

405 KAR 5:065. Premining and postmining land use.

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 provisions concerning land use decisions for noncoal mineral operations.

Section 1. General. All areas within the permit boundary to be reclaimed shall be restored:

(1) To conditions capable of supporting the uses which those areas supported prior to the mineral operation; or

(2) To conditions capable of supporting a reasonable, alternative land use, as approved by the cabinet under Section (2) of this administrative regulation.

Section 2. Land Use Selection. (1) The following is a list of land use categories to be applied under this administrative regulation. These land uses are defined under 405 KAR 5:001, as is the definition of land use:

- (a) Cropland;
- (b) Fish and wildlife;
- (c) Forest land;
- (d) Industrial/commercial;
- (e) Pastureland;
- (f) Recreation;
- (g) Residential; and
- (h) Permanent water impoundment.

(2) The premining land use selection, required under 405 KAR 5:030, shall be derived from the list of land uses established under subsection (1) of this section.

(3) The postmining land use selection, required under 405 KAR 5:030, shall be derived from the list of land uses established under subsection (1) of this section. The premining land use shall be strongly considered and be given the highest priority for the postmining land use selection.

(4) A land use for fish and wildlife shall be characterized by an intermixed combination of habitat types or vegetative types, such as a mix of forest land or woodlots, shrub/scrub areas, grass/legume areas, and wetland or open water areas, arranged in a manner as to maximize edge effect. In addition, the following specifications shall apply to a postmining land use selection for fish and wildlife:

(a) At least thirty (30) percent of the revegetated area shall be planted with trees and shrubs. The plantings may be arranged in clumps, blocks, or strips intermingled within open grass/legume areas.

(b) Plant species which provide special benefit as food or cover for wildlife shall be a central criteria for selection of plant species for revegetation.

(5) Various wildlife enhancement features and techniques may be allowed, if approved by the cabinet, for the fish and wildlife postmining land use, as well as the other land uses, such as:

- (a) Brush piles, not to exceed an aerial coverage of 2,800 square feet;
- (b) Windrowed brush;
- (c) Rock piles, not to exceed an aerial coverage of 300 square feet;
- (d) Permanent impoundments and other open water areas;
- (e) Food plots of small grains or similar crops; and
- (f) Bird houses or similar structures. (21 Ky.R. 763; 1136; eff. 2-22-1995; Crt eff. 7-3-2018.)