



# TEACHERS' RETIREMENT SYSTEM

of the State of Kentucky

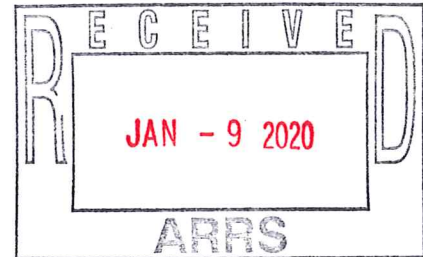
GARY L. HARBIN, CPA  
*Executive Secretary*

ROBERT B. BARNES, JD  
*Deputy Executive Secretary  
Operations and General Counsel*

J. ERIC WAMPLER, JD  
*Deputy Executive Secretary  
Finance and Administration*

January 9, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capital Annex  
Frankfort, KY 40601



RE: 102 KAR 1:035, 102 KAR 1:036, 102 KAR 1:037, 102 KAR 1:100,  
102 KAR 1:125, 102 KAR 1:135.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 102 KAR 1:035, 102 KAR 1:036, 102 KAR 1:037, 102 KAR 1:100, 102 KAR 1:125, and 102 KAR 1:135 the Teachers' Retirement System of the State of Kentucky proposes the attached amendment to 102 KAR 1:035, 102 KAR 1:036, 102 KAR 1:037, 102 KAR 1:100, 102 KAR 1:125, and 102 KAR 1:135.

Sincerely,

Robert B. Barnes  
Deputy Executive Secretary Operations  
& General Counsel  
Teachers' Retirement System  
479 Versailles Road  
Frankfort, Kentucky 40601

**Staff-suggested Amendment**

**Final Version 1/3/2020 8:12 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY TEACHERS' RETIREMENT SYSTEM**

**102 KAR 1:035. Employment by retired members; calculation of the Daily Wage Threshold and Average Daily Rate.**

**Page 1**

**Section 1(2)**

**Lines 16 and 17**

After "seventy-five", insert "(75)".

After "percent", delete "(75%)".

After "sixty-five", insert "(65)".

After "percent", delete "(65%)".

**Pages 1 and 2**

**Section 1(3)**

**Lines 20 and 1**

After "credit. It includes", delete ", but is not limited to,".

**Page 2**

**Section 1(3)**

**Line 2**

After "coaching, professional development", insert ",  ".

**Page 2**

**Section 2**

**Line 21**

After "multiplied by either", insert the following:

sixty-five (65) percent or seventy-five (75) percent

Delete "65% or 75%".

**Staff-suggested Amendment**

**Final Version 1/3/2020 8:14 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY TEACHERS' RETIREMENT SYSTEM**

**102 KAR 1:036. Part-time service for university, college, and community college members.**

**Page 1**

**Department paragraph**

**Line 2**

After "KENTUCKY", insert "TEACHERS".

Delete "TEACHER'S".

**Page 2**

**Section 1(5)**

**Line 7**

After "charges of eight", insert "(8)".

After "percent", delete "(8%)".

**Page 3**

**Section 2(7)**

**Line 1**

After "charges of eight", insert "(8)".

After "percent", delete "(8%)".

**Page 4**

**Section 3**

**Line 2**

After "Section 2(8) of this", insert "administrative".

**Staff-suggested Amendment**

**Final Version 1/3/2020 8:16 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY TEACHERS' RETIREMENT SYSTEM**

**102 KAR 1:037. Administrative staff membership.**

**Page 1**

**STATUTORY AUTHORITY paragraph**

**Line 6**

After "KRS", insert "161.220".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 7 and 8**

After "KRS 161.220(4)(d)", insert "authorizes".

Delete "provides that".

After "of Trustees", insert "to".

Delete "may".



**Staff-suggested Amendment**

**Final Version 1/3/2020 8:18 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY TEACHERS' RETIREMENT SYSTEM**

**102 KAR 1:100. Insurance.**

**Page 1**

**Title paragraph**

**Line 4**

After "1:100", insert "1".

After "Insurance", insert "1".

**Page 1**

**STATUTORY AUTHORITY**

**Line 6**

After "161.310", insert "161.675".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 7 and 8**

After "KRS 161.675", insert "authorizes".

Delete "provides that".

After "the trustees", delete "are authorized".

**Page 1**

**Section 1**

**Line 16**

After "benefit program", insert "that includes".

Delete the following:

including but not limited to

**Staff-suggested Amendment**

**Final Version 1/3/2020 8:20 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY TEACHERS' RETIREMENT SYSTEM**

**102 KAR 1:125. Omitted contributions.**

**Page 1**

**Title paragraph**

**Line 4**

After "1:125", insert "§".

After "contributions", insert "§".

**Page 1**

**STATUTORY AUTHORITY**

**Line 6**

After "161.310", insert ", 161.560".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 7 and 8**

After "KRS 161.560", insert "requires".

Delete "provides that".

After "Retirement System", insert "to".

Delete "shall".

**Staff-suggested Amendment**

**Final Version 1/3/2020 8:22 a.m.  
FINANCE AND ADMINISTRATION CABINET  
KENTUCKY RETIREMENT SYSTEM**

**102 KAR 1:135. Interest credited to accounts.**

**Page 1**

**Title paragraph**

**Line 4**

After "1:135", insert ".".

**Page 1**

**STATUTORY AUTHORITY paragraph**

**Line 6**

After "161.310", insert ", 161.440, 161.580".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 7**

After "KRS 161.440", insert "requires".

Delete "provides for".

**Page 1**

**Section 1**

**Line 15**

After "two and one-half", insert "(2.5)".

After "percent", delete "(2.5%)".



**Andy Beshear**  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

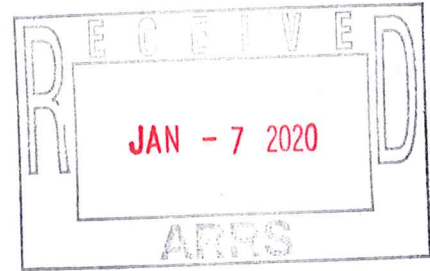
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**Holly M. Johnson**  
Secretary

**Thomas B. Miller**  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **103 KAR 1:120**. Employee access to Federal Tax Information (FTI).

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 1:120, the Department of Revenue proposes the attached amendment to 103 KAR 1:120.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs  
Cc: file

**Staff-suggested Amendment**

**Final Version 1/6/2020 3:26 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 1:120. Employee access to Federal Tax Information (FTI).**

**Page 1**

**Title paragraph**

**Line 4**

After "Employee", lowercase "access".

**Pages 1 and 2**

**Section 1(3)**

**Lines 20 and 1**

After "of those agencies", insert "who".

Delete "that".

**Page 2**

**Section 1(10)**

**Line 18**

After "means an employee", insert "who".

Delete "that".



Andy Beshear  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

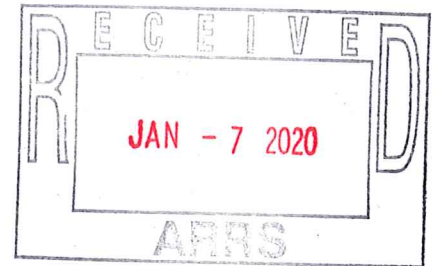
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Holly M. Johnson  
Secretary

Thomas B. Miller  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 103 KAR 8:170. Pollution control facilities exemption.

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 8:170, the Department of Revenue proposes the attached amendment to 103 KAR 8:170.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs  
Cc: file

**Staff-suggested Amendment**

**Final Version 1/7/2020 9:49 a.m.**

**FINANCE AND ADMINISTRATION CABINET**

**Department of Revenue**

**Office of Property Valuation**

**103 KAR 8:170. Pollution control facilities exemption.**

**Page 3**

**Section 3(2)(b)1.b.**

**Line 8**

After "control facility", delete "that an exemption certificate".

**Page 3**

**Section 4(2)**

**Line 19**

After "written request for", insert "a".



**Andy Beshear**  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

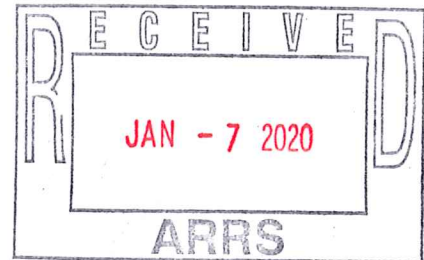
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**Holly M. Johnson**  
Secretary

**Thomas B. Miller**  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **103 KAR 31:080**. Coupons or redemption certificates.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 103 KAR 31:080, the Department of Revenue proposes the attached amendment to 103 KAR 31:080.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs  
Cc: file



**Staff-suggested Amendment**

**Final Version 1/6/2020 3:29 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 31:080. Coupons or redemption certificates.**

**Page 2**

**Section 2(2)**

**Lines 4 and 5**

After "exchange value in", insert "their".

Delete "his".

After "are redeemed from", insert "their".

Delete "his".



Andy Beshear  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

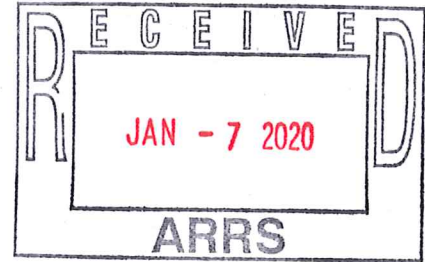
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Holly M. Johnson  
Secretary

Thomas B. Miller  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **103 KAR 31:200**. Energy efficiency projects.

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 31:200, the Department of Revenue proposes the attached amendment to 103 KAR 31:200.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs

Cc: file

**Staff-suggested Amendment**

**Final Version 1/6/2020 3:30 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 31:200. Energy efficiency projects.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 9**

After "KRS 139.710", insert "requires".

Delete "authorizes".



Andy Beshear  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

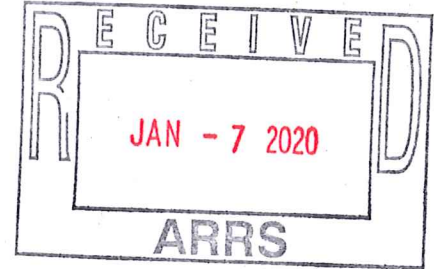
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Holly M. Johnson  
Secretary

Thomas B. Miller  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 103 KAR 40:010. Maintaining records.

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 40:010, the Department of Revenue proposes the attached amendment to 103 KAR 41:010.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs

Cc: file

**Staff-suggested Amendment**

**Final Version 1/6/2020 3:32 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 40:010. Maintaining records.**

**Page 1**

**Title paragraph**

**Line 4**

After "Maintaining", lowercase "Records".

**Page 1**

**Section 1**

**Line 12**

After "in alcoholic beverages", insert "shall".

Delete "must".



**Andy Beshear**  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

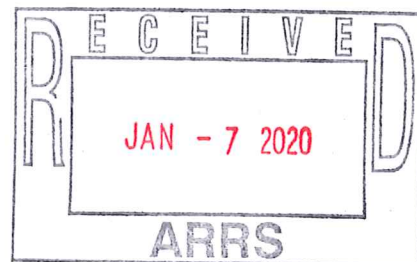
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**Holly M. Johnson**  
Secretary

**Thomas B. Miller**  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 103 KAR 41:040. Segregation of cigarettes.

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 41:040, the Department of Revenue proposes the attached amendment to 103 KAR 41:040.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs  
Cc: file

**Staff-suggested Amendment**

**Final Version 1/6/2020 3:34 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 41:040. Cigarette vending machine operators.**

**Page 2**

**Section 1**

**Line 14**

After "notification shall be given", insert "to".



Andy Beshear  
Governor

Commonwealth of Kentucky  
Finance and Administration Cabinet  
**DEPARTMENT OF REVENUE**  
**OFFICE OF TAX POLICY AND REGULATION**

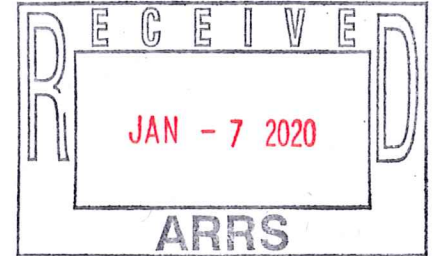
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Holly M. Johnson  
Secretary

Thomas B. Miller  
Commissioner

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **103 KAR 41:100**. Segregation of cigarettes.

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by 103 KAR 41:100, the Department of Revenue proposes the attached amendment to 103 KAR 41:100.

Kind regards,

Lisa S. Swiger, Tax Policy Research Consultant II  
Office of Tax Policy and Regulation  
Department of Revenue  
501 High Street, St 1  
Frankfort, Kentucky 40601

lcs

Cc: file



**Staff-suggested Amendment**

**Final Version 1/6/2020 3:37 p.m.  
FINANCE AND ADMINISTRATION CABINET  
Department of Revenue**

**103 KAR 41:100. Segregation of cigarettes.**

**Page 1**

**Section 1**

**Line 12**

After "KRS 138.195", insert "shall".

Delete "must".

**Page 1**

**Section 1(1)**

**Lines 14, 15, 16, and 18**

After "Untax-paid cigarettes", insert "shall".

Delete "must".

After "of another state", insert "shall".

Delete "must".

After "within the required time", insert "L".

After "KRS 138.146(2)", insert "L".

After "Department of Revenue", insert "shall".

Delete "must".

**Page 1**

**Section 1(2)**

**Lines 20 and 21**

After "of another state", insert "shall".

Delete "must".

After "These tax paid cigarettes", insert "shall".

Delete "must".



## KENTUCKY BOARD OF LANDSCAPE ARCHITECTS

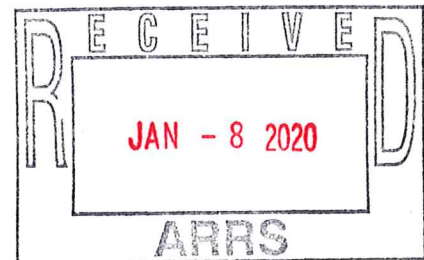
**Andy Beshear**  
Governor

2365 Harrodsburg Road, Suite B350  
Lexington, Kentucky 40504  
Phone: (859) 246.2753  
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**Jane Alexander**  
Executive Director

January 8, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Ms. Emily Caudill, Regulations Compiler  
Legislature Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601



Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 10:080, the Kentucky Board of Landscape Architects proposes the attached agency amendment to 201 KAR 10:080.

Sincerely,

A handwritten signature in blue ink that reads "Jane Alexander".

Jane Alexander, Executive Director  
Ky. Board of Landscape Architects  
2365 Harrodsburg Road, B350  
Lexington, KY 40504

**Agency Amendment**

**1/7/2020 1:55 p.m.**  
**GENERAL GOVERNMENT**  
**Kentucky Board of Landscape Architects**

**201 KAR 10:080. Continuing education.**

**Page 2**

**Section 1(4)**

**Line 2**

After "takes and passes", insert "any".

Delete "an".

**Page 4**

**Section 4(4)**

**Line 3**

After "(4)", insert the following:

Self-directed courses, including those completed online, audibly, or by video, that meet the requirements of this administrative regulation shall be accepted.

Return and insert "(5)".



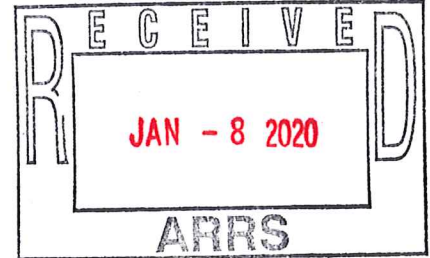
## KENTUCKY BOARD OF LANDSCAPE ARCHITECTS

**Andy Beshear**  
Governor

2365 Harrodsburg Road, Suite B350  
Lexington, Kentucky 40504  
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**Jane Alexander**  
Executive Director

January 8, 2020



Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Ms. Emily Caudill, Regulations Compiler  
Legislature Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

Dear Co-Chairs:

After discussions with the Administrative Regulation Review Subcommittee staff of the issues raised by **201 KAR 10:080**, the Kentucky Board of Landscape Architects proposes the attached staff-suggested amendment to **201 KAR 10:080**.

Sincerely,

A handwritten signature in blue ink that reads "Jane Alexander".

Jane Alexander, Executive Director  
Ky. Board of Landscape Architects  
2365 Harrodsburg Road, B350  
Lexington, KY 40504

**Staff-suggested Amendment**

**Final Version 1/3/2020 2:06 p.m.  
GENERAL GOVERNMENT  
Kentucky Board of Landscape Architects**

**201 KAR 10:080. Continuing education.**

**Page 1**

**Section 1(2)**

**Line 18**

After "is defined", insert "by".

Delete "as".

**Page 2**

**Section 1(4)**

**Lines 2 through 5**

After "offered by the sponsor", delete the following:

"after the licensee [~~registrant~~] reviews material including the Internet, views a video, or listens to an audio tape"

**Page 2**

**Section 2**

**Line 14**

After "licensee shall maintain, improve", insert "L".

**Page 2**

**Section 3(2)**

**Line 21**

After "a maximum of six", insert "(6)".

Delete "6".

**Page 4**

**Section 4(4)**

**Lines 4 through 9**

After "not to exceed six", insert "(6)".

After "the licensee has", insert the following:

submitted to the board a description of the tour and the board determines that the tour meets the requirements of a continuing education program

Delete the remainder of this section except the ending period.

**Page 4**

**Section 5(1)**

**Lines 11 through 15**

After "college or university course", insert "and".

Delete ": (a)".

Lowercase "The".

After "hours shall be:", return and insert "(a)".

Delete "1.".

After "quarter hour of credit", insert "is".

Delete "shall".

After "equal", insert "to".

After "continuing education hours", insert "; and".

Delete ".".

Return and insert "(b)".

Delete "2.".

After "semester hour of credit", insert "is".

Delete "shall".

After "equal", insert "to".

**Page 7**

**Section 9(2)**

**Line 21**

After "submitting written", insert "documentation".

Delete "document".

