

of **Administrative Register** *of Kentucky*

VOLUME 2, NUMBER 3

WEDNESDAY, OCTOBER 1, 1975

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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title	Chapter	Regulation
806 KAR 50 : 155		
Cabinet, Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

Administrative Register of Kentucky

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CORRECTION

Please change the number of the regulation on Page 128 of the September issue of the Register, dealing with Reclamation plans of surface effects of underground mines to:

402 KAR 1:011

The number listed is a typographical error.

Public Hearing**402 KAR 1:100. Repeated noncompliance. [Page 186 this issue]**

The Department for Natural Resources and Environmental Protection, Bureau of Land Resources, Division of Reclamation, has scheduled a public hearing on this regulation at 10 a.m. EST Tuesday, November 18, 1975 in the Auditorium of Capital Plaza Tower, Frankfort, Kentucky 40601.

Persons desiring additional information may contact Kenneth Ratliff, Assistant Director, Division of Reclamation, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

Emergency Regulations

JULIAN M. CARROLL, GOVERNOR

Executive Order 75-781

August 20, 1975

EMERGENCY REGULATION

Department of Fish and Wildlife Resources

WHEREAS, the U.S. Fish and Wildlife Service, Department of the Interior, has jurisdiction in the regulation of hunting throughout the several states; and

WHEREAS, all regulations of season framework, daily bag and possession limits, and shooting hours for migratory species, by the Kentucky Department of Fish and Wildlife Resources, must comply with federal regulations; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources, in conjunction with the Secretary of the Development Cabinet, pursuant to Kentucky Revised Statutes 150.300, 150.305, 150.320, 150.330, 150.340, and 150.360, has promulgated the attached Regulation;

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and direct that the attached regulation

become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor

THELMA L. STOVALL, Secretary of State

DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 2:023E. Migratory bird season; limits.

RELATES TO: KRS 150.300, 150.305, 150.320, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

EFFECTIVE: August 25, 1975

EXPIRES: December 21, 1975

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons:

(1) Doves: September 1 through October 31, 1975; December 13 through December 21, 1975.

(2) Woodcock: October 10 through December 5, 1975; December 13 through December 20, 1975.

(3) Wilson snipe: October 10 through December 5, 1975; December 13 through December 20, 1975.

(4) Teal; statewide: September 6 through September 14, 1975.

Section 2. Limits:

	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Wilson Snipe	8	16
Teal	4	8

Section 3. (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the fields, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes. For further information on the above species see Federal Register.

Section 4. Shooting hours: (1) Doves: from 12 o'clock noon to one-half (½) hour before sunset prevailing time.

(2) Wilson snipe and woodcock: from one-half (½) hour before sunrise to sunset prevailing time.

(3) Teal: sunrise until sunset prevailing time.

Section 5. Wildlife management areas open to dove hunting (with certain exceptions):

(1) Ballard County Wildlife Management Area, located in Ballard County; September 1 through October 15, 1975. No firearms shall be permitted on the Ballard County Wildlife Management Area except during shooting hours.

(a) Doves: September 1 through October 9, 1975; December 13 through December 21, 1975.

(b) Woodcock and snipe: November 25 through December 5, 1975; December 13 through December 20, 1975.

(c) Doves may be taken anywhere, except in developed public use areas, safety zones, and posted areas. Refer to General Rules and Regulations governing hunting on Land Between the Lakes.

Section 6. Closing of certain wildlife management areas to all hunting. The following wildlife management areas are closed to all hunting:

(1) Grayson Wildlife Management Area in Carter and Elliott Counties.

(2) Pine Mountain Wildlife Management Area in Letcher County.

(3) Beaver Creek Wildlife Management Area, including all private inholdings, in Pulaski and McCreary Counties.

(4) Robinson Forest Wildlife Management Area in Breathitt, Perry and Knott Counties.

(5) Redbird Wildlife Management Area, including all private inholdings, in Leslie and Clay Counties.

Section 7. This regulation will not be valid after December 21, 1975.

DR. ROBERT C. WEBB, Chairman,
Department of Fish and Wildlife Resources Commission
ARNOLD L. MITCHELL, Commissioner

ADOPTED: March 10, 1975

RECEIVED BY LRC: August 25, 1975 at 7:42 a.m.

JULIAN M. CARROLL, GOVERNOR

Executive Order 75-801

August 27, 1975

EMERGENCY REGULATION

Department of Transportation

Medical Review Board

WHEREAS, the Medical Review Board has existed by virtue of Administrative Regulations since June, 1964; and

WHEREAS, the 1974 Session of the General Assembly enacted legislation providing that all regulations filed prior to July 1, 1974, would be rescinded effective one year after July 1, 1974; and

WHEREAS, Administrative Regulation No. PSfty-DI-7, which created the Medical Review Board, was rescinded and substituted by Administrative Regulation 601 KAR 13.010; and Administrative Regulation 601 KAR 13.010 did not provide for the creation of the Medical Review Board and, as a result thereof, the Medical Review Board no longer exists; and

WHEREAS, it is desirable that this Board be reestablished in order to examine people with mental or physical infirmities which would make it unsafe for them to drive upon the highways, with the result being safer highways; and

WHEREAS, it is desirable, because confidential medical records of individuals will be discussed, that these meetings be conducted in privacy and therefore exempt from the Open Meetings Law, KRS 61.805 through KRS 61.991; and

WHEREAS, the Department of Transportation has simultaneously filed with the emergency regulation a like regulation which will be processed through normal procedure before becoming effective; and

WHEREAS, by the enactment of this regulation on an emergency basis, the Kentucky Department of Transportation would receive benefits from the experience gained in administering the regulation until such time as it may become effective on a permanent basis after a hearing could be held:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Transportation that an emergency exists and direct that the attached regulation regarding the issuance of a Kentucky Operator's License becomes effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor

THELMA L. STOVALL, Secretary of State

601 KAR 13:010E

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

As Amended

601 KAR 13:010E. Medical Review Board; basis for examination, evaluation, test.

RELATES TO: KRS 186.570(1)(c)

PURSUANT TO: KRS 13:082, 186.400

EFFECTIVE: August 29, 1975

EXPIRES: December 27, 1975

NECESSITY AND FUNCTION: The Medical Review

Board has existed by virtue of administrative regulations since [February, 1965] *June, 1964*. Subjects who come to the Bureau's attention because of physical or mental problems which may affect their driving ability are required to submit to physical examinations. The results of these exams are then reviewed by the physicians on the board. Based on their professional experience, they recommend either total denial of a license or a limited one (e.g., daylight hours, left and right rearview mirrors, another exam in three months, etc.), or they determine that the disability suffered should not affect the driving ability. This professional recommendation eliminates the arbitrariness and capriciousness which could exist in the great discretion granted the bureau by the legislature in KRS 186.570. Whenever the recommendation of the board is for suspension or an extremely limited license, the subject is entitled to a hearing on the matter (since the Supreme Court's *BELL v. BURSON* decision) and this regulation sets out the procedure for same.

Section 1. *There is hereby created a Medical Review Board to [The Medical Review Board will] determine whether any applicant for or any holder of a valid Kentucky operator's license has physical or mental infirmities which affect or limit the driving ability or make it unsafe for said person to operate a motor vehicle upon the public highways. The board consists of the Commissioner of the Bureau of Vehicle Regulation of the Department of Transportation or his representative, the Commissioner of the Bureau for Health Services of the Department for Human Resources or his representative, and not less than three (3) physicians licensed to practice medicine in the Commonwealth of Kentucky. The physicians on the board shall be appointed by the Commissioner of the [Bureau of Vehicle Regulation with the concurrence of the commissioner of the] Bureau for Health Services. The Commissioner of the Bureau of Vehicle Regulation or his representative shall prescribe the time and place for the board to meet. Any proceeding conducted by the board shall be construed to be a meeting within the meaning of this section when three (3) physician members are present and participating. Members of the board who participate in a meeting shall be reimbursed for necessary expenses incurred in attending such meeting.*

Section 2. (1) Whenever the Commissioner of the Bureau of Vehicle Regulation has reason to believe, within the meaning of Section 4 of this regulation, a person is afflicted with physical or mental infirmities rendering it unsafe for him to operate a motor vehicle upon the public highways, he shall refuse to issue an operator's license or he shall suspend the existing driving privilege of said person unless he shall submit to an examination by a qualified physician within forty-five (45) days of notification of the commissioner's intentions.

(2) The required medical examination shall be conducted at the subject's own expense by any state-licensed physician of his choice or at no expense to the subject by the county health officer of the county in which the subject resides. The examining physician shall report within thirty (30) days the results of his examination directly to the Medical Review Board on a form furnished him by the bureau.

(3) As soon as possible after receipt of the completed form, the Medical Review Board shall meet to evaluate it to [and] make recommendations thereon, such as total suspension of the driving privilege, further medical or

pyschiatric examinations, or complete driver's test. When the board recommends further examination or driver testing, the Commissioner of the Bureau of Vehicle Regulation shall notify the subject how much time he has in which to comply to retain his driving privilege if he possesses a valid Kentucky operator's license.

Section 3. Whenever the Medical Review Board, pursuant to subsection (3) of Section 2 of this regulation, recommends total suspension of a person's driving privilege or any limitations thereon, the Commissioner of the Bureau of Vehicle Regulation shall notify the person by certified mail that this action will be taken unless a written request for a hearing before the board is received within fifteen (15) days following delivery of the notice. The hearing shall be scheduled as early as practical at a time and place designated by the commissioner and notice of same shall be mailed to the person involved no later than ten (10) days prior to the hearing date. The commissioner or his representative shall preside at the hearing before the Medical Review Board and at least three (3) physician members shall be present. The presiding officer may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The scope of the hearing will be limited to the presentation of the evidence upon which the Medical Review Board made their recommendation and any medical evidence the petitioner wishes to present in explanation or refutation of this evidence. Evidence may be presented in the form of depositions. All testimony at the hearing shall be recorded and together with any depositions or exhibits introduced at the hearing shall form the complete record. Within ten (10) days after the hearing, the commissioner shall issue a decision and this shall be promptly forwarded to the petitioner.

Section 4. The Commissioner of the Bureau of Vehicle Regulation shall promptly notify the person involved to submit to the physical examination set out in Section 2 of this regulation when one or more of the following conditions exist:

(1) Driver has been involved in three (3) or more reportable motor vehicle accidents within a twenty-four (24) month period;

(2) Driver has received three (3) or more convictions for operating a motor vehicle while under the influence of intoxicants or drugs within the last five (5) years;

(3) Driver has indicated that he "blacked out" or lost consciousness prior to a reportable motor vehicle accident;

(4) Driver has been named in an affidavit by at least two (2) citizens as being incapable of properly operating a motor vehicle due to physical or mental infirmities;

(5) Driver has been reported by a physician as being incapable of driving safely due to physical or mental condition or due to medication prescribed for an extended time;

(6) Driver has been reported by a law enforcement officer after being observed driving or behaving in an erratic or dangerous manner which indicates a possibility of physical or mental infirmity;

(7) Applicant for operator's license or for renewal of same has obvious physical or mental impairment;

(8) Driver's official record kept by the Bureau of Vehicle Regulation indicates a possibility of physical or mental impairment.

Section 5. Meetings of the Medical Review Board shall

be conducted in privacy because confidential medical records will be discussed and therefore exempt from KRS 61.805 through 61.991.

O. B. ARNOLD, Commissioner

ADOPTED: July 31, 1975

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: August 29, 1975 at 10:47 a.m.

Amended Regulations

(In order to show the effect of amendments, the original regulation is reprinted with matter being deleted enclosed within brackets and new matter underlined where typewritten, or in italics if typeset.)

11 KAR 2:050 KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY (Proposed Amendment)

11:KAR 2:050. Students' application forms.

RELATES TO: KRS 164.780, 164.785

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority is to administer a grant program to provide financial assistance to students to attend Kentucky's private colleges. This regulation prescribes the form to be used by students to apply for the Kentucky Tuition Grant Program and establishes the financial need determination procedures for the program.

