/2015

CERTIFIED ELECTRONICALLY

Certification

10/18/2010

Date

Promulgated Under: 119.03
Statutory Authority: 1513.02
Rule Amplifies: 1513.01, 1513.02, 1513.07, 1513.073, 1513.16
Prior Effective Dates: 8/16/82 (Emer.), 11/15/82, 5/2/83 (Emer.), 8/16/83 (Emer.), 11/23/83 (Emer.), 2/1/84, 10/1/88, 12/27/90, 1/1/93, 11/27/93, 12/7/95, 3/31/97, 10/16/97, 4/15/04, 04/30/09