Ryan F. Quarles  
Commissioner

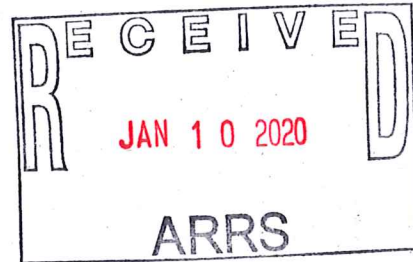


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## Kentucky Department of Agriculture

January 10, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **302 KAR 15:010**, Administration; state aid to local fairs.  
302 KAR 15:020. Dairy cattle shows and sales.  
302 KAR 15:030. Beef cattle shows and sales.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601



**Suggested Amendment**

**Final Version: 1/8/2020 10:11 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of Agricultural Marketing**

**302 KAR 15:010. Administration; state aid to local fairs.**

**Page 1**

**Section 1(2)**

**Line 17**

After "a program that", insert "shall".

Delete "will".

**Page 1**

**Section 1(3)**

**Line 20**

After "on consecutive days", insert ", except a fair may".

Delete "with the following exceptions".

**Page 1**

**Section 1(3)(a)**

**Line 21**

After "(a)", delete "A fair may".

Capitalize the first letter of "be".

After "closed on Sundays", delete the following:  
, if the local board desires

**Page 2**

**Section 1(3)(b)**

**Line 1**

After "(b)", delete "A fair may".

Capitalize the first letter of "conduct".

**Page 2**

**Section 1(3)(b)2.**

**Line 4**

After "The request is", insert "considered".

Delete "approved".

**Page 2**

**Section 1(3)(b)3.**

**Line 7**

After "approves the request", insert "based on the application".



**Page 2**  
**Section 1(4)**  
**Line 9**

After "of the exhibit", insert a comma.

**Page 2**  
**Section 1(5)**  
**Line 11**

After "fair shall be", delete "as follows".

**Page 2**  
**Section 1(5)(b)**  
**Line 13**

After "Red for second;", insert "and".

**Page 3**  
**Section 2(1)**  
**Line 4**

After "Local Agricultural Fairs", lowercase the first letter of "Form".

**Page 3**  
**Section 2(3)**  
**Line 14**

After "Department of Agriculture.", insert "(a)".

**Lines 15 and 16**

After "agricultural classes that", insert "might".

Delete "may".

**Line 16**

After "qualify for aid.", insert "(b) The statement".

Delete "It".

**Lines 16 and 17**

After "receipts and disbursements", insert a comma.

**Line 17**

After "by fair departments.", insert "(c)".

**Line 20**

After "following the event", insert a comma.

After "and", insert "a".

Delete "no".

After "financial statement shall", insert "not".

**Page 4**  
**Section 3(1)(b)**  
**Line 2**

After "FFA, FHA, and", delete "shall include".

After "other official groups", insert ", if any,".

**Page 4**

**Section 3(3)**

**Line 7**

After "(3)", insert "(a)".

**Line 8**

After "class or section", insert "shall be".

Delete "are".

After "it best qualifies.", insert "(b)".

**Page 4**

**Section 3(4)**

**Lines 11 and 12**

After "horse entries shall", insert the following:

comply with 302 KAR Chapter 22

Delete the following:

meet the specifications of the health administrative regulations

**Page 4**

**Section 4(1)**

**Line 14**

After "(1)", insert "(a)".

**Line 17**

After "of the fair.", insert "(b)".

**Page 4**

**Section 4(2)**

**Line 21**

After "that competitive events", insert "shall be".

Delete "are being".

After "that premiums offered", insert "shall not be".

Delete "are not out".

**Page 4**

**Section 4(3)**

**Line 23**

After "After "catalog shall contain", delete "the following information".

**Page 5**

**Section 4(3)(a)4.**

**Line 6**

After "Association (if", insert "any".

Delete "one exists".

**Page 5**

**Section 4(3)(a)5.**

**Line 7**

After "Association (if", insert "any".  
Delete "one exists".

**Page 5**

**Section 4(3)(c)**

**Line 9**

After "fair rules and", insert "302 KAR Chapter 15".  
Delete "administrative regulations".  
After "including a statement", delete "to the effect".

**Lines 9 and 10**

After "that "open classes", insert "shall be".  
Delete "are".

**Page 5**

**Section 4(3)(e)**

**Line 12**

After "(e)", insert "302 KAR Chapter 22".  
Delete "Animal health administrative regulations".

**Page 5**

**Section 4(3)(f)**

**Line 13**

After "(f) A rule", delete "to the effect".

**Page 5**

**Section 5(1)**

**Line 17**

After "of each event", insert a comma.

**Lines 17 and 18**

After "fair shall encourage", delete the comma.

**Page 6**

**Section 6(1)(a)**

**Line 1**

After "records including catalogs.", insert "1.".

**Line 2**

After "\$4,500.", insert "2.".  
Delete "In addition,".  
Capitalize the first letter of "state".

**Page 6**

**Section 6(2)**

**Line 14**

After "premiums and awards.", insert "(a)".

**Lines 15 and 16**

After "horse events' classes.", insert "(b)".

**Line 17**

After "second fair payment.", insert "(c)".

**Page 6**

**Section 6(3)(a)**

**Line 22**

After "a fair shall", insert "comply with".

Delete "meet".

After "the requirements" insert "established".

Delete "set forth".

**Lines 22 and 23**

After "by the department.", delete the remainder of paragraph (a) in its entirety.

**Page 7**

**Section 6(3)(b)**

**Line 1**

After "(2) payments", insert a period.

Delete the semicolon.

**Page 7**

**Section 6(4)**

**Line 9**

After "(4)", insert "(a)".

**Lines 10 and 11**

After "a trophy that", insert "shall".

Delete "will".

**Line 12**

After "(12) months.", insert "(b)".

Delete "In addition,".

Capitalize the first letter of "appropriate".

**Line 14**

After "for that year.", insert "(c)".

**Page 9**

**Section 7(1)**

**Line 15**

After "tangible items (" , insert "for example,".

Delete "i.e."

After "bleachers", insert "and".

Delete the comma.

**Line 16**

After "restaurant equipment", delete ", etc."

**Lines 18 and 19**

After "Grant applications shall", insert the following:

comply with the requirements established in paragraphs (a) through (j) of this subsection.

Delete "meet the following criteria:".

**Page 10**

**Section 7(1)(b)**

**Line 1**

After "\$100,000", insert a period.

Delete the semicolon.

**Page 10**

**Section 7(1)(c)**

**Line 3**

After "of state funds", insert a period.

Delete the semicolon.

**Page 10**

**Section 7(1)(d)**

**Line 6**

After "shall be submitted", insert the following:

to the Shows and Fairs Division.

Delete the semicolon.

**Page 10**

**Section 7(1)(e)**

**Line 9**

After "from the vendor", insert a period.

Delete the semicolon.

**Page 10**

**Section 7(1)(f)**

**Line 11**

After "Department of Agriculture", insert a period.

Delete the semicolon.

**Page 10**

**Section 7(1)(g)**

**Line 12**

After "(g) All", insert "building or health".

Delete "building/health".

After "be obtained and", insert "submitted".

Delete "provided".

**Line 13**

After "for capital", insert "construction or infrastructure upon".

Delete "construction/infrastructure when".

**Line 14**

After "a grant", insert "being".

Delete "is".

After "officials shall be", insert the following:

submitted to the Shows and Fairs Division.

Delete "provided;".

**Page 10**

**Section 7(1)(h)**

**Line 17**

After "of project completion", insert a period.

Delete the semicolon.

**Page 10**

**Section 7(1)(i)**

**Line 19**

After "days of completion", insert a period.

Delete the semicolon.

**Page 11**

**Section 7(2)**

**Line 2**

After "Council for selection.", insert "(3)".

**Line 3**

After "have been met.", insert "(a)".

After "The Fair Council", insert "shall".

Delete "may".

**Line 4**

After "this administrative regulation.", insert "(b)".

**Line 5**

After "of awarded grants.", insert "(c)".

**Page 11**

**Section 9 (Should Have Been Section 8)**

**Line 7**

After "Section", insert "8".

Delete "9".

**Line 10**

After "of Agriculture", insert "based on the application".

**Page 11**

**Section 10 (Should Have Been Section 9)**

**Line 11**

After "Section", insert "9".

Delete "10".

**Page 11**

**Section 10(1)(a) (Should Have Been Section 9(1)(a))**

**Line 12**

After "Local Agricultural Fairs", delete "Form".

After the closing quotation mark, insert "2019".

Delete "(1995)".

**Page 11**

**Section 10(1)(b) (Should Have Been Section 9(1)(b))**

**Line 18**

After "County Fair Grant""", insert a comma.

Delete the quotation marks around "August 2019".

**Page 11**

**Section 10(1)(c) (Should Have Been Section 9(1)(c))**

**Line 20**

After "Information Form Packet""", insert a comma.

Delete the quotation marks around "August 2019".

**Line 9**

After "fat, or dollars", insert "shall".  
Delete "will".

**Page 2**

**Section 1(6)**

**Line 10**

After "(6) All", insert "cows".  
Delete "females".

**Line 12**

After "uncalved heifers", insert "shall".  
Delete "may".

**Page 2**

**Section 1(8)**

**Line 23**

After "to the department", delete "adequate".

**Page 3**

**Section 1(9)**

**Line 2**

After "(9) The records", insert "established in subsection (8)".  
Delete "mentioned in subsection 8".

**Page 3**

**Section 1(9)(b)**

**Line 4**

After "selling price,", insert "and".

**Page 3**

**Section 1(11)**

**Line 14**

After "department after", delete "due".  
After "is given to", delete "the following".

**Page 3**

**Section 1(11)(c)**

**Line 17**

After "Transportation, air travel", insert a comma.

**Page 4**

**Section 1(12)**

**Line 1**

After "to the committees", insert "if".  
Delete "when".

**Page 4**

**Section 1(14)**

**Line 5**

After "information shall cover", insert "at least".



Ryan F. Quarles  
Commissioner

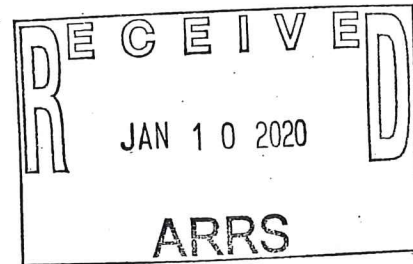


Corporate Drive  
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## Kentucky Department of Agriculture

January 10, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 302 KAR 15:010. Administration; state aid to local fairs.  
302 KAR 15:020. Dairy cattle shows and sales.  
302 KAR 15:030. Beef cattle shows and sales.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601



**Suggested Amendment**

**Final Version: 1/8/2020 10:52 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of Agricultural Marketing**

**302 KAR 15:020. Dairy cattle shows and sales.**

**Page 1**

**STATUTORY AUTHORITY**

**Line 7**

After "KRS 246.250", insert "(7)".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 8**

After "FUNCTION, AND CONFORMITY:", insert the following:

KRS 246.250(7) requires the department to promulgate administrative regulations to carry out the provisions of KRS 246.250. This administrative regulation establishes

Delete "To establish".

**Page 1**

**Section 1(2)**

**Line 14**

After "(2)", delete "No".

Capitalize the first letter of "more".

After "two (2) bulls", insert "shall not".

Delete "may".

After "show and sale.", insert "(a)".

**Lines 14 and 15**

After "Young bulls", insert "that".

Delete "which".

**Line 15**

After "not been proved", insert "shall".

Delete "must".

**Line 17**

After "good or better.", insert "(b)".

After "of young bulls", insert "shall".

Delete "should".

**Page 2**

**Section 1(5)**

**Line 8**

After "(5) All", insert "cows".

Delete "females".

After "show and sale", insert "shall".

Delete "must".

**Line 6**

After "and sale officials", insert "at".  
Delete "when".

**Lines 6 and 7**

After "consignment", delete "is made".

**Page 4**

**Section 1(15)**

**Line 8**

After "(15)", insert "(a)".

**Line 9**

After "by the department.", insert "(b)".

**Line 10**

After "of the sale", insert a comma.

**Page 4**

**Section 1(16)**

**Line 12**

After "practices and procedures", insert "established based on breed".  
Delete "recommended".

**Lines 13 and 14**

After "otherwise covered by", insert the following:  
this administrative regulation or KRS 246.250

**Page 4**

**Section 2(1)**

**Line 16**

After "addition to those", insert "established based on breed".  
Delete "recommended".

**Page 4**

**Section 2(2)**

**Line 18**

After "as to bids", insert a comma.  
After "and his", insert "or her".

**Lines 18 and 19**

After "decision", delete "on such matters".

**Page 4**

**Section 2(4)**

**Line 21**

After "(4) The purchaser", insert "shall assume".  
Delete "assumes".  
After "are struck off", insert a period.  
Delete "; however,".  
Capitalize the first letter of "the".

**Page 5**

**Section 2(5)**

**Line 2**

After "with rules and", insert "this administrative regulation".  
Delete "administrative regulations".

**Page 5**

**Section 3(1)**

**Line 3**

After "show and sale", insert "shall".  
Delete "must".

**Lines 5 and 6**

After "with", insert "302 KAR Chapter 20".  
Delete the following:  
Kentucky's exhibition and sale requirements

**Line 6**

After the period, insert "302 KAR Chapter 22".  
Delete the following:  
Current animal health administrative regulations

**Page 5**

**Section 4(1)**

**Lines 12 and 13**

After "Show classes shall", insert the following:  
comply with the standards based on breed established  
Delete the following:  
conform to the standards adopted

**Page 5**

**Section 4(2)**

**Line 15**

After "with the pedigree", delete the comma.

Ryan F. Quarles  
Commissioner

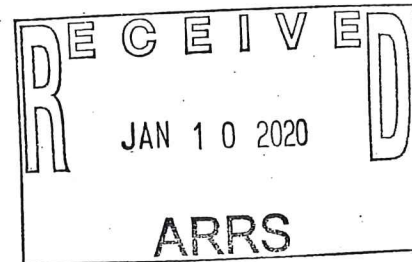


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## Kentucky Department of Agriculture

January 10, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 302 KAR 15:010. Administration; state aid to local fairs.  
302 KAR 15:020. Dairy cattle shows and sales.  
302 KAR 15:030. Beef cattle shows and sales.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 15:010, 302 KAR 15:020, and 302 KAR 15:030.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601



**Suggested Amendment**

**Final Version: 1/9/2020 10:19 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of Agricultural Marketing**

**302 KAR 15:030. Beef cattle shows and sales.**

**Page 1**

**STATUTORY AUTHORITY**

**Line 7**

After "KRS 246.250", insert "(7)".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 8**

After "FUNCTION, AND CONFORMITY:", insert the following:

KRS 246.250(7) requires the department to promulgate administrative regulations to carry out the provisions of KRS 246.250. This administrative regulation establishes

Delete "To establish".

**Page 1**

**Section 1(3)**

**Line 15**

After "eligible to receive", delete "the aforesaid".

**Line 16**

After "appropriations", insert "shall".

Delete "must".

After "in all classes", delete "must".

**Lines 16 and 17**

After "the breeders of", delete "such".

**Line 17**

After "the United States", delete the comma.

**Lines 17 and 18**

After "Dominion of Canada", delete "may be included".

**Page 2**

**Section 1(7)**

**Line 11**

After "to the department", delete "adequate".

**Page 2**

**Section 1(7)(a)**

**Line 13**

After "selling price,", insert "and".

**Page 2**

**Section 1(9)**

**Lines 22 and 23**

After "the department after", delete "due".

**Line 23**

After "is given to", delete "the following".

**Page 3**

**Section 1(9)(c)**

**Line 3**

After "air travel", insert a comma.

**Page 3**

**Section 1(10)**

**Line 10**

After "to the committees", insert "if".

Delete "when".

**Page 3**

**Section 1(12)**

**Line 15**

After "and sale officials", insert "at".

Delete "when".

After "consignment", delete "is made".

**Page 3**

**Section 1(13)**

**Line 16**

After "(13)", insert "(a)".

**Line 17**

After "by the department.", insert "(b)".

**Line 18**

After "of the sale", insert a comma.

**Page 3**

**Section 1(14)**

**Lines 21 and 22**

After "otherwise covered by", insert the following:  
this administrative regulation or KRS 246.250

**Page 4**

**Section 2(2)**

**Line 3**

After "as to bids", insert a comma.

After "and his", insert "or her".

**Lines 3 and 4**

After "decision", delete "on such matters".

**Page 4**

**Section 2(4)**

**Line 6**

After "(4) The purchaser", insert "shall assume".

Delete "assumes".

After "are struck off", insert a period.

Delete "; however,".

Capitalize the first letter of "the".

**Page 4**

**Section 2(5)**

**Line 10**

After "with rules and", insert "this administrative regulation".

Delete "administrative regulations".

**Page 5**

**Section 5(1)**

**Line 16**

After "show and sale", insert "shall".

Delete "must".

**Lines 17 through 19**

After "comply with", insert "302 KAR Chapter 20".

Delete the following:

Kentucky's exhibition and sale requirements

**Line 19**

After the period, insert "302 KAR Chapter 22".

Delete the following:

Current animal health administrative regulations

**Page 5**

**Section 5(2)**

**Line 21**

After "show and sale", insert "shall".

Delete "must".

**Line 22**

After "or their representatives", insert "upon entry".

Delete the following:

when the entry is made



Ryan F. Quarles  
Commissioner

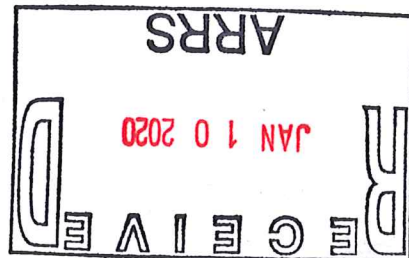


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## Kentucky Department of Agriculture

January 3, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **302 KAR 22:030**. Livestock, poultry, and fish diseases to be reported.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 22:030 the Kentucky Department of Agriculture proposes the attached amendment to 302 KAR 22:030.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601



**Suggested Amendment**

**Final Version: 1/3/2020 10:26 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of the State Veterinarian**

**302 KAR 22:030. Livestock, poultry, and fish diseases to be reported.**

**Page 1**

**TITLE**

**Line 5**

After "Livestock, poultry", is a comma.