Section 1. "Kentucky Tuition Grant Program Application" is herein filed by reference. These forms may be obtained from The Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601.

Section 2. The responses in item 10 on the "Kentucky Tuition Grant Program Application" (Section 1), determine the dependency classification of an applicant. If any question in item 10 is answered yes, then the applicant will be classified as a dependent student. If all questions in item 10 are answered no, then the applicant will be classified as an independent student.

Section 3. Dependent students shall submit or cause to be submitted to the authority a "College Scholarship Service Parents' Confidential Statement" and a "Financial Need Analysis Report," or an "American College Testing Program Family Financial Statement" and a "Comprehensive Financial Aid Report." *Dependent students may submit or cause to be submitted to the authority a College Scholarship Service "Student Financial Statement" on which an expected parental contribution has been calculated in lieu of the "Parents' Confidential Statement," provided that no "Parents' Confidential Statement" has already been filed and processed for the academic year of the application.* These documents shall be for the academic year concurrent with the student's application (Section 1). These forms herein filed by reference may be obtained from the Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601.

Section 4. Independent students shall submit or cause to be submitted to the authority a "College Scholarship Service Student Financial Statement" and a "Student Financial Need Analysis Report," or an "American College Testing Program Family Financial Statement" and a "Comprehensive Financial Aid Report." These documents shall be for the academic year concurrent with the student's application (Section 1). These forms herein filed by reference may be obtained from the Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601.

Section 5. A Kentucky tuition grant program applicant attending an eligible institution which does not normally require students to complete or have completed a "Parent's Confidential Statement," "Student Financial Statement" or "Family Financial Statement" shall submit or cause to be submitted to the Kentucky tuition grant program officer the necessary data to enable that officer to provide to the authority an institutionally completed financial document in accordance with Sections 3 and 4. Financial data received pursuant to this section shall be reviewed by a panel designated by the authority.

Section 6. Each financial document submitted to the authority, other than directly from the College Scholarship Service or the American College Testing Program, shall have imprinted thereon the certification of true copy as follows:

CERTIFICATION OF TRUE COPY

I hereby certify this is a true and exact copy of the financial statement filed by the referenced applicant. The applicant and/or his parents have provided written authorization to release the financial statement to the Kentucky Higher Education Assistance Authority for the purposes of the Kentucky Tuition Grant Program.

Signature

Institution

Title

Date

PAUL P. BORDEN, Executive Director

ADOPTED: August 13, 1975

RECEIVED BY LRC: August 27, 1975 at 3:50 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

(The following regulation, published originally in the May, 1975 Register [1 Ky.R. 997], was amended by the issuing agency to meet objections of the Administrative Regulation Review Subcommittee. The regulation, as amended, was approved for filing by the Subcommittee at its September 10, 1975 meeting and became effective on that date.)

AGRICULTURAL EXPERIMENT STATION
As Amended

12 KAR 1:105. Schedule of charges.

RELATES TO: KRS 250.020 to 250.170

PURSUANT TO: KRS 250.100

SUPERSEDES: AES-1 (1973)-21

EFFECTIVE: September 10, 1975

NECESSITY AND FUNCTION: To establish a schedule of charges for service tests, analysis, and examination of seed samples submitted by residents and non-residents of Kentucky to the Seed Laboratory of the Kentucky Agricultural Experiment Station.

Section 1. Any person may submit to the Seed Laboratory of the Kentucky Agricultural Experiment Station samples of seed for analysis, test, and examination. The following service charges for such samples will be assessed. Non-residents will be assessed an additional charge of one dollar (\$1) per sample. *Any Kentucky citizen may submit one (1) sample per year for test free of charge provided that the sample is accompanied by a signed statement: "I certify that I have not previously submitted a sample for free test during the current calendar year (signature)." [No samples will be tested free.]*

(1) Schedule of charges for complete test, purity analysis and noxious weed seed examination only, and germination test only.

Table 1. Schedule of Charges for:

Kind of Seed	Complete Test*	Purity and Noxious Only**	Germination Only
Alfalfa	\$3.00	\$2.00	\$2.00
Bentgrass	4.00	3.00	2.50
Bermudagrass	4.00	3.00	2.50
Bluegrass	4.00	3.00	2.50
Bromegrass	4.00	3.00	2.50
Cane	3.00	2.00	2.00
Cereals	3.00	2.00	2.00
Clovers	3.50	2.50	2.00
Corn	3.00	2.00	2.00
Crownvetch	3.00	2.00	2.00
Fescue	3.50	2.50	2.50
Lespedeza	4.00	3.00	2.00
Lovegrass	4.00	3.50	2.50
Millet	3.50	2.50	2.00
Milo	3.00	2.00	2.00
Orchardgrass	4.00	3.00	2.50
Redtop	4.00	3.00	2.50
Ryegrass	3.50	2.50	2.00
Sorghum	3.00	2.00	2.00
Sorghum-Sudangrass Hybrid	3.50	2.50	2.00
Soybean	3.00	2.00	2.00
Sudangrass	3.50	2.50	2.00
Timothy	3.50	2.50	2.00
Tobacco	3.00	2.00	2.00
Vegetables	3.00	2.00	2.00
Vetch	3.00	2.00	2.00

Table 2. Schedule of Charges for:

Mixtures	Complete Test*	Purity and Noxious Only**	Germination Only
Two components	\$5.00	\$4.00	\$3.00
Three components	6.00	5.00	4.00
Four components	7.00	6.00	5.00
More than 4 components	8.00	7.00	6.00

* Complete Test includes a purity analysis, a noxious weed seed examination (for Kentucky only), and a germination test.

**Purity and Noxious Only includes a purity analysis and a noxious weed seed examination (for Kentucky only).

(2) Schedule of charges for a noxious weed seed examination only and moisture test:

(a) For Kentucky - \$2

(b) For All States - \$3

(c) Moisture Test - \$2

(3) Additional information. Any re-examination of a sample to secure information not furnished on the original report, or any analysis or test to obtain information not specifically required by the Kentucky Seed Law, will be subject to a charge in proportion to the amount of work required.

Section 2. Charges for kinds not listed above will be according to other kinds of similar size.

Section 3. Uncleaned seed and low grade screenings will not be tested.

CHARLES E. BARNHART, Director

ADOPTED: August 28, 1975

RECEIVED BY LRC: September 4, 1975 at 11:14 a.m.

SECRETARY OF THE CABINET
Department of Personnel
(Proposed Amendment)

101 KAR 1:140. Service regulations.

RELATES TO: KRS 18.170, 18.190, 18.210

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 and 18.210 require the Commissioner of Personnel to prepare and submit to the board rules which provide for annual leave, sick leave, special leaves of absence, and for other conditions of employment. This rule is necessary to comply with these statutory requirements.

Section 1. Attendance. Hours of Work: The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified otherwise by the appointing authority or the statutes. The normal work day shall be from 8:00 a.m. to 4:30 p.m., local time, Monday through Friday. Employees in other than Frankfort state office buildings shall be subject to such hours of work as set by the appointing authority.

Section 2. Annual Leave. (1) Each employee in the state service, except seasonal, temporary and emergency employees, shall be allowed annual leave with pay at the following rate:

Years of Service	Annual Leave Days
0 — 5 years:	1 leave day per month; 12 per year
5 — 10 years:	1¼ leave days per month; 15 per year
10—15 years:	1½ leave days per month; 18 per year
15 years and over:	1¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. Employees serving a part-time basis or per-diem basis shall not be entitled to annual leave.

(2) Annual leave may be accumulated; however, not more than thirty (30) working days of accumulated leave may be carried forward from one (1) calendar year to the next. However, leave in excess of thirty (30) work days may be carried forward for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an employee to take accumulated annual leave in a timely manner. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes may at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the requests of employees.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave.

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed thirty (30) working days, when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. The effective date of the separation shall be the last work day and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation. A supplemental pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed thirty (30) working days.

(11) Upon the death of an employee, his estate shall be entitled to pay for the unused portion of the employee's accumulated annual leave not to exceed thirty (30) working days.

Section 3. Sick Leave. (1) Each employee in the state

service, except an emergency employee, shall be allowed sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the work days in a month to qualify for sick leave with pay. Employees serving on a part-time or per-diem basis shall not be entitled to sick leave.

(2) Employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. The total service must be verified in writing before the leave is credited to the employee's record.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is disabled by pregnancy and/or confinement limited to a maximum of three (3) calendar months;

(d) Is required to care for a sick or injured member of his immediate family for a reasonable period of time;

(e) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(f) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any person related by blood or affinity, with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

At the termination of sick leave with pay, the appointing authority shall reinstate the employee to his former position.

(6) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy and confinement, and the total continuous leave does not exceed two (2) years. At the termination of sick leave without pay, the appointing authority shall reinstate the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.

(7) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half (½) hours.

(8) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(9) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. The employee's amount of accumulated sick leave shall be listed in the remarks section of the advice effecting the separation. Former employees who are reinstated or re-employed may have their accumulated and unused sick leave balances revived after sixty (60) days of work and placed to their credit upon request of the appointing authority, and approval of the commissioner.

(10) In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(11) Application for sick leave. An employee shall file a written application for sick leave with pay within a

reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(12) Supporting evidence:

(a) An appointing authority shall grant sick leave when the application is supported by acceptable evidence. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment.

(b) An appointing authority may place on sick leave a pregnant woman who, on request, fails to produce a satisfactory medical certificate.

Section 4. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of pay or time for that amount of time necessary to comply with subpoenas by any court, federal, state, or political subdivision thereof, to serve as a juror or witness. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 5. Compensatory Leave. (1) *Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work.* [The maximum amount of compensatory leave that can be accumulated by any employee shall be 100 hours. Upon separation from the state service or transfer to another agency, unused compensatory leave shall be forfeited unless, in the case of a transfer, the receiving agency is willing to accept the compensatory leave balance.]

(2) An employee who is exempt from overtime provisions of wage and hour laws and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis.

(3) An employee subject to wage and hour laws whose prescribed hours of duty are normally fewer than forty (40) per week and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his normal hours of duty may be awarded compensatory time for that portion of extra time worked up to forty (40) hours, provided his rate of pay meets requirements of minimum wage laws.

(4) An employee subject to overtime provisions of wage and hour laws shall be paid in accordance with such provisions for actual hours worked in excess of the applicable statutory maximum hours. Compensatory leave earned and used during the same workweek does not constitute "hours worked" for computing overtime pay.

Section 6. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States

Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

Section 7. Voting Leave. Appointing authorities shall allow all employees ample time to vote. Such absence shall not be charged against leave.

Section 8. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service; or for purposes other than above that are deemed to be in the best interests of the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee entering active military duty a leave of absence without pay for a period of such duty.

Section 9. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action and will serve to interrupt continuous service as defined in 101 KAR 1:050.

Section 10. Performance Appraisal. Quality and quantity of work shall be considered in determining salary advancements, in promotions, in determining the order of layoff, in re-employment, and as a means of identifying employees who should be promoted, demoted, or dismissed.

Section 11. Records and Reports. (1) Personnel action forms: The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him.

(2) Leave records: Each appointing authority shall install and maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused; and

(c) Special leave or any other leave with or without pay. Such record shall be documentary evidence to support and justify authorized leave of absence with pay. Each appointing authority shall notify his employees of their annual and sick leave balances as of January 1; a summary of which shall be sent to the department by February 1.

(3) Official roster: The commissioner shall prepare and maintain a record of all employees showing for each

employee his name, address, title of position, salary rate, changes in status, transfer, sick leave and annual leave.

Section 12. Confidentiality of Records. (1) Except as otherwise provided in the rules, all records of the department shall be considered public records and may be inspected, when in the public interest, upon application made to the commissioner during normal working hours.

(2) Unless the board shall determine otherwise, records of the department involving investigation correspondence and data related to the moral character and reputation of applicants for employment or employees in state service; and examination materials, questions, data and examination papers and records relating in any way to competitive examinations and tests conducted and held by the department shall be held confidential.

Section 13. Dual Employment. No employee holding a full time position with the Commonwealth may hold another state position regularly requiring more than four (4) hours service per day except upon recommendation of the appointing authority and the written approval of the Commissioner of Personnel. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

Section 14. Minimum Hiring Age. The minimum age for hiring of state employees shall conform to federal and state labor laws, rules and regulations.

