

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
Subpart 1
GENERAL PROVISIONS

324.63501 Meanings of words and phrases defined in MCL 324.63502 and 324.63503.

Sec. 63501.

For the purposes of this part, the words and phrases defined in sections 63502 and 63503 have the meanings ascribed to them in those sections.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

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324.63502 Definitions; A to O.

Sec. 63502.

(1) "Agricultural land" includes any of the following as determined by the department of natural resources under this part or part 609 with the concurrence of the department of agriculture and rural development and the United States Department of Agriculture:

(a) Prime farmland, which is land that is determined to have the best combination of physical and chemical characteristics for producing food, feed, forage, and fiber crops and is also available for these uses, including cropland, pastureland, rangeland, forestland, or other land, but not urban built-up land or water. Prime farmland has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. Prime farmland is permeable to water and air. Prime farmland is not excessively erodible or saturated with water for a long period of time, and it either does not flood frequently or is protected from flooding.

(b) Unique farmland, which is land other than prime farmland that is determined to have value for the production of specific high-value food and fiber crops. Unique farmland has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields or both high quality and high yields of a specific crop when treated and managed according to acceptable farming methods. Unique farmland includes those areas containing organic soils producing vegetables and specialty crops; high-lying and relatively frost-free fruit sites; and areas of high water table acid soils especially suited to highbush blueberry culture as well as the areas in the Upper Peninsula copper country that are producing strawberries.

(c) Other farmland, which is land other than prime farmland and unique farmland that is determined to have a combination of soils, location, and management characteristics that is producing or can produce in or for a region food, feed, forage, and fiber crops and is land on which agriculture represents the greatest current economic return from the land. Other farmland includes beef cow-calf operations that occur on generally fine-textured, somewhat poorly drained soils well-suited to forage production and grazing. Other farmland includes cropland areas that by their location are especially suited for the production of disease-free seed crops or that offer special opportunities for integrated best management programs.

(2) "Applicant" means a person applying for a permit from the department to conduct surface coal mining activities or underground coal mining activities pursuant to this part.

(3) "Approximate original contour" means that surface configuration achieved by the 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.

(4) "Coal" means all forms of coal including lignite. Coal does not include clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal, and those minerals that occur naturally in liquid or gaseous form.

(5) "Coal exploration operation" means the substantial disturbance of the surface or subsurface for the purpose

of or related to determining the location, quantity, or quality of a coal deposit.

(6) "Department" means the department of environmental quality.

(7) "Eligible land and water" means all land that was mined for coal or was affected by that mining, wastebanks, coal processing, or other coal mining processing, and abandoned or left in an inadequate reclamation status under the standards provided in subparts 3 and 4 prior to August 3, 1977, and for which there is not a continuing reclamation responsibility under state or federal law.

(8) "Historic resource" means a district, site, building, structure, or object of historical, architectural, archeological, or cultural significance that meets any of the following requirements:

(a) Is designated as a national historic landmark pursuant to the historic sites, buildings, and antiquities act, 54 USC 102303, 102304, 320101 to 320104, and 320106.

(b) Is listed on the national register of historic places pursuant to the national historic preservation act, 54 USC 300101, 300301 to 300305, 300307 to 300311, 300313 to 300320, 302101 to 302108, 302301 to 302304, 302501 to 302505, 302701 to 302706, 302901 to 302910, 303101 to 303103, 303901 to 303903, 304101 to 304112, 305501 to 305505, 306101 to 306114, 306121, 306122, 306131, and 307101 to 307108, or the state register of historic sites pursuant to the Governor John B. Swainson Michigan historical markers act, 1955 PA 10, MCL 399.151 to 399.160.

(c) Is recognized under a locally established historic district created pursuant to the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(d) Is eligible for listing, designation, or recognition under subdivisions (a) to (c).

(9) "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 part 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 reasonable person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(10) "Local unit of government" means a county, city, township, or village; a board, commission, or authority of a county, city, township, or village; or a soil conservation district.

(11) "Operator" means a person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any 1 location.

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Popular Name: Act 451

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324.63503 Definitions; P to U.

Sec. 63503.

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

(2) "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 is covered by the operator's bond required by section 63529 and is readily identifiable by appropriate markers on the site.

(3) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations or underground mining activities pursuant to this part.

(4) "Reclamation plan" means a plan submitted by an applicant which provides a plan for reclamation of the proposed surface coal mining operations pursuant to section 63518.

(5) "Soil conservation district" means a soil conservation district established and operating pursuant to part 93.

(6) "Surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of those operations conducted in this state after August 3, 1977.

(7) "Surface coal mining operations" means:

(a) Activities conducted in this state on the surface of any land in connection with a surface coal mine or subject to the requirements of section 63532 incident to an underground coal mine. These 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 and any other areas impacted by the surface coal mining operation mining, the use 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.