**Page 1**

**Section 1(1)**

**Line 13**

After "veterinary practice", insert a comma.

**Line 14**

After "livestock, poultry", insert a comma.

**Line 15**

After "livestock, poultry", insert a comma.

**Line 18**

After "reportable disease, as", insert "established".  
Delete "provided".

**Page 3**

**Section 2(1)(ii)**

**Line 14**

After "Stomatitis;", delete "and".

**Page 3**

**Sections 2(1)(jj) and (2)**

**Lines 15 and 16**

After "Nile Virus", insert ":(kk)".  
Delete ". (2)".

**Page 3**

**Section 2(2) and (3)**

**Lines 16 and 17**

After "Listed Diseases;", insert "and (ll)".  
Delete "(3)".

**Page 3**

**Section 2(3) and (4)**

**Lines 20 and 21**

After "animal diseases.", insert "(2)".

Delete "(4)".

**Page 4**

**Section 3(2)**

**Line 7**

After "reporting shall", insert "submit".

Delete "furnish".

**Page 4**

**Section 4(1)(a)**

**Line 18**

After the Web site address, insert "; and".

302 KAR 031: 040

Ryan F. Quarles  
Commissioner

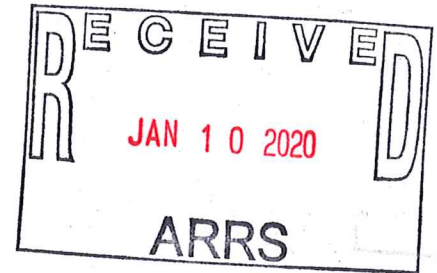


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## Kentucky Department of Agriculture

January 10, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 302 KAR 31:040. Storage and handling of pesticides and bulk fertilizer.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 31:040 the Kentucky Department of Agriculture proposes the attached amendment to 302 KAR 31:040.

Sincerely,

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601



**Suggested Amendment**

**Final Version: 1/9/2020 10:26 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of Consumer and Environmental Protection**

**302 KAR 31:040. Storage and handling of pesticides and bulk fertilizer.**

**Page 1**

**RELATES TO**

**Line 6**

After "49 C.F.R.", insert "42 U.S.C. 9601".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 10**

After "This administrative regulation", insert "establishes requirements for".

Delete "regulates".

**Page 2**

**Section 1(4)**

**Line 1**

After "(4) "Commercial", insert "purpose".

Delete "purposes".

**Page 2**

**Section 1(7)**

**Line 14**

After ""Fertilizer" is defined", insert "by".

Delete "in".

After "KRS 217B.040", insert "(8)".

**\*General Reviewer's Note:** Due to incorrect numbering and alphabetical order problems, please note that the subsections in this section will not match the paper copy.

**Page 4**

**Section 1(16)**

**Line 5**

After ""Pesticide" is defined", insert "by".

Delete "in".

**Lines 5 and 6**

After "KRS 217B.040(2)", delete the remainder of subsection (16), except the period.

**Page 4**

**Section 1(22)**

**Line 18**

After "(26) "Storage container"", insert "(a)".

Capitalize the first letter of "means".

**Line 20**

After "fertilizers or pesticides", insert the following:

; and

(b) Does not mean

Delete the following:

. The definition of a "storage container" shall not include

**Page 4**

**Sections 1(22) and 1(22)(a)**

**Lines 20 and 21**

After the semicolon", insert "1.".

Delete "(a)".

**Pages 4 and 5**

**Section 1(22)(a) and (b)**

**Lines 22, 23, and 1**

After "the storage facility", insert "; and 2.".

Delete ". (b)".

**Page 5**

**Section 1(24)**

**Line 7**

After "the rinsing, washing", insert a comma.

**\*General Reviewer's Note:** Due to incorrect numbering, please note that the subsections in this section will not match the paper copy.

**Page 5**

**Section 2(1)**

**Line 12**

After "Pesticide Regulation", insert the following:

, and shall submit the Pesticide and/or Fertilizer Bulk Storage  
Facilities Registration form

**Page 6**

**Section 2(5)**

**Line 1**

After "SARA Title III", insert "42 U.S.C. 9601.".

Delete "(42 U.S.C.A. Sec. 9601)".

**Page 6**  
**Section 2(5)(b)**  
**Line 4**

After "(b), delete "Promptly and".  
Capitalize the first letter of "accurately".

**Page 6**  
**Section 2(6)**  
**Line 6**

After "unloading, mixing", insert a comma.

**Page 6**  
**Section 4(1)(a)**  
**Line 14**

After "fittings, valves, clamps", insert a comma.

**Line 15**  
After "be constructed, installed", insert a comma.

**Page 6**  
**Section 4(1)(b)**  
**Line 17**

After "fittings, valves, clamps", insert a comma.

**Line 18**  
After "constructed of materials", insert "that shall be".  
Delete "which are".

**Page 6**  
**Section 4(1)(c)**  
**Line 20**

After "fittings, valves, clamps", insert a comma.

**Line 22**  
After "ferrous materials if", delete the following:  
the following provisions are met

**Page 7**  
**Section 4(1)(c)1.**  
**Line 1**

After "fittings, valves, clamps", insert a comma.

**Page 7**  
**Section 4(1)(c)2.**  
**Line 3**

After "fittings, valves, clamps", insert a comma.

**Page 7**

**Section 4(1)(d)**

**Line 8**

After "or increase corrosion", insert "that could".  
Delete "which may".

**Line 9**

After "fittings, valves, clamps", insert a comma.

**Line 10**

After "fittings, valves, clamps", insert a comma.

**Line 13**

After "fittings, valves, clamps", insert a comma.

**Lines 13 and 14**

After "and pumps", insert "could".  
Delete "may".

**Page 8**

**Section 4(3)(a)**

**Line 4**

After "two (2) years", insert "without".  
Delete "and no".  
After "integrity tests", insert "having".  
Delete "have".

**Page 9**

**Section 4(4)(e)**

**Line 1**

After "(e) Storage containers", delete "and".

**Lines 2 and 3**

After "suitable substance", insert "based on contents".

**Page 9**

**Section 4(6)**

**Line 7**

After "and other forces", insert "that could".  
Delete "which may".

**Line 8**

After "prohibited except as", insert "established".  
Delete "specified".

**Page 9**

**Section 4(9)**

**Line 21**

After "other defects that", insert "could".  
Delete "may".



**Page 10**

**Section 5(2)(a)4.**

**Line 9**

After "product being stored", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(b)**

**Line 10**

After "secondary containment structure", insert "that".  
Delete "which".

**Line 11**

After "constructed of material", insert "that shall".  
Delete "which will".  
After "under fire conditions", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(c)**

**Line 12**

After "or release valves", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(d)**

**Line 13**

After "prohibited except as", insert "established".  
Delete "provided".

**Line 14**

After "administrative regulation", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(e)**

**Lines 18 and 19**

After "total capacity requirements", insert "established".  
Delete "specified".

**Line 19**

After "in this section", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(f)**

**Line 21**

After "the secondary containment", insert a semicolon.  
Delete the period.

**Page 10**

**Section 5(2)(g)**

**Line 23**

After "other defects that", insert "could".  
Delete "may".

**Page 11**

**Section 5(2)(g)**

**Line 1**

After "containment.", insert "1".

**Line 2**

After "immediately.", insert "2".  
After "and accurate form", insert a semicolon.  
Delete the period.

**Page 11**

**Section 5(2)(h)**

**Line 3**

After "Containers, pipes, hoses", insert a comma.

**Line 4**

After "other moving vehicles", insert a semicolon.  
Delete the period.

**Page 11**

**Section 5(2)(i)**

**Line 6**

After "bulk pesticide", insert a semicolon.  
Delete the period.

**Page 11**

**Section 5(2)(j)**

**Line 8**

After "any bulk pesticide", insert "; and".  
Delete the period.

**Page 11**

**Section 5(2)(k)**

**Line 10**

After "or other residues.", insert "1".

**Line 11**

After "109 U.S. gallons.", insert "2".

**Page 11**

**Section 5(3)(a)**

**Line 17**

After "containment structure", insert a semicolon.  
Delete the period.

**Page 11**

**Section 5(3)(b)**

**Line 20**

After "secondary containment structure", insert "; and".  
Delete the period.

**Page 12**

**Section 5(4)(a)**

**Line 1**

After "shall be provided", insert "that".  
Delete "which".

**Page 12**

**Section 5(4)(d)**

**Line 10**

After "protected against erosion.", insert "1".

**Line 11**

After "horizontal to vertical.", insert "2".

**Page 13**

**Section 5(4)(h)**

**Lines 2 and 3**

After "or synthetic materials", insert "that".  
Delete "which".

**Page 13**

**Section 5(5)(a)**

**Line 6**

After "gallons or more", insert "that".  
Delete "which".

**Lines 6 and 7**

After "August 1998 if", delete the following:  
all the following conditions are met

**Page 13**

**Section 5(5)(a)4.**

**Line 15**

After "the sand layer", insert "shall".

Delete "may".

**Line 16**

After "nonferrous materials", insert "that".

Delete "which".

**Page 13**

**Section 5(5)(b)**

**Line 18**

After "containment requirements", insert "established".

Delete "under this".

After "apply to railcars", insert "that".

Delete "which".

**Page 13**

**Section 5(6)**

**Line 21**

After "this section is", delete the following:  
the following conditions are met

**Page 13**

**Section 5(6)(a)**

**Line 22**

After "(a) All requirements", insert "established".

Delete "specified".

After "regulation are met;", delete "and".

**Page 13**

**Section 5(6)(b)**

**Line 23**

After "(b) All requirements", insert "established".

Delete "specified".

**Page 14**

**Section 6(1)**

**Line 6**

After "Transfer shall include", delete "the following".

**Page 14**

**Section 6(3)(a)**

**Line 19**

After "of or used", insert a semicolon.

Delete the period.

**Page 14**

**Section 6(3)(b)**

**Line 21**

After "products being handled", insert a semicolon.

Delete the period.

**Page 14**

**Section 6(3)(c)**

**Line 22**

After "other defects that", insert "could".

Delete "may".

**Page 15**

**Section 6(3)(c)**

**Line 1**

After "quarterly.", insert "1.".

**Line 2**

After "repaired immediately.", insert "2.".

After "and accurate form", insert a semicolon.

Delete the period.

**Page 15**

**Section 6(3)(d)**

**Line 3**

After "operational containment structures", insert a semicolon.

Delete the period.

**Page 15**

**Section 6(3)(e)**

**Line 5**

After "or other residues.", insert "1.".

**Line 6**

After "109 U.S. gallons.", insert "2.".

**Line 7**

After "hours of use", insert a semicolon.

Delete the period.

**Page 15**

**Section 6(3)(f)**

**Line 8**

After "or release valve", insert a semicolon.  
Delete the period.

**Page 15**

**Section 6(3)(g)**

**Line 10**

After "surrounding environment", insert "and".  
Delete the period.

**Page 15**

**Section 6(3)(h)**

**Line 11**

After "prohibited except as", insert "established".  
Delete "provided".

**Page 15**

**Section 6(4)**

**Line 13**

After "containment shall provide", insert "that".  
Delete "the following capacity".

**Page 15**

**Section 6(4)(a)**

**Line 16**

After "of the structure", insert "and".  
Delete the period.

**Page 15**

**Section 6(5)**

**Lines 20 and 21**

After "this section is", delete the following:  
the following conditions are met

**Page 16**

**Section 6(5)(b)**

**Line 1**

After "constructed of material", insert "that shall be".  
Delete "which is".

**Page 16**

**Section 6(5)(c)**

**Line 4**

After "(c) All requirements", insert "established".  
Delete "specified".

**Page 17**

**Section 9(1)**

**Line 7**

After "product label.", insert "(a)".

**Line 8**

After "product labels.", insert "(b)".

**Page 18**

**Section 10(1)**

**Line 3**

After "specifications, tolerances", insert a comma.

**Page 18**

**Section 11(1)**

**Line 9**

After "Registration form""", insert a comma.  
Delete the parentheses around "October 2019".

Ryan F. Quarles  
Commissioner

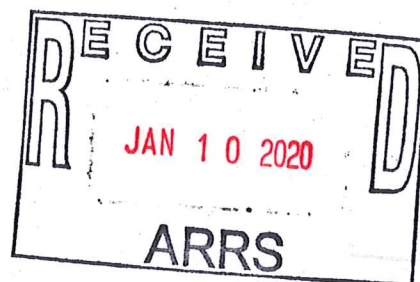


Corporate Drive  
Complex  
Frankfort, KY 40601  
(502) 573-0282

## Kentucky Department of Agriculture

January 10, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **302 KAR 37:010**. Forage Testing Program

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 37:010 the Kentucky Department of Agriculture proposes the attached amendment to 302 KAR 37:010.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clint Quarles".

Clint Quarles  
Staff Attorney  
Kentucky Department of Agriculture  
107 Corporate Drive  
Frankfort, KY 40601





**Suggested Amendment**

**Final Version: 1/9/2020 10:46 AM**

**GENERAL GOVERNMENT  
Department of Agriculture  
Office of Agricultural Marketing**

**302 KAR 37:010. Forage Testing Program.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 8**

After "AND CONFORMITY:", insert the following:

KRS 260.033(2) requires the department to promulgate administrative regulations to test quality standards and procedures for grading hay. This administrative regulation establishes definitions for

Delete "To define".

**Line 10**

After "Program and", insert "establishes".

Delete "establish".

**Page 1**

**Section 1**

**Line 12**

After "Section 1.", insert "Definitions".

Delete the following:

Terms used in the administration of the hay marketing law and administrative regulations and not otherwise defined shall have the following meaning:

**Page 1**

**Section 1(1)**

**Line 14**

After "(a)", delete "The term".

Capitalize the first letter of ""acid".

**Page 1**

**Section 1(2)**

**Line 15**

After "(2)", delete "The term".

Capitalize the first letter of ""available".

**Page 1**

**Section 1(3)**

**Line 17**

After "(3)", delete "The term".  
Capitalize the first letter of ""crude".

**Page 1**

**Section 1(4)**

**Line 19**

After "(4)", delete "The term".  
Capitalize the first letter of ""department".

**Page 1**

**Section 1(5)**

**Line 20**

After "(5)", delete "The term".  
Capitalize the first letter of ""digestible".

**Page 2**

**Section 1(6)**

**Line 1**

After "(6)", delete "The term".  
Capitalize the first letter of ""dry".  
After "portion of hay", insert "that".  
Delete "which".

**Page 2**

**Section 1(7)**

**Line 2**

After "(7)", delete "The term".  
Capitalize the first letter of ""dry".

**Page 2**

**Section 1(8)**

**Line 6**

After "(8)", insert the following:  
"Forage testing program" means a standard grading program for  
evaluating hay quality as established in KRS 260.033.  
(9)

**Note to Compiler:** Please renumber the remaining subsections in this section accordingly.

After "(8)", delete "The term".  
Capitalize the first letter of ""hay".  
After "alfalfa, clover", insert a comma.

**Page 2**

**Section 1(9) through (11)**

**Lines 8 through 13**

After "(9)", delete the remainder of subsection (9) in its entirety, delete subsection (10) in its entirety, and delete the notation, "(11)".

**Page 2**

**Section 1(11)**

**Line 13**

After "(11)", delete "The term".

Capitalize the first letter of ""kind".

After "or subspecies", insert "that".

Delete "which".

**Lines 14 and 15**

After "red clover", insert the comma.

**Page 2**

**Section 1(11) and (12)**

**Lines 12 and 13**

After "matter.", insert "(10)".

Delete "(12)".

**Page 2**

**Section 1(12)**

**Line 16**

After "(12)", delete "The term".

Capitalize the first letter of ""lot".

**Line 17**

After "the same field", insert a comma.

**Page 2**

**Section 1(12) through (14)**

**Lines 17 and 20**

After "(48) hours.", insert "(11)".

Delete subsection (13) in its entirety and delete the notation "(14)".

**Page 2**

**Section 1(14)**

**Line 20**

After "(14)", delete "The term".

Capitalize the first letter of ""neutral".

**Pages 2 and 3**

**Section 1(14) and (15)**

**Lines 21 and 1**

After "and limits intake.", insert "(12)".

Delete "(15)".

**Page 3**

**Section 1(15)**

**Line 1**

After "(15)", delete "The term".

Capitalize the first letter of ""relative".

**Page 3**

**Section 1(15) and (16)**

**Lines 4 and 6**

After "number by 1.29.", insert "(13)".

Delete "(16)".

**Page 3**

**Section 1(16)**

**Line 6**

After "(16)", delete "The term".

Capitalize the first letter of ""total".

**Line 7**

After "protein, fat", insert a comma.

**Page 3**

**Section 2**

**Line 11**

After "Section 2.", delete "The".

Capitalize the first letter of "method" and insert "for" in lieu of "of".

Capitalize the first letters of "sampling" and "hay" and insert a period.

Delete "shall be the following:".

**Page 3**

**Section 2(1)**

**Line 12**

After "with the procedures", insert "established".

Delete "set forth".

**Line 13**

Delete the quotation marks around "Recommended Principles for Proper Hay Sampling".

**Page 3**

**Section 2(2)**

**Line 14**

After "the sampling procedures", insert "established".

Delete "set forth".

**Line 15**

Delete the quotation marks around "Recommended Principles for Proper Hay Sampling".

**Page 4**

**Section 3**

**Lines 10 and 11**

After "with the procedures", insert "established".

Delete "set forth".

**Line 12**

Delete the quotation marks around "Forage Analyses Procedures".