Section 15. Maximum Hiring Age. (1) The normal maximum hiring age for permanent employment subject to these rules is sixty-five (65).

(2) Individuals over sixty-five (65) may be employed from year to year with prior approval of the Commissioner of Personnel when it serves the public interest. Such requests must be justified in writing by the appointing authority.

[(3) The maximum hiring age for individuals subject to these rules shall not exceed seventy (70).]

Section 16. Retirement. (1) The normal retirement age for employees subject to these rules shall be sixty-five (65).

(2) Employees over sixty-five (65) may be allowed to continue employment from year to year with prior approval of the Commissioner of Personnel when it serves the public interest. Such requests must be justified in writing by the appointing authority.

[(3) The mandatory retirement age for employees subject to these rules shall be seventy (70).]

Section 17. Restoration From Military Leave. (1) State appointing authorities shall comply with the provisions of KRS 61.371, 61.373, 61.375, 61.377, 61.379.

(2) The Department of Personnel shall require proper compliance with these statutes as they pertain to state employees.

(3) The appointing authorities for employees in county, city, or political subdivisions thereof, are responsible for compliance with these statutes, in keeping with normal personnel practices and procedures of each.

(4) Appeals may be filed by an employee or previous

employee pursuant to 101 KAR 1:130. The governmental agency from which the appeal is filed shall bear the expense of the hearing of the appeal.

(5) A former employee seeking restoration, who has been rejected or otherwise penalized, must file an appeal within thirty (30) days, after notification of such rejection or penalization by an appointing authority.

CATTIE LOU MILLER, Commissioner
PHILIP TALIAFERRO, Chairman

ADOPTED: August 8, 1975

APPROVED:

W. E. SCENT, Secretary

RECEIVED BY LRC: August 20, 1975 at 1:25 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner, Department of Personnel, Capitol Annex, Frankfort, Kentucky 40601.

(The following two regulations, published originally in the April, 1975 issue [1 Ky.R. 718], were amended by the issuing agency following a public hearing. The regulations, as amended, were approved for filing by the Administrative Regulation Review Subcommittee at its September 10, 1975 meeting and became effective on that date.)

EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION
Kentucky Board of Pharmacy
As Amended

201 KAR 2:095. Dispensing Responsibilities.

RELATES TO: KRS Chapter 315

PURSUANT TO: KRS 315.020, 315.191(2)

SUPERSEDES: Rx-12

EFFECTIVE: September 10, 1975

NECESSITY AND FUNCTION: The Kentucky Board of Pharmacy is authorized by KRS 315.191(2) to adopt rules and regulations necessary to regulate the practice of pharmacists. Pharmacists are responsible for the compounding and dispensing of drugs and prescriptions pursuant to a legal prescription. There is a need for this regulation stating the pharmacists' and the pharmacist interns' responsibilities. This regulation is to further assure protection to the public by defining professional responsibilities.

Section 1. Kentucky's present Pharmacy Law mentions dispensing without definition. Therefore in the practice of pharmacy "*dispensing*" is defined as [dispensing is defined as follows] the practice of selecting, compounding, mixing, measuring, or otherwise preparing the drug or drugs needed to fill the prescription order. [and includes but is not limited to the following acts, which shall be completed only by a registered pharmacist or pharmacist intern under the immediate and personal supervision of a registered pharmacist:]

Section 2. The following practices of a pharmacist are not included within the definition of dispensing and must therefore be performed only by a registered pharmacist or pharmacist intern under the immediate, physical and visual, supervision of a registered pharmacist. These practices are:

(1) Receipt of an oral prescription order.

[(1) Receipt of a prescription order, written or oral, except that a written prescription order may be received by

an agent of the pharmacist.]

(2) Verification of prescribed dosage. [within proper limits.]

[(3) Permanently affixing properly prepared label to the container of the prescription medication, or verification of the procedure.]

(3) [(4)] Obtaining, when required by law, and in the best professional practice, permission from authorized prescribers to refill prescriptions.

[(5) Supervision of nonpharmacist personnel in procedures such as: looking up prescription refills, typing, filling prescriptions, record keeping, nonprofessional aspects of presenting completed medications to patients and completing transaction, and delivery. Such non-pharmacist personnel may not take, use or exhibit the title of a registered pharmacist, pharmacist intern, or any title of such like import.]

Section 3. Kentucky's present Pharmacy Law mentions "immediate supervision" without definition. Therefore, in the practice of pharmacy "immediate supervision" is defined as under the physical and visual supervision of a registered pharmacist.

J. H. VOIGE, Executive Secretary

ADOPTED: July 27, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 20, 1975 at 4:07 p.m.

**EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION
Kentucky Board of Pharmacy
As Amended**

201 KAR 2:100. Security and control of drugs and prescriptions.

RELATES TO: KRS Chapter 315

PURSUANT TO: KRS 315.035, 315.191(2)

SUPERSEDES: Rx-13

EFFECTIVE: September 10, 1975

NECESSITY AND FUNCTION: The Kentucky Board of Pharmacy is authorized by KRS 315.191(2) to adopt rules and regulations necessary to regulate and control pharmacists and pharmacies. This regulation is to assure adequate security and control of drugs and prescriptions.

Section 1. A pharmacy must provide adequate security and control of its controlled substances and prescription legend drugs and in the absence of a pharmacist the pharmacy must be closed. If a pharmacy is located within a larger establishment which is open to the public for business at times when a pharmacist is not present then the pharmacy must be enclosed by a floor to ceiling partition which may be either solid or solid transparent secured by lock from other departments of the store. In the absence of a pharmacist such pharmacies must be locked and secured. Employees of the establishment cannot be authorized to enter the closed pharmacy during those hours when a pharmacist is not present. Owners of prescription departments, which are to be closed at times the merchandise area of the same establishment remains open, must request permission from the Kentucky Board of Pharmacy, submit a detailed plan of the prescription department barrier and obtain written approval before enclosing the prescription department.

Section 2. All prescription files, all legend drugs and other items which are restricted to sale either by or under the personal supervision of a pharmacist must be kept in the pharmacy area.

Section 3. Written prescription orders and refill requests can be delivered to a pharmacy at any time. But if no pharmacist is present then the prescription order(s) must be deposited, by the patient or his agent delivering the prescription order or refill request to the establishment, into a "mail slot" or "drug box" such that the prescription order is stored in the pharmacy area. [The times that the pharmacy is open for business must be so displayed that they are prominently visible to the person depositing the prescription order(s).]

Section 4. Prepared prescription medications shall be stored in the pharmacy and cannot be removed from the pharmacy unless the pharmacist is present and the removal is for the immediate delivery to the patient, person picking up the prescription for the patient, or person delivering the prescription to the patient at his residence or similar place. *Emergency drugs shall be available throughout a hospital as deemed necessary by the Pharmacist and under the overall control of the Pharmacist. A night drug cabinet shall be maintained for the provision of emergency drugs in the absence of a Pharmacist.*

[Section 5. Any pharmacy having hours differing from the remainder of an establishment shall have a separate distinct telephone number from that of the business establishment. The phone shall not be answered in the remainder of the establishment.]

[Section 6. A pharmacy must prominently display in a permanent manner on or adjacent to its entrance the time that it is open for business. If a pharmacy is located within a larger establishment having hours of operation different from the pharmacy hours shall be prominently displayed in a permanent manner at the pharmacy area and on or adjacent to the entrance to the establishment.]

J. H. VOIGE, Executive Secretary

ADOPTED: July 27, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 20, 1975 at 4:05 p.m.

**CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources
(Proposed Amendment)**

301 KAR 1:015. Boats and outboard motors; size limits.

RELATES TO: KRS 150.025, 150.090, 150.620, 150.625

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: It is necessary to regulate the size of outboard motors and boats on state-owned lakes to minimize the conflict with the primary purposes of the lakes which are the perpetuation of fish or game populations and the associated sports. *It is necessary to amend this regulation to increase the boat length limit from sixteen (16) feet to eighteen (18) feet and six (6) inches in the two (2) largest lakes, Malone and Beshear.*

Section 1. No boat of any type, canoes excepted, will be permitted on any of the herein named lakes with a centerline exceeding sixteen (16) feet in length as measured on deck or from bow to stern, *except on Lake Malone and Lake Beshear where the centerline length cannot exceed eighteen (18) feet and six (6) inches*; however, in no case shall pontoons that may be used in floating the decking or superstructure of boats, exceed a length of twenty-two (22) feet.

Section 2. No house boats of any description will be permitted on any of the herein named lakes.

Section 3. No motor of any type is permitted on the following lakes:

- (1) Lake Chumley, Lincoln County,
- (2) Dennie Gooch Lake, Pulaski County,
- (3) Martin County Lake, Martin County,
- (4) Kingdom Come Lake, Harlan County.

Section 4. Electric motors only may be used on the following lakes:

- (1) Carter Caves Lake, Carter County,
- (2) Spurlington Lake, Taylor County,
- (3) Marion County Lake, Marion County,
- (4) Elliott County Sportsmen's Lake, Elliott County,
- (5) Lake Washburn, Ohio County,
- (6) Bert Combs Lake, Clay County,
- (7) McNeely Lake, Jefferson County,
- (8) Lake Mauzy, Union County,
- (9) Carpenter Lake and Kingfisher Lakes, Daviess County,
- (10) Metcalfe County Lake, Metcalfe County,
- (11) Briggs Lake, Logan County.

Section 5. Electric motors only may be used on the following lakes located in Ballard County. These lakes are closed 15 October to 15 March, annually:

- (1) Big Turner,
- (2) Little Turner,
- (3) Shelby,
- (4) Mitchell,
- (5) Happy Hollow,
- (6) Burnt Slough,
- (7) Butler.

Section 6. No motor larger than six (6) H.P. may be used on Greenbo Lake located in Greenup County.

Section 7. No motor larger than ten (10) H.P. (inboard or outboard) may be used on the following state-owned lakes; however, slow speeds which cause no disturbance or interference with fishing must be exercised at:

- (1) Shanty Hollow Lake, Warren County,
- (2) Bullock Pen Lake, Grant County,
- (3) Lake Boltz, Grant County,
- (4) Falmouth Lake, Pendleton County,
- (5) Elmer Davis Lake, Owen County,
- (6) Beaver Creek Lake, Anderson County,
- (7) Herb Smith Lake, Harlan County,
- (8) Corinth Lake, Grant County,
- (9) Wilgreen Lake, Madison County.

Section 8. There is no size limit on motors on the following state-owned lakes:

- (1) Guist Creek Lake, Shelby County,

(2) Lake Malone, Todd, Muhlenburg and Logan Counties,

(3) Lake Beshear, Christian and Caldwell Counties.

Section 9. All officers and agents of the Department of Fish and Wildlife Resources shall have full authority to enforce the provisions of this regulation. Failure to comply with the rules and specifications set forth in this regulation shall constitute grounds for revocation of the rights and privileges of any person to admittance to and to the use of these public waters.

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1975

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: September 11, 1975 at 10:10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 1:075. Gigging, grabbling or snagging, tickling, noodling.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.235, 150.360, 150.440, 150.445

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. *This amendment is necessary to change title, add gigging through the ice for rough fish, to delete four streams from the prohibited waters, to omit a section fully covered by another regulation, and increase portion of Rough River prohibited.*

Section 1. As used in this regulation, the word "snagging" means an act of taking fish by using a single hook or one (1) treble hook (except in the main stream of Green River and the main stream of Rolling Fork River where five (5) hooks, either single or treble hooks, may be used) which is attached by line to a pole and is used in a jerking and pulling manner, but does not include the term "snag line" as used in KRS Chapter 150 pertaining to designated commercial fishing streams.

