

## SUBTITLE D

**TITLE 35: ENVIRONMENTAL PROTECTION**  
**SUBTITLE D: MINE RELATED WATER POLLUTION**  
**CHAPTER I: POLLUTION CONTROL BOARD**

**PART 402**  
**DEFINITIONS**

**Section**

402.100 Terms Defined Elsewhere  
402.101 Definitions

402.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527; amended in R84-29 at 11 Ill. Reg. 12890, effective July 27, 1987; amended in R18-24 at 43 Ill. Reg. 11580, effective September 25, 2019.

**Section 402.100 Terms Defined Elsewhere**

Unless otherwise stated or unless the context clearly indicates a different meaning, the definition of terms used in Subtitle D are the same as those found in the Illinois Environmental Protection Act [415 ILCS 5] (Act), 35 Ill. Adm. Code Subtitle C, Chapter I, and the Federal Water Pollution Control Act of 1972 (FWPCA) (33 USC 1251).

(Source: Amended at 43 Ill. Reg. 11580, effective September 25, 2019)

**Section 402.101 Definitions**

For purposes of this Subtitle D, the following terms are defined:

"Abandon": to transfer ownership of or to close down mining activities, a mine or mine refuse area with no intention by the operator to reopen the affected land. A mine or mine refuse area that has been inoperative for one year is rebuttably presumed abandoned.

"Acid or Ferruginous Mine Drainage": mine drainage that, before any treatment, has a pH of less than 6.0 or a total iron concentration greater than 10 mg/L.

"Acid-producing Material": material that, when exposed to air and water, may cause drainage containing sulfuric acid. In determining whether material is acid-producing, consideration must be given to the sulfur

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content of the material, the size and spatial distribution of pyritic compounds and other compounds of sulfur, the neutralizing effect of surrounding intermixed materials, and the quality of drainage produced by mining on sites with similar soils.

"Affected Land": any land owned, controlled, or otherwise used by the operator in connection with mining activities, except the surface area above underground mine workings that is not otherwise used for mining activities. The term does not include offsite office buildings and farming operations or recreational activities on undisturbed land. Land described in a certificate of abandonment issued by the Agency under 35 Ill. Adm. Code 405.110(e) is no longer part of the affected land.

"Alkaline Mine Drainage": mine drainage that, prior to treatment, has a pH equal to or greater than 6.0 and a total iron concentration of less than 10 mg/L.

"Aquifer": *saturated (with groundwater) soils and geologic materials that are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients.* [415 ILCS 55/3(b)]

"Base Flow": any flow that is not a result of immediate runoff from precipitation. It includes groundwater flow, mechanical pumpages, springs, discharges from subsurface drainage systems, and controlled outfalls from other treatment works. It is normally any flow beyond 24 hours after the rainfall ceases.

"Coal Preparation Plant": a facility where coal is subjected to cleaning, concentrating, or other processing or preparation to separate coal from its impurities.

"Coal Preparation Plant Associated Areas": coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

"Coal Refuse Disposal Pile": any coal refuse permanently deposited on the earth or stored for more than 180 days. It does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

"Coal Transfer Facility" or "Coal Storage Yard": any area where coal is transferred from one mode of transportation to another or where coal is dumped, piled, stored or blended. The term includes coal docks, blending yards, conveyor belts and pipelines. As used in this Subtitle D, the terms

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mining activity and mine related facility include coal transfer facilities and coal storage yards.

"Construction Authorization": authorization under 35 Ill. Adm. Code 403.104 to prepare land for mining activities or to construct mine related facilities. Construction authorization is issued to a person who holds or is required to have a National Pollutant Discharge Elimination System (NPDES) permit.

"Construction Permit": a State permit issued under 35 Ill. Adm. Code 404.101 that allows the operator to prepare land for mining activities or to construct mine related facilities.

"Controlled Surface Mine Drainage": any surface mine drainage that is pumped or siphoned from a mine area or mined area.

"Domestic Retail Sales Yard": a business that stockpiles coal or other minerals solely to supply homeowners, small businesses, small industries or other institutions with minerals for individual consumption. The term does not include any sales yard located at a mine.

"Drainage Course": any natural or man-made channel or ditch that directs the flow of water into a natural waterway.

"Facility": a contiguous area of land, including all structures above or below the ground, owned or controlled by one person.

"Mine Area" or "Mined Area": the surface and subsurface land where mining has occurred or is occurring. The term does not include the unmined surface land directly above underground mine workings that is not otherwise disturbed by mining activities.

"Mine Discharge": any point source discharge, whether natural or man-made, from a mine related facility. Such discharges include mechanical pumpages, pit overflows, spillways, drainage ditches, seepage from mine or mine refuse areas, and effluent from processing and milling or mineral preparation plants. Other discharges including sanitary sewers and sewage treatment works are not mine discharges. The term mine discharge includes surface runoff discharged from a sedimentation pond but does not include non-point source mine discharges.