**Lines 12 and 14**

After the period, delete the following:  
which is hereby adopted by reference.

**Page 4**

**Section 3**

**Lines 22 and 23**

After ""Dry Matter Basis"" of", delete "the following".

**Page 5**

**Section 3(8)**

**Line 8**

After "Neutral detergent fiber;", insert "and".



ANDY BESHEAR  
GOVERNOR

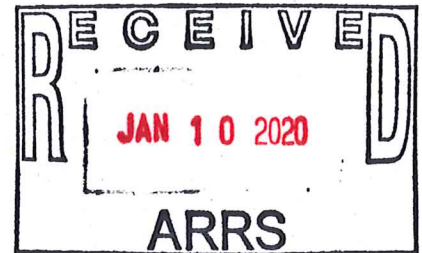
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: 502-564-6940  
TELEFAX: 502-564-4245

January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **405 KAR 5:002**, Definitions for 405 KAR Chapter 5; 405 KAR 5:032, Permit requirements.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 5:002 and 405 KAR 5:032, the Department for Natural Resources proposes the attached amendments to 405 KAR 5:002 and 405 KAR 5:032.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

**REVISED:**  
**1/8/2020 9:53 AM**  
**Energy and Environment Cabinet**  
**Department for Natural Resources**  
**Division of Mine Reclamation and Enforcement**

**405 KAR 5:002. Definitions for 405 KAR Chapter 5.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 8**

After "350.028", insert "requires".  
Delete "authorizes".

**Page 2**

**Section 1(3)**

**Line 5**

After "water", insert comma.

**Page 2**

**Section 1(4)**

**Line 10**

After "shipping areas", insert comma.

**Page 3**

**Section 1(12)**

**Line 9**

After "been released", insert comma.

**Page 3**

**Section 1(17)**

**Line 19**

After "(17)", insert the following:  
"Edge" means the area where two (2) habitats meet.  
(18)

**NOTE TO REGULATIONS COMPILER:** Please renumber remaining subsections accordingly.

**Page 3**

**Section 1(17) {Subsection (18) after renumbering}**

**Line 21**

After "proximity to each other.", delete the following:  
Where two habitats meet is referred to as an "edge".

**Page 4**

**Section 1(23)** {Subsection (24) after renumbering}

**Line 15**

After "CaF<sub>2</sub>", insert period.  
Delete the remainder of this subsection in its entirety.

**Page 5**

**Section 1(28)** {Subsection (29) after renumbering}

**Line 7**

After "water which is", insert ": (a)".  
Capitalize "in".

**Line 9**

After "surface", insert "; and (b)".  
Delete ". It is".  
Capitalize "differentiated".

**Page 5**

**Section 1(32)** {Subsection (33) after renumbering}

**Line 22**

After "through 353; which", delete "condition, practice, or violation".

**Page 6**

**Section 1(34)(a)** {Subsection (35) after renumbering}

**Line 8**

After "(a)", insert "1.".

**Line 9**

After "of products;", insert "2.".  
Delete "and".  
Capitalize "heavy".  
After "manufacturing facilities", insert "; or 3.".  
Delete period.

**Line 11**

After "that operation", delete "is also included".

**Page 6**

**Section 1(34)(b)** {Subsection (35) after renumbering}



**Line 12**

After "(b)", insert "1.".

**Line 13**

After "establishments", insert "; or 2.".

**Line 14**

After "that operation", delete "is also included".

**Page 8**

**Section 1(43)** *{Subsection (44) after renumbering}*

**Line 1**

After "including", delete the comma.

**Page 9**

**Section 1(57)(a)** *{Subsection (58) after renumbering}*

**Line 15**

After "improved", insert comma.

**Line 16**

After "maintained", delete the following:  
for use in mining and stockpiling finished products,

**Page 10**

**Section 1(63)** *{Subsection (64) after renumbering}*

**Line 8**

After "means", insert the following:

an environmental harm that:

(a) Has an adverse impact on land, air, or water resources, including plant and animal life;

(b) Is imminent because a condition, practice, or violation exists, which:

1. Is causing the harm; or

2. May be reasonably expected to cause the harm at any time before the end of the reasonable abatement time; and

(c) Is significant because the harm is:

1. Appreciable; and

2. Not immediately reparable.

Delete the remainder of Subsection (63) in its entirety.

**Page 10**

**Section 1(65)** *{Subsection (66) after renumbering}*

**Line 21**

After "layers of soil", insert the following:

parallel, or nearly parallel, to the land surface and that:

(a) Are differentiated on the basis of field characteristics and laboratory data; and

(b) Include the following four (4) master soil horizons:

1. "A horizon" or "surface soil," which consists of the uppermost mineral layer of soil where the:

a. Organic matter is most abundant; and

b. Leaching of soluble or suspended particles is typically the greatest;

2. "E horizon," which is the layer commonly near the surface below the A horizon and above the B horizon and is most commonly differentiated from the:

a. A horizon by a lighter color and, in general, measurably less organic matter.

b. B horizon in the same sequence by color of higher value or lower chroma, by a courser texture, or by a combination of these properties;

3. "B horizon" or "subsoil," which is the middle layer immediately below the E horizon and commonly contains more clay, iron, or aluminum than the A, E, or C horizons; and

4. "C horizon," which is the deepest layer of the soil profile and consists of loose material or weathered rock that is relatively unaffected by biological activity.

Delete the remainder of Subsection (65) in its entirety.

**Page 13**

**Section 1(78)** *{Subsection (79) after renumbering}*

**Line 2**

After "slurried", insert comma.



ANDY BESHEAR  
GOVERNOR

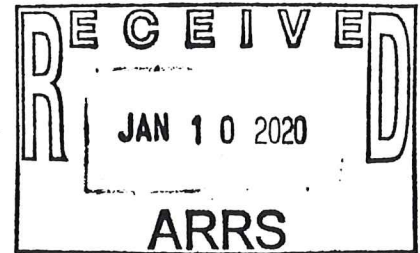
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

300 SOWER BOULEVARD  
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TELEPHONE: 502-564-6940  
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January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 405 KAR 5:002, Definitions for 405 KAR Chapter 5; 405 KAR 5:032, Permit requirements.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 5:002 and 405 KAR 5:032, the Department for Natural Resources proposes the attached amendments to 405 KAR 5:002 and 405 KAR 5:032.

Sincerely,

Michael S. Mullins  
Regulation Coordinator

**REVISED:**  
**1/9/2020 9:10 AM**  
**Energy and Environment Cabinet**  
**Department for Natural Resources**  
**Division of Mine Reclamation and Enforcement**

**405 KAR 5:032. Permit requirements.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 8**

After "350.028", insert "requires".

Delete "authorizes".

**Page 2**

**Section 1(2)(b)**

**Line 8**

After "of the area with", insert the following:

the applicant or the applicant's designated representatives

Delete the following:

appropriate persons including appropriate representatives of the  
applicant

**Page 5**

**Section 5(4)**

**Lines 12-13**

After "obtain", delete "the appropriate".

**Page 6**

**Section 6**

**Line 2**

After "right to mine,", insert the following:

including the effective date of the source document of the legal right to  
mine.

Delete the remainder of Section 6 in its entirety.

**Page 6**

**Section 8(1)**

**Line 7**

After "section of the", insert "relevant".

Delete "appropriate".

**Line 9**

After "applicable", insert comma.

**Page 7**

**Section 8(7)**

**Line 1**

After "properties", insert comma.

After "such as", insert ":(a)".

Delete comma.

Capitalize "parks"

After "preserves", insert "and (b)".

Delete ", and".

Capitalize "utility lines".

**Page 8**

**Section 8(13)(i)**

**Line 1**

After "facilities", insert comma.

**Line 2**

After "including", delete the comma.

**Page 8**

**Section 8(14)**

**Line 6**

After "engineer,", insert "licensed".

Delete "registered".

**Page 10**

**Section 12**

**Lines 2-3**

After "demonstrate", delete the following:  
to the satisfaction of the cabinet

**Page 11**

**Section 14**

**Line 10**

After "demonstrate", delete the following:  
to the satisfaction of the cabinet,

**Page 11**

**Section 15**

**Line 14**

After "demonstrate", delete the following:  
, to the satisfaction of the cabinet,

**Page 11**

**Section 16**

**Lines 17-18**

After "demonstrate", delete the following:  
to the satisfaction of the cabinet,

**Page 11**

**Section 17**

**Lines 20-21**

After "demonstrate", delete the following:  
to the satisfaction of the cabinet,

**Page 12**

**Section 19**

**Lines 9-10**

After "revegetation plan", insert "that".  
Delete "which".

**Line 10**

After "demonstrate", delete the following:  
, to the satisfaction of the cabinet,

**Page 12**

**Section 20(1)**

**Line 22**

After "accompanied by", insert "the".  
Delete " appropriate".

**Line 23**

After "calculations", delete "as".

**Page 13**

**Section 20(3)**

**Line 5**

After "demonstrate", delete the following:  
, to the satisfaction of the cabinet,

**Lines 6-7**

After "Kentucky", insert "licensed".  
Delete "registered".

**Page 13**

**Section 21(1)(a)**

**Line 12**

After "circulation", delete the comma.

**Page 13**

**Section 21(3)**

**Line 17**

After "entitled", delete comma.

**Lines 18-19**

After " Minerals" ", delete the following:  
, and may be in a manner and form prescribed by the department

**Page 16**

**Section 25**

**Line 2**

After "approval of the cabinet", insert the following:  
in accordance with this section.

**Page 17**

**Section 26(5)**

**Line 9**

After "decision of the cabinet", insert comma.  
After "mineral permittee", delete "he or she".

**Page 19**

**Section 27(6)(d)2.**

**Lines 4-5**

After "finding is made", delete the comma.  
After "by the cabinet", delete the comma.

**Page 19**

**Section 27(6)(f)**

**Line 20**

After "demonstrates", delete the following:  
to the satisfaction of the cabinet

**Page 21**

**Section 29(3)(b)**

**Line 1**

After "sum", insert the following:

in accordance with the estimate prepared by

Delete the following:

determined by the cabinet after

**Line 2**

After "Lands", delete "has prepared an estimate".

**Page 21**

**Section 29(5)(a)**

**Line 15**

After "corrected", delete the comma.

**Page 21**

**Section 29(6)**

**Line 20**

After "permit with", insert "a".

Delete "an appropriate".

**Page 22**

**Section 30(1)**

**Line 5**

After "federal, state", insert comma.





ANDY BESHEAR  
GOVERNOR

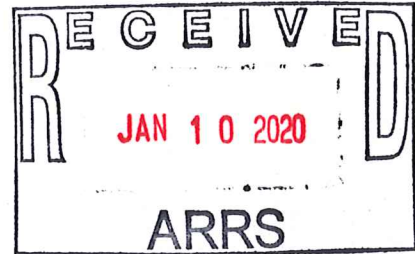
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

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January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **405 KAR 7:040**, General obligations of operators and permittees; 405 KAR 7:050, Coal processing waste disposal sites.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 7:040 and 405 KAR 7:050, the Department for Natural Resources proposes the attached amendments to 405 KAR 7:040 and 405 KAR 7:050.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

REVISED:  
1/8/2020 12:29 PM  
SUGGESTED SUBSTITUTE

ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Reclamation and Enforcement  
(Amendment)

**405 KAR 7:040. General obligations of operators and permittees.**

RELATES TO: KRS 350.050, 350.057, 350.060, 350.410, 350.450

STATUTORY AUTHORITY: KRS 350.020, 350.028, 350.057, 350.060, 350.090, 350.151, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350~~[in pertinent part]~~ requires the cabinet to promulgate~~[rules and]~~ administrative regulations pertaining to surface coal mining and reclamation operations. This administrative regulation sets forth the basic requirements and general obligations of operators and permittees. This administrative regulation prescribes certain methods of disposal of materials and other obligations of operators and permittees.

Section 1. General Requirements for Permits and Exploration Approvals. (1) Requirement to obtain a permit. A [no] person or operator shall not engage in surface coal mining and reclamation operations without first having obtained from the cabinet a valid permit covering the area of land to be affected.

(2) Requirement to obtain exploration approval. Subject to the provisions of 405 KAR 8:020, a [no] person or operator shall not engage in coal exploration operations without first having:

(a) Filed [filed] a written notice of intention to explore; or

(b) Obtained [having obtained] written approval from the cabinet.

(3) Requirement to comply with permit or exploration approval. A permittee or person issued a coal exploration approval shall comply with all terms and conditions placed upon the permit or exploration approval by the cabinet and with all plans submitted as part of the application approved by the cabinet.

Section 2. Disposal of Materials. A person or operator engaged in surface coal mining and reclamation operations shall not throw, pile, dump, or permit the throwing, piling, dumping, or otherwise placing of 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 an area of land which is under permit and for which bond

has been posted pursuant to KRS Chapter 350, nor place ~~these~~ **[such]** materials herein described in such a way that normal erosion or slides brought about by natural physical changes will permit ~~the~~ **[such]** materials to go beyond or outside of an area land which is under permit and for which bond has been posted pursuant to KRS Chapter 350.

Section 3. Unsafe Practices. (1) A person or operator engaged in surface coal mining and reclamation operations shall not engage in any operations ~~that~~ **[which]** result in a condition or constitute a practice that creates an imminent danger to the health or safety of the public.

(2) A person or operator engaged in surface coal mining and reclamation operations shall not engage in any operations which 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.

(3) **(a)** Upon development of any emergency conditions which threaten the life, health, or property of the public, the operator shall: **1. Immediately** ~~[immediately]~~ notify the persons whose life, health, or property are so threatened;

**2. Take** ~~[, shall take]~~ any and all reasonable actions to eliminate the conditions creating the emergency; ~~[,]~~ and

**3. Immediately** ~~[shall immediately]~~ provide notice of the emergency conditions to the cabinet, to local law enforcement officials, and to appropriate local government officials.

**(b)** Any emergency action taken by an operator pursuant to this subsection shall not relieve the operator of other obligations pursuant to 405 KAR Chapters 7 through 24 or of obligations under other applicable local, state, or federal laws and regulations.

Section 4. ~~[Existing Structures on Areas Sought to be Permitted. (1) Except as provided in subsection (2) of this section, no application for a permit or a revision which proposes to use an existing structure in connection with or to facilitate the proposed coal exploration or surface coal mining and reclamation operation shall be approved, unless the applicant demonstrates and the cabinet finds, in writing, on the basis of complete information set forth in the complete application that:~~

~~(a) Irrespective of whether the structure meets the design requirements of 405 KAR Chapters 16 through 20, the existing structure will operate in compliance with the performance standards set forth in 405 KAR Chapters 16 through 20;~~

~~(b) No significant harm to the environment or public health or safety will result from the use of the structure; and~~

~~(c) The applicant will monitor the structure as required by the cabinet to determine compliance with the performance standards of 405 KAR Chapters 16 through 20.~~

~~(2) In the event the applicant fails to demonstrate that the existing structure meets the requirements of subsection (1) of this section, no application for a permit or revision which proposes to use such an existing structure in connection with or to facilitate the proposed~~

~~coal exploration or surface coal mining and reclamation operation shall be approved unless the applicant demonstrates and the cabinet finds, in writing, on the basis of complete information set forth in the complete application that:~~

~~(a) Such existing structure complies with the performance standards of 405 KAR Chapter 1 or 3; and~~

~~(b) 405 KAR Chapters 16 through 20 require performance standards for such existing structure which either are not required by, or are more stringent than the performance standards of 405 KAR Chapter 1 or 3; and~~

~~(c) The applicant has included as a part of the application a compliance plan for modification or reconstruction of the structure demonstrating:~~

~~1. That the modification or reconstruction of the structure will bring the structure into compliance with the performance standards of 405 KAR Chapters 16 through 20 as soon as possible but not later than six (6) months from the date of issuance of the permit unless the applicant demonstrates to the satisfaction of the cabinet that a longer time is necessary due to the scope and nature of the reconstruction;~~

~~2. That the risk of harm to the environment or to public health or safety is not significant during the period of modification or reconstruction; and~~

~~3. The applicant will monitor the structure as required by the cabinet to determine compliance with the performance standards of 405 KAR Chapters 16 through 20.~~

~~(d) Should the cabinet find that the existing structure cannot be reconstructed without causing significant harm to the environment or public health or safety, the applicant will be required to abandon or remove the existing structure in the manner provided in 405 KAR 16:010 or 405 KAR 18:010. The structure shall not be used for or to facilitate surface coal mining operations after the date a permanent program permit is required under 405 KAR 8:010.~~

~~(3) In the event that 405 KAR Chapter 1 or 3 prescribes a performance standard applicable to any such existing structure which performance standard has not been complied with by the applicant, no permit shall be issued by the cabinet unless the applicant shall have redesigned and reconstructed such existing structure in accordance with the design requirements of 405 KAR Chapters 16 through 20.~~

~~(4) Existing structures allowed to operate subsequent to permit approval as provided in subsection (1) of this section shall not include coal waste piles used either temporarily or permanently as dams or embankments. Such existing coal waste piles allowed to operate subsequent to permit approval as provided in subsection (2) of this section must be modified or reconstructed in order to comply with the design requirements of 405 KAR Chapters 16 through 20 in addition to the performance standards.~~

~~(5) Any structures or facilities which must be reconstructed pursuant to subsection (2) of this section shall be reconstructed according to engineering plans prepared and certified by a registered professional engineer. Upon completion of reconstruction, the responsible engineer shall certify to the cabinet, within fourteen (14) days thereafter, that~~

the reconstruction was performed in accordance with the approved design plans.

~~Section 5.] Hazard Classifications for Impoundments.~~ (1) For proposed new sedimentation ponds or other new impoundments~~[and those proposed for reconstruction pursuant to Section 4(2) and (3) of this administrative regulation]~~, the responsible design engineer shall determine the structure hazard classification according to the classification descriptions. For structures classified (B) - moderate hazard or (C) - high hazard, the operator shall obtain a permit from the cabinet pursuant to KRS 151.250~~[,]~~ and **405 KAR Chapters 7 through 24**~~[administrative regulations adopted pursuant thereto]~~, prior to beginning~~[reconstruction or]~~ construction.

