

400 KAR 4:110. Definitions for 400 KAR Chapter 4.

RELATES TO: KRS 146.220, 146.241, 146.250, 146.260, 146.270, 146.290, 146.310, 146.350, 146.360

STATUTORY AUTHORITY: KRS 146.270, 224.01-110, 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.270 authorizes the secretary to promulgate administrative regulations necessary for the preservation and enhancement of wild rivers as established in KRS 146.250, and for control of recreational, educational, scientific, and other uses of these areas in a manner that shall not impair them. Emphasis shall be given to protecting aesthetic, scenic, ecological, historic, archaeological, and scientific features of the areas. This administrative regulation establishes definitions for certain essential terms used in the wild rivers administrative regulations, 400 KAR Chapter 1, which are not clearly defined by their context.

Section 1. (1) "Access road" means that access constructed or improved to connect a permitted use within a wild river corridor to a public road system.

(2) "Acid-forming substance" means an earth substance that contains sulfide minerals or other materials that, if exposed to air, water, or weathering processes, forms acids that could create acid water.

(3) "Acid water" means drainage with a pH of less than six and zero-tenths (6.0) in which total acidity exceeds total alkalinity.

(4) "Adverse impact" means having a damaging, degrading, or destructive effect on a resource.

(5) "Agricultural use":

(a) Means the use of land for agricultural purposes such as farming, dairying, pasturage, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry; and

(b) Does not mean fruit, vegetable, and flower production for personal use.

(6) "Applicant" means the landowner who applies for a change of use permit to allow a change of land use within a wild river corridor.

(7) "Best management practices" means methods, measures, or practices to prevent or reduce water pollution, such as structural and nonstructural controls and operation and maintenance procedures that are applied before, during, or after pollution-producing activities to reduce or eliminate the introduction of pollutants into waterbodies.

(8) "Buffer zone" means an area of natural vegetation having a minimum width of not less than 100 feet, which is retained along each bank of a wild river to maintain aesthetics, bank stability, appropriate water temperatures, fish and wildlife habitat, and stream hydraulics, and to filter debris and waterborne pollutants from surface run-off.

(9) "Cabinet" means the Energy and Environment Cabinet.

(10) "Change of use permit" means a permit issued to a landowner by the office to authorize a change of land use within a wild river corridor.

(11) "Commercial service" means the use of a wild river corridor for monetary profit, such as for concessions, boat rentals, shuttle services, guided trips or tours, commercial boat docks, wharves, and other recreational facilities.

(12) "Conforming land use" means a land or resource use that conforms to the provisions and intent of the Kentucky Wild Rivers Act and the management plan developed pursuant to KRS 146.270 for a given wild river corridor.

(13) "Cultural character" means the condition, composition, or appearance of an archaeological or historical feature that contributes to its outstanding, unique, or otherwise significant value.

- (14) "Disturbed area" means an area having a manmade surface disturbance.
- (15) "Existing use" means a land use that is in existence at the time a wild river is designated by the Kentucky General Assembly.
- (16) "Flood plain" means the area in a watershed that is subject to flooding at least one (1) time in every 100 years.
- (17) "Kentucky Wild Rivers Act" means KRS 146.200 through 146.360.
- (18) "Landowner" means the owner of a property or an interest in a property conveyed by lease or other legal conveyance.
- (19) "Land use plan" means a plan of action submitted to the office as part of a change of use permit application.
- (20) "Log landing" means a collecting point for holding cut timber.
- (21) "Management plan" means the individual plan adopted by the office pursuant to KRS 146.270 as the official document guiding the management and protection of a given wild river corridor.
- (22) "Natural character" means the condition or appearance of an area or resources that are expected to exist in nature undisturbed by human actions.
- (23) "Natural vegetation" means the species, or combinations of species, of plants that exist, or are expected to exist, in nature undisturbed by human actions.
- (24) "New land use" means a land use within a wild river corridor that is not in existence at the time a given wild river corridor is designated by the Kentucky General Assembly.
- (25) "Office" is defined by KRS 146.210(8).
- (26) "Operator" means the person, partnership, contractor, subcontractor, company, or corporation responsible for the construction, maintenance, operation, and reclamation of a permitted use.
- (27) "Permitted use" means a nonconforming land use within a wild river corridor that has been authorized by the office through the issuance of a change of use permit.
- (28) "Permittee" means a landowner who has obtained a change of use permit from the office.
- (29) "Produced water" means water and pollutants and combination thereof resulting, obtained, or produced from the exploration, drilling, or production of oil or gas.
- (30) "Professional forester" means a person holding a degree in forestry from a school with an accredited forestry program.
- (31) "Research plan" means a plan of action submitted to the office for approval prior to initiating a scientific study within a given wild river corridor.
- (32) "Resource removal" means exploration for, extraction, or removal of a natural resource such as coal, oil and gas, minerals, rock, gravel, sand, and soil.
- (33) "Secretary" means the Secretary of the Energy and Environment Cabinet.
- (34) "Selective cutting (of timber)" means the selective removal during one (1) entry of single trees from an area so that a specified minimum residual stocking level is retained and evenly distributed over the harvest area. The purpose of the cut is to create or maintain an uneven-aged stand of timber.
- (35) "Significant feature" means an outstanding, unique, rare, or otherwise significant aesthetic, scenic, botanical, zoological, geological, historical, archaeological, scientific, or recreational feature identified in the management plan or by the management agency as occurring within a given wild river corridor.
- (36) "Skid" means to transport logs by sliding or dragging along the ground.
- (37) "Skid trail" means a trail developed for the purpose of skidding logs from the stump to a log landing area.
- (38) "Slash" means the residue left after the economically usable portion of cut trees is re-

moved from a harvest area.

(39) "Structure":

(a) Means an aboveground object constructed, built, or installed for a change of use; and

(b) Does not mean sediment ponds, roads, or signs.

(40) "Surface disturbance" means any disturbance of the ground surface that involves the clearing of vegetation or excavation of soil, rock, or other materials occurring on or near the ground surface.

(41) "Surface mining":

(a) Means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter or any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, construction, or other use; and

(b) Does not mean those aspects of deep mining not having significant effect on the surface, and does not mean excavation or grading conducted solely in aid of on-site farming or construction.

(42) "Toxin-forming substance" means earth materials or wastes that, if exposed to air, water, weathering, or microbiological processes, are likely to produce conditions that are detrimental to biota or uses of water.

(43) "Underground mining" means those aspects of deep mining, including surface effects, involving any open pit or any underground workings from which minerals, ores, or other solid matter is removed for sale, exchange, commercial, or other use, and all shafts, drifts, or inclines leading thereto, including all buildings and equipment, above or below the surface of the ground, used in connection with these workings.

(44) "Visual intrusion" means resulting in the disruption, degradation, or impairment of the natural or primitive appearance of an area in a wild river corridor, as viewed from the river or other designated public use area, and includes any land use that does not remain visually subordinate to the characteristic landscape.

(45) "Watershed" means that area enclosed by a topographic divide from which direct surface run-off from precipitation normally drains by gravity into the stream above a specified point.

(46) "Wild river" or "wild river corridor" means a stream segment and adjacent shoreland within boundaries established in 400 KAR 4:100 that are designated in accordance with KRS 146.241.

(47) "Wild rivers system" means the collective wild rivers as designated in KRS 146.241. (15 Ky.R. 693; 991; eff. 10-26-1988; Recodified from 401 KAR 4:110, 12-21-2017; 45 Ky.R. 1789, 2610; eff. 4-5-2019.)