Section 2. A person may gig or snag from the stream or lake banks, but cannot use [exercise] these fishing methods from a boat or platform or perch or tree, except gigging is permitted from a boat in any lake with a surface acreage of 500 acres or larger during the daylight hours of 6:00 a.m. to 6:00 p.m. *prevailing time.*

Section 3. The season during which gigging and snagging is permitted is March 1 through May 10, annually *except persons may gig rough fish through the ice in these same waters any time the surface is frozen thick enough to stand on, and gigger must gig while supported by the ice.*

Section 4. Gigging and/or snagging for rough fish is

permitted night and day in all lakes and streams, except where specifically prohibited as described in Sections 2 and 5.

Section 5. Giggling and/or snagging is specifically prohibited in the following streams and their tributaries. (Exceptions: See subsections (1) and (2) below.)

(1) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, and in the Cumberland River in the area below Barkley Dam downstream to US 62 bridge: Those tributaries to the Cumberland River below Wolf Creek Dam downstream to the Tennessee line, shall be open to giggling and snagging, in season, except that portion of each tributary which is within one-half (½) mile of its junction with the Cumberland River.

(2) Within 200 yards of any dam on any stream. Snagging only is permitted in the Tennessee River below Kentucky Dam *subject to restrictions in 301 KAR 1:020.* [(see Section 6).]

[(3) Elkhorn Creek — Scott, Woodford, Fayette and Franklin,]

[(3) [(4)] Russell Fork — Pike,

[(4) [(5)] Goose Creek — Russell and Casey,

[(6) South Fork of Harrods Creek — Oldham,]

[(7) North and South Forks of Rolling Fork River — Marion, Boyle and Casey,]

[(8) Salt River, between Ky. 248 at Van Buren and Bonds Mill Dam — Anderson,]

[(5) [(9)] Casey Creek — Trigg,

[(6) [(10)] Rough River, below Rough River Dam downstream to where Ky. 54 crosses the stream, *and above the first riffle on Rough River Lake,*

[(7) [(11)] Middle Fork of the Ky. River, from Buckhorn Dam downstream to Breathitt — Perry County line,

[(8) [(12)] Trammel Creek — Allen,

[(9) [(13)] Long Creek — Allen,

[(10) [(14)] Puncheon Creek — Allen,

[(11) [(15)] L. Whippoorwill Creek — Logan,

[(12) [(16)] Shultz Creek — Greenup,

[(13) [(17)] Sulphur Spring Creek — Simpson,

[(14) [(18)] Lick Fork Creek — Simpson,

[(15) [(19)] Sinking Creek — Breckinridge,

[(16) [(20)] Beaver Creek — Barren,

[(17) [(21)] Big Brush Creek — Green,

[(18) [(22)] Rough Creek — Hardin,

[(19) [(23)] Cloverlick — Harlan,

[(20) [(24)] Lynn Camp Creek — Hart,

[(21) [(25)] Roundstone Creek — Hart,

[(22) [(26)] Ravens Creek — Harrison,

[(23) [(27)] Boone Creek — Fayette,

[(24) [(28)] Caney Creek — Elliott,

[(25) [(29)] Kinniconnick Creek — Lewis,

[(26) [(30)] Laurel Fork Creek — Harlan,

[(27) [(31)] Beaver Creek — Wayne,

[(28) [(32)] Craney Creek — Rowan,

[(29) [(33)] Swift Camp Creek — Wolfe,

[(30) [(34)] Middle Fork — Powell,

[(31) [(35)] War Fork — Jackson,

[(32) [(36)] Indian Creek — Jackson,

[(33) [(37)] Clover Bottom Creek — Jackson,

[(34) [(38)] Cane Creek — Laurel,

[(35) [(39)] Hawk Creek — Laurel,

[(36) [(40)] Beaver Creek — McCreary,

[(37) [(41)] Hurricane Fork — McCreary,

[(38) [(42)] Rock Creek — McCreary,

[(39) [(43)] Lick Creek — McCreary,

[(40) [(44)] Bark Camp Creek — Whitley,

[(41) [(45)] Dogslaughter Creek — Whitley,

[(42) [(46)] Bunches Creek — Whitley,

[(43) [(47)] Big Double Creek — Clay.

[Section 6. Snagging is permitted in the Tennessee River below Kentucky Dam and in the Dix River upstream from the impounded waters of Herrington Lake to a point in the stream directly below the Ky. 52 bridge.]

Section 6. [7.] All game fish caught by gigging or snagging, except those taken below Kentucky Dam in the Tennessee River, shall be returned to the water immediately, regardless of condition.

Section 7. [8.] The tickling and noodling (hand grabbing) season for rough fish only shall be June 10 to August 31 (all dates inclusive). Tickling and noodling shall be permitted only in the overflow waters of Hickman, Fulton, Carlisle and Ballard counties. The daily creel limit for tickling and noodling shall be fifteen (15) rough fish per day of which not more than five (5) may be catfish. Each day for tickling and noodling shall be from 12 noon to 12 noon the following day *prevailing time.*

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1975

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: September 11, 1975 at 10:11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT

Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:055. Pits and blinds; restrictions.

RELATES TO: KRS 150.025, 150.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the establishment of pits or blinds on Ballard Wildlife Management Area, Peal Wildlife Management Area *and* [,] commercial [, leased and private] waterfowl shooting areas in a portion of Ballard County. This regulation is necessary for the continued protection and conservation of migratory waterfowl and to insure a permanent and continued supply of this wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory waterfowl within reasonable limits based upon an adequate supply and to insure some uniformity of commercial[, leased and private] waterfowl shooting area operating and reporting procedures. *It has become necessary to amend this regulation in order to define the word "commercial" and obtain waterfowl harvest data weekly instead of monthly.*

Section 1. It is unlawful for any person *or persons* to establish or use any *commercial* blind or pit for the purpose

of taking [of] waterfowl on commercial waterfowl shooting areas, the Ballard Wildlife Management Area and the Peal Wildlife Management Area within the area described [prescribed] herein, unless they conform with this regulation, except for the exemptions listed. A commercial waterfowl shooting area is any area of land and/or water, used in whole or in part for the taking, attempted taking, or the privilege of taking migratory waterfowl where a daily monetary charge is made. This regulation deals with commercial waterfowl hunting; non-commercial hunting is covered by another regulation.

Section 2. Designated Area Covered By This Regulation. This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

Section 3. Required Permit. A commercial waterfowl permit issued by the Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601, must be obtained by any person or persons [all persons] operating a commercial waterfowl shooting area, as defined in Section 1 [by KRS 150.600]. Any person or persons operating more than one (1) commercial waterfowl shooting area must obtain a permit for each individual area. A land holding divided [split] by a public road may be operated as a commercial waterfowl shooting area under one (1) permit. Whenever a farm unit is divided [split] by land owned by others, a separate permit is required for each tract [unit] of land operated as a commercial waterfowl shooting area. An annual fee of twenty-five dollars (\$25) will be charged for each commercial waterfowl permit. [If operation is non-commercial, no permit is needed.]

Section 4. Record Keeping, Reporting and Violations. The holder of a commercial waterfowl permit shall:

(1) Maintain and keep an accurate and complete daily hunter register and waterfowl kill record in duplicate on the hunting area on forms provided by the department [showing the license number and the name and address of hunters and the number and kind of migratory waterfowl taken by each person, including officers and employees, hunting on such land and water or land or water]. The original copy of said forms for the period Monday through Sunday must be mailed or taken to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, at the close of shooting hours each Sunday during the waterfowl season, and must be postmarked no later than the following Monday or the day following the last day of the waterfowl season. Duplicate copies of these forms must be held at the place of registration. This [(such)] daily register and kill record shall be exhibited to, and [shall be] open to inspection by conservation officers and other authorized employees of the Department of Fish and Wildlife Resources [)] and the United States Fish and Wildlife Service;

(2) Be responsible for any violation pertaining to his permit, or any other type of violation being committed on his premises that is under the permit, unless he reports immediately the violation to a conservation officer. [;]

[(3) Forward, at the end of each month for the taking of

migratory waterfowl, a report upon blanks furnished by the Department of Fish and Wildlife Resources of the number of each kind of waterfowl taken upon such land and water, or land or water.]

Section 5. Rules of [For] Compliance for Commercial Waterfowl Shooting Areas. (1) It is unlawful for any person or persons to shoot, take, or attempt to take, any waterfowl [wild ducks or geese] except from a blind or pit (see Section 10 for exemptions).

(2) It is unlawful for any person or persons to establish or use any blind or pit for the taking of waterfowl [wild ducks or geese] within 100 yards of any other blind or pit.

(3) It is unlawful for any person or persons with commercial intentions to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within 100 yards of any state owned public shooting area or within 100 yards of any private property line. Blinds or pits on state property shall conform to boundary regulations.

(4) It is unlawful for more than four (4) persons, plus one (1) caller who shall not [cannot] shoot, to occupy a single blind or pit at the same time.

(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1½) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2.

(6) No person or persons shall hunt, in any manner, or carry a gun on any licensed commercial waterfowl shooting area without first registering and checking in with the owner, operator or keeper of the shooting area.

(7) No shot larger than No. 2 will be allowed for hunting waterfowl. This rule applies statewide, including all of the department's wildlife management areas.

Section 6. Marking of Harvested Waterfowl. All persons engaged in any type of commercial enterprise where waterfowl, or other game must be harbored, or stored for a period of time, or temporarily, must identify each bird with a tag, giving the name and address of the owner and his license number.

Section 7. Revocation of Permit. Failure to comply with any part of this regulation shall constitute a violation by the holder of a commercial waterfowl permit, and shall constitute grounds for the revocation of his or her permit.

Section 8. Rules Applying Only to the Ballard Wildlife Management Area Located in Ballard County: (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.

(2) Only geese may be taken by hunters occupying a blind or pit in areas designated for goose hunting. Shooting, taking or attempting to take ducks from a pit or blind in designated goose hunting areas, will constitute a violation of this regulation.

(3) Only ducks may be taken by hunters occupying a blind or pit in areas designated for duck hunting. Shooting, taking, or attempting to take geese from a pit or blind in designated duck hunting areas, will constitute a violation of this regulation.

(4) No shot larger than No. 2 will be allowed for hunting waterfowl.

Section 9. Rules Applying Only to the Peal Wildlife Management Area Located near Wickliffe in Ballard County: (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.

(2) Both ducks and geese may be taken by hunters occupying a pit or blind.

(3) Hunters may erect only temporary pits or blinds as long as they comply with the set back provisions and distances between blinds as provided in Section 5, subsection (2), of this regulation.

(4) Any hunter may occupy a privately erected temporary, or state erected permanent blind or pit on a first come first serve basis.

(5) No shot larger than No. 2 will be allowed for hunting waterfowl.

Section 10. Conditions and Locations Where Boat Is Considered A Blind. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered *to be* [as] a blind [on those portions of the Ohio and Mississippi Rivers described in Section 2,] except for the area closed to waterfowl hunting as described in Section 5, subsection (5).

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources

ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1975

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: September 11, 1975 at 10:10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

601 KAR 13:010

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

(Proposed Amendment)

601 KAR 13:010. Medical Review Board basis for examination, evaluation, test.

RELATES TO: KRS 186.570(1)(c)

PURSUANT TO: KRS 13.082, 186.400

NECESSITY AND FUNCTION: The Medical Review Board has existed by virtue of administrative regulations since [February, 1965] *June, 1964*. Subjects who come to the Bureau's attention because of physical or mental problems which may affect their driving ability are required to submit to physical examinations. The results of these exams are then reviewed by the physicians on the board. Based on their professional experience, they recommend either total denial of a license or a limited one (e.g., daylight hours, left and right rearview mirrors, another exam in three months, etc.), or they determine that the disability suffered should not affect the driving [ability. This professional recommendation eliminates the arbitrariness] and capriciousness which could exist in the great discretion granted the bureau by the legislature in KRS 186.570. Whenever the recommendation of the board is for suspension or an extremely limited license, the subject is entitled to a hearing on the matter (since the Supreme Court's *BELL v. BURSON* decision) and this regulation sets out the procedure for same.

