

805 KAR 8:010. Definitions for 805 KAR Chapter 8.

RELATES TO: KRS 351.025, 351.1041, 351.194

STATUTORY AUTHORITY: KRS 351.070(13)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.025(1) requires the Department of Mines and Minerals to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. KRS 351.025(2) requires the department to promulgate administrative regulations that establish comprehensive criteria for the imposition of penalties against licensed premises if an owner or part-owner intentionally orders mine safety laws to be violated that place miners in imminent danger of serious injury or death. KRS 351.070(13) authorizes the department to promulgate administrative regulations necessary to properly administer KRS 351.010 to 351.9901. This administrative regulation establishes the definitions of terms used in 805 KAR 8:010 to 805 KAR 8:060.

Section 1. Definitions. (1) "Certified mine foreman" or "foreman" means any person who has procured a certificate from the department to perform the work duties of a mine foreman or assistant mine foreman, either underground or surface.

(2) "Certified miner" or "certified personnel" means a miner, mine foreman, assistant mine foreman, electrician, shotfirer, underground or surface mining instructor, or mine emergency technician (MET).

(3) "Commission" means the Kentucky Mine Safety Review Commission.

(4) "Equivalent to the value of the wages received" means the average daily wages received by a noncertified person, during a specified period to be determined by the Mine Safety Review Commission, multiplied by the number of days for which the noncertified person has been fined.

(5) "First offense" means an individual's or entity's first intentional violation of, or order to violate, a mine safety law which places a miner in imminent danger of serious injury or death, as adjudicated by the Kentucky Mine Safety Review Commission.

(6) "Gross value of the production of the licensed premises" means the average sale price per ton of coal multiplied by the number of tons of coal produced at the mine where the first or subsequent offense occurred, during a specified period to be determined by the Mine Safety Review Commission, multiplied by the number of days for which the licensed premises has been fined.

(7) "Imminent danger" is defined by KRS 352.010(1)(p).

(8) "Intentional" or "intentionally" means, with respect to conduct or to a result, that a person's conscious objective is to engage in that conduct or cause that result.

(9) "Licensed premises" means any entity that has procured a license from the department to operate a coal mine.

(10) "Noncertified personnel" means any person in or around a coal mine who has not procured a certificate from the department to perform particular work duties.

(11) "Part owner" means a person or other entity with any ownership interest in a licensed premises, with the exception of persons who own less than a one (1) percent share of publicly-traded stock.

(12) "Serious injury" means an injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ, or mental faculty; or requiring medical intervention greater than first aid, such as surgery or hospitalization.

(13) "Subsequent offense" means any intentional violation of, or order to violate, a mine safety law which places a miner in imminent danger of serious injury or death, as adjudicated by the Kentucky Mine Safety Review Commission, and which occurs after the individual's or entity's first offense.

(14) "Willful" means voluntary and intentional. (28 Ky.R. 2127; 29 Ky.R. 713; eff. 9-16-2002; Crt eff. 6-27-2018.)