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

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# Public Hearings Scheduled

## PUBLIC PROTECTION AND REGULATION CABINET Department of Mines and Minerals

A public hearing will be held at 10 a.m. EDT on August 15, 1977 at the Law School Auditorium, University of Kentucky, Lexington, Kentucky on the following proposed regulations [3 Ky.R. 796-798]:

- 805 KAR 7:010. Definitions.
- 805 KAR 7:020. Training and certification of inexperienced miners.
- 805 KAR 7:030. Annual retraining program.
- 805 KAR 7:040. Training of newly hired miners.
- 805 KAR 7:050. Training of miners for new work assignments.

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

A public hearing will be held at 10 a.m. EDT on September 1, 1977 at the State Office Building Auditorium, Frankfort, Kentucky on the following proposed regulation, published in this issue [4 Ky.R. 29]:

- 402 KAR 1:012. Reclamation of lands disturbed by underground mining.

## EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

A public hearing will be held at 10 a.m. on August 9, 1977 in Room 3, North Course, Sports and Convention Center, Frankfort, Kentucky on the following proposed regulation [3 Ky.R. 787]:

- 200 KAR 6:030. Real property leases and rentals.

# Amended Regulations Now in Effect

(The following regulations, as proposed to be amended, were published originally in Volume 3 of the *Administrative Register*. They were approved by the Administrative Regulation Review Subcommittee at its July 6, 1977 meeting and became effective on that date. They are republished here as a convenience to subscribers.)

## COUNCIL ON PUBLIC HIGHER EDUCATION As Amended

### 13 KAR 1:015. Licensing of private colleges.

RELATES TO: KRS 164.945 to 164.947(4)

PURSUANT TO: KRS 13.082, 164.947

EFFECTIVE: July 6, 1977

NECESSITY AND FUNCTION: This regulation is promulgated pursuant to the mandate of KRS 164.945 to 164.947 which require that the Council on Public Higher Education license nonpublic institutions to protect bona fide institutions and to protect citizens of the Commonwealth from fraudulent practices, unfair competition or substandard educational programs.

Section 1. General Requirements. Except as hereinafter provided, all colleges, institutions or other agencies which

award degrees, diplomas, or other statements of recognition, purporting to indicate a level of collegiate attainment beyond the completion of secondary school, including all colleges, institutions, or other educational agencies which are chartered, organized, or have their principal locations outside Kentucky, and which desire to offer courses or conduct academic programs in Kentucky, shall be required to have a license issued by the Council on Public Higher Education:

(1) The exclusion from the provisions of KRS 164.945 to 164.947 of those colleges which operate under the provisions of KRS 165A.310, 317.430, 314.121 and KRS Chapter 317A is acknowledged. Such statutes, however, do not authorize the awarding of degrees beyond the associate level. Therefore, any college which awards a higher degree shall be subject to this regulation if it awards any bachelor's degree, master's degree, or any doctorate or other degree, whether such degree be earned or honorary. In the event that licensing or approval of a college is also required by



another agency in the state, the council shall attempt to work closely with such agency in performing its licensing functions.

(2) Application for licensure shall be in the form and manner prescribed by the Council on Public Higher Education, pursuant to KRS 164.947 and shall be submitted to the Council on Public Higher Education within sixty (60) days from the effective date of this regulation. Providing false or misleading information on any application may be deemed as sufficient grounds for denying licensure.

(3) No new college, division, or branch, which is created after the effective date of this regulation, shall offer instruction until a license has been granted by the Council on Public Higher Education.

(4) A college which is licensed under the provisions of KRS 164.945 to 164.947 is prohibited from offering any degrees other than those which are specifically authorized in the license, including honorary degrees.

(5) The instructional program of a college which is licensed under the provisions of KRS 164.945 to 164.947 shall be restricted to those degree programs or majors, and other concentrations and specialties, which are specifically authorized in the license. The Council on Public Higher Education shall be notified in writing at least sixty (60) days prior to the date that additions or deletions of such degree programs or majors, and other concentrations and specialties are planned. The council may determine that such proposed actions necessitate a supplementary application, in which case the council shall indicate the form and manner of such supplementary application and shall take whatever action it deems appropriate on the basis of the supplementary application. In no case shall such college offer instruction in a new degree program or major, or other concentration or specialty, without prior written approval from the Council on Public Higher Education.