Section 1. *There is hereby created a Medical Review Board to* [The Medical Review Board will] determine whether any applicant for or any holder of a valid Kentucky operator's license has physical or mental infirmities which affect or limit the driving ability or make it unsafe for said person to operate a motor vehicle upon the public highways. The board consists of the Commissioner of the Bureau of Vehicle Regulation of the Department of Transportation or his representative, the Commissioner of the Bureau for Health Services of the Department for Human Resources or his representative, and not less than three (3) physicians licensed to practice medicine in the Commonwealth of Kentucky. The physicians on the board shall be appointed by the Commissioner of the [Bureau of Vehicle Regulation with the concurrence of the commissioner of the] Bureau for Health Services. The Commissioner of the Bureau of Vehicle Regulation or his representative shall prescribe the time and place for the board to meet. Any proceeding conducted by the board shall be construed to be a meeting within the meaning of this section when three (3) physician members are present and participating. Members of the board who participate in a meeting shall be reimbursed for necessary expenses incurred in attending such meeting.

Section 2. (1) Whenever the Commissioner of the Bureau of Vehicle Regulation has reason to believe, within the meaning of Section 4 of this regulation, a person is afflicted with physical or mental infirmities rendering it unsafe for him to operate a motor vehicle upon the public highways, he shall refuse to issue an operator's license or he shall suspend the existing driving privilege of said person unless he shall submit to an examination by a qualified physician within forty-five (45) days of notification of the commissioner's intentions.

(2) The required medical examination shall be conducted at the subject's own expense by any state-licensed physician of his choice or at no expense to the subject by the county health officer of the county in which the subject resides. The examining physician shall report within thirty (30) days the results of his examination directly to the Medical Review Board on a form furnished him by the bureau.

(3) As soon as possible after receipt of the completed form, the Medical Review Board shall meet to evaluate it to [and] make recommendations thereon such as total suspension of the driving privilege, further medical or psychiatric examinations, or complete driver's test. When the board recommends further examination or driver testing, the Commissioner of the Bureau of Vehicle Regulation shall notify the subject how much time he has in which to comply to retain his driving privilege if he possesses a valid Kentucky operator's license.

Section 3. Whenever the Medical Review Board, pursuant to subsection (3) of Section 2 of this regulation, recommends total suspension of a person's driving privilege or any limitations thereon, the Commissioner of the Bureau of Vehicle Regulation shall notify the person by certified mail that this action will be taken unless a written request for a hearing before the board is received within fifteen (15) days following delivery of the notice. The hearing shall be scheduled as early as practical at a time and place designated by the commissioner and notice of same shall be mailed to the person involved no later than ten (10) days prior to the hearing date. The commissioner or his representative shall preside at the hearing before the

Medical Review Board and at least three (3) physician members shall be present. The presiding officer may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The scope of the hearing will be limited to the presentation of the evidence upon which the Medical Review Board made their recommendation and any medical evidence the petitioner wishes to present in explanation or refutation of this evidence. Evidence may be presented in the form of depositions. All testimony at the hearing shall be recorded and together with any depositions or exhibits introduced at the hearing shall form the complete record. Within ten (10) days after the hearing, the commissioner shall issue a decision and this shall be promptly forwarded to the petitioner.

Section 4. The Commissioner of the Bureau of Vehicle Regulation shall promptly notify the person involved to submit to the physical examination set out in Section 2 of this regulation when one or more of the following conditions exist:

(1) Driver has been involved in three (3) or more reportable motor vehicle accidents within a twenty-four (24) month period;

(2) Driver has received three (3) or more convictions for operating a motor vehicle while under the influence of intoxicants or drugs within the last five (5) years;

(3) Driver has indicated that he "blacked out" or lost consciousness prior to a reportable motor vehicle accident;

(4) Driver has been named in an affidavit by at least two (2) citizens as being incapable of properly operating a motor vehicle due to physical or mental infirmities;

(5) Driver has been reported by a physician as being incapable of driving safely due to physical or mental condition or due to medication prescribed for an extended time;

(6) Driver has been reported by a law enforcement officer after being observed driving or behaving in an erratic or dangerous manner which indicates a possibility of physical or mental infirmity;

(7) Applicant for operator's license or for renewal of same has obvious physical or mental impairment;

(8) Driver's official record kept by the Bureau of Vehicle Regulation indicates a possibility of physical or mental impairment.

Section 5. Meetings of the Medical Review Board shall be conducted in privacy because confidential medical records will be discussed and therefore exempt from KRS 61.805 through 61.991.

O. B. ARNOLD, Commissioner

ADOPTED: July 31, 1975

APPROVED:

JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: August 29, 1975 at 10:47 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: The Commissioner, Bureau of Vehicle Regulation, State Office Building, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(Proposed Amendment)

603 KAR 5:095. Truckway classifications.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.222

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight and dimension limits on all highways included in the State Primary Road System. This regulation is adopted to identify those portions of the highway system affected and indicate their classification.

Section 1. The classifications for KY 1 are amended to read as follows:

KY 1

AAA

From: Jct. US 60 in Grayson

To: Jct. KY 1 and KY 7 near Pactolus

AA

From: Jct. KY 1 and KY 7 near Pactolus

To: South end of bridge over Anglin Branch, a distance of approximately 1.68 miles

AA

From: Jct. US 60 in Grayson

To: Lawrence County Line

B

All portions not herein classified.

Section 2. The classifications for KY 5 are amended to read as follows:

KY 5

AA

From: Jct. US 23 near the Boyd-Greenup County Line

To: Extending southwest to KY 503 in Boyd County

B

All other portions not herein classified.

Section 3. The classifications for KY 192 are amended to read as follows:

KY 192

AAA

From: I-75 near London

To: Boggs Road (1.2 miles west of I-75)

AAA

From: Jct. KY 80 near Somerset via Mt. Victory

To: Rockcastle River Bridge

B

All other portions not herein classified.

Section 4. The classifications for KY 351 [Ky. 346] are amended to read as follows:

KY 351 [KY 346] (formerly KY 54)

A

From: Jct. US 41A in Henderson

To: Jct. KY 416 at Hebbardsville

B

All other portions not herein classified.

Section 5. The classifications for KY 416 are amended to read as follows:

KY 416

A

From: Jct. KY 351 [346] at Hebbardsville

To: Jct. Birk City Road

B

All other portions not herein classified.

Section 6. The classifications for KY 1236 are amended to read as follows:
 KY 1236

A

From: Jct. US 62 and US 68 at Washington, Ky., extending east

To: Jct. KY 1448, south of Maysville

B

All other portions not herein classified.

Section 7. The classifications for KY 1448 are amended to read as follows:
 KY 1448

A

From: Jct. US 62 and US 68 near Maysville

To: Jct. KY 11, south of Maysville

B

All other portions not herein classified.

Section 8. The classifications for I-24 are amended to read as follows:
 I-24

AAA

From: Jct. US 60 west of Paducah

To: The Illinois State Line

and

From: Jct. US 68 east of Cadiz in Trigg County

To: The Tennessee State Line

JOHN C. ROBERTS, Secretary

ADOPTED: July, August, 1975

RECEIVED BY LRC: August, 1975

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Dandridge F. Walton, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Education

Bureau of Instruction

(Proposed Amendment)

704 KAR 20:005. Kentucky plan for preparation program approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.070, 156.130, 156.160

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of Education and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference a Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel which shall include the standards and procedures for the approval of college and university curricula for the preparation of professional school personnel for purposes of teacher certification as prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. The Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel shall be published by the Superintendent of Public Instruction and copies furnished upon request directed to his office.

Section 2. The Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel is amended by the *selective revision of certain standards, the deletion of certain standards, and by the addition of other new standards and the amended document is hereby incorporated by reference and identified as the Kentucky State Plan for the Approval of Preparation Programs for the Preparation of Professional School Personnel for 1975-76.* [addition of standards for the preparation of secondary school teachers, for health occupations education which are hereby incorporated by reference.]

LYMAN V. GINGER,

Superintendent of Public Instruction

ADOPTED: June 18, 1975

RECEIVED BY LRC: September 9, 1975 at 11:03 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Samuel Alexander, Secretary, State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Proposed Regulations

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Dentistry

201 KAR 8:015. Registration of dental laboratories and technicians with board.

RELATES TO: KRS 313.010(4)

PURSUANT TO: KRS 313.220

NECESSITY AND FUNCTION: Establishes guidelines for registration of dental laboratories and dental laboratory technicians with the Board of Dentistry.

Section 1. No licensed practicing dentist shall own, operate, manage or control, directly or indirectly, all or any part of a commercial dental laboratory.

Section 2. Each commercial dental laboratory and dental laboratory technician already currently engaged in dental laboratory technology on March 1, 1975, shall be granted a certificate of authority upon proper application and upon payment of the proper fee to the board as required by KRS Chapter 313, and these regulations.

Section 3. After March 1, 1976, the board shall not issue a certificate of authority to any new commercial dental laboratory unless the applying dental laboratory employs, or is operated under the supervision of one or more certified dental technicians. A certified dental technician is an individual recognized as such by the "National Board for Certification" (official name of certifying agency).

Section 4. Any individual having completed two (2) years of training or having acquired two (2) years of practical experience in dental laboratory technology by employment in either a licensed dentist's office or in a commercial dental laboratory, or an individual having a degree in dental laboratory technology from an accredited school upon the completion of a two (2) year course of study shall be classified as a dental laboratory technician and is required to obtain a certificate of authority from the board in order to practice dental laboratory technology. Nothing herein shall be construed to mean that any employee, other than a dental laboratory technician, is required to obtain a certificate of authority from the board.

Section 5. Each commercial dental laboratory shall pay a fee of fifty dollars (\$50) and each dental laboratory technician shall pay a fee of ten dollars (\$10) to the board before a certificate of authority shall be issued to the applicant.

Section 6. An annual convention shall be held by the Kentucky Dental Laboratory Association. All registered commercial dental laboratory owners, operators or managers and dental laboratory technicians shall be eligible to attend. The first annual convention shall be held at such time and at such place within this state, as the commission shall designate at its first meeting after the effective date of this regulation. The time and the date of the next subsequent annual convention shall be determined at each annual convention. At each annual convention, nominations of qualified members shall be selected to fill vacancies

on the commission and shall be thereafter submitted to the board.

Section 7. Upon the granting of a certificate of authority to perform as a dental laboratory, the board shall assign to that laboratory a registration number. The laboratory registration number shall appear on all invoices of said laboratory.

Section 8. A dentist may use only the services of a commercial dental laboratory which is duly registered with the board as required by KRS Chapter 313, and these regulations.

Section 9. All commercial dental laboratories operating, doing business or intending to operate or do business within this state shall be required to register with the board and pay a fee as required by the board. A dental laboratory shall be considered as operating or doing business in this state if its work product is prepared pursuant to a written authorization originating within this state.

WILLIAM H. FIELDS, D.M.D., Secretary-Treasurer

ADOPTED: June 22, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 29, 1975 at 11:14 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary-Treasurer, Kentucky Board of Dentistry,
2106 Bardstown Road, Louisville, Kentucky 40205.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Medical Licensure

201 KAR 9:015. Professional and ethical conduct.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 311.565(2)(c) authorizes the Board of Medical Licensure to promulgate a code of conduct governing the practice of medicine and osteopathy based upon generally recognized principles of professional and ethical conduct. This regulation is identical to the Code of Ethics of the American Osteopathic Association as of July, 1965.

Section 1. The physician shall keep in confidence whatever he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

Section 2. The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

Section 3. A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose his physician. The physician must have complete freedom to choose patients whom he will serve. In emergencies, a physician should make his services available.

Section 4. The physician shall give due notice to the patient or to those responsible for the patient's care when he withdraws from a case so that another physician may be summoned.

Section 5. A physician is never justified in abandoning a patient.

Section 6. A physician shall practice in accordance with the body of systematized knowledge related to the healing arts and shall avoid professional association with individuals or organizations which do not practice or conduct organization affairs in accordance with such knowledge.

Section 7. A physician should join and actively support the recognized local, state and national bodies representing the osteopathic profession and should abide by the rules and regulations of such bodies.

Section 8. A physician shall not solicit patients, commercialize or advertise his services, or associate professionally with, or aid in any manner, individuals or organizations which indulge in such practices.

