

PART III

A. CIVIL AND CRIMINAL LIABILITY

1. Tampering

Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained or performed under this permit shall, upon conviction, be subject to penalties and/or imprisonment as provided by the AWPCA and/or the AEMA.

2. False Statements

Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished as provided by applicable State and Federal law.

3. Permit Enforcement

This NPDES permit is a permit for the purpose of the AWPCA, the AEMA and the FWPCA and as such all terms, conditions, or limitations of this permit are enforceable under State and Federal law.

4. Relief From Liability

Except as provided in Part II,A.,4. (Bypass) and Part II,A.,5. (Upset), nothing in this permit shall be construed to relieve the permittee of civil or criminal liability under the AWPCA, AEMA or FWPCA for noncompliance with any term or condition of this permit.

B. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the FWPCA, 33 U.S.C. §1321.

C. PROPERTY AND OTHER RIGHTS

This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, nor does it authorize or

approve the construction of any physical structures or facilities or the undertaking of any work in any waters of the State or of the United States.

D. AVAILABILITY OF REPORTS

Except for data determined to be confidential under Code of Alabama 1975, §22-22-9(c), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. Effluent data shall not be considered confidential. Knowingly making any false statement in any such report may result in the imposition of criminal penalties as provided for in Section 309 of the FWPCA, 33 U.S.C. §1319, and Code of Alabama 1975, §22-22-14.

E. DEFINITIONS

1. Abandoned mine - means a mine where mining operations have occurred in the past and the applicable reclamation bond or financial assurance has been released or forfeited or if no reclamation bond or other financial assurance has been posted, and no mining operations have occurred for five years or more.
2. Acid or ferruginous drainage - means any drainage which is not alkaline drainage.
3. Alabama Environmental Management Act (AEMA) - means Code of Alabama 1975, §§22-22A-1 et. seq., as amended.
4. Alabama Water Pollution Control Act (AWPCA) - means Code of Alabama 1975, §§22-22-1 et. seq., as amended.
5. Alkaline drainage - means drainage which before any treatment has a pH equal to or greater than 6.0 s.u. and a total iron concentration of less than 10.0 mg/l.
6. Bypass - means the intentional diversion of waste streams from any portion of a treatment facility.
7. Coal mine - means an area, on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from natural or artificial deposits, including active mining and reclamation.
8. Coal preparation plant - means a facility where coal is subjected to cleaning, concentrating or other processing or preparation in order to separate coal from its impurities.
9. Coal preparation plant associated areas - means the coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

10. Coal preparation plant water circuit - means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.
11. Coal refuse disposal pile - means any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the coal mine or coal refuse never removed from the coal mine.
12. Coal Remining Operation - means a coal mining operation which begins after the date of enactment of Section 301(p) of the FWPCA, 33 U.S.C. §1311(p), at a site on which coal mining was conducted before the effective date of the Federal Surface Mining Control and Reclamation Act of 1977.
13. Controlled surface mine drainage - means any surface mine drainage that is pumped or siphoned from a coal mine.
14. Daily average - means the arithmetic mean value of all sample results obtained during a calendar month. (Zero discharges shall not be included in the calculation of daily averages.)
15. Daily maximum - means the highest value of any individual sample result obtained during a day.
16. Daily minimum - means the lowest value of any individual sample result obtained during a day.
17. Day - means any consecutive 24-hour period.
18. Department - means the Alabama Department of Environmental Management.
19. Director - means the Director of the Department.
20. Discharge - means [t]he addition, introduction, leaking, spilling or emitting of any sewage, industrial waste, pollutant or other waste into waters of the state." Code of Alabama 1975, §22-22-1(b)(8).
21. Discharge monitoring report (DMR) - means the form approved by the Director to accomplish monitoring report requirements of an NPDES permit.
22. Existing source coal mine - means a coal mine which is not a new source coal mine.
23. Existing source coal preparation plant - means a coal preparation plant which is not a new source coal preparation plant.

24. Federal Water Pollution Control Act (FWPCA) - means 33 U.S.C. §§1251 et. seq., as amended.
25. Mountain top removal areas - means any surface coal mining area where the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden off of the bench, possibly excluding the toe of the lowest coal seam and associated overburden, and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting post-mining uses.
26. New source coal mine - means a coal mine including an abandoned mine which is being remined [excluding coal preparation plants and associated areas and coal remining operations which comply with the provisions of 301(p) of the FWPCA, 33 U.S.C. §1311(p)] the construction of which is commenced after May 24, 1984, or which has been subjected to a major alteration since May 24, 1984.
27. New source coal preparation plant - means a coal preparation plant the construction of which commenced after October 13, 1982.
28. Non-controlled surface mine drainage - means any surface mine drainage which is not controlled surface mine drainage.
29. 1-year, 24-hour precipitation event - means that amount of precipitation which occurs during the maximum 24-hour precipitation event with a probable recurrence interval of once in one year as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.
30. Permit Application - means forms and additional information that are required by ADEM Admin. Code R. 335-6-6-.08 and applicable permit fees.
31. Point source - means "any discernible, confined and discrete conveyance, including but not limited to any pipe, channel, ditch, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged." Section 502(14) of the FWPCA, 33 U.S.C. §1362(14).
32. Pollutant - includes for purposes of this permit, but is not limited to, those pollutants specified in Code of Alabama 1975, §22-22-1(b)(3) and those effluent characteristics, excluding flow, specified in Part I,A. of this permit.
33. Severe property damage - means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

34. Steep slope mining areas - means any mining area with a slope greater than 20°, provided however an area on which an occasional steep slope is encountered through which the mining operation is to proceed may be excluded.
35. 10-year, 24-hour precipitation event - means that amount of precipitation which occurs during the maximum 24-hour precipitation event with a probable recurrence interval of once in ten years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.
36. Treatment facility and treatment system - means all structures which contain, convey, and as necessary, chemically or physically treat coal mine drainage, coal preparation plant process wastewater, or drainage from coal preparation plant associated areas, which remove pollutants limited by this permit from such drainage or wastewater. This includes all pipes, channels, ponds, tanks, and all other equipment serving such structures.
37. 24-hour precipitation event - means that amount of precipitation which occurs within any 24-hour period.
38. 2-year, 24-hour precipitation event - means that amount of precipitation which occurs during the maximum 24-hour precipitation event with a probable recurrence interval of once in two years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.
39. Upset - means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit discharge limitations because of factors beyond the control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation, or a precipitation event.
40. Waters - mean "[a]ll waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless such waters are used in interstate commerce." Code of Alabama 1975, §22-22-1(b)(2). "Waters" include all "navigable waters" as defined in §502(7) of the FWPCA, 33 U.S.C. §1362(7), which are within the State of Alabama.
41. Week - means the period beginning at twelve midnight Saturday and ending at twelve midnight the following Saturday.

F. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

G. PROHIBITIONS AND ACTIVITIES NOT AUTHORIZED

1. Discharges from disposal or landfill activities as described in ADEM Admin Code R. Div. 335-13 are not authorized by this permit unless specifically approved by the Department.
2. Relocation, diversion, or other alteration of a water of the State is not authorized by this permit unless specifically approved by the Department.
3. Discharge of process waters from, or conducting any wet preparation or processing is not authorized by this permit unless specifically approved by the Department.