

any manipulation or modification of the surface that is designed to remain after the reclamation activity is completed, such as a relocated stream channel or diversion ditch.

Project means a delineated area containing one or more abandoned mine land problems. A project may be a group of related reclamation activities with a common objective within a political subdivision of a State or within a logical, geographically defined area, such as a watershed, conservation district, or county planning area.

Qualified hydrologic unit means a hydrologic unit:

(a) In which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

(b) That contains lands and waters which are:

(1) Eligible pursuant to Section 404 and include any of the first three priorities stated in Section 403(a); or

(2) Proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of a bond required under Section 509 or from other State sources) to mitigate acid mine drainage.

Reclaimed coal means coal recovered from a deposit that is not in its original geological location, such as refuse piles or culm banks or retaining dams and ponds that are or have been used during the mining or preparation process, and stream coal deposits. Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes.

Reclamation activity means the reclamation, abatement, control, or prevention of adverse effects of past mining.

Reclamation plan means a plan submitted and approved under part 884 of this chapter.

State Abandoned Mine Reclamation Fund or *State Fund* means a separate fund established by a State for the purpose of accounting for moneys granted by the Director under an approved State Reclamation Program and other moneys authorized by these regulations to be deposited in the State Fund.

State reclamation program means a program established by a State in accordance with this chapter for reclamation of lands and water adversely affected by past mining, including the reclamation plan and annual applications for grants.

Surface coal mining means the extraction of coal from the earth by removing the materials over the coal seam before recovering the coal and includes auger coal mining. For purposes of subchapter R, reclaiming coal operations are considered surface coal mining.

Ton means 2,000 pounds avoirdupois (0.90718 metric ton).

Total moisture means the measure of weight loss in an air atmosphere under rigidly controlled conditions of temperature, time and air flow, as determined according to either § 870.19(a) or § 870.20(a).

Underground coal mining means the extraction of coal from the earth by developing entries from the surface to the coal seam before recovering the coal by underground extraction methods, and includes in situ mining.

Value means gross value at the time of initial bona fide sale, transfer of ownership, or use by the operator, but does not include the reclamation fee required by this part.

[47 FR 28593, June 30, 1982, as amended at 53 FR 19726, May 27, 1988; 59 FR 28168, May 31, 1994; 60 FR 9980, Feb. 22, 1995; 62 FR 60142, Nov. 6, 1997]

EFFECTIVE DATE NOTE: At 59 FR 60318, Nov. 23, 1994, in § 870.5, the definition of *Qualified hydrologic unit* was suspended in so far as it does not require a hydrologic unit to be both:

(1) Eligible pursuant to Section 404 and include any of the first three priorities stated in Section 403(a), and

(2) Proposed to be the subject of expenditures by the State (from amounts available from the forfeiture of a bond required under Section 509 or from other State sources) to mitigate acid mine drainage in order to be considered a qualified hydrologic unit.

§ 870.10 Information collection.

The collections of information contained in part 870 and the Form OSM-1 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1029-0090 and 1029-0063 respectively. The information will be

§ 870.11

used by the Office of Surface Mining Reclamation and Enforcement to determine whether coal mine operators are reporting accurate production figures and paying proper fees. Response is mandatory in accordance with Public Law 95-87. Public reporting burden for this collection of information is estimated to average 2 hours (1029-0090) and 16 minutes (1029-0063) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, room 640 N.C., 1951 Constitution Avenue NW., Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029-0063) or (1029-0090), Washington, DC 20503.

[59 FR 28169, May 31, 1994]

§ 870.11 Applicability.

The regulations in this part apply to all surface and underground coal mining operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(b) The extraction of coal for commercial purposes by surface coal mining operations which affects two acres or less during the life of the mine;

(c) The extraction of coal as an incidental part of Federal, State, or local government-financed highway or other construction;

(d) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the total tonnage of coal and other minerals removed for commercial use or sale

(1) In accordance with part 702 of this chapter for Federal program States and on Indian lands or

(2) In any twelve consecutive months in a State with an approved State program until counterpart regulations pursuant to part 702 of this chapter have been incorporated into the State program and in accordance with such

30 CFR Ch. VII (7-1-00 Edition)

counterpart regulations, thereafter; and

(e) The extraction of less than 250 tons of coal within twelve consecutive months.

[47 FR 28593, June 30, 1982, as amended at 54 FR 52123, Dec. 20, 1989; 54 FR 52123, Dec. 20, 1989]

EFFECTIVE DATE NOTE: At 52 FR 21229, June 4, 1987, in § 870.11 paragraph (b) was suspended insofar as it excepts from the applicability of 30 CFR part 870:

(1) Any surface coal mining operations commencing on or after June 6, 1987; and

(2) Any surface coal mining operations conducted on or after November 8, 1987.

§ 870.12 Reclamation fee.

(a) The operator shall pay a reclamation fee on each ton of coal produced for sale, transfer, or use, including the products of in situ mining.

(b) The fee shall be determined by the weight and value at the time of initial bona fide sale, transfer of ownership, or use by the operator.

(1) The initial bona fide sale, transfer of ownership, or use shall be determined by the first transaction or use of the coal by the operator immediately after it is severed, or removed from a reclaimed coal refuse deposit.

(2) The value of the coal shall be determined F.O.B. mine.

(3) The weight of each ton shall be determined by the actual gross weight of the coal.

(i) Impurities that have not been removed prior to the time of initial bona fide sale, transfer of ownership, or use by the operator, excluding excess moisture for which a reduction has been taken pursuant to § 870.18, shall not be deducted from the gross weight.

(ii) Operators selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction.

(iii) Insufficient records shall subject the operator to fees based on raw tonnage data.

(c) If the operator combines surface mined coal, including reclaimed coal, with underground mined coal before the coal is weighed for fee purposes, the higher reclamation fee shall apply, unless the operator can substantiate the amount of coal produced by surface