(2) ***The following structure [Structure]*** hazard classifications ***shall be [are as follows: The following broad classes of structures are]*** established to permit the association of criteria with the damage that might result from a sudden major breach of the structure:

(a) Class (A), ~~[:]~~ low hazard: ***This class shall include*** structures located: ***1. Where [such that]*** failure would cause loss of the structure itself but little or no additional damage to other property.

***2. Generally [Such structures will generally be located]*** in rural or agricultural areas where failure may damage farm buildings other than residences, agricultural lands, or county roads.

(b) Class (B), ~~[:]~~ moderate hazard: ***This class shall include*** structures located: ***1. Where [such that]*** failure may cause significant damage to property and project operation, but loss of human life is not envisioned.

***2. Generally [Such structures will generally be located]*** in predominantly rural agricultural areas where failures may damage isolated homes, main highways or major railroads, or cause interruptions of use or service of relatively important public utilities.

(c) Class (C), ~~[:]~~ high hazard: ***1. This class shall include*** structures located ***where [such that]*** failure may cause loss of life, or serious damage to homes, industrial or commercial buildings, important public utilities, main highways or major railroads.

***2. This classification shall[must]*** be used if failure would cause probable loss of human life.

(3) The responsible engineer shall determine the classification of the structure after considering the characteristics of the valley below the site and probable future development. Establishment of minimum criteria ***shall [does]*** not preclude provisions for greater safety, ***if the engineer determines that these provisions are necessary [when deemed necessary in the judgment of the engineer]***. Considerations other than those mentioned in the above classifications may require that the established minimum criteria be exceeded, ***if the cabinet determines that it is necessary for greater safety [as determined by the cabinet]***. A statement of the classification established by the responsible engineer shall be clearly shown on the first sheet of the design drawings.

(4) ***If [When]*** structures are spaced so that the failure of an upper structure could endanger the safety of a lower structure, the possibility of a multiple failure ***shall[must]***

be considered in assigning the structure classification of the upstream structure.

Section ~~5~~[6]. Reports Required. The operator shall submit such reports, documentation, certifications, or other information as the cabinet may require, or as may be required by KRS Chapter 350 and **405 KAR Chapters 7 through 24** ~~[administrative regulations adopted pursuant thereto]~~.

Section ~~6~~[7]. Coal Exploration. (1) Any person conducting coal exploration~~[on or after the date specified in Section 11 of this administrative regulation]~~ shall either file a Notice of Intention to Explore or obtain approval of the cabinet as required by 405 KAR 8:020.

(2) The coal exploration performance standards in 405 KAR 20:010 shall apply to coal exploration **that [which]** substantially disturbs the natural land surface ~~[two (2) months after the date specified in Section 11 of this administrative regulation]~~.

Section ~~7~~[8]. Compliance with 405 KAR Chapters 7 through 24 **shall [does]** not relieve any person or operator from the obligation to comply with other applicable administrative regulations of the cabinet.

Section ~~8~~[9]. The requirement to restore the approximate original contour of the land shall apply regardless of any reconstruction of any existing structure allowed~~[pursuant to Section 4 of this administrative regulation]~~.

Section ~~9~~[10]. Certifications by **Licensed [Registered]** Professional Engineers. (1) A document required to be certified shall be rejected by the cabinet as incomplete if its accuracy is not so attested.

(2) Certification by a qualified **licensed [registered]** professional engineer as required by 405 KAR Chapters 7 - 24 means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of KRS Chapter 350 and 405 KAR Chapters 7 - 24, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the **licensed [registered]** professional engineer or supervision of the **licensed [registered]** professional engineer's employees or subordinates. **This [Such]** certification shall not be construed to constitute a warranty or guarantee.

(3) Certification of maps, plans, and drawings. **If [Where]** 405 KAR requires that maps, plans, and drawings be certified by a qualified **licensed [registered]** professional engineer, the **licensed [registered]** professional engineer shall certify:

(a) That the information or documentation contained in the map, plan, or drawing is correct as determined by accepted engineering practices; and

(b) That the map, plan or drawing includes all the information required by KRS Chapter

350 and 405 KAR Chapters 7 - 24.

(4) Certification of designs. Where 405 KAR Chapters 7 - 24 requires that a qualified **licensed [registered]** professional engineer design and certify a facility, he or she shall certify that:

(a) The design is in accordance with accepted engineering practices and recognized professional standards;

(b) The design complies with the design requirements of KRS Chapter 350 and 405 KAR Chapters 7 - 24; and

(c) Provided the facility is properly constructed, operated, and maintained, the design is adequate for the facility to meet the applicable performance standards of KRS Chapter 350 and 405 KAR Chapters 7 - 24 insofar as such performance can reasonably be predicted by accepted engineering practices.

(5) Certification of construction.

(a) Where 405 KAR Chapters 7 - 24 requires that a qualified **licensed [registered]** professional engineer certify that a facility was constructed in accordance with the design approved by the cabinet, he or she shall certify:

1. That adequate inspections were conducted by the qualified **licensed [registered]** professional engineer or by persons under his or her supervision;

2. That the construction was performed in accordance with accepted construction practices; and

3. Either that the facility was constructed in accordance with the design approved by the cabinet, or that the facility was constructed in accordance with the design approved by the cabinet except for certain minor deviations which will not adversely affect the performance of the facility nor render the facility in violation of KRS Chapter 350 and 405 KAR Chapters 7 - 24.

(b) Any minor deviations shall be described in the certification document and the effect of the deviations upon the performance of the facility shall be explained.

(c) As-built drawings shall be submitted as a part of the certification.

(6) Certification of maintenance. Where 405 KAR Chapters 7 - 24 requires that a qualified **licensed [registered]** professional engineer certify the maintenance of a structure, he or she shall certify that:

(a) An inspection of the structure was conducted by the **licensed [registered]** professional engineer or by a person under his or her supervision; and

(b) Based on that inspection, the **licensed [registered]** professional engineer has determined that the structure has been maintained as required by 405 KAR Chapters 7 - 24.

~~(7) [Certifications shall be made in the form prescribed by the cabinet, and the cabinet may reject any certification which is not made in such form.]~~

ANDY BESHEAR  
GOVERNOR



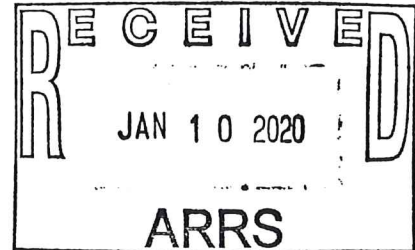
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

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January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 405 KAR 7:040, General obligations of operators and permittees; 405 KAR 7:050, Coal processing waste disposal sites.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 7:040 and 405 KAR 7:050, the Department for Natural Resources proposes the attached amendments to 405 KAR 7:040 and 405 KAR 7:050.

Sincerely,

A handwritten signature in cursive script, reading "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator



**REVISED:**  
**1/8/2020 1 2:49 PM**  
**SUGGESTED SUBSTITUTE**

**ENERGY AND ENVIRONMENT CABINET**  
**Department for Natural Resources**  
**Division of Mine Reclamation and Enforcement**  
**(Amendment)**

**405 KAR 7:050. Coal processing waste disposal sites.**

RELATES TO: KRS 151.125, 151.297, 224.10-100, 224.10-410[224.071], 350.020, 350.090(1), 350.420

STATUTORY AUTHORITY: KRS 151.125, 224.10-410 [224.033], 350.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.020 authorizes [states that unregulated surface coal mining operations create hazards dangerous to life and property and that it is the purpose of KRS Chapter 350 to provide such regulation and control of these operations in order to minimize or prevent injurious effects on the people and resources of the Commonwealth. KRS 350.020 directs] the Energy and Environment Cabinet to promulgate [cabinet to adopt whatever] administrative regulations that are [found] necessary to accomplish the purpose of KRS Chapter 350. [Furthermore,] KRS 151.125 authorizes the cabinet to promulgate administrative regulations concerning flood control, water resources, requirements for dams or reservoirs, and waste planning and management activities. KRS 224.10-410 requires the secretary to promulgate administrative regulations concerning [and 151.297 provide for the issuance of remedial orders whenever life or property are or may be endangered by the failure of any dam, reservoir, levee, embankment, or other water barrier. In addition, KRS 224.071 provides for] the issuance of abate and alleviate orders when there is a danger to the health or welfare of the people of the Commonwealth or to natural resources. This administrative regulation provides for the control of coal processing waste dams, waste impoundments, and waste banks in order to prevent loss of life, damage to property, and injurious effects on the environment of the Commonwealth due to structural failure of these facilities and is necessary because these [such] facilities are not otherwise adequately regulated. This administrative regulation provides~~[among other things,]~~ for submittal of engineering reports, performance standards, and remedial measures to correct dangerous facilities.

Section 1. Applicability. This administrative regulation shall apply [applies] to all coal processing waste disposal sites, such as [whether] dams, waste impoundments, or waste banks, that were constructed or utilized after August 3, 1977, regardless of whether or not

the sites are or have been under permit or bond under KRS Chapter 350.

Section 2. Reports. (1)~~[Within sixty (60) days of September 21, 1982,]~~ Operators or owners of coal processing waste disposal sites shall submit two (2) copies of the following to the cabinet regional office:

(a) All existing information currently available to the operator or owner, including complete design of the facility, stability analyses, and a description of the coal processing waste material at the site ***that includes [including]*** moisture content and particle size gradation. This ***submittal*** shall also include copies of plans submitted to ~~[and/]~~or approved by ***the Mine Safety and Health Administration (MSHA)***. If ***these [such]*** plans ***[submitted to MSHA]*** include all of the information required by this paragraph, then submittal of copies of ***the [such]*** plans shall suffice. ***If [Where]*** information required by this paragraph has already been submitted to the cabinet as a part of a permit application, the operator or owner shall ***[so]*** notify the cabinet regional office in writing and ***shall [need]*** not resubmit duplicate material.

(b) As-built drawings of the current phase of construction or of the completed facility, as applicable, including a map showing the location of the facility.

(2) ***(a)*** Analyses and descriptions submitted under subsection (1)(a) of this section shall be based upon current information available to the operator or owner.

***(b) If the failure of the facility could cause damage to life or property or injurious effects on the environment of the Commonwealth, the cabinet shall [However, on a case-by-case basis, at any time, the cabinet may]*** require the operator or owner to submit ***[such]*** additional plans and analyses or to conduct ***the[such]*** investigations and testing of materials ***that are [as]*** necessary to determine the stability of the facility ***[where failure of the facility could cause damage to life or property or injurious effects on the environment of the Commonwealth]***.

***(c) These investigations and tests [This]*** may include~~[, but is not limited to,]~~ seepage investigations, settlement studies based on compressibility and mining subsidence, foundation investigations including borings or test pits, laboratory testing of foundation materials, and determination of strength parameters based on laboratory testing of site specific coal processing waste materials.

Section 3. Performance Standards. (1) Any coal processing waste disposal site impounding water, or impounding coal processing waste which is physically unstable due to excessive moisture content or excessive fine-grained material, and any dam containing coal processing waste in the embankment shall comply with 405 KAR 16:100 or 405 KAR 18:100~~[either 405 KAR 1:210 or 405 KAR 3:180]~~.

(2) All other coal processing waste disposal sites shall comply with 30 C.F.R. 77.214 as amended at 36 Fed. Reg. 13,143 (1971) and 30 C.F.R. 77.215 as amended at 40 Fed. Reg. 41,776 (1975), ***except a [provided, however, no]*** facility shall ***not*** be constructed in ***a***

~~[such]~~ manner that ~~[it]~~ may cause loss of life, damage to property, or injurious effects on the environment of the Commonwealth due to structural failure of the facility.

(3) Those portions of structures that have already been constructed and structures that have been completed ~~shall~~ ~~[need]~~ not be reconstructed ~~unless~~ ~~[except where]~~ reconstruction is ~~[determined by the cabinet to be]~~ necessary to ensure stability of the facility ~~[in order]~~ to: ~~(a) Eliminate~~ ~~[eliminate]~~ potential hazards to life or property; or ~~(b) Prevent~~ ~~[to prevent]~~ injurious effects on the environment of the Commonwealth.

(4) ~~This~~ ~~[Nothing in this]~~ administrative regulation shall ~~not~~ be construed as relieving an operator from the obligation to comply with any other provision of 405 KAR Chapters 7 - 24, including~~[- but not limited to,]~~ compliance with the permanent program performance standards and the requirements for existing structures in 405 KAR 7:040, Section 4.

Section 4. Remedial Measures. ~~The cabinet may require operators~~ ~~[Operators]~~ or owners of coal processing waste disposal sites ~~[may be required by the cabinet]~~ to revise the facility design ~~and~~~~[and/or]~~ to implement ~~[such]~~ remedial measures ~~if~~ ~~[as]~~ necessary to comply with Section 3 of this administrative regulation.

Section 5. Certifications. (1) All designs, maps, plans, and drawings submitted under this administrative regulation shall be prepared and certified by a qualified registered professional engineer.

(2) Construction or reconstruction of coal processing waste disposal sites shall be inspected during and after construction by a qualified ~~licensed~~ ~~[registered]~~ professional engineer or by qualified persons under the engineer's supervision. ~~The~~ ~~[and the]~~ facility shall be certified within two (2) weeks of each inspection by the responsible qualified ~~licensed~~ ~~[registered]~~ professional engineer as having been constructed in accordance with the design approved by the cabinet ~~under 405 KAR Chapters 7 through 24. If~~ ~~[Where]~~ the cabinet has not yet reviewed and approved the design, the engineer shall make the certifications based upon the design approved by MSHA.



ANDY BESHEAR  
GOVERNOR

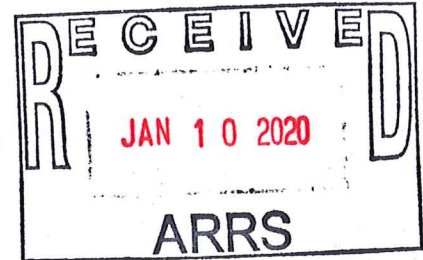
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

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January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 405 KAR 8:010, General provisions for permits; 405 KAR 8:030, Surface coal mining permits.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 8:010 and 405 KAR 8:030, the Department for Natural Resources proposes the attached amendments to 405 KAR 8:010 and 405 KAR 8:030.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

**Suggested Amendment**

**Final Version: 1/8/2020 2:58 PM**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Permits**

**405 KAR 8:010. General provisions for permits.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 15**

After "cabinet to promulgate", delete "rules and".

**Page 2**

**Section 2(2)(a)**

**Line 12**

After "only operations shall", insert "1.".

Capitalize the first letter of "file".

**Line 14**

After "7 through 24", insert "and 2.".

Delete ", and shall".

Capitalize the first letter of "not".

**Page 13**

**Section 10(1)**

**Line 4**

After "interests are or", insert "could".

Delete "may".

**Page 14**

**Section 11(3)**

**Line 7**

After "shall be conducted", insert the following:

as established in paragraphs (a) through (c) of this subsection.

Delete "according to the following:".

**Page 14**

**Section 11(3)(a)**

**Line 9**

After "the proposed mining", insert a period.

Delete the semicolon.

**Page 14**

**Section 11(3)(b)**

**Lines 13 and 14**

After "the scheduled conference", insert a period.  
Delete "; and".

**Page 15**

**Section 12(1)(a)2.**

**Line 19**

After "2. This copy", insert "is not required to".  
Delete "need not".

**Page 16**

**Section 12(2)**

**Lines 4 and 5**

After "that is or", insert "could".  
Delete "may".

**Page 16**

**Section 12(3)(d)**

**Line 14**

After "be limited to", insert "information".

**Page 18**

**Section 13(3)(b)1.**

**Line 8**

After "by registered mail,", delete "promptly".

**Page 22**

**Section 14(5)(a)**

**Line 1**

After "The proposed operations", insert "shall".  
Delete "will".

**Page 24**

**Section 14(19)**

**Line 6**

After "(19) The operation", insert "shall".  
Delete "will".

**Page 24**

**Section 14(20)**

**Line 9**

After "coal mining operation", insert "shall".  
Delete "will".

**Page 24**

**Section 14(21)**

**Line 15**

After "demonstrated that the", insert "proposed".

After "of the operation", insert "is".

Delete "will be".

**Page 30**

**Section 18(3)(c)1.**

**Line 2**

After "environmental harm that", insert "could".

Delete "may".

**Page 32**

**Section 20(2)(a)**

**Line 3**

After "an interest that", insert "could".

Delete "may".

**Page 32**

**Section 20(2)(a)8.**

**Line 15**

After "a new watershed;", insert "and".

**Page 33**

**Section 20(3)(c)1.**

**Line 11**

After "an interest or", insert "could".

Delete "may".

**Page 33**

**Section 20(3)(d)**

**Line 17**

After "an interest or", insert "could".

Delete "may".

**Page 43**

**Section 20(4)(c)4.**

**Line 11**

After "shall be required", delete the extra comma before the period.

**Page 44**

**Section 20(4)(f)**

**Line 9**

After "interests are or", insert "could".

Delete "may".

**Page 46**

**Section 21(6)(a)1.**

**Line 20**

After "are not being", delete "satisfactorily".

**Page 47**

**Section 21(6)(a)4.**

**Line 5**

After "bond the cabinet", insert "requires".

Delete "might require".

**Page 48**

**Section 22(3)**

**Line 17**

After "interests are or", insert "could".

Delete "may".

**Page 49**

**Section 22(4)(b)**

**Line 6**

After "the existing permittee;", delete "and".

**Page 51**

**Section 24(1)**

**Line 8**

After "an interest that", insert "could".

Delete "may".

