WEST VIRGINIA CODE: §22-4-3

§22-4-3. Definitions.

Unless the context in which it is used clearly requires a different meaning, as used in this article:

(1) "Abandoned quarry" or "abandoned quarry lands" means:

(A) A quarry which was operated and abandoned without proper reclamation prior to the effective date of this article; or

(B) A permitted quarry where no mineral has been produced or overburden removed for a period of at least six months and the permittee has vacated the site covered by the permit without having complied with all of the requirements of the permit.

Abandoned quarry lands does not mean a quarry which has been granted inactive status by the director and does not mean a quarry which has ceased operations and is in the process of stabilization and reclamation.

(2) "Backfill" means overburden, dirt, rock or other materials that are used as fill material to reduce steepness of slopes or to fill holes, depressions or excavations.

(3) "Berm" means a type of fill or pile used for a specific purpose other than excess spoil disposal; such purposes may include, but not necessarily be limited to drainage control, screening for noise control, screening for aesthetic value, or safety barriers; provided, however, that a berm of ten vertical feet or more at any point shall be designed and the construction certified by an approved person and provided further that any berm consisting of greater than twenty percent fines or nondurable rock must be protected from wind and water erosion.

(4) "Borrow pit" means an area from which soil or other materials are removed to be used, without further processing, as fill for activities such as landscaping, building construction or highway maintenance and construction.

(5) "Critical gradient" means the maximum stable inclination of an unsupported slope as measured from a horizontal plane.

(6) "Director" means the director of the Division of Environmental Protection and his or her authorized agents.

(7) "Disturbed area" means the land area from which the mineral is removed by quarrying and all other land area in which the natural land surface has been disturbed as a result of or incidental to quarrying activities of the operator, including private ways and private roads appurtenant to the area, land excavations, workings, refuse piles, product stockpiles, areas

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grubbed of vegetation, overburden, piles and tailings. The term does not include manufacturing sites or reclaimed quarry areas.

(8) "Division" means the Division of Environmental Protection.

(9) "Fill" means a side of hill fill or valley fill.

(10) "Inactive operation" means either:

(A) A permitted site where active work has ceased temporarily due to weather conditions, market conditions or other reasonable cause; or

(B) A permitted site where active quarrying has not yet begun.

(11) "Manufacturing" means the process of converting raw materials to salable products but does not include crushing or screening of minerals undertaken in close proximity to active quarrying operations.

(12) "Manufacturing site" means an area of land on which manufacturing occurs and associated areas.

(13) "Minerals" means natural deposits of commercial value found on or in the earth, whether consolidated or loose, including clay, flagstone, gravel, sand, limestone, sandstone, shale, chert, flint, dolomite, manganese, slate, iron ore and any other metal or metallurgical ore. The term does not include coal or topsoil.

(14)"Mulch" means any natural or plant residue, organic or inorganic material, applied to the surface of the earth to retain moisture and curtail or limit soil erosion.

(15) "Operator" means a person who engages in any activities regulated by this article and any rules promulgated hereunder, who as a result is required to hold a permit pursuant to the provisions herein.

(16)"Permit area" means the area of land indicated on the approved map submitted by the permittee and designated in the permit including the location of end strip markers, permit markers and monuments.

(17) "Permittee" means any person who holds a valid permit issued by the division to conduct quarrying activities pursuant to this article.

(18) "Person" means any individual, partnership, firm, society, association, trust, corporation, other business entity or any agency, unit or instrumentality of federal, state or local government.

(19) "Protected structure" means any of the following structures that are situated outside the permit area: An occupied dwelling, a temporarily unoccupied dwelling which has been

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occupied within the past ninety days, a public building, a structure for commercial purposes, a school, a church, a community or institutional building, a public park, spring box or, water well.

(20) "Quarrying" means any breaking of the ground surface in order to facilitate the extraction of minerals. Quarrying also includes any activity constituting all or part of a process for mineral extraction or removal from their original location as well as adjacent areas ancillary to the operation, including preparation and processing activities, storage areas and haulage ways, roads and trails. The term "quarrying" does not apply to manufacturing operations, including those operations adjacent to the permitted area where manufacturing is conducted.

(21) "Reclamation" means returning disturbed areas to a stable condition which does not create health or safety hazards or adverse environmental impact, and when appropriate or required by permit, returning disturbed quarry areas to a designated postmining land use.

(22)"Side of hill fill" means overburden, dirt or rock that is placed on a natural slope of more than twenty degrees.

(23)"Spoil pile" means overburden and waste material displaced by excavating equipment or other methods and placed on natural ground with an original slope of zero degrees to twenty degrees.

(24)"Surface of regraded bench" means the top portion or part of any regraded area.

(25)"Unreclaimed" means land which has not been stabilized, or if a permit has been issued pursuant to this enactment, land that has not been rehabilitated to a useful purpose in accordance with the quarrying and reclamation plan approved by the division.

(26)"Valley fill" means a fill structure consisting of material placed in a valley where the natural side slopes measured at the steepest point are greater than twenty degrees or the average slopes measured at the steepest point are greater than twenty degrees or the average slopes or the profile of the hollow are greater than twenty degrees.

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