Section 9. A physician shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

Section 10. A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless he is actually licensed on the basis of that degree in the state in which he practices.

Section 11. A physician shall not seek or acquire any healing arts degree from institutions not approved by the American Osteopathic Association or not approved by a body recognized for the purpose by the American Osteopathic Association.

Section 12. A physician shall designate his osteopathic school of practice in all professional uses of his name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by rules promulgated by the Board of Trustees of the American Osteopathic Association.

Section 13. A physician shall obtain consultation whenever requested to do so by the patient. A physician should not hesitate to seek consultation whenever he himself believes it advisable.

Section 14. In any dispute between or among physicians involving ethical or organizational matters, the matter in controversy should be referred to the arbitrating bodies of the profession.

Section 15. In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician has the responsibility for final decisions, consistent with any applicable osteopathic hospital rules or regulations.

Section 16. A physician shall not comment, directly, or indirectly, on professional services rendered by other physicians except before duly constituted professional bodies of inquiry or in public proceedings judicial in nature.

Section 17. Illegal, unethical, or incompetent conduct of physicians shall be revealed to the proper tribunals.

Section 18. A physician shall not assume treatment of a patient under the care of another physician except in emergencies and only during the time that the attending physician is not available.

Section 19. Any fee charged by a physician shall be reasonable and shall compensate the physician for services actually rendered.

Section 20. Division of any professional fees not based on actual services rendered is a violation which will not be tolerated within the membership of this association.

Section 21. A physician shall not pay or receive compensation for referral of patients.

Section 22. The physician shall cooperate fully in complying with all laws and regulations pertaining to practice of the healing arts and protection of the public health.

Section 23. No code or set of rules can be framed which will particularize all ethical responsibilities of the physician in the various phases of his professional life. The enumeration of obligations in the code of ethics is not exhaustive and does not constitute a denial of the existence of other obligations, equally imperative, though not specifically mentioned.

WILLIAM P. MCELWAIN, M.D., President

ADOPTED: July 24, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 22, 1975 at 3:20 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. C. William Schmidt, Assistant Secretary, Board of
Medical Licensure, 3532 Ephriam McDowell Drive,
Louisville, Kentucky 40205.

**201 KAR 12:032,
EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION
Board of Hairdressers and Cosmetologists**

201 KAR 12:032. Temporary permit.

RELATES TO: KRS 317A.050

PURSUANT TO: KRS 317A.100

SUPERSEDES: KBHC: Temp. Per-1

NECESSITY AND FUNCTION: Military personnel are stationed in Kentucky military bases for short periods of time.

Section 1. Any person desiring to become a registered cosmetologist or manicurist in this state shall comply with the following requirements for a temporary work permit:

(1) Make application on a temporary-work-permit form provided by the board.

(2) Has attained the age of eighteen (18) years.

(3) Is of good moral character and temperate habits.

(4) Holds an unexpired license from another state (certification from applicant's state board).

(5) Must be free of infectious and contagious disease. Applicant must submit a laboratory report that she has been

given a serology blood test with a negative showing and a tuberculosis test as deemed by a physician showing that she does not have active tuberculosis. Said physical examination shall be made within thirty (30) days prior to filing of the application for registration.

(6) Shall have certified evidence that husband is stationed at a Kentucky military base.

(7) Must satisfactorily pass an oral interview with the administrator or a board member, by appointment, and must know the Kentucky Revised Statutes and rules and regulations.

(8) Has paid a fee of ten dollars (\$10).

Section 2. Expiration and renewal of permits: (1) Temporary permits expire six (6) months from the date of issuance.

(2) Permit licensee shall be given a thirty (30) day grace period to renew permit for additional six (6) months.

(3) Renewal fee is five dollars (\$5) for additional six (6) months.

(4) Permit will be renewed at the discretion of the board.

CARROLL ROBERTS, Administrator

ADOPTED: August 13, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 25, 1975 at 4:00 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Carroll Roberts, Administrator, State Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Hairdressers and Cosmetologists

201 KAR 12:082. School's course of instruction.

RELATES TO: KRS 317A.090

PURSUANT TO: KRS 317A.050

NECESSITY AND FUNCTION: Schools must provide a course of instruction of 1,800 hours of student training. The curriculum prepares the individual for examination for the appropriate license.

Section 1. The regular courses of instruction for cosmetology students shall contain the following:

(1) Professional practices:

(a) The cosmetology profession:

1. Cosmetology vocabulary.

2. Brief history: how it began, and changes.

3. Ethics: ethics in a beauty salon; and salon conduct.

(b) Salon procedures:

1. Hygiene and good grooming: personal and public; personal characteristics; and responsibilities of the cosmetologists.

2. Professional attitudes and salesmanship: personality development; salesmanship and business management; customer relationship; and telephone personality.

3. Public relations and psychology: behavior; and proper image.

(c) Speciality services:

1. Facial treatments and make-up: facial treatment-make-up preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of massage movements; facial cosmetics; special problems; eyebrow arching; and lash and brow dye.

2. Manicuring: purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm massage, buffing, application of lacquer, and application of artificial nails.

(2) Life sciences (general anatomy):

(a) Osteology: definition; and functions.

(b) Myology: definition; functions; and types.

(c) Neurology: definition; functions; types (motor and sensory); and principal nerves of the head, face and neck.

(d) Angiology: definition; composition of blood; and function of blood.

(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin; and lesions of the skin.

(f) Trichology: structure of hair; composition; blood and nerve supply; growth and regeneration; color, texture, elasticity, porosity; and conditions to be recognized.

(g) Nails: structure and composition; growth and regeneration; and irregularities.

(3) Physical sciences (chemistry and treatment):

(a) Chemistry:

1. Elements, compounds, and mixtures: properties of; acid and alkali; and chemistry of water.

2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of make-up.

7. Chemistry of facial treatments.

8. Chemistry of rinses: soaps and shampoos; and detergents.

9. Chemistry of cold waving.

(b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.

(c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.

(d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.

(e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening; fillers and toners; removal of aniline derivative tints; and tint back to natural coloring.

(f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems; and safety measures.

(g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.

(4) Hair designing or sculpturing:

(a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.

(b) Hair styling: finger waving; pin curls; hair partings; artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot-iron curling.

(c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting; and safety precautions.

Section 2. Schools must teach the students of the various supplies and equipment used in the usual salon practices.

Section 3. Schools must have the following charts available for students' use:

- (1) Charts showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles;
- (2) Charts showing anatomy of nails.

Section 4. All students shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of Kentucky statutes and regulations.

Section 5. One (1) hour per week should be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and to the rules and regulations of the board.

Section 6. When permission of this board is given a student to enroll in a school for a special brush-up course in any of the following subjects, said student will be required to have a course of training of the following number of hours in the course or courses he or she desires to take:

- (1) Permanent waving, croquignole and spiral combination, and all wet curls, 100 hours.
- (2) Manicuring, head and arm massage, and bleach, 100 hours.
- (3) Marcelling and all iron curls, 100 hours.
- (4) Facials, 125 hours.
- (5) Hair coloring and bleaching, 150 hours.
- (6) Scalp massage, 125 hours.
- (7) Hair shaping, trimming, and thinning, 125 hours.
- (8) Science, 100 hours.
- (9) Hair dressing and styling, 150 hours.

Section 7. No school of cosmetology shall be granted a license to operate a school of cosmetology or annual renewal of license unless the following curriculum is maintained and taught.

- (1) Curriculum for freshmen students:
 - (a) Theory and related theory class, 100 hours:
 1. General theory, including Kentucky Cosmetology Law and rules and regulations adopted thereunder.
 2. Clinical theory.
 3. Lecturing theory.
 - (b) Clinical and related theory class (freshmen practice class on students or mannequins), 200 hours:
 1. Cold waves.
 2. Facials and make-up.
 3. Complete "S" formations or complete fingerwaves.
 4. Pincurl technique.
 5. Hairshaping.
 6. Hairstyling techniques.
 7. Lash and brow tint.
 8. Eyebrow arches.
 9. Manicuring.
 10. Scalp treatments.
 11. Shampooing.
 12. Hair coloring, bleaching, and rinsing (mixing and formulas).
 13. Heat permanent.
 14. Safety measures.

- (2) Curriculum for junior and senior students.
 - (a) Theory and related theory class, 500 hours.
 - (b) Professional practices, life sciences (general anatomy), physical sciences (chemistry and treatment), hair designing or sculpturing, safety measures, Kentucky Cosmetology Laws and rules and regulations adopted thereunder.
 - (c) Clinical class, 1,000 hours:
 1. Hair conditioning treatments.
 2. Scalp treatments.
 3. Hairshaping.
 4. Shampoos.
 5. Cold waves.
 6. Chemical hair relaxing (permanent wave).
 7. Complete "S" formations and complete fingerwaves.
 8. Pincurl techniques.
 9. Hairstyles.
 10. Iron curling.
 11. Hair coloring and toning.
 12. Bleaches and frostings.
 13. Facials and make-up.
 14. Manicuring.
 15. Lash and brow tints.
 16. Eyebrow arches.
 17. Color rinses (certified color).
 18. Wiggery.
 19. Professional ethics and good grooming.
 20. Salesmanship.
 21. Reception desk and telephone answering.
 22. Record keeping.
 23. Federal and state tax records.
 24. Sales tax records.
 25. Dispensary (procedures for ordering supplies and retail merchandise).
 26. Personality development.
 27. Salon management.
 28. Public relations.

Section 8. Schools are permitted to have one (1) lecture per month by a reputable manufacturer, or an authorized manufacturer's representative, to demonstrate their particular product.

Section 9. Any time not utilized in theory or clinic work must be used for study periods or library work.

Section 10. Each school shall furnish reference books for students' use. Any recognized textbook relevant to the art of science of cosmetology is acceptable to the board.

Section 11. Students of cosmetology shall not be permitted to work on the public until they have completed 300 hours of instruction.

Section 12. Students of cosmetology will be allowed eight (8) hours per day for two (2) out-of-school activities per 1,800 hours pertaining to the profession of cosmetology if reported to the board office on a standard form supplied by the board.

Section 13. Students of cosmetology will be permitted to attend two (2) educational programs within their 1,800-hour course for eight (8) hours credit per day, exclusive of Sundays, if reported to the board office on a standard form supplied by the board.

Section 14. Recommended Textbooks: (1) "Standard Textbook of Cosmetology," 1938, revised edition, 1967,

Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(2) "Physics of Hair," Wallat, 1960, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(3) "The Van Dean Manual," 1940, revised edition, 1962, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(4) "Sullivan Beauty Manual," 1963, E. M. Sullivan, revised edition, 1967, E. M. Sullivan, Publisher, P.O. Box 823, Orange, California 92669.

(5) "Chemistry for Cosmetology Students," 1969, Intron, Inc., P. O. Box 477, Downey, California 90241.

(6) "The Principles and Practices of Beauty Culture," Florence Wall, 1941, revised edition, 1961, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(7) "Hair Structure and Chemistry," 1967, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.

(8) "Cosmetology, the Keystone Guide to Beauty Culture," 1970 edition, Keystone Publications, 1657 Broadway, New York, New York 10019.

(9) At least one (1) copy of a standard dictionary of the English language.

(10) At least one (1) copy of a standard medical dictionary.

(11) At least one (1) copy per student of the Kentucky State Board of Hairdressers and Cosmetologists statutes and regulations.

(12) At least five (5) copies of the rules of the school. The most recent printing of each textbook is preferred.

Section 15. Manicurist curriculum shall include the following:

(1) Science and theory; 100 hours:

(a) Equipment, sterilization, sanitation, public and personal hygiene safety measures, Kentucky Cosmetology Law and all rules and regulations adopted thereunder.

(b) Nail condition and manicure techniques.

(c) Hand and arm massage.

(d) Science pertaining to areas of hands and arms.

(e) Personality, grooming, salon management, professional ethics, and cosmetic theory laws.

(2) Clinical; 200 hours:

(a) Oil and plain manicure.

(b) Nail polish changes, moons, half-moons, and tips.

(c) Hand and arm massage.

(d) Safety measures.

(e) Care of equipment.