**Page 51**

**Section 24(2)**

**Line 11**

After "an interest that", insert "could".

Delete "may".

**Page 53**

**Section 25(4)(a)2.**

**Line 18**

After "penalty or fee", delete the remainder of subparagraph 2., except the semicolon.

**Page 53**

**Section 25(4)(a)3.**

**Lines 20 and 21**

After "responsible is complying", insert "with".

Delete "to the satisfaction of".





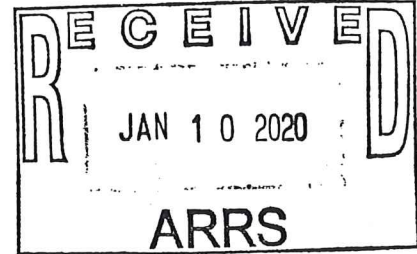
ANDY BESHEAR  
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January 10, 2020



Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
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029, Capitol Annex  
Frankfort KY 40601

Re: 405 KAR 8:010, General provisions for permits; 405 KAR 8:030, Surface coal mining permits.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 8:010 and 405 KAR 8:030, the Department for Natural Resources proposes the attached amendments to 405 KAR 8:010 and 405 KAR 8:030.

Sincerely,

A handwritten signature in cursive script, reading "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

**Suggested Amendment**

**Final Version: 1/8/2020 3:27 PM**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Permits**

**405 KAR 8:030. Surface coal mining permits.**

**Page 2**

**Section 1(2)**

**Line 5**

After "(2) The requirements", insert "established".  
Delete "set forth".

**Line 7**

After "reclamation operations as", insert "established".  
Delete "set forth".

**Page 2**

**Section 1(3)**

**Line 9**

After "This administrative regulation", insert "establishes".  
Delete "sets forth".

**Page 5**

**Section 2(4)**

**Line 2**

After "with this subsection", insert ". This information shall include".

**Page 5**

**Section 2(4)(c)**

**Line 6**

After "or other persons", insert "established".  
Delete "specified".

**Page 6**

**Section 3(1)(c)**

**Line 1**

After "provision of SMCRA", insert a semicolon.  
Delete the comma.

**Lines 1 and 2**

After "pursuant to SMCRA", insert a semicolon.  
Delete the comma.

**Line 2**

After "adopted pursuant thereto", insert a semicolon.  
Delete the comma.

**Line 3**

After "regulations under SMCRA", insert a semicolon.  
Delete the comma.

**Line 4**

After "water environmental protection", insert a semicolon.  
Delete the comma.

**Line 11**

After "lists shall include", delete "the following information".

**Page 9**

**Section 10**

**Line 22**

After "of the advertisement", delete the following:  
    , which is acceptable to the cabinet,

**Page 12**

**Section 13(1)(a)**

**Line 16**

After "or soil material", insert "that".  
Delete "which".

**Lines 16 and 17**

After "been collected using", delete "acceptable".

**Line 17**

After "sampling techniques", insert the following:  
    appropriate for the material type

**Page 13**

**Section 13(1)(a)3.**

**Line 3**

After "of aquifers that", insert "could".  
Delete "may".

**Page 13**

**Section 13(1)(a)4.**

**Line 4**

After "density of sampling", insert "established".  
Delete "specified".

**Page 13**

**Section 13(1)(b)**

**Line 10**

After "identify those strata", insert "that".

Delete "which".

**Page 13**

**Section 13(2)(a)**

**Line 18**

After "(a)", insert "1.".

**Page 13**

**Section 13(2)(a) and (b)**

**Lines 20 and 21**

After "administrative regulation; or", insert "2.".

Delete "(b)".

**Page 13**

**Section 13(2)(b) and (c)**

**Lines 22 and 23**

After "permit application; and", insert "(b)".

Delete "(c)".

**Page 14**

**Section 13(3)(a)3.**

**Line 11**

After "3. Where aquifers", insert "could".

Delete "may".

**Page 14**

**Section 13(3)(b)**

**Line 15**

After "aquifers that", insert "could".

Delete "may".

**Page 14**

**Section 13(4)**

**Line 18**

After "from strata that", insert "could".

Delete "may".

**Page 15**

**Section 14(4)**

**Line 21**

After "The groundwater information", insert "required by".

Delete "described in".

**Page 16**

**Section 14(5)**

**Lines 3 and 4**

After "addition to that", insert "established".

Delete "described".

**Page 16**

**Section 15(3)(b)**

**Line 21**

After "mining operation and", insert "could".

Delete "may".

**Line 23**

After "any discharges that", insert "could".

Delete "may".

**Page 17**

**Section 16**

**Line 15**

After "surface mining activities", insert "could".

Delete "may".

**Page 18**

**Section 18(2)**

**Line 10**

After "(2)", insert "If".

Delete "Where".

**Page 20**

**Section 20(5)(b)**

**Line 13**

After "shall be made", delete "on a case-by-case basis".

**Page 21**

**Section 21(4)**

**Line 12**

After "proposed permit area", insert "could".

Delete "may".

**Page 22**

**Section 21(5)**

**Line 1**

After "The cabinet shall", delete "decide to".

**Page 22**

**Section 21(7)**

**Line 7**

After "and Conservation Service", insert "to decide".  
Delete "when deciding".

**Page 25**

**Section 23(2)(b)**

**Line 3**

After "the application, or", insert "that".  
Delete "which".

**Page 26**

**Section 23(3)**

**Line 15**

After "the map information", insert "established".  
Delete "specified".

**Page 27**

**Section 24(1)**

**Lines 2 and 3**

After "permit area as", insert "established".  
Delete "set forth".

**Page 27**

**Section 24(2)(b)**

**Line 12**

After "land use as", insert "established".  
Delete "specified".

**Page 29**

**Section 24(4)(e)**

**Line 18**

After "measures, if any;", delete "and".

**Page 30**

**Section 24(4)(i)**

**Lines 12 and 13**

After "laws and regulations", insert "that".  
Delete "which".

**Page 34**

**Section 30(1)**

**Line 2**

After "Historic Places that", insert "could".  
Delete "may".

**Page 34**

**Section 32(1)**

**Line 19**

After "a description, as", insert "established".

Delete "set forth".

**Page 35**

**Section 32(2)**

**Lines 21 and 22**

After "necessary protective measures", insert "established".

Delete "identified".

**Pages 35 and 36**

**Section 32(2)**

**Lines 22 and 1**

After "manner and detail", insert "to clearly depict".

Delete the following:

Acceptable to the cabinet including

**Page 36**

**Section 32(2)**

**Lines 1 and 2**

After "and written explanation", delete "as".

**Page 37**

**Section 32(3)(d)1.**

**Line 3**

After "supply source; and", delete the period.

**Page 37**

**Section 32(3)(e)**

**Lines 7 and 8**

After "surface mining activities", insert "could".

Delete "may".

**Page 40**

**Section 34(5)(b)**

**Line 10**

After "geotechnical conditions that", insert "could".

Delete "may".

**Page 41**

**Section 36(2)(a)**

**Line 12**

After "species and habitats", insert "established".

Delete "identified".

**Page 42**

**Section 36(4)(b)**

**Line 17**

After "shall be made", delete "on a case-by-case basis".

**Page 43**

**Section 37(1)(b)**

**Line 4**

After "support activities that", insert "could".

Delete "may".





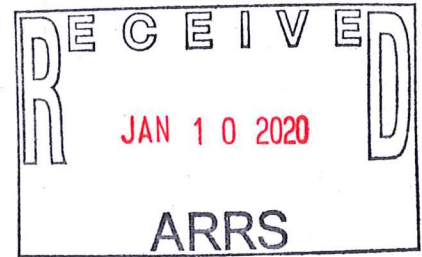
ANDY BESHEAR  
GOVERNOR

REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

300 SOWER BOULEVARD  
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TELEPHONE: 502-564-6940  
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January 10, 2020



Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 405 KAR 10:050, Bond forfeiture.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 10:050, the Department for Natural Resources proposes the attached amendments to 405 KAR 10:050.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

**Suggested Amendment**

**Final Version: 1/8/2020 3:36 PM**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Permits**

**405 KAR 10:050. Bond forfeiture.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Lines 11 and 12**

After "manner as to", insert "ensure".

Delete "insure".

**Line 12**

After "This administrative regulation", insert "establishes".

Delete "sets forth".

**Line 14**

After "administrative regulation", insert "establishes".

Delete "sets forth".

**Line 16**

After "administrative regulation", insert "establishes".

Delete "sets forth".

**Line 17**

After "This administrative regulation", insert "establishes the".

Delete "specifies a".

**Page 2**

**Section 2(1)**

**Line 10**

After "(1)", insert the following:

Except as established in subsection (2) of this section,

Lowercase the first letter of "If".

**Page 2**

**Section 2(1)(c)**

**Line 18**

After "are not received,", delete "the secretary shall".

After "of forfeiture and", delete "the cabinet shall".

**Page 4**

**Section 3(3)**

**Line 22**

After "letter of credit", insert a period.

Delete the colon.



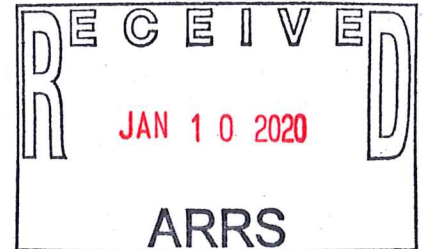
ANDY BESHEAR  
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REBECCA W. GOODMAN  
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January 10, 2020



Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 405 KAR 16:100 + 405 KAR 016:210 *gms*

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 16:100 and 405 KAR 16:210, the Department for Natural Resources proposes the attached amendments to 405 KAR 16:100 and 405 KAR 16:210.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

**Suggested Amendment**

**Final Version: 1/10/2020 9:09 AM**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Reclamation and Enforcement**

**405 KAR 16:100. Permanent and temporary impoundments.**

**Page 2**

**Section 1(1)(a)**

**Line 12**

After ""dams," as defined", insert "by".

Delete "in".

**Page 2**

**Section 1(2)**

**Line 16 and 17**

After "by the cabinet", insert the following:

in accordance with 405 KAR Chapters 7 through 24

**Page 3**

**Section 1(3)(b)**

**Line 5**

After "and the design", insert "shall".

Delete "will".

**Page 3**

**Section 1(3)(d)**

**Lines 9 and 10**

After "steeper slopes, based", insert the following:

on site and slope stability

Delete the following:

upon a satisfactory demonstration of stability by the applicant  
acceptable to the cabinet

**Page 3**

**Section 1(3)(f)**

**Line 19**

After "by the cabinet", insert the following:

pursuant to subsection (2) of this section

**Page 4**

**Section 1(4)**

**Line 10**

After "to incised impoundments", insert "that".  
Delete "which".

**Page 5**

**Section 1(5)(a)3.b.**

**Line 1**

After ""dam," as defined", insert "by".  
Delete "at".  
After "KRS 151.100", insert "(12)".

**Page 5**

**Section 1(6)**

**Line 7**

After "emergency spillways", insert a comma.

**Line 8**

After "precipitation event", insert "established".  
Delete "specified".

**Line 9**

After "cabinet requires a", insert the following:  
design based on a larger precipitation event due to site specific conditions  
Delete "larger event".

**Line 10**

After "precipitation event", insert "established".  
Delete "specified".

**Page 5**

**Section 1(6)(a)**

**Line 11**

After "(a) Except as", insert "established".  
Delete "provided".

**Page 5**

**Section 1(6)(c)**

**Line 17**

After "and all permanent", insert the following:  
"dams," as defined by KRS 151.100(12)  
Delete the following:  
dams as defined in KRS 151.100

**Page 6**

**Section 1(9)(b)**

**Lines 13 and 14**

After "structural weakness", insert a comma.

**Line 15**

After "and instrumentation", insert a comma.

**Page 6**

**Section 1(9)(c)**

**Line 23**

After "the cabinet determines", insert the following:

and notifies the permittee in writing

Delete "on a case-by-case basis".

**Page 7**

**Section 1(9)(c)**

**Line 1**

After "are necessary to", insert "ensure".

Delete "insure".

**Lines 1 through 4**

After "or environmental conditions", delete the remainder of paragraph (c), except the period.

**Page 7**

**Section 1(10)(b)**

**Line 13**

After "quarter are required", insert the following:

based on evidence of structural weakness or hazardous conditions

**Page 8**

**Section 1(12)(c)**

**Lines 3 and 4**

After "used for stability", insert a comma.

**Page 8**

**Section 2**

**Line 6**

After "permit based upon", insert the following:

compliance with subsections (1) through (6) of this section.

Delete "the following demonstration:".

**Page 8**

**Section 2(1)**

**Line 7**

After "impounded water", insert "shall".  
Delete "will".

**Page 8**

**Section 2(2)**

**Line 9**

After "impounded water", insert "shall".  
Delete "will".

**Line 10**

After "after reclamation", insert "shall comply with".  
Delete "will meet".

**Line 11**

After "from the impoundment", insert "shall comply with".  
Delete "will meet".  
After "limitations and", insert "shall".  
Delete "will".

**Page 8**

**Section 2(3)**

**Line 13**

After "water level", insert "shall".  
Delete "will".

**Page 8**

**Section 2(4)**

**Line 15**

After "Final grading", insert "shall provide".  
Delete "will provided".

**Page 8**

**Section 2(5)**

**Line 17**

After "The impoundment", insert "shall".  
Delete "will".

**Page 8**

**Section 2(6)**

**Line 20**

After "The impoundment", insert "shall".  
Delete "will".



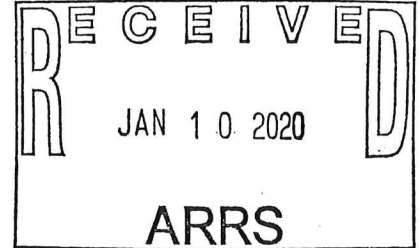
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January 10, 2020



Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 405 KAR 16:100 + 405 KAR 016:210 *gpt*

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 16:100 and 405 KAR 16:210, the Department for Natural Resources proposes the attached amendments to 405 KAR 16:100 and 405 KAR 16:210.

Sincerely,

A handwritten signature in cursive script that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator



**Suggested Amendment**

**Final Version: 1/9/2020 9:47 AM**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Reclamation and Enforcement**

**405 KAR 16:210. Postmining land use capability.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 14**

After "This administrative regulation", insert "establishes".  
Delete "sets forth".

**Line 15**

After "surface mining activities", delete the comma.

**Line 16**

After "postmining land uses", insert "that".  
Delete "which".

**Page 1**

**Section 1(1)(a)**

**Line 19**

After "supporting the uses", insert "that".  
Delete "which".

**Page 2**

**Section 1(2)(e)**

**Line 8**

After "(e)", insert "Industrial or commercial".  
Delete "Industrial/commercial".

**Page 2**

**Section 1(2)(h)**

**Line 11**

After "Developed water resources;", insert "and".

**Page 2**

**Section 2(1)**

**Line 14**

After "be those uses", insert "that".  
Delete "which".

**Lines 16 and 17**

After "at that area", insert a period.  
Delete "; however,".

Capitalize the first letter of "more".

**Line 17**

After "(1) land use", insert "may".

Delete "can".

**Page 3**

**Section 2(2)(b)**

**Line 1**

After "can be achieved", insert "that".

Delete "which".

**Page 3**

**Section 2(4)(b)1.**

**Line 11**

After "postmining land use", insert "; or".

Delete the period.

**Page 3**

**Section 2(5)**

**Line 15**

After "postmining land uses.", insert "The".

Delete "These".

After "limitations", insert "in this subsection".

**Line 16**

After "permits issued after", insert "November 26, 1991".

Delete the following:

the effective date of this amendment

**Page 4**

**Section 4**

**Lines 4 and 5**

After "postmining land uses", insert "shall".

Delete "may".



ANDY BESHEAR  
GOVERNOR

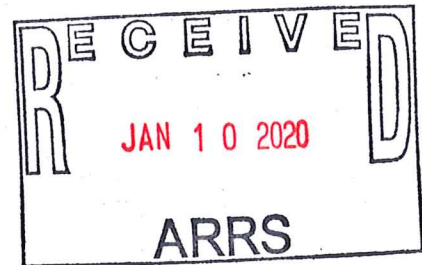
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January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **405 KAR 18:100**, Permanent and temporary impoundments, 405 KAR 18:220  
Postmining land use capability.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 18:100 and 405 KAR 18:220, the Department for Natural Resources proposes the attached amendments to 405 KAR 18:100 and 405 KAR 18:220.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator

Revised: 1/9/20  
**SUGGESTED SUBSTITUTE**

**ENERGY AND ENVIRONMENT CABINET**  
**Department for Natural Resources**  
**Division of Mine Reclamation and Enforcement**

**405 KAR 18:100. Permanent and temporary impoundments.**

RELATES TO: KRS 151.100, 151.250(3), 350.100, 350.151, 350.420, 350.455, 350.465, 30 C.F.R. 77.216, 77.216-3, Parts 730-733, Part 735, 817.49, Part 917, 30 U.S.C. 1253, 1255, 1266

STATUTORY AUTHORITY: KRS 350.028(1), (5), 350.151(1), 350.465(2), 30 C.F.R. Parts 730-733, Part 735, 817.49, Part 917, 30 U.S.C. 1253, 1255, 1266

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028(1), (5), 350.151(1), and 350.465(2) authorize the Energy and Environment Cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. This administrative regulation establishes the requirements for the design, construction, certification, inspection, and maintenance of temporary and permanent impoundments for underground mines. This administrative regulation differs from federal regulations as follows: (1) Section 1 of this administrative regulation provides criteria related to the stability, settlement, embankment height and width, and freeboard of impoundments, which are/is not found in the federal regulations. These criteria have been retained because they have long been effective guidelines for embankment safety and stability. (2) Section 1(9)(c) of this administrative regulation provides an exemption from engineering inspection for certain types of impoundments without embankments. These inspections are unnecessary because the embankments do not present a safety hazard or environmental concern that would warrant routine, detailed inspection. (3) Section 1(10)(b) of this administrative regulation provides an exemption from quarterly inspections for certain small nonhazardous impoundments without embankment structures. These inspections are unnecessary because the structures cannot develop the hazardous conditions which the inspections were intended to detect.