(6) The use of the title "college" or "university" shall be restricted to institutions which offer degrees and which are licensed under the provisions of KRS 164.945 to 164.947, or to institutions which were in operation on March 25, 1972, and which contained the designation "college" or "university" in their title on such date.

Section 2. Exceptions to General Requirements. Notwithstanding the provisions of Section 1 [, any college to which the provisions of KRS 164.947 are applicable, shall be presumed by the Council on Public Higher Education as being in compliance with the licensure requirements of these regulations on] and Section 3, any institution that is chartered by, organized within, and has its principal location in Kentucky shall automatically be licensed upon receipt of documents enumerated in Section 3(11) and upon the following conditions:

(1) The institution holds full accreditation or has been accepted for candidacy for accreditation by a regional or national institutional accrediting agency which is recognized by the United States Office of Education or an accrediting agency which is recognized by the Council on Public Higher Education;

[(1) If such college is fully accredited by a regional or a national institutional accrediting agency which is recognized by the U. S. Office of Education, or which accreditation is accepted by the Council, it may be considered as continuing in compliance so long as such accreditation is maintained.]

(2) The institution [If such college] is fully accredited by an agency which is recognized by the United States

Office of Education, or which accreditation is accepted by the Council on Public Higher Education as being appropriate to the instructional program or programs of the college;

(3) If the institution [such college] does not award degrees of any kind or level, and if it is fully accredited, licensed or otherwise approved by an agency of the State of Kentucky which is recognized by the Council on Public Higher Education as being appropriate for such accreditation, licensure, or approval, the college may be considered as continuing in compliance so long as such accreditation, licensure, or approval is maintained;

(4) Institutions licensed under the provisions of subsections (1) and (2) of this section shall be exempt from specific provisions of this regulation so long as such institutions continue to be so accredited; provided however, that at such time an institution loses its accreditation by such agency, it shall then automatically become subject to all of the provisions of this regulation.

(5) [(4) A college] An institution to which the provisions of subsection (1) and (2) of this section are applicable shall submit to the Council on Public Higher Education, within thirty (30) days of its receipt of reports or other communications from such recognized and accepted accrediting agency regarding the status of the college's accreditation, whether or not such reports or communications are favorable or unfavorable toward the college, a report of the action taken by the accrediting agency. The council may request for stated reasons that the college submit copies of such reports or communications.

(6) [(5)] Notwithstanding the provisions of subsections (1) and (2) of this section the Council on Public Higher Education may proceed, for stated cause, with respect to any particular college as though it were not accredited by any agency which is recognized by the United States Office of Education or accepted by the council.

(7) [(6)] Out-of-state institutions. Any institution which is chartered, organized, or which has its principal location outside Kentucky shall be required to have a license issued by the Council on Public Higher Education prior to the establishment of academic and instructional programs and prior to the awarding of degrees. Any application by such institutions must establish the need for the proposed program in Kentucky, and the Council on Public Higher Education shall determine that such need cannot reasonably be met by colleges located in Kentucky before a license shall be granted.

Section 3. Procedures and Standards for Licensure. The Council on Public Higher Education shall observe the following procedures, and shall determine that the following requirements or standards are met, in considering applications for licensure and for license renewal under these statutes:

(1) Financial stability: The college shall present evidence of financial stability, including the following:

(a) A financial statement including assets and liabilities, prepared by a licensed accountant, on forms prescribed by the Council on Public Higher Education; and

(b) The name of a bank or other financial institution as reference.