"Mine Refuse": gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded that results from cleaning and preparation of mined materials at a preparation plant or washery. It includes sludge or other precipitated

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matter produced by the treatment of acid mine drainage but does not generally include sediment from alkaline mine drainage. The term also includes acid-producing spoil.

"Mine Refuse Area": any land used for dumping, storing or disposing of mine refuse.

"Mine Refuse Pile": any deposit of solid mine refuse intended for permanent disposal.

"Mine Related Facility": a portion of a facility that is related to mining activities. The term includes the following:

Affected land;

Coal storage yard or transfer facility;

Mine;

Mine drainage treatment facility;

Mine refuse area; and

Processing or mineral preparation plant.

"Mining": the surface or underground extraction or processing of natural deposits of coal, clay, fluorspar, gravel, lead bearing ores, peat, sand, stone, zinc bearing ores or other minerals using any mechanical operation or process. The term also includes recovering or processing minerals from a mine refuse area. It does not include drilling for oil or natural gas.

"Mining Activities": all activities on a facility that directly further mining, including activities before, during and after mining. The term does not include land acquisition, exploratory drilling, surveying and similar activities. The term includes the following:

Preparation of land for mining activities;

Construction of mine related facilities that could generate refuse, result in a discharge or have the potential to cause water pollution;

Ownership or control of a mine related facility;

Ownership or control of a coal storage yard or transfer facility;

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Generation or disposal of mine refuse;

Mining;

Opening a mine;

Production of a mine discharge or non-point source mine  
discharge;

Surface drainage control; and

Use of acid-producing mine refuse.

"Mountaintop Removal": surface coal mining and reclamation operations that remove entire coal seams running through the upper fraction of a mountain, ridge, or hill by removal of all of the overburden and create a level plateau or gently rolling contour with no highwalls remaining.

"New Source Coal Mine": a coal mine, including an abandoned mine that is being remined, at which:

Construction commenced after May 4, 1984; or

A major alteration has resulted in a new, altered or increased discharge of pollutants. Major alterations are:

Extraction from a coal seam not previously extracted by that mine;

Discharge into a drainage area not previously affected by wastewater discharge from that mine;

Extensive new surface disruption at the mining operation;  
and

Construction of a new shaft, slope or drift.

"Non-point Source Mine Discharge": surface runoff from the affected land. The term does not include surface runoff discharged from a sedimentation pond or seepage from a mine or mine refuse area.

"Opening a Mine": any construction activity related to preparation for mining on a facility.

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"Operating Permit": a State permit required of a person carrying out mining activities.

"Operator": a person who carries out mining activities.

"Permittee": a person who holds a State or NPDES permit issued under Subtitle D. In some contexts, the term permittee also includes a permit applicant.

"Person": any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns.

"Processing or Mineral Preparation Plant": a facility used to size or separate coal, clay, fluorspar, gravel, lead bearing ores, peat, sand, stone, zinc bearing ores, or other materials from the ore or raw mineral.

"Reclamation Area": the surface area of a coal mine returned to the contour required by permit and on which revegetation work has begun.

"Slurry": mine refuse separated from the mineral in the cleaning process, consisting of readily pumpable fines and clays and other materials in the preparation plant effluent. This term includes mill tailings.

"Spoil": the accumulation of excavated overburden or other earth, dirt or rock overlying the mineral seam or other deposit excavated from its original location by surface or underground mining.

"State Permit": a construction permit or operating permit issued by the Agency. NPDES permits are not State permits.

"Steep Slope": any slope of more than 20 degrees.

"Surface Drainage Control": control of surface water on the affected land by a person engaging in mining activities. Control of surface water includes diverting surface waters around or away from the active mining area or mine refuse area and diverting, redirecting or impounding a stream or impounding water to augment flow or control release of effluents.

"Surface Mining": mining conducted in an open pit, including area and contour strip mining.

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"Underground Mining": mining conducted below the surface by means of constructing an access facility to the mineral deposit. The term includes slope, drift, shaft mines and auger or punch mining.

"Use of Acid-producing Mine Refuse": use of acid-producing mine refuse includes any use, offer for sale, sale or offer for use in roadway projects, mine roads, mine yards or elsewhere.

(Source: Amended at 43 Ill. Reg. 11580, effective September 25, 2019)

**Section 402.APPENDIX A****REFERENCES TO PREVIOUS RULES**

The following table is provided to correlate previous Board rule numbers with current Illinois Administrative Code Section numbers.

Chapter 4, Mine Related Pollution Part II, Definitions	35 Ill. Adm. Code 402
Rule 200	Section 402.100
Rule 201	Section 402.101

(Source: Amended at 43 Ill. Reg. 11580, effective September 25, 2019)