(f) Removal of stains.

(g) Repair work.

(h) Buffing.

(i) Application of lacquer.

(j) Application of artificial nails.

Section 16. The course of study and curriculum for an apprentice instructor shall include as minimums, with a total of 1,000 hours, the following:

(1) Orientation, fifteen (15) hours.

(2) Psychology of student training, fifty (50) hours.

(3) Introduction to teaching, thirty (30) hours.

(4) Good grooming and personality development, fifty (50) hours.

(5) Course outlining and development, forty (40) hours.

(6) Lesson planning, forty-five (45) hours.

(7) Teaching techniques (methods), eighty (80) hours.

(8) Teaching aids, audio-visual techniques, eighty (80) hours.

(9) Demonstration techniques, fifty-five (55) hours.

(10) Examinations and analysis, sixty (60) hours.

(11) Classroom management, forty-five (45) hours.

(12) Record keeping, twenty-five (25) hours.

(13) Teaching observation, sixty-five (65) hours.

(14) Teacher assistant, ninety (90) hours.

(15) Pupil teaching (practice teaching), 270 hours.

Section 17. Recommended Textbooks: (1) "Psychology in Teaching," H. P. Smith.

(2) "Milady Course of Study for Student Teachers."

(3) "325 Teaching Hints."

Section 18. All student instructors must be under the immediate supervision and instruction of a licensed instructor at all times during the school day. No student instructor shall ever assume any of the duties and responsibilities of a licensed supervising instructor.

Section 19. All records of apprentice instructors' hours earned shall be recorded on a standard form supplied by the board office on or before the tenth (10th) day of each month.

CARROLL ROBERTS, Administrator

ADOPTED: August 13, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: August 25, 1975 at 4:01 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Carroll Roberts, Administrator, State Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 1:058. Methods for taking turtles.

RELATES TO: KRS 150.010, 150.025, 150.175, 150.235, 150.360, 150.440, 150.445, 150.450

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary to describe legal methods for harvest of turtles.

Section 1. Turtles may be taken by angling and in the same manner as rough fish may be taken, with the same restrictions and license requirements.

Section 2. In addition, turtles may be shot with gun or bow and arrow if a valid hunting license is in possession and subject to the same closed season in November as other types of hunting; all other methods of taking require a fishing license.

Section 3. In addition, turtles only may be taken if the following conditions are met:

(1) All turtle devices must be constructed and set so that no other animals or fish would reasonably be expected to be caught. Anything other than turtles caught in the devices must immediately be released unharmed.

(2) All turtle devices must be inspected for catch and catch removed, with the possible exception of one (1) live decoy turtle, at least once each twenty-four (24) hours or

the device removed if the device cannot be inspected during any twenty-four (24) hour period.

(3) Barrel or drum devices using a tilting board as the trigger or catching device, or floating log rafts using an enclosed bag of twine or wire mesh, in which the turtle must enter by climbing over the enclosing logs, may be used.

Section 4. Turtles may be taken by hand or hooked rod while wading, only in those waters open for gigging, grabbling, or snagging, or tickling and noodling, as set out in 301 KAR 1:075, except they may be taken year around. No fish may be taken by use of the hooked rod at any time.

Section 5. If turtles are to be sold, a commercial fishing license is required.

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1975

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: September 11, 1975 at 10:12 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 3:070. Goose harvest reporting.

RELATES TO: KRS 150.025, 150.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the rules; registration and reporting of the goose harvest in a designated portion of Ballard County. This regulation is necessary to determine the number of geese harvested in Ballard County as mandated by the Mississippi Flyway Council. The harvest data are to be utilized in determining the size of a future goose harvest quota. The function of this regulation is to provide accurate goose harvest data to serve as a basis for a forthcoming mandatory harvest quota.

Section 1. It is unlawful for any person or persons to shoot, take, or attempt to take any waterfowl on non-commercial lands and/or waters within the area described herein, unless they conform with this regulation. A non-commercial waterfowl shooting area is any area of land and/or water, used in whole or in part for the taking, attempted taking, or the privilege of taking migratory waterfowl where no daily monetary charge is made.

Section 2. Designated Area Covered By This Regulation. This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

Section 3. General Rules Concerning Waterfowl Hunting and Spacing of Pits or Blinds on Non-commercial Waterfowl Shooting Areas:

(1) It is unlawful for any person or persons to shoot, take, or attempt to take, any waterfowl except from a blind or pit. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered to be a blind, except for the area closed to waterfowl hunting as described in subsection (5) of this section.

(2) It is unlawful for any person or persons to establish or use any blind or pit for the taking of waterfowl within 100 yards of any other blind or pit.

(3) It is unlawful for any person to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within 100 yards of any state-owned public shooting area.

(4) It is unlawful for more than four (4) persons, plus one (1) caller who shall not shoot, to occupy a single blind or pit at the same time.

(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1 ½) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2 of this regulation.

Section 4. Free Permit and Rules for Persons Controlling Land and/or Water, and/or the Waterfowl Hunting Rights and Privileges Pertaining to Said Land and/or Water Used, or Intended to be Used, for Hunting of Geese on a Non-commercial Basis:

(1) Any person or persons controlling land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water, within the designated area covered by this regulation, used or intended to be used, in whole or in part, for the taking of geese on a non-commercial basis must apply to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, for a free Migratory Goose Hunting Area permit.

(2) The holder of a free migratory goose hunting area permit may be:

(a) The landowner, his tenant or any designated representative, who controls the land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water upon which goose hunting is permitted;

(b) Any other person to whom individuals, as defined in paragraph (a) of this subsection, have assigned exclusive goose hunting rights or privileges, in writing, on forms provided by the department.

(3) The free migratory goose hunting area permit shall:

(a) Be displayed openly on the property for which it was issued;

(b) Be open for inspection by conservation officers or other authorized employees of the Department of Fish and Wildlife Resources and members of the United States Fish and Wildlife Service;

(c) Expire each year on the day after the end of the waterfowl season.

(4) The holder of a free migratory goose hunting area permit shall:

(a) Make available and maintain at all times during the waterfowl season, the daily hunter register forms in duplicate provided by the department on the area for which the permit is issued;

(b) Require all waterfowl hunters to register each time they hunt on the daily register forms provided by the department prior to hunting on any permit area;

(c) Require all waterfowl hunters to record the numbers and kinds of geese taken on the permit area immediately before leaving the hunting area;

(d) Mail or take the original daily register form for the period Monday through Sunday to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, at the close of shooting hours each Sunday during the waterfowl season, and it must be waterfowl season, even if no geese were killed or hunted;

(e) Hold duplicate forms from past weeks for a period of two (2) months after the end of the waterfowl season;

(f) Exhibit to, and allow inspection of, the daily register by conservation officers and other authorized employees of the Department of Fish and Wildlife Resources and the United States Fish and Wildlife Service.

Section 5. Any person hunting, taking or attempting to take geese within the area designated by this regulation shall:

(1) Write on a daily register form the date, and their name and address before entering any lands and/or waters to hunt geese;

(2) Immediately upon returning from any lands and/or waters, register the numbers and kinds of geese taken, including a negative or zero report if failing to kill any geese.

Section 6. Ohio and Mississippi River Waterfowl Hunters. Persons hunting or taking geese on the Ohio and Mississippi Rivers and their overflow areas within the designated area covered by this regulation shall apply for a season's supply of daily register forms at the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056.

(1) A daily register form must be carried on the person of each goose hunter if hunting alone, or by one (1) hunter in a party while hunting, taking or attempting to take geese on these two (2) rivers and their overflow areas. The form must be filled out during each hunt in the same manner as described in Section 5. When hunting in a party where only one (1) person possesses a daily register form, all members of the hunting party may register on that person's daily register.

(2) The original copy of the daily register form must be mailed or taken to the Ballard Wildlife Management Area as described in Section 4, subsection (4)(d).

(3) The duplicate daily register form must be held as described in Section 4, subsection (4)(e).

(4) The daily register form must be exhibited and allowed to be inspected as described in Section 4, subsection (4)(f).

DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1975

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: September 11, 1975 at 10:11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Land Resources
Division of Reclamation

402 KAR 1:100. Repeated noncompliance.

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 13.082, 224.033(17), 224.045(6)(b), 350.010, 350.028(1), 350.130

NECESSITY AND FUNCTION: KRS 350.130(3) requires the Department for Natural Resources and Environmental Protection to prescribe a regulation concerning an operator's repeated noncompliance with the requirements of KRS Chapter 350 and/or the rules and regulations adopted pursuant thereto. This regulation complies with that statutory directive.

Section 1. Repeated Noncompliance. An operator shall be deemed to have repeatedly been in noncompliance pursuant to KRS 350.130(3) when three (3) noncompliances, as defined in Section 2 herein, have been served upon him because of or resulting from the same permitted area, as defined in Section 3 herein, within any eighteen (18) month period. Such period shall be computed using the dates of the occurrences or nonoccurrences which give rise to the noncompliances, rather than the date of the final disposition of the noncompliances.

Section 2. For the purposes of this regulation, "noncompliance" shall mean the following:

(1) The failure of the operator to obey an order of suspension; or

(2) The failure of the operator to obey a revocation of any permit or certificate, each day of operation after such permit revocation and notice thereof to the operator constituting a separate noncompliance; or

(3) The absence of a permit, certificate or permission to mine granted by the Commonwealth, when so required by law or regulation; or

(4) The failure of the operator to obey an order of the department or the failure to obey it within the time prescribed, when such order follows a departmental hearing at which the operator was provided the opportunity to present evidence in his behalf, each day of failure to obey such order constituting a separate noncompliance; or

(5) The failure of an operator to maintain standards which are current with the reclamation plan previously approved by the department, including but not limited to grading, backfilling and water management practices, within the time limits set forth in the notice of noncompliance; or

(6) Any noncompliance, as defined in KRS 350.130(1), whereby the operator agrees or is required by a final order of a state circuit court to pay \$5,000 or more to the Commonwealth as part of the disposition of said noncompliance.

Section 3. For the purposes of this regulation, "permitted area" shall mean permitted mining activities at the time the noncompliance is issued which are conducted, controlled or held or mined by the same operator on contiguous properties or properties separated by not more than 500 feet, horizontally or vertically, regardless of the number of permits or certificates issued to said operator, unless the operator designates on the map accompanying his application for a certificate or permit, or within sixty (60) days from the effective date of this regulation,

separate contiguous permitted area units which when so divided shall in no event be less than twenty-five (25) acres. In such cases, each such unit shall be treated as a separate permitted area.

Section 4. The department shall issue no additional permits to any operator who has repeatedly been in noncompliance or violation of any of the rules or regulations of KRS Chapter 350. Neither shall an operator's suspended permits be reinstated until he shall have complied with the requirements of said KRS Chapter 350 in respect to all permits issued him.

Section 5. The specific declaration by a court of competent jurisdiction that any of the provisions of this

regulation are invalid shall not abrogate the viability of that portion remaining which any such court shall leave unchallenged.

JOHN S. HOFFMAN, Secretary

ADOPTED: September 12, 1975

RECEIVED BY LRC: September 12, 1975 at 3:40 p.m.

PUBLIC HEARING: A public hearing on this proposed regulation is scheduled for November 18, 1975 at 10 a.m. EST in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact Kenneth Ratliff, Assistant Director, Division of Reclamation, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

Reprinted Regulations

(As a convenience to subscribers the following regulations, which became effective on September 10, 1975, are being reprinted here. All were published originally in Volume 1 of the Administrative Register but are not included in the bound volumes of the KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.)

(The following regulation, published originally in the May issue [1 Ky.R. 1035], was resubmitted unchanged over the objections of the Administrative Regulation Review Subcommittee and the Joint Interim Committee on Judiciary. It became effective on September 5, 1975 pursuant to KRS 13.087.)

DEPARTMENT OF JUSTICE Bureau of Training

503 KAR 5:020. Participation requirements.

RELATES TO: KRS 15.440

PURSUANT TO: KRS 15A.160, 15.450

EFFECTIVE: September 5, 1975

SUPERSEDES: Jus-2

NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.440 sets forth statutory requirements for participation in the fund. This regulation establishes general administrative participation requirements in the fund in compliance with KRS 15.440.