(2) Surety bond:

(a) A college shall be responsible for the actions of its agents and shall file a surety bond with the Council on Public Higher Education, covering the institution and such agents, before a license may be issued. The names of agents



shall be included in the application for licensure. The surety bond shall be for the protection of contractual and other rights of students, or of their parents or guardians, and shall be executed by a surety company qualified and authorized to do business in Kentucky, and shall be made payable to the Commonwealth of Kentucky. The minimum amount of the bond shall be based on the total maximum headcount enrollment during the previous year, or on the estimated maximum headcount enrollment for the current year, whichever is larger, and shall be as follows:

Maximum Enrollment	Maximum Bond
0 - 50	\$ 5,000
51 - 100	10,000
101 - 200	20,000
201 - 300	30,000
301 - 400	40,000
401 and over	50,000

(b) In the event the surety bond is terminated, the college shall so notify the Council on Public Higher Education, and the license shall automatically expire with the bond, unless replacement bond is provided without a lapse in such bonding.

(3) Personnel requirements:

(a) The Council on Public Higher Education may require the applicant college to furnish information regarding the administrative offices, the directors, the owners, and the faculty.

(b) The chief administrator shall hold at least an earned baccalaureate degree from a recognized college or university and shall have a sufficient background of experience to qualify for the position.

(c) Members of the faculty shall possess academic, scholarly and teaching qualifications appropriate and requisite to their respective positions and teaching assignments.

(d) Faculty members for programs in which degrees are awarded shall possess the level of qualifications usually required for faculty in accredited colleges which offer degrees at comparable levels.

(e) There shall be a sufficient number of full-time faculty to insure continuity and stability of the educational program.

(f) Teaching loads of faculty members shall be consistent with recognized educational practices, and shall be appropriate to the field, the variety of courses assigned, class size, and other related factors.

(4) Facilities and equipment:

(a) The institution shall be maintained and operated in compliance with all local, city, and county ordinances, and federal and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(b) Adequate and appropriate space shall be maintained for instruction in classrooms and laboratories. Enrollment shall not exceed the design characteristics of the facilities. The instructional program shall not be conducted in substandard housing, and the quality and quantity of equipment shall be adequate and appropriate for a good instructional program.

(5) Library: The library shall be appropriate to the type of programs of the college:

(a) The collection of books, periodicals, newspapers, teaching aids, and other instructional materials and equipment shall be adequate in relation to the needs of the

educational program, shall be appropriately housed, and shall be readily accessible to the faculty and students.

(b) A program for continuous acquisition of current library materials and for the recording of all library holdings shall be clearly outlined and maintained, with a pattern of expenditures in relation to the total fiscal operational budget consistent with that commonly observed in recognized colleges of similar types.

(c) A professionally trained and competent library staff adequate to serve the needs of the students, and in keeping with the purposes and objectives of the educational program of the college, shall be provided.

(d) Space for seating and work space for quiet and reflective study and research, sufficient for a reasonable proportion of the faculty and students to be accommodated at one time, shall be provided.

(e) The physical environment of the library shall be conducive to reflective intellectual pursuits common to institutions of higher learning.

(f) Any institution which does not provide its own library facilities and must rely on other institutions to provide library resources must demonstrate that permission to utilize library resources has been obtained prior to implementation of its programs. The extent of dependence on other libraries shall be clearly stated and the nature and details of the agreements or contracts with the participating libraries shall be explained and exhibited. The details of the contractual agreements with other libraries must meet the criteria outlined in the above standards.

(6) Curriculum. The institution shall have a systematic program of curriculum revision in order to maintain the general standards of accredited institutions in similar programs.

(7) Program supervision and instructional support. In addition to the requirements set forth in Section 3, and regardless of location, type of program, method of instruction, or other characteristics, any instructional program for which degree credit is awarded shall include the following:

(a) Adequate supervision by the college; and

(b) Such other instructional support as may be required to maintain a program of acceptable quality.

(8) Site visits. Within thirty (30) days of the receipt of a full and complete application for licensure or license renewal, the Council on Public Higher Education *may* [shall] conduct, or *may* [shall] have conducted, a site visit at the location or locations where the applicant college offers, or proposes to offer courses of instruction. Personnel conducting such site visits shall possess the expertise appropriate to the type of college to be visited. The purpose of such visits shall be to make an assessment of the instructional program, library, faculty, student services, administration, financial status, facilities, and equipment and of such other factors which are of significance in determining the college's qualifications for licensure.

