

**49-403. Definitions.** (a) "Minerals" means coal.

(b) "Overburden" means all of the earth and other materials which lie above a natural deposit of minerals and also means such earth and other material after removal from their natural state in the process of surface types of mining.

(c) "Operator" means any person, including any agency of state or local government, or any publicly owned utility or corporation, engaged in surface types of mining who disturbs more than 1/4 acre or who removes or intends to remove more than 100 tons of minerals or who removes overburden for the purpose of producing minerals, and such person shall be subject to the mined-land conservation and reclamation act and to all the requirements of such act and rules and regulations which may be adopted pursuant thereto for the purpose of qualifying to administer the regulatory programs adopted by the United States department of interior, office of surface mining reclamation and enforcement, pursuant to the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto.

(d) "Operation" means all of the premises, facilities, roads and equipment used in the process of producing minerals from a designated surface mine area and removing overburden for the purpose of producing minerals.

(e) "Method of operation" means the manner by which the surface cut 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 minerals.

(f) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation or other business organization.

(g) "Reclamation and conservation" means the reconditioning of the area of land affected by surface types of mining under a plan approved by the secretary.

(h) "Secretary" means the secretary of the Kansas department of health and environment.

(i) "Pit" means the place where minerals are being or have been mined by surface mining.

(j) "Department" means the Kansas department of health and environment.

(k) "Abandoned mines" means mined land where mining operations were completed prior to such mining operations being subject to the provisions of this act or the national surface mining control and reclamation act of 1977 (public law 95-87).

(l) "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 secretary determines that they are in compliance with performance standards of this act.

(m) "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 requirement of this act 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 such 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 conditions or practices giving rise to the peril, would not expose oneself to the danger during the time necessary for abatement.

(n) "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the secretary.

(o) "Permit area" means the area of land indicated on the approved map submitted by the operator with the operator's application, which area of land shall be covered by the operator's bond as required by this act and shall be readily identifiable by appropriate markers on the site.

(p) The term "prime farmland" shall have the same meaning as that previously prescribed by the federal secretary of agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically have been used for intensive agricultural purposes, and as published in the federal register.

(q) "Surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this act.

(r) "Surface coal mining operations" or "surface mining" means:

(1) 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. 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 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 at or near the mine site.

(2) The areas upon which such activities occur or where such activities disturb the natural land surface. Such 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 such 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 such activities.

(s) "Unwarranted failure to comply" means the failure of an operator to prevent the occurrence of any violation of the operator's permit or any requirement of this act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the act due to indifference, lack of diligence, or lack of reasonable care.

(t) "Geologist" means a person engaged in the practice of geology who is a graduate of an institution of higher education accredited by a regional or national accrediting agency, who has a minimum of 30 semester or 45 quarter hours of undergraduate or graduate work in geology and whose post-baccalaureate training has been in geology.

(u) "Geology" means the science which treats of the earth in general, the earth's processes and its history; which investigates the earth's crust and the rocks and other materials which compose it; and the applied science of utilizing knowledge of the earth's history, processes, constituent rocks, minerals, liquids, gasses and other materials for the use of mankind.

**History:** L. 1968, ch. 395, § 3; L. 1974, ch. 229, § 8; L. 1978, ch. 208, § 2; L. 1979, ch. 169, § 1; L. 1981, ch. 213, § 1; L. 1987, ch. 204, § 1; L. 1988, ch. 192, § 7; July 1.