

350.090 Method of operation, grading, backfilling, and reclamation plans -- Funding from reclamation development fund -- Waste materials in permit area only -- Exclusions.

- (1) Under the provisions of this chapter and administrative regulations adopted by the cabinet, a permittee shall prepare and the permittee or operator shall carry out a method of operation, plan of grading and backfilling, and a reclamation plan for the area of land affected by his operation. The reclamation plan shall include a requirement to permanently remove all electrical distribution installations on the surface owned by the permittee, including poles, wires, attachments, and other appurtenances related to the delivery of electric service in the permit area, except where:
 - (a) The electrical distribution installations are being used or will be used by a local distribution entity to provide electrical service to persons other than the permittee at the permit area; or
 - (b) The cabinet specifically has approved the retention of the electrical distribution installations to facilitate the approved post-mining land use for the permit in the reclamation plan.
- (2) In developing a method of operation, and the plans of backfilling, grading, removing electric distribution poles and wires, and reclamation, all measures shall be taken to eliminate potential hazards from electrical distribution poles and wires to low-flying aircraft and damages to members of the public and their real and personal property, public roads, streams, and all other public property from soil erosion, rolling stones and overburden, water pollution, and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet, and the cabinet shall notify the applicant by certified mail, return receipt requested, within sixty-five (65) cumulative working days after receipt of a complete application whether the permit application is acceptable. If applicable notice, hearing, and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, not to exceed twenty (20) days from the completion of the notice, hearing, and conference procedures. If the permit application is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas, or reject the entire application. If the applicant disagrees with the decision of the cabinet, he or she may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 350.0305. The cabinet shall notify the applicant by certified mail, return receipt requested, within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 350.0305.
- (3) If the permittee desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the permittee shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

- (4) No permittee, operator, or person shall throw, dump, pile, or permit the dumping, piling, or throwing, or otherwise placing any overburden, stones, rocks, coal, particles of coal, 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 and for which bond has been posted under KRS 350.060 or place these materials in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.
- (5) The provisions of subsections (1) and (2) of this section pertaining to the removal of electric installations from the permit area shall not apply to electrical transmission lines, poles, wires, attachments, or other appurtenances related to electrical transmission.

Effective: July 15, 2014

History: Amended 2014 Ky. Acts ch. 140, sec. 1, effective July 15, 2014. -- Amended 2006 Ky. Acts ch. 37, sec. 3, effective July 12, 2006. -- Amended 1992 Ky. Acts ch. 304, sec. 4, effective July 14, 1992; and ch. 429, sec. 10, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 206, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 383, sec. 19, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 145, sec. 6, effective March 28, 1984. -- Amended 1980 Ky. Acts ch. 62, sec. 9 and ch. 114, sec. 98, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 330, sec. 17, effective May 3, 1978. -- Amended 1976 Ky. Acts ch. 341, sec. 1. -- Amended 1974 Ky. Acts ch. 315, sec. 74. -- Amended 1974 Ky. Acts ch. 74, Art. III, sec. 13(7); and ch. 315, sec. 74. -- Amended 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 68. -- Amended 1966 Ky. Acts ch. 4, sec. 12. -- Amended 1964 Ky. Acts ch. 61, sec. 4. -- Amended 1960 Ky. Acts ch. 143, sec. 5. -- Created 1954 Ky. Acts ch. 8, sec. 9.

Legislative Research Commission Note (7/15/2014). In codification, the Reviser of Statutes has corrected the misplacement of some of the language added to subsection (2) of this statute from the way it appeared in 2014 Ky. Acts ch. 140, sec. 1, under the authority of KRS 7.136(1)(h). Neither the added language nor the meaning was changed.

Legislative Research Commission Note (7/14/92). This section was amended by two 1992 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.