

### **351.010 Definitions for chapter -- Applicability.**

- (1) As used in this chapter, unless the context requires otherwise:
  - (a) "Adulterated specimen" means a specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration;
  - (b) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
  - (c) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
  - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
  - (e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;
  - (f) "Commissioner" means commissioner of the Department for Natural Resources;
  - (g) "Department" means the Department for Natural Resources;
  - (h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
  - (i) "Excavations and workings" means the excavated portions of a mine;
  - (j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
  - (k) "Gassy mine." All mines shall be classified as gassy or gaseous;
  - (l) "Illicit substances" includes prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs;
  - (m) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
  - (n) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
  - (o) "Medical review officer" or "MRO" means a licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, and the ability to verify positive, confirmed test results.

The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information;

- (p) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;
- (q) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (r) "Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;
- (s) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal. However, excavation of refuse from a coarse coal refuse fill for reprocessing of the refuse, which is permitted and bonded under KRS Chapter 350 and is regulated by the Mine Safety and Health Administration, shall not be required to obtain a license under this chapter;
- (t) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (u) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;
- (v) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any oncoming shift;
- (w) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (x) "Serious physical injury" means an injury which has a reasonable potential to cause death;
- (y) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (z) "Slope" means an inclined opening used for the same purpose as a shaft;
- (aa) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

- (ab) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
  - (ac) "Division" means the Division of Mine Safety;
  - (ad) "Director" means the director of the Division of Mine Safety;
  - (ae) "Probation" means the status of a certification or license issued by the Division of Mine Safety that conditions the validity of the certification or license upon compliance with orders of the Mine Safety Review Commission; and
  - (af) "Final order of the commission" means an order which has not been appealed to the Franklin Circuit Court within thirty (30) days of entry, or an order affirming the commission's order that has been entered by any court within the Commonwealth and for which all appeals have been exhausted.
- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 100, sec. 1, effective July 15, 2020. -- Amended 2017 Ky. Acts ch. 117, sec. 29, effective June 29, 2017. -- Amended 2015 Ky. Acts ch. 87, sec. 7, effective June 24, 2015. -- Amended 2012 Ky. Acts ch. 89, sec. 1, effective July 12, 2012. -- Amended 2006 Ky. Acts ch. 185, sec. 6, effective July 12, 2006; and ch. 241, sec. 8, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 123, sec. 56, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 355, sec. 1, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 149, sec. 3, effective March 20, 2001. -- Amended 2000 Ky. Acts ch. 104, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 308, sec. 1, effective April 9, 1996. -- Amended 1978 Ky. Acts ch. 301, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 8, sec. 17, effective December 22, 1976. -- Amended 1976 Ky. Acts ch. 174, sec. 1. -- Amended 1972 Ky. Acts ch. 298, sec. 1. -- Amended 1966 Ky. Acts ch. 255, sec. 257. -- Amended 1952 Ky. Acts ch. 162, sec. 1. -- Amended 1946 Ky. Acts ch. 120, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2739-1.

**Legislative Research Commission Note (4/9/96).** The action taken with respect to this statute by 1996 Ky. Acts ch. 308 was to have become effective April 8, 1996, under Section 51 of that Act. The Act, however, did not become effective until April 9, 1996, when the Governor's signed copy of the Act was filed with the Secretary of State.