

405 KAR 5:015. General provisions.

RELATES TO: KRS 350.010(2), 350.240, 350.300

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.029, 350.240, 350.300

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part, requires the cabinet to promulgate administrative regulations pertaining to noncoal mineral operations to minimize their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth general provisions which apply to this chapter with regard to applicability, conflicting provisions, severability, obligations of mineral permittees, and the need for a preliminary walk.

Section 1. Applicability. (1) This administrative regulation designates 405 KAR Chapter 5 as applicable to mineral operations and any lands used, disturbed or redisturbed, in connection with, or to facilitate those mineral operations, or any other activity related to mineral operation development conducted on or after the effective date of these administrative regulations.

(2) Mineral operations subject to 405 KAR Chapter 5, include: mining of limestone and dolomite; mining of sand and gravel, surface disturbance of dredging of river or creek sand and gravel; mining of clay; mining of fluor spar and other vein minerals. Mineral operations include the surface disturbance of underground mining as well as strip mining.

(3) Except for the provision of Section 4(2) of this administrative regulation, 405 KAR Chapter 5 does not apply to the mining of coal.

Section 2. Conflicting Provisions. The provisions of 405 KAR Chapter 5 are to be construed as being compatible and complimentary with each other. If provisions within this chapter are found to be contradictory, the more stringent provisions shall apply.

Section 3. Severability. If any provision or administrative regulation of 405 KAR Chapter 5 is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

Section 4. General Obligations of Persons Engaged in Mineral Operations. (1) No person shall engage in a mineral operation or related activity without having obtained from the cabinet, a permit for the mineral being mined, as required and described under 405 KAR 5:030.

(2) No person shall remove and commercially use or sell coal from a mineral operation except where an exemption has been obtained under 405 KAR 7:035.

(3) A person engaged in a mineral operation, shall not throw, pile, dump, or permit, the throwing, piling, dumping, or otherwise placing of any: overburden, stones, rocks, shale, earth, soil; dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit; or push materials over out slopes in such a way that normal erosion or slides brought about by natural, physical, changes will permit the materials to go beyond or outside of the area of land, which is under permit.

(4) A person engaged in a mineral operation shall not engage in any activities, which will result in a condition or constitute a practice that, creates an imminent danger to the health or safety of the public.

(5) A person engaged in a mineral operation shall not engage in any activities which will result in a condition or constitute a practice that, causes or can reasonably be expected to cause significant, imminent environmental harm, to land, air, or water resources.

(6) Mineral operations shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal slurry pipelines; rail-

roads; electric and telephone lines; and water and sewage lines which pass over, under, or through the mineral operation, unless otherwise approved by the owner of these facilities and the cabinet.

(7) Upon development of any emergency conditions which threaten the life, health, or property of the public, a person engaged in a mineral operation shall immediately notify the person or persons whose life, health, or property are so threatened; shall take all reasonable actions to eliminate the condition creating the emergency, and shall immediately provide notice of the emergency conditions to the division, to local law enforcement officials, and to local government officials. Any emergency action taken by a person engaged in a mineral operation, pursuant to this paragraph, shall not relieve that person of other obligations under this chapter or of obligations under other applicable local, state, or federal laws and regulations.

(8) Compliance with the requirements of this chapter does not relieve any person engaged in a mineral operation from compliance with other applicable administrative regulations of the cabinet and other agencies. (21 Ky.R. 740; 1122; 2101; eff. 2-22-1995; Crt eff. 7-3-2018.)