

**40-10-18 Underground coal mining -- Rules regarding surface effects -- Operator requirements -- Repair or compensation for damage -- Replacement of water.**

- (1) The board shall adopt rules directed toward the surface effects of underground coal mining operations that incorporate the requirements provided in this section. In adopting any rules, the board shall consider the distinct difference between surface coal mining and underground coal mining methods.
- (2) Each permit relating to underground coal mining issued pursuant to this chapter shall require the operator to comply with this section.
- (3)
  - (a) Except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner, the operator shall adopt measures consistent with known technology to:
    - (i) prevent subsidence from causing material damage, to the extent technologically and economically feasible;
    - (ii) maximize mine stability; and
    - (iii) maintain the value and reasonably foreseeable use of the surface lands.
  - (b) Nothing in Subsection (3)(a) shall be construed to prohibit the standard method of room and pillar mining.
- (4) The operator shall seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations.
- (5) The operator shall fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible, the return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations.
- (6)
  - (a) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, the operator shall stabilize all waste piles created from current operations through construction in compacted layers, including the use of incombustible and impervious materials, if necessary.
  - (b) The operator shall assure that:
    - (i) the leachate will not degrade surface or ground waters below water quality standards established pursuant to applicable federal and state law;
    - (ii) the final contour of the waste accumulation will be compatible with natural surroundings; and
    - (iii) the site is stabilized and revegetated according to the provisions of this section.
- (7) In accordance with the standards and criteria developed pursuant to Section 40-10-17, the operator shall design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes that are used either temporarily or permanently as dams or embankments.
- (8) The operator shall establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover that is:
  - (a) capable of self-regeneration and plant succession; and
  - (b) at least equal in extent of cover to the natural vegetation of the area.
- (9) The operator shall protect offsite areas from damages which may result from the mining operations.
- (10) The operator shall eliminate fire hazards and other conditions which constitute a hazard to health and safety of the public.

- (11) The operator shall minimize the disturbances of the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quantity of water in surface and groundwater systems both during and after coal mining operations and during reclamation by:
- (a) avoiding acid or other toxic mine drainage by such measures as, but not limited to:
    - (i) preventing or removing water from contact with toxic-producing deposits;
    - (ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; or
    - (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;
  - (b) conducting surface coal mining operations to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall these contributions be in excess of requirements set by applicable state or federal law; and
  - (c) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.
- (12)
- (a) The standards established under Section 40-10-17 for surface coal mining operations shall apply to:
    - (i) the construction of new roads or the improvement or use of existing roads to gain access to the site of activities conducted on the surface of lands in connection with an underground coal mine and for haulage;
    - (ii) 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 activities conducted on the surface of land in connection with an underground coal mine; and
    - (iii) other surface impacts of underground coal mining not specified in this section.
  - (b) The division shall make the modification in the requirements imposed by Subsection (12)(a) as are necessary to accommodate the distinct difference between surface and underground coal mining methods.
- (13) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of these resources where practicable.
- (14) The operator shall locate openings for all new drift mines working acid producing or iron producing coal seams in a manner as to prevent a gravity discharge of water from the mine.
- (15)
- (a) Underground coal mining operations conducted after October 24, 1992, shall be subject to the requirements specified in Subsections (15)(b) and (c).
  - (b)
    - (i) The permittee shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and related structures or noncommercial building due to underground coal mining operations.
    - (ii) Repair of damage will include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and related structures or noncommercial building.
    - (iii) Compensation shall be provided to the owner of the damaged occupied residential dwelling and related structures or noncommercial building and will be in the full amount of the diminution in value resulting from the subsidence.
    - (iv) Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium prepaid insurance policy.

- (c) Subject to the provisions of Section 40-10-29, the permittee shall promptly replace any state-appropriated water in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.
- (d) Nothing in this Subsection (15) shall be construed to prohibit or interrupt underground coal mining operations.
- (e) Within one year after the date of enactment of this Subsection (15), the board shall adopt final rules to implement this Subsection (15).

Amended by Chapter 324, 2010 General Session