Section 1. Eligibility to participate in the fund is limited to local units of government meeting the qualifications as provided by law. The local unit shall apply for participation in the fund on forms provided by the Executive Office of Staff Services. The application shall be postmarked on or before April 30 preceding the fiscal year in which the local unit desires to participate. Provided, however, the secretary may extend the filing deadline when such extension is based upon reasonable administrative need.

Section 2. The local unit shall employ one (1) or more police officers.

Section 3. The local unit shall pay every police officer a

minimum base salary of not less than \$4,350 per annum for a standard work year.

Section 4. The local unit shall maintain a high school degree or its equivalent as determined by the council as the minimum educational requirement for employment of police officers after initial participation in the fund.

Section 5. Training Requirements. (1) Local units which are participating in the fund shall require all police officers employed by the local unit on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours duration within one (1) year of the date of employment at a school certified or recognized by the council.

(2) Except as provided in Section 3, dealing with basic training and in-service training, local units which have not previously participated in the fund shall require all police officers employed by the local unit on the date of initial participation to complete a basic training course of at least 400 hours duration within one (1) year of the date of initial participation at a school certified or recognized by the council. All police officers employed after the date of initial participation shall complete the basic training within one (1) year of the date of employment as required for participating local units.

(3) The local unit shall require all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and size and location of his department, of at least forty (40) hours duration at a school certified or recognized by the council.

Section 6. The local unit shall comply with all provisions of law applicable to local police and shall file all reports as required by laws or pursuant to these regulations.

Section 7. In compliance with the special condition of funding by the Law Enforcement Assistance Adminis-

tration, each local unit employing forty (40) or more police officers shall establish crime prevention teams.

Section 8. To be eligible for participation in the fund, the local unit shall enact or amend an appropriate ordinance or resolution incorporating compliance by the local unit and its police officers with the provisions of KRS 15.410 to 15.510 and these regulations. A certified copy of the ordinance or resolution shall be submitted by the local unit to the Executive Office of Staff Services with the local unit's application for participation in the fund.

Section 9. Each local unit employing forty (40) or more police officers shall provide to the Executive Office of Staff Services a semiannual report on police manpower allocation. The local unit's report shall demonstrate how each police agency's patrol allocation has taken into consideration and given priority to major crime areas.

Section 10. The Administrator, Executive Office of Staff Services, may withhold or terminate incentive fund payments to any local unit that does not comply with the provisions of KRS 15.410 to 15.510 or these regulations.

HENRI L. MANGEOT, Secretary

ADOPTED: April 11, 1975

RECEIVED BY LRC: September 5, 1975 at 1:47 p.m.

(The following regulation, published originally in the June issue [1 Ky.R.1265], was resubmitted unchanged over the objections of the Administrative Regulation Review Subcommittee and the Joint Interim Committee on Judiciary. It became effective on September 5, 1975 pursuant to KRS 13.087.)

**DEPARTMENT OF JUSTICE
Office of Public Defender**

504 KAR 1:070. Serious crimes defined.

RELATES TO: KRS 31.030, 31.100

PURSUANT TO: KRS 15A.140, 15A.160, 31.030, 31.100

SUPERSEDES: PD-8

EFFECTIVE: September 5, 1975

NECESSITY AND FUNCTION: This regulation is necessary to implement the Supreme Court's decision in *Argersinger v. Hamlin*, 92 S.Ct. 2006 (1972), and Rules of Criminal Procedure (RCr) 8.04 as required by KRS 31.030(8).

Section 1. Serious crimes for purposes of KRS Chapter 31 shall include: (1) All felonies;

(2) Any misdemeanor or offense for which the penalty includes the possibility of confinement or a fine of \$500 or more; and

(3) Any act that could result in the detention or court restraint on the liberty of a minor.

JACK EMORY FARLEY, Public Defender

ADOPTED: April 15, 1975.

APPROVED: HENRI MANGEOT, Secretary

RECEIVED BY LRC: September 5, 1975 at 1:46 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of September 10, 1975 Meeting

(Subject to Subcommittee approval at its next meeting on October 8, 1975.)

The Administrative Regulation Review Subcommittee held its fifteenth meeting on Wednesday, September 10, 1975, at 10 a.m. EDT in Room 327 of the Capitol. Present were:

Members: Senator Michael R. Moloney, Chairman; Representatives James A. Davis and Bobby H. Richardson.

Guests: J. H. Voige, Kentucky Board of Pharmacy; James White, Kentucky Hospital Association; Carole Mobley, Taylor County Hospital; Kenneth R. Shaw, Southeastern Kentucky Baptist Hospital; Ginger Goff and Elizabeth Bailey, Harrison Memorial Hospital; John J. Piecow, Jr., and Clifford Hyamiman, Kentucky Society of Hospital Pharmacists; W. O. Hubbard, Department for Human Resources and Deborah Herd, University of Kentucky law student.

LRC Staff: Phillip R. Patton, E. Hugh Morris, Mabel Robertson, Garnett Evins, Paula Lay and Henry Vance, Jr.

Minutes of the meeting of August 13, 1975 were approved. Chairman Moloney read a communication from Ms. Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, questioning the rejection of proposed regulation 201 KAR 12:055. Chairman Moloney directed that a memorandum be sent to Ms. Roberts stating that the regulation was rejected because the statute cited was not sufficient authority for the regulation and suggesting that it be amended to include KRS 317A.100 in the "Relates to" and "Pursuant to" sections.

200 KAR 6:010, Executive Department for Finance and Administration, Personal property inventories, was withdrawn at the request of the issuing agency.

The following regulations were returned by a unanimous vote to the issuing agencies for these reasons:

101 KAR 1:050, Department of Personnel, Compensation plan, was returned for the reason that the provisions of KRS 18.210(1) and (2) prescribe a classification plan and pay plan for all positions in the state classified service such that "the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class." There does not appear to be any authority for a reclassification of positions in one particular locality within the Commonwealth. The proposed regulation appears to the subcommittee to be an exercise of authority beyond that contemplated by the statutes.

200 KAR 2:075, Executive Department for Finance and Administration, Recruiting expenses; limitations, was returned for the reason that the proposed regulation exceeds the statutory authority granted to the Department for Finance and Administration.

200 KAR 3:050, Executive Department for Finance and Administration, Monthly meal charges at mansions, was returned for the reason that the statute cited as authority for the regulation appears never to have existed or to have been repealed. Consequently, no statutory authority has been submitted to the Administrative Regulation Review Subcommittee.

The following regulations were approved and ordered filed:

OFFICE OF THE GOVERNOR

Kentucky Higher Education Assistance Authority

State Student Incentive Grants

11 KAR 1:015 Program name.

11 KAR 1:020 Definitions.

11 KAR 1:025 Eligibility of institutions for participation.

11 KAR 1:030 Institution must provide records and reports.

11 KAR 1:035 Student eligibility.

11 KAR 1:040 Method of financial need analysis.

11 KAR 1:045 Ranking of applicants.

11 KAR 1:050 Award determination table.

11 KAR 1:055 Notification of awards.

11 KAR 1:060 Payment of awards.

11 KAR 1:065 Endorsing checks; prohibitions.

11 KAR 1:070 Refund policy.

11 KAR 1:075 Programs mutually exclusive.

Kentucky Loan Program

11 KAR 3:010 Loan program name; federal laws and regulations cited.

11 KAR 4:010 Board meetings.

Agricultural Experiment Station

Seed

12 KAR 1:105 Schedule of charges. (Amended)

SECRETARY OF THE CABINET

Kentucky Teachers' Retirement System

General Rules

102 KAR 1:120 Voluntary contributions. (Amended)

102 KAR 1:135 Interest credited to accounts. (Amended)

Department of Revenue

Sales and Use Tax

103 KAR 27:100 Motor Vehicles, motor homes and trailers. (Amended)

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

Coal Producing County Development Fund

200 KAR 4:010 Expenditure of funds. (Amended)

Purchasing

200 KAR 5:010 State vehicles.

200 KAR 5:015 Legal documents.

200 KAR 5:050 Central purchasing for political subdivisions.

Property

200 KAR 6:020 Relocation compensation allowance.

Engineering

200 KAR 7:010 Substitution of securities for retainage.

Advancements to Sheriffs

200 KAR 11:010 General Criteria.

200 KAR 11:020 Application form: information required.

200 KAR 11:030 Initial advancement; procedure.

200 KAR 11:040 Subsequent advancements.

200 KAR 11:050 Refunding procedures.

Personnel

200 KAR 12:010 Computing back pay after reinstatement.

200 KAR 12:020 Unemployment insurance payments.

Kentucky Horse Council

200 KAR 25:010 Meetings.

Board of Hairdressers and Cosmetologists

201 KAR 12:105 School districts.

- 201 KAR 12:110 School license.
- 201 KAR 12:120 School faculty.
- 201 KAR 12:130 School fees for services.
- 201 KAR 12:140 School equipment.
- 201 KAR 12:150 School records.

Board of Physical Therapy

- 201 KAR 22:010 Definitions.
- 201 KAR 22:020 Application for licensure.
- 201 KAR 22:030 Licensing procedure.
- 201 KAR 22:040 License renewal.
- 201 KAR 22:050 Refusal, revocation or suspension of license.
- 201 KAR 22:060 Reciprocity with other licensing boards.
- 201 KAR 22:070 Requirements for foreign-trained therapists.
- 201 KAR 22:100 Assistant's eligibility for certification.
- 201 KAR 22:105 Certification of assistant.
- 201 KAR 22:110 Renewal of assistant's certification.
- 201 KAR 22:115 Refusal, revocation or suspension of assistant's certification.
- 201 KAR 22:120 Reciprocity with other licensing boards for assistant's certification.
- 201 KAR 22:125 Board representative for assistants.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

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Division of Sanitary Engineering

- 401 KAR 6:040 Treatment plants; distribution systems; certification of plant operators. (Amended)

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

Driver's License

- 601 KAR 12:040 Driving history record; fee.

Division of Aeronautics and Airport Zoning

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- 602 KAR 50:010 Definitions. (Amended)
- 602 KAR 50:080 Permit application content. (Amended)
- 602 KAR 50:100 Marking and lighting obstruction standards. (Amended)
- 602 KAR 50:115 Enforcement procedures; violations.

Bureau of Highways

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- 603 KAR 5:095 Truckway classifications. (Amended)

DEPARTMENT OF EDUCATION

Bureau of Instruction

Teacher Certification

- 704 KAR 20:130 Guidance counselor. (Amended)
- 704 KAR 20:198 Special education director.
- 704 KAR 20:203 Special education teacher-consultant.
- 704 KAR 20:205 Special education teachers. (Amended)
- 704 KAR 20:230 Hearing impaired; teacher's provisional certificate.
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- 704 KAR 20:245 Trainable mentally handicapped; teacher's provisional certificate.
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Bureau of Vocational Education

Administration

- 705 KAR 1:010 State plan. (Amended)

Adult Education

- 705 KAR 7:050 Adult program plan.

Bureau of Rehabilitation Services

Administration

- 706 KAR 1:010 State plan for vocational rehabilitation. (Amended)

Bureau of Education for Exceptional Children

- 707 KAR 1:005 Experimental program utilizing para-professionals and teacher aides.

PUBLIC PROTECTION AND REGULATION

Department of Labor

Occupational Safety and Health

- 803 KAR 2:020 Adoption of 29 CFR part 1910. (Amended)

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

Certificate of Need and Licensure Board

- 902 KAR 20:020 Extended care and recuperation center facilities. (Amended)
- 902 KAR 20:025 Extended care and recuperation center services. (Amended)
- 902 KAR 20:045 Nursing home facilities.
- 902 KAR 20:047 Nursing home operation and services.

Bureau for Social Insurance

Medical Assistance

- 904 KAR 1:002 Definitions.
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The meeting adjourned at 11:30 a.m. to meet again at 10 a.m. on Wednesday, October 8, 1975 in Room 327 of the Capitol.

Administrative Register ^{of} *kentucky*

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