



RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION

ADVISORY NOTICE

ADVISORY ID:
IN-EN-3(149)
(Former IN-EN-008)

REVISION NO.: 1

EFFECTIVE DATE:
January 14, 2005

SUBJECT: **Immediate Mining Area and Vehicular Pathways**

APPROVAL:

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TITLE: Director

I. PURPOSE

This Advisory Notice provides guidance regarding interpretation of the terms "**immediate mining area**," as contained in Section 701.008(71) of the Regulations, "**frequently used**," as contained in Section 12.400(a)(2)(B) of the Regulations, and a description of "**vehicular pathways**."

II. REGULATION REFERENCE

Coal Mining Regulations 12.3(149), 12.154, 12.327, and 12.400 thru 12.403

III. USE OF TERMS AND DEFINITIONS

- A. A road, as defined by §12.3(149) of the Regulations, explicitly excludes ramps and routes of travel within the **immediate mining area (IMA)** or within spoil or coal mine waste disposal areas. The term **immediate mining area** shall mean the area where surface-water drainage control exists (i.e., areas having drainage control as required in §12.340). Routes of travel constructed within the **immediate mining area** will be either:
1. consumed by mining;
 2. reclaimed; or
 3. have design plans submitted for approval as permanent postmine features prior to Phase I bond release
- B. The term **frequently used**, as contained in §12.400(a)(2)(B), shall mean a road traveled many times per day for a period in excess of six months. An ancillary road would be considered as traveled many times per day if its daily use requires management for control of fugitive dust.
- C. Limited-use **vehicular pathways** are not classified as roads, as defined in Section 12.3(149), if they meet all the following conditions:
1. have no improved roadbed (i.e., constructed crown, compacted road base, ditches and surface material which precludes vegetation);
 2. have no cross-drainage structures (e.g., culverts, pipes, bridges, etc.);
 3. are not located in and/or do not cross or ford any channel of an intermittent or perennial stream;
 4. have only limited clearing of woody vegetation (i.e., typically one vehicle width);
 5. are located to control erosion and siltation, water pollution, damage to public and private property, and to minimize additional contributions of suspended solids to streamflow or runoff outside the permit area; and limited to maintenance consisting of only the occasional filling of chuckholes or ruts so as to remain passable.

A limited-use **vehicular pathway** will be reclassified as a road if upgraded by construction activities such as blading, placement of a compacted surface, cut and fill of the natural grade, constructing drainage ditches, constructing low-water crossings, or installing drainage structures. The submittal and approval of plans and drawings in accordance with §12.154 and §§12.400 and 12.403 of the Regulations is required prior to upgrading and use of a limited-use **vehicular pathway**.

The disturbance created by a **vehicular pathway** is considered a mining related activity, and must be appropriately covered by a reclamation bond.

IV. ENFORCEMENT

The Surface Mining and Reclamation Division inspection and enforcement staff will evaluate the use of **vehicular pathways** and determine whether they meet the conditions as contained in this Advisory. If the **vehicular pathways** are used and/or constructed in a manner inconsistent with this Advisory and meet the definition of a road, the permittee or operator may be subject to the issuance of a notice of violation for operating on unapproved roads.