Section 1. General Requirements. The requirements of this section apply to both

temporary and permanent impoundments. (1)(a) Impoundments meeting the criteria of MSHA, 30 C.F.R. 77.216(a), shall comply with the requirements of 30 C.F.R. 77.216 and this administrative regulation. The plan required to be submitted to the district manager of MSHA under 30 C.F.R. 77.216 shall be submitted to the cabinet as part of the permit application after the plan has been approved by MSHA.

(b) All impoundments classified as Class B-moderate hazard or Class C-high hazard, and all permanent "dams," as defined in KRS 151.100(12), shall comply with 405 KAR 7:040, Section 4[5] and with 401 KAR 4:030.

(2) Design certification. The design of impoundments shall be certified by a qualified licensed[registered] professional engineer as designed to meet the requirements of this administrative regulation using current, prudent engineering practices, and any design criteria established by the cabinet in 405 KAR Chapters 7 through 24. The qualified licensed[registered] professional engineer shall be experienced in the design and construction of impoundments.

(3) Stability.

(a)1. Permanent and temporary impoundments meeting the criteria of MSHA, 30 C.F.R. 77.216(a), all Class B and C impoundments, and all permanent impoundments, shall have a minimum static safety factor of 1.5 for the normal pool with steady seepage saturation conditions, and a seismic safety factor of at least 1.2.

2. Impoundments not included in subparagraph 1 of this paragraph, except coal mine waste impoundments, shall have a minimum static safety factor of 1.3 for the normal pool with steady state seepage saturation conditions.

(b) The constructed height of the dam shall be increased a minimum of five (5) percent over the design height to allow for settlement. Upon request, the minimum height increase may be reduced iff, unless it has been demonstrated to the cabinet that the material used and the design shall[will] ensure against all settlement.

(c) The minimum top width of the embankment shall not be less than the quotient of  $(H+35)/5$ , where H is the height, in feet, of the embankment as measured from the upstream toe of the embankment.

(d) Unless the cabinet approves steeper slopes, based on site and slope stability ~~[upon a satisfactory demonstration of stability by the applicant acceptable to the~~

**cabinet]**, the sum of the upstream and downstream side slopes (h/v) of the settled embankment shall not be less than 5h:1v, with neither slope steeper than 2h:1v. Slopes shall be designed to be stable in all cases, even if flatter side slopes are required.

(e) The fill material shall be free of sod, large roots, other large vegetative matter, and frozen soil and shall not contain coal mine waste except for coal mine waste impounding structures pursuant to 405 KAR 18:160.

(f) The placing and spreading of fill material shall be started at the lowest point of the foundation. The fill shall be brought up in horizontal layers of thickness as is required to facilitate compaction and meet the design requirement of this administrative regulation. Compaction shall be conducted as specified in the design approved by the cabinet **pursuant to subsection (2) of this section.**

(g) The entire embankment including the surrounding areas disturbed by construction shall be stabilized with respect to erosion by a vegetative cover or other means immediately after the embankment is completed. The active upstream face of the embankment where water will be impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated in accordance with 405 KAR 18:190, Section 4.

(h) Slope protection shall be provided to protect against surface erosion at the site and protect against sudden drawdown.

(4) Freeboard. Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. The minimum elevation at the top of the settled embankment shall be one (1.0) foot above the water surface in the pond with the emergency spillway flowing at design depth. For embankments subject to settlement, this one (1.0) foot minimum elevation requirement shall apply at all times, including the period after settlement. Freeboard requirements shall not apply to incised impoundments **that[which]** have no embankment or levee.

(5) Foundation.

(a)1. Foundation and abutments for the impounding structure shall be designed to be stable under all conditions of construction and operation of the impoundment and shall be designed based on adequate and accurate information on the foundation conditions.

2. For permanent and temporary impoundments meeting the criteria of MSHA, 30

C.F.R. 77.216(a), for all Class B and C impoundments, and for all permanent impoundments, foundation investigations as well as any necessary laboratory testing of materials shall be performed in order to determine the design requirements for foundation and embankment stability.

3. If an approved temporary impoundment has been constructed and the permittee subsequently seeks a permit revision to upgrade the structure to a permanent impoundment, the cabinet may waive the foundation investigations and laboratory testing required by subparagraph 2 of this paragraph under the following circumstances:

- a. The structure has been recently verified as being a Class A-low hazard structure;
- b. The structure does not meet the definition of the term "dam," as defined at KRS 151.100; and

- c. The cabinet approves conservative, assumed values for the strength parameters used in the stability analyses to ensure compliance with subsection (3)(a) of this section.

(b) All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.

(6) Impoundments shall include a combination of principal and emergency spillways that[which] shall be designed and constructed to safely pass the design precipitation event specified in this subsection, unless the cabinet requires a **design based on a larger precipitation** event **due to site specific conditions**. Twenty-four (24) hours may be used in lieu of six (6) hours for the duration of a design precipitation event specified in this subsection.

(a) Except as provided in paragraph (c) of this subsection, Class A structures that do not meet the criteria of MSHA, 30 C.F.R. 77.216(a), shall pass the:

- 1. Twenty-five (25) year, six (6) hour precipitation event if it is a temporary structure;

or

- 2. The fifty (50) year, six (6) hour precipitation event if it is a permanent structure.

(b) Class A structures that do meet the criteria of MSHA, 30 C.F.R. 77.216(a), shall pass the 100 year, six (6) hour precipitation event.

(c) Class B and C structures and all permanent dams as defined in KRS 151.100(12) shall comply with the criteria established in 401 KAR 4:030.

(7) Class A impoundments not meeting the criteria of MSHA, 30 C.F.R. 77.216(a), may use a single spillway (if allowed pursuant to subsection (1)(b) of this section) if the spillway:

(a) Is an open channel of nonerodible construction and capable of maintaining sustained flows; and

(b) Is not earth or grass lined.

(8) The vertical portion of any remaining highwall shall be located far enough below the low-water line along the full extent of the highwall to provide adequate safety and access for the proposed water users.

(9) Engineer inspections. A qualified licensed/registered professional engineer or other qualified professional specialist, under the direction of the professional engineer, shall inspect the impoundment. The professional engineer or specialist shall be experienced in the design and construction of impoundments.

(a) Inspections shall be made regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond.

(b) The qualified licensed/registered professional engineer shall promptly, after each inspection, provide to the cabinet a certified report that the impoundment has been constructed and maintained as designed and in accordance with the plan approved in the permit and 405 KAR Chapters 7 through 24. The report shall include discussion of any appearances of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded waters, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability. The report shall also confirm the hazard classification of the impoundment, or if the hazard classification has changed, the report shall contain a detailed explanation of the change and the conditions causing the change. A copy of the report shall be retained at or near the mine site.

(c) An impoundment with no embankment structure, that is completely incised or is created by a depression left by backfilling and grading, that is not a sedimentation pond or coal mine waste impoundment and is not otherwise intended to facilitate active mining, shall be exempt from this subsection unless the cabinet determines and notifies the



~~permittee in writing~~~~[on a case-by-case basis]~~ that engineering inspection and certification are necessary to ~~ensure~~~~[insure]~~ public health and safety or environmental conditions~~[, in which case the cabinet shall establish appropriate inspection and certification requirements for the impoundment that shall apply in lieu of the requirements of this subsection and shall notify the permittee in writing]~~.

(10) Operator examinations.

(a) Impoundments subject to 30 C.F.R. 77.216, and Class B and C impoundments, shall be examined in accordance with 30 C.F.R. 77.216-3.

(b) Impoundments not included in paragraph (a) of this subsection shall be examined at least quarterly by a qualified person designated by the operator for appearance of structural weakness and other hazardous conditions. Quarterly examinations shall be conducted each calendar quarter (i.e., January-March, April-June, July-September, and October-December) and no two (2) examinations shall be within thirty (30) days of each other unless additional examinations within a quarter are required **based on evidence of structural weakness or hazardous conditions**. Reports of the examinations shall be retained at or near the mine site. An impoundment with no embankment structure, that is completely incised or is created by a depression left by backfilling and grading, shall be exempt from this paragraph.

(11) Emergency procedures. If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall immediately notify the department and the Kentucky Division of Water, or if these agencies cannot be reached, **Kentucky Emergency Management**~~[Disaster and Emergency Services]~~. The permittee shall immediately implement emergency procedures formulated for public protection and remedial action. If adequate emergency procedures cannot be formulated or implemented by the permittee, the cabinet shall be notified, and the cabinet shall notify the appropriate agencies that other emergency procedures are required to protect the public.

(12) Maintenance. An owner or operator of an impoundment shall:

(1) Cut vegetative growth where necessary to facilitate inspection and repairs;

(2) Clean any ditches and spillways; and

(3) Remove any combustible material present on the surface, other than that used for

stability such as mulch or dry vegetation.

Section 2. Permanent Impoundments. A permanent impoundment of water may be created, if authorized by the cabinet in the approved permit based upon the following demonstration:

(1) The size and configuration of the impoundment will be adequate for its intended purposes.

(2) The quality of impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet applicable state and federal water quality standards, and discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below applicable state and federal water quality standards.

(3) The water level will be sufficiently stable and be capable of supporting the intended use.

(4) Final grading will provide for adequate safety and access for proposed water users. Perimeter slopes shall be stable and shall be protected against erosion.

(5) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(6) The impoundment will be suitable for the approved postmining land use.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: September 13, 2019

FILED WITH LRC: September 13, 2019 at 9 a.m.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email [michael.mullins@ky.gov](mailto:michael.mullins@ky.gov).



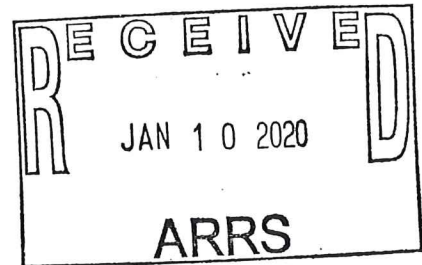
ANDY BESHEAR  
GOVERNOR

REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: 502-564-6940  
TELEFAX: 502-564-4245

January 10, 2020



Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 405 KAR 18:100, Permanent and temporary impoundments, 405 KAR 18:220  
Postmining land use capability.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 18:100 and 405 KAR 18:220, the Department for Natural Resources proposes the attached amendments to 405 KAR 18:100 and 405 KAR 18:220.

Sincerely,

Michael S. Mullins  
Regulation Coordinator

Revised: 1/9/20  
**SUGGESTED SUBSTITUTE**

**ENERGY AND ENVIRONMENT CABINET**  
**Department for Natural Resources**  
**Division of Mine Reclamation and Enforcement**

**405 KAR 18:220. Postmining land use capability.**

RELATES TO: KRS 350.093, 350.095, 350.100, 350.151, 350.410, 350.450, 350.465, 30 C.F.R. Parts 730-733, **Part** 735, 817.133, **Part** 917, 30 U.S.C. 1253, 1255, 1266

STATUTORY AUTHORITY: KRS [~~**Chapter 13A,**~~] 350.020, 350.028(~~**1**~~), (~~**5**~~), 350.151, 350.465, 30 C.F.R. Parts 730-733, **Part** 735, 817.133, **Part** 917, 30 U.S.C. 1253, 1255, 1266

NECESSITY, FUNCTION, AND CONFORMITY: ~~KRS 350.465~~[~~KRS Chapter 350 in~~ pertinent part] requires the **Energy and Environment** Cabinet to promulgate[~~rules and~~] administrative regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during underground mining activities and for restoration and reclamation of surface areas affected by underground mining activities. This administrative regulation **establishes**[~~sets forth~~] requirements for restoring surface land use capability after completion of underground mining activities, and specific criteria for approval of postmining land uses **that**[~~which~~] differ from the premining land use.

Section 1. General. (1) Prior to the final release of the performance bond, affected areas shall be restored in a timely manner:

(a) To conditions capable of supporting the uses which the areas were capable of supporting before any mining; or

(b) To conditions capable of supporting higher or better alternative uses as approved by the cabinet under Section 4 of this administrative regulation.

(2) The following land uses shall apply under this administrative regulation:

(a) Cropland;

(b) Pastureland;

(c) Forest land;

- (d) Residential;
- (e) Industrial/commercial;
- (f) Recreation;
- (g) Fish and wildlife;
- (h) Developed water resources;
- (i) Undeveloped land or no current use or land management.

Section 2. Premining and Postmining Land Use. (1) The premining uses of land to which the postmining land use is compared shall be those uses which the land previously supported if the land has not been previously mined. The premining land use for a specific area shall be determined based on the prevalent or dominant use, vegetative types, and features present at that area; except that~~however,~~ more than one (1) land use can exist within an area to be affected by surface operations and facilities.

(2)(a) The postmining land use for land that has been previously mined, and not reclaimed in compliance with 405 KAR~~Chapter 1 or 3 or~~ Chapters 7 through 24, shall be judged on the basis of the land use that existed prior to any mining.~~;~~~~except~~

(b) If the land cannot be reclaimed to the land use that existed prior to any mining because of the previously mined condition, the postmining land use shall be judged on the basis of the highest and best use that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining.

(3) Prime farmland that has been historically used for cropland that is not exempted by 405 KAR 8:050, Section 3 shall have a postmining land use of cropland.

(4)(a) The land use category of "undeveloped land or no current use or land management" shall not be used to designate a postmining land use.

(b) If the premining land use is "undeveloped land or no current use or land management", and if consistent with subsection (2) of this section and Section 3 of this administrative regulation:

1. If trees are dominant on the area prior to mining, the area may be designated as forestland for the postmining land use without compliance with the procedures and criteria for an alternative postmining land use.

2. For all other cases, the area may be designated as fish and wildlife for the postmining land use without compliance with the procedures and criteria for an alternative postmining land use.

(5) Slope limitations for specific postmining land uses. **The limitations in this subsection**~~**These limitations**~~ shall apply to permits issued after **November 26, 1991**~~**the effective date of this amendment**~~. Portions of the area affected by surface operations and facilities with slopes greater than twenty (20) percent (eleven and three-tenths (11.3) degrees) shall not be designated as cropland, including hay production.

(6) Steep slope operations with variances from approximate original contour shall comply with the requirements of 405 KAR 20:060, Section 3(2).

Section 3. Historical Land Use. If the premining use of the land was changed within five (5) years of the date of application for a permit to conduct surface coal mining and reclamation operations, the historical use of the land as well as the land use immediately preceding the date of application shall be considered in establishing the premining capability of the land to support a variety of feasible uses.

Section 4. Alternative Postmining Land Use. Higher or better alternative postmining land uses **shall**~~**may**~~ be approved by the cabinet if the following criteria are met:

- (1) There is a reasonable likelihood that the land use will be achieved;
- (2) The use will not be impractical or unreasonable;
- (3) The landowner or the land management agency having jurisdiction over the lands has been consulted, and the proposed alternative postmining land use is consistent with applicable land use policies and plans;
- (4) The proposed use will not present an actual or probable hazard to public health or safety or threat of water pollution or diminution of water availability;
- (5) The proposed use will not involve unreasonable delays in implementation; and
- (6) The proposed use will not cause or contribute to violation of federal, state, or local law.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: September 13, 2019

FILED WITH LRC: September 13, 2019 at 9 a.m.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd,  
Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email  
[michael.mullins@ky.gov](mailto:michael.mullins@ky.gov).



ANDY BESHEAR  
GOVERNOR

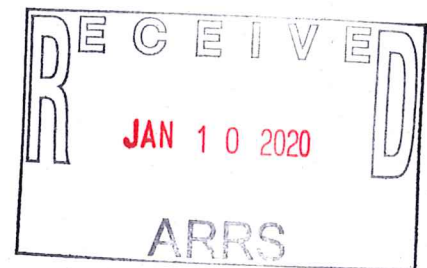
REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR NATURAL RESOURCES**

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: 502-564-6940  
TELEFAX: 502-564-4245

January 10, 2020

Senator West, Co-Chair  
Representative Hale, Co-Chair  
c/o Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 405 KAR 20:040, Prime farmland.

Dear Co-Chair West and Co-Chair Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 405 KAR 20:040, the Department for Natural Resources proposes the attached amendments to 405 KAR 20:040.

Sincerely,

A handwritten signature in blue ink that reads "Michael S. Mullins".

Michael S. Mullins  
Regulation Coordinator



Revised: 1/9/20  
**SUGGESTED SUBSTITUTE**

**ENERGY AND ENVIRONMENT CABINET  
Department for Natural Resources  
Division of Mine Reclamation and Enforcement**

**405 KAR 20:040. Prime farmland.**

RELATES TO: KRS 350.100, 350.405, 350.415, 350.450, 350.465, **30 C.F.R. Parts 715, 823**

STATUTORY AUTHORITY: KRS **350.020[Chapter 13A]**, 350.028(1), (5), 350.100, 350.450, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS **350.020, 350.028(1), (5), and 350.450 require[Chapter 350 in pertinent part requires]** the **Energy and Environment** Cabinet to promulgate environmental protection performance standards specifically including special requirements for the protection of prime farmland. This administrative regulation **establishes[specifies]** special requirements for the removal, stockpiling, replacement, and revegetation of prime farmland.

Section 1. Scope and Purpose. This administrative regulation **establishes[sets forth]** special environmental protection performance, reclamation, and design standards for surface coal mining and reclamation operations on prime farmland.