(9) Council action on applications. Within thirty (30) working days of completion of such site visit, or within ten (10) working days following the days on which the Council on Public Higher Education formally considers an application, in those cases in which such formal action is deemed necessary, the Council on Public Higher Education shall do one (1) of the following:

(a) Issue a license;

(b) Deny application for license; or

(c) Notify the applicant college of deficiencies which must be overcome before a license can be issued.



[(10) License fee. The Council on Public Higher Education may establish a nominal fee schedule for licensure and for license renewal. Each application for licensure or for license renewal shall be accompanied by such fee, which fee is nonrefundable whether or not the college is granted a license, such fee to be deposited in the state treasury, trust and agency account of the Council on Public Higher Education, and shall be applied to the cost of administering KRS 164.945 to 164.947.]

(10) [(11)] Cost of site visits. A college which applies for licensure or license renewal to which a site visit is necessary in the course of administering KRS 164.945 to 164.947, *may be required to* [shall] bear the cost of such site visit. However, such costs may not exceed \$100 per day, plus expenses, for each person conducting such site visit, and the total cost to a college for a single site visit shall not exceed \$500, except that any college chartered, organized, or having its principal location outside Kentucky shall bear the full cost of such site visit. The estimated cost of such visit, and final settlement regarding actual expenses incurred shall be made within thirty (30) days following the site visit. Failure to pay these costs may result in license suspension or revocation.

(11) [(12)] Documents to accompany application. Each application for licensure or license renewal shall be accompanied by copies of the college's charter, catalog, constitution and by-laws, student enrollment application, contract or agreement[.], *and documentation of accreditation, licensure or approval by appropriate agencies.*

(12) [(13)] New colleges. In the case of a proposed new college, the Council on Public Higher Education may grant a license if it determines that there is evidence that the college may reasonably be expected to meet the standards set forth in these regulations:

(a) Within three (3) years if the college proposes to offer an associate degree.

(b) Within five (5) years if it proposes to offer a baccalaureate degree. Annual reports shall be submitted to the council demonstrating the progress being made in meeting these standards, during the first three (3) years for a college offering an associate degree, and during the first five (5) years for a college offering the baccalaureate degree.

(13) [(14)] Truth in advertising. A college licensed under the provisions of KRS 164.945 to 164.947 shall observe the following standards in its advertising:

(a) Shall not utilize advertising of any type which is untrue, deceptive, or misleading.

(b) Shall not utilize advertising of any type to indicate that the college is "supervised," "recommended," "endorsed," or "accredited" by the Commonwealth of Kentucky, by the Council on Public Higher Education, or by any other state agency. Such advertising statement, if any, shall be in exactly the following form: "(Name of College) is licensed by the Kentucky Council on Public Higher Education," and

(c) Shall not use such terms as "employment," "business opportunities," or "earnings" in the recruitment of students, regardless of financial assistance or other benefits available to them, but shall use only such terms as "education," "college," "instruction," or "preparation."

(14) [(15)] Recruitment and enrollment procedures: A college shall furnish the following to each student prior to enrollment:

(a) A copy of the college's policies on grades, attendance, and conduct;

(b) A copy of a description of the instructional program in which the prospective student has expressed an interest, with a detailed schedule of all charges, rentals, and deposits, along with a copy of the schedule of refunds of all such charges, rentals, and deposits; and

(c) A copy of the college's student enrollment application, contract, or agreement.

[(b) A student shall be considered officially enrolled when he attends the first day of classes in any enrollment period. Following official enrollment a student may withdraw without penalty and with full refund within ten (10) days of such enrollment except that the college may retain an application fee not in excess of fifty dollars (\$50), provided that such application fee must be set forth in the catalog and in the student's enrollment application contract or agreement. In the event a student cancels the enrollment application contract or agreement at least thirty (30) days prior to the date that the student is scheduled to begin classes, then the institution may not retain more than twenty-five dollars (\$25).]

(15) [(16)] Quality of degrees. Earned degrees awarded by colleges licensed under the provisions of KRS 164.945 to 164.947 shall be bona fide academic degrees and the courses offered in degree programs shall be of collegiate quality as determined by the Council on Public Higher Education using the following criteria:

(a) Courses offered in degree programs shall be such as are generally transferable for credit among accredited colleges in