(b) The areas on which activities described in subdivision (a) occur or where those activities disturb the natural

land surface, including adjacent land the use of which is incidental to those activities; all land 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 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 on which are sited structures or facilities; or other property or materials on the surface, resulting from or incident to those activities.

(8) "Surface mining control and reclamation act of 1977" means Public Law 95-87, 91 Stat. 445.

(9) "Title IV of the surface mining control and reclamation act of 1977" means title IV of Public Law 95-87, 30 U.S.C. 1231 to 1243.

(10) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of this part due to indifference, lack of diligence, or lack of reasonable care or the failure to abate any violation of his or her permit or this part due to indifference, lack of diligence, or lack of reasonable care.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.63504 Assumption by state of exclusive jurisdiction over regulation of surface coal mining and reclamation operations in state; purpose of part.

Sec. 63504.

Pursuant to the authority granted in section 503 of title V of the surface mining control and reclamation act of 1977, Public Law 95-87, 30 U.S.C. 1253, that allows a state to assume and retain exclusive jurisdiction over the regulation of surface coal mining and reclamation operations within that state by obtaining approval of a state program that has the capability of implementing and enforcing the provisions and purposes of the surface mining control and reclamation act of 1977, this state wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations in this state. It is the purpose of this part to provide a state plan to implement and enforce the purposes provided in section 102 of title I of the surface mining control and reclamation act of 1977, Public Law 95-87, 30 U.S.C. 1202.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.63505 Exclusive jurisdiction of department over surface coal mining and reclamation operations in state; construction of part.

Sec. 63505.

The department has exclusive jurisdiction over all surface coal mining and reclamation operations in this state. This part shall not be construed as preempting a zoning ordinance enacted by a local unit of government or impairing a land use plan adopted pursuant to a law of this state by a local unit of government.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.63506 Powers of department.

Sec. 63506.

To implement this part, the department has the following powers:

(a) To promulgate and enforce rules pertaining to surface coal mining and reclamation operations consistent with the general intent and purposes of this part.

(b) To issue permits pursuant to this part.

(c) To conduct hearings pursuant to this part and the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(d) To issue orders requiring an operator to take actions that are necessary to comply with this part and with rules promulgated under this part.

(e) To issue orders modifying previous orders.

(f) To issue a final order revoking the permit of an operator who has failed to comply with an order of the department requiring the operator to take action required by this part or rules promulgated under this part.

(g) To order the immediate cessation of an ongoing surface mining operation or part of an ongoing surface mining operation if the department finds that the operation or part of the operation creates an imminent danger to the health and safety of the public, or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions.

(h) To enter on and inspect a surface mining operation that is subject to this part to assure compliance with this part.

(i) To conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise.

(j) To prepare and require permittees to prepare reports.

(k) To accept, receive, and administer grants pursuant to section 407(e) of title IV of the surface mining control and reclamation act of 1977 and accept, receive, and administer grants, gifts, loans, or other funds made available from any other source for the purposes of this part.

(l) To take those steps necessary to ensure that the state may participate to the fullest extent practicable in the abandoned land program provided in title IV of the surface mining control and reclamation act of 1977.

(m) To take those actions necessary to establish exclusive jurisdiction over surface coal mining and reclamation in this state under the provisions of this part and the surface mining control and reclamation act of 1977, including, in the event the federal administrative agency disapproves this state's program as submitted, making recommendations for remedial legislation to clarify, alter, or amend the program to meet the terms of the surface mining control and reclamation act of 1977.

(n) To enter into contracts with other state agencies that have pertinent expertise to obtain the professional and technical services necessary to implement this part.

(o) To establish a process, in order to avoid duplication, for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit process applicable to the proposed operations.

(p) To enter into cooperative agreements with the secretary of the United States department of the interior for the regulation of surface coal mining operations on federal land in accordance with the surface mining control and reclamation act of 1977.

(q) To perform any other duties and acts required by and provided for in this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.63507 Rules.

Sec. 63507.

(1) The department shall promulgate rules pertaining to surface coal mining and reclamation operations that are required by this part.

(2) A rule promulgated or a permit issued by the department may differ in its terms and provisions as to particular permit conditions, types of coal being extracted, particular areas of the state, or any other conditions that appear relevant and necessary if the action taken is consistent with attainment of the general intent and purposes of this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
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324.63508 Information submitted to department, other state agency, or local unit of government as public record; confidential information; rules.

Sec. 63508.

Except when confidentiality is provided in this part, information submitted to the department, other state agency, or local unit of government pursuant to this part shall be a public record as provided in the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. Information that pertains only to the analysis of the chemical and physical properties of coal, excepting information regarding such mineral or elemental content that is potentially toxic in the environment, or information that pertains to the exact location of archeological sites shall be kept confidential and is not a public record. The department shall promulgate rules establishing a procedure to determine whether information that pertains only to the analysis of the chemical and physical properties of the coal shall be kept confidential.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995
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