Section 2. Responsibilities. (1) ~~**[The federal regulations at]**~~ 30 C.F.R. Part 823 ~~**requires[require that]**~~ the U.S. Soil Conservation Service (SCS) within each state **to** establish specifications for prime farmland soil removal, storage, replacement, and reconstruction. **The Kentucky specifications are established in "Soil Conservation Service, Kentucky Standard and Specifications for Land Restoration, Currently Mined Prime Farmland."**

(2) ~~**[The federal regulations at]**~~ 30 C.F.R. Part 823 ~~**requires[require that]**~~ the cabinet **to** use the soil-reconstruction specifications established by the SCS, as referenced in subsection (1) of this section, to carry out its responsibilities.~~[Therefore, the following document is incorporated herein by reference: "Soil Conservation Service, Kentucky~~

~~Standard and Specifications for Land Restoration, Currently Mined Prime Farmland,"~~  
~~January 1986. Copies may be obtained from the Soil Conservation Service, 333 Waller~~  
~~Avenue, Lexington, Kentucky.]~~

Section 3. Applicability. The requirements of this administrative regulation, including the SCS prime farmland specifications of Section 2 of this administrative regulation, shall apply to prime farmland affected by surface coal mining and reclamation operations except that which has been excluded in accordance with 405 KAR 8:050, Section 3(1).

Section 4. Soil Removal and Stockpiling. (1) Prime farmland soils shall be removed from the areas to be disturbed before drilling, blasting, or mining.

(2) The minimum depth of soil and soil materials to be removed and stored for use in the reconstruction of prime farmland shall be sufficient to meet the requirements of Section 5(1) of this administrative regulation.

(3) Soil removal and stockpiling operations on prime farmland shall be conducted to:

(a) Separately remove the topsoil, or remove other suitable soil materials where **the[such]** other soil materials will create a final soil having a greater productive capacity than that which **exists[exist]** prior to mining. If not utilized immediately, this material shall be placed in stockpiles separate from the spoil and all other excavated materials; and

(b) **1. Except as provided by subparagraph 2 of this paragraph,** separately remove the B or C horizon or other suitable soil material to provide the thickness of suitable soil required by Section 5(1) of this administrative regulation. If not utilized immediately, each horizon or other material shall be stockpiled separately from the spoil and all other excavated materials.

**2. If[Where]** combinations of **the[such]** soil materials created by mixing have been shown to be equally or more favorable for plant growth than the B horizon, separate handling **shall[is]** not **be required[necessary]**.

(4) Stockpiles shall be placed within the permit area where they will not be disturbed or be subject to excessive erosion. If left in place for more than thirty (30) days, stockpiles shall meet the requirements of 405 KAR 16:050 or 18:050.

Section 5. Soil Replacement. (1) The minimum depth of soil and substitute soil material to be reconstructed shall be forty-eight (48) inches, or a lesser depth equal to the depth to a subsurface horizon in the natural soil that inhibits or prevents root penetration, or a greater depth if determined necessary to restore the original soil productive capacity. The determination of whether a horizon inhibits or prevents root penetration shall be in accordance with the SCS specifications under Section 2 of this administrative regulation.

(2) The operator shall replace and regrade the soil horizons or other root-zone material with proper compaction and uniform depth.

(3) The operator shall replace the B horizon, C horizon, or other suitable material specified in Section 4(3)(b) of this administrative regulation to the thickness needed to meet the requirements of subsection (1) of this section.

(4) The operator shall replace the topsoil or other suitable soil materials specified in Section 4(3)(a) of this administrative regulation as the final surface soil layer. This surface soil layer shall equal or exceed the thickness of the original surface soil layer, as determined by the soil survey.

Section 6. Revegetation and Restoration of Soil Productivity. (1) ~~[Requirements for]~~ Revegetation and demonstration of successful restoration of soil productivity shall comply with the requirements established~~[are set forth]~~ in "Kentucky Prime Farmland Revegetation and Crop Production Restoration After Mining," Kentucky Department for Natural Resources in consultation with the U.S. Soil Conservation Service~~[, June 1985. This document is incorporated herein by reference. Copies may be obtained from the department].~~

(2) Data on crop yields from restored prime farmland soils shall be verified by the cabinet. The permittee shall notify the appropriate regional office of the department of harvest dates in order to provide the opportunity for cabinet personnel to monitor yield measurements. This notification shall be in writing at least thirty (30) days prior to anticipated harvest dates and shall be followed up by telephone prior to actual harvest dates.

(3)~~[Irrespective of the provisions of 405 KAR 1:005,]~~ This section shall also apply to prime farmland mined under the interim regulatory program under 30 C.F.R. Part 715~~[405~~

KAR 1:250].

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Soil Conservation Service, Kentucky Standard and Specifications for Land Restoration, Currently Mined Prime Farmland," January 1986;

(b) "Kentucky Prime Farmland Revegetation and Crop Production Restoration after Mining," June 1985.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Mine Permits, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: September 13, 2019

FILED WITH LRC: September 13, 2019 at 9 a.m.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email [michael.mullins@ky.gov](mailto:michael.mullins@ky.gov).

Andy Beshear  
Governor



Lt. Gov. Jacqueline Coleman  
Secretary  
Education and Workforce  
Development Cabinet

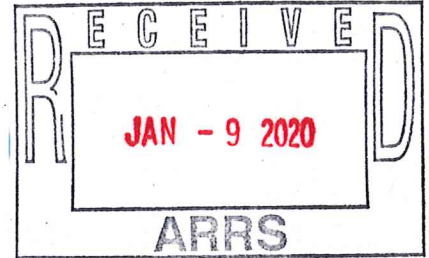
Kevin C. Brown  
Interim Commissioner of Education

**KENTUCKY DEPARTMENT OF EDUCATION**

300 Sower Boulevard • Frankfort, Kentucky 40601  
Phone: (502) 564-3141 • [www.education.ky.gov](http://www.education.ky.gov)

January 8, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601



**Re: 704 KAR 8:080. Required academic standards in career studies and financial literacy.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 8:080, the Kentucky Board of Education proposes the attached amendment to 704 KAR 8:080.

Sincerely,

A handwritten signature in blue ink that reads "Todd G. Allen".

Todd G. Allen  
Interim General Counsel

Attachment

**Staff-suggested Amendment**

**Final Version 1/8/2020 12:03 p.m.  
EDUCATION AND WORKFORCE DEVELOPMENT CABINET  
Kentucky Board of Education  
Department of Education**

**704 KAR 8:080. Required academic standards in career studies and financial literacy.**

**Page 1**

**RELATES TO paragraph**

**Line 6**

After "KRS", insert "156.070(1), 156.160, 158.645".

Delete "156.160, 156.070(1)".

After "158.1411, 158.1413,", insert "158.6451"

Delete "158.645, 158:6451".

**Page 1**

**STATUTORY AUTHORITY paragraph**

**Line 8**

After "KRS", insert "156.070(1), 156.160".

Delete "156.160, 156.070(1)".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 9**

After "NECESSITY,", insert "FUNCTION".

Delete "FUNTION".

**Page 2**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 3**

After "skills, career exploration", insert "L".

Andy Beshear  
Governor



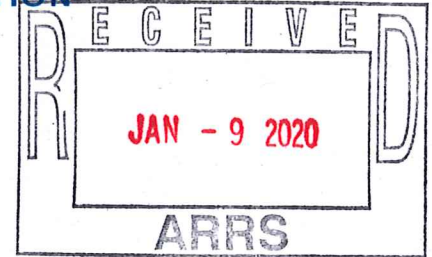
Lt. Gov. Jacqueline Coleman  
Secretary  
Education and Workforce  
Development Cabinet

Kevin C. Brown  
Interim Commissioner of Education

**KENTUCKY DEPARTMENT OF EDUCATION**

300 Sower Boulevard • Frankfort, Kentucky 40601  
Phone: (502) 564-3141 • [www.education.ky.gov](http://www.education.ky.gov)

January 8, 2020



Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601

**Re: 780 KAR 2:040. Live work projects**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 780 KAR 2:040, the Kentucky Board of Education proposes the attached amendment to 780 KAR 2:040.

Sincerely,

A handwritten signature in blue ink that reads "Todd G. Allen".

Todd G. Allen  
Interim General Counsel

Attachment

**Staff-suggested Amendment**

**Final Version 1/8/2020 12:05 p.m.  
EDUCATION AND WORKFORCE DEVELOPMENT CABINET  
Kentucky Board of Education  
Department of Education**

**780 KAR 2:040. Live work projects.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 8 and 9**

After "KRS 156.802(3)", insert "authorizes".

Delete "gives".

After "Kentucky Department of Education", insert "to have".

Delete "the".

**Page 2**

**Section 3(2)**

**Line 3**

After "responsible for all unused", insert "Work Order – Agreement".

Delete "work order".

**Page 2**

**Section 3(4)**

**Line 9**

After "(4) A live", insert "Work Order – Agreement form".

Delete "work order".

**Page 3**

**Section 4**

**Lines 6 and 8**

After "live work projects.", insert the following:

A Kentucky TECH school shall not perform

Lowercase "live".

After "making a profit", delete "shall not be done".





**Andy Beshear**  
Governor

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
P.O. Box 517  
Frankfort, Kentucky 40602-0517  
1-800-595-6053  
<http://insurance.ky.gov>

**Kerry B. Harvey**  
Secretary

**Sharon P. Clark**  
Commissioner

January 9, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **806 KAR 13:040**, Automobile fleet insurance defined.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 13:040, the Department of Insurance proposes the attached amendment to 806 KAR 13:040.

Sincerely,

*DJ Wasson*

DJ Wasson, Executive Advisor  
Department of Insurance  
PO Box 517-2 SE 11  
Frankfort, KY 40602

**Staff-suggested Amendment**

**Final Version 1/6/2020 12:30 p.m.**

**PUBLIC PROTECTION CABINET**

**Department of Insurance**

**806 KAR 13:040. Automobile fleet insurance defined.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 7 and 8**

After "KRS 304.2-110", insert "authorizes".

Delete "provides that".

After "Commissioner of Insurance", insert "to".

Delete "may".



**PUBLIC PROTECTION CABINET**

**Andy Beshear**  
Governor

**Department of Insurance**  
P.O. Box 517  
Frankfort, Kentucky 40602-0517  
1-800-595-6053  
<http://insurance.ky.gov>

**Kerry B. Harvey**  
Secretary

**Sharon P. Clark**  
Commissioner

January 9, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **806 KAR 15:090**. Notice of rights as an owner of a life insurance policy.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 15:090, the Department of Insurance proposes the attached amendment to 806 KAR 15:090.

Sincerely,

*DJ Wasson*

DJ Wasson, Executive Advisor  
Department of Insurance  
PO Box 517-2 SE 11  
Frankfort, KY 40602

**Staff-suggested Amendment**

**Final Version 1/10/2020 3:17 p.m.**

**PUBLIC PROTECTION CABINET**

**Department of Insurance**

**806 KAR 15:090. Notice of rights as an owner of a life insurance policy.**

**Page 1**

**STATUTORY AUTHORITY paragraph**

**Line 6**

After "304.15-075(1)", insert "(3), (4)".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Lines 13 and 15**

After "KRS 304.15-075", insert "(4)".

After "establishes the notice that", insert "shall".

Delete "must".

**Page 2**

**Section 1**

**Lines 1 and 2**

After "with a net death benefit", insert "of \$100,000 or greater".

Delete the following:

"greater than one hundred thousand dollars (\$100,000)".

**Page 2**

**Section 1**

**Lines 2 through 7**

After "either of the following:", return and insert "(1)".

Delete "(a)".

After "Notice 126, 8/2010; or", return and insert "(2)".

Delete "(b)".

After "by the insurer which:", return and insert "(a)".

Delete "1.".

After "KRS 304.15-075(2); and", return and insert "(b)".

Delete "2.".



**CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF THE SECRETARY**

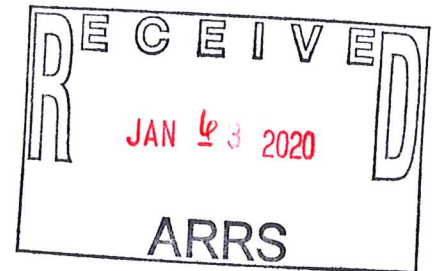
**Andy Beshear**  
Governor

275 East Main Street, 5w-a  
Frankfort, KY 40621  
502-564-7042  
Fax: 502-564-7091  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Eric C. Friedlander**  
Acting Secretary

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: 900 KAR 2:050, Transfer and discharge rights

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 900 KAR 2:050, the Cabinet for Health and Family Services proposes the attached amendments to 900 KAR 2:050. Additionally, we have provided with this cover letter an updated Federal Mandate and Fiscal Note on State and Local Government. The originally-filed versions of those two documents included an incorrect administrative regulation number, which has been corrected in the updated documents. That was the only information changed in those two documents.

If you have any questions, please feel free to contact Stephanie Brammer-Barnes at (502) 564-2888 ext. 3281.

Sincerely,

Donna Little  
Deputy Executive Director  
Office of Legislative and Regulatory Affairs

Attachments

## **Suggested Amendment**

### **CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Health Care**

**900 KAR 2:050. Transfer and discharge rights.**

**Page 2**

**Section 2(2)**

**Line 20**

After "subsection (1)(a) through", insert "(f)".

Delete "(e)".

**Page 3**

**Section 2(2)(b)**

**Line 2**

After "subsection (1)", insert "(c) or" (before "(d)").

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 900 KAR 2:050  
Agency Contact: Stephanie Brammer-Barnes  
Phone Number: (502) 564-2888  
Email: stephanie.brammer@ky.gov

Contact Person: Donna Little  
Phone Number: (502) 564-6746  
Email: CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and long-term care facilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216.515(4)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue.

(c) How much will it cost to administer this program for the first year? This amendment imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This amendment imposes no additional costs on the administrative body.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 900 KAR 2:050  
Agency Contact: Stephanie Brammer-Barnes  
Phone Number: (502) 564-2888  
Email: stephanie.brammer@ky.gov

Contact Person: Donna Little  
Phone Number: (502) 564-6746  
Email: CHFSregs@ky.gov

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 483.15, Admission, transfer, and discharge rights.

(2) State compliance standards. KRS 216.515(4) establishes transfer and discharge requirements for residents of long-term care facilities, including a requirement for reasonable notice of transfer or discharge to be given to the resident and the responsible party, responsible family member, or resident's guardian.

(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 483.15 establishes the admission, transfer, and discharge rights of residents in long-term care facilities certified in accordance with 42 C.F.R. Part 483.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements than those required by federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.





**CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF THE SECRETARY**

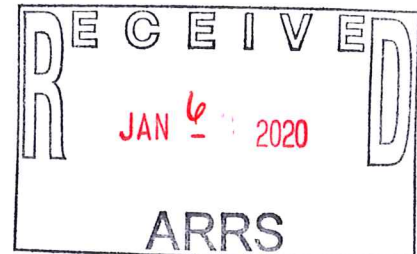
**Andy Beshear**  
Governor

275 East Main Street, 5w-a  
Frankfort, KY 40621  
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**Eric C. Friedlander**  
Acting Secretary

January 6, 2020

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601



Re: **902 KAR 8:040**, Definitions for 902 KAR Chapter 8

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 8:040, the Cabinet for Health and Family Services proposes the attached amendments to 902 KAR 8:040.

Sincerely,

Donna Little  
Deputy Executive Director  
Office of Legislative and Regulatory Affairs

Attachments

**Cabinet for Health and Family Services**  
**Department for Public Health**  
**Division of Administration and Financial Management**

**902 KAR 8:040. Definitions for 902 KAR Chapter 8.**

**Page 3**

**Section 1(9)**

**Line 2**

After "(9)", insert the following:

"Classification plan" is defined by KRS 211.1751(2).

(10)

**Page 3**

**Section 1(10)**

**Line 12**

Delete beginning with "(10)" through "211.1751(2)."

**Page 4**

**Section 1(18)**

**Line 8**

After "(18)", insert the following:

"Discipline" means a practice to correct behavior or performance that is below acceptable standards.

(19)

**Page 4**

**Section 1(19)**

**Lines 12-15**

Delete beginning with "(19)" through "standards."

**Page 8**

**Section 1(34)**

**Line 10**

After "(34)", insert the following:

"Part-time employee" means an employee who works an average of less than 100 hours per month.

(35)

**Page 8**

**Section 1(35)**

**Lines 14-15**

Delete beginning with "(35)" through "month."



**CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF THE SECRETARY**

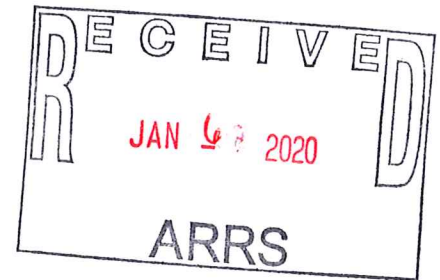
**Andy Beshear**  
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**Eric C. Friedlander**  
Acting Secretary

January 6, 2020

Emily Caudill, Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
Capitol Annex Building, Room 29  
702 Capitol Avenue  
Frankfort, Kentucky 40601



Re: **902 KAR 20:450**, Ambulatory infusion agencies.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:450, the Cabinet for Health and Family Services proposes the attached agency amendment to 902 KAR 20:450. This agency amendment will address an issue raised by the Kentucky Board of Nursing and an ambulatory infusion therapy provider so that in addition to physicians, prescribing practitioners like advanced practice registered nurses and certified registered nurse anesthetists may also be responsible for an infusion therapy patient's plan of care.

If you have any questions regarding this matter, please contact Stephanie Brammer-Barnes, Office of Inspector General, at 564-2888, extension 3281.

Sincerely,

Donna M. Little  
Deputy Executive Director  
Office of Legislative and Regulatory Affairs



Agency Amendment

Cabinet for Health and Family Services  
Office of Inspector General  
Division of Health Care

902 KAR 20:450. Ambulatory infusion agencies.

Page 4

Section 3(1)(d)

Line 5

After "a physician", insert the following:

, or other prescribing practitioner as authorized under the practitioner's scope of practice,

Page 4

Section 3(1)(d)2.b.

Line 11

After "the", insert "physician or prescribing practitioner's".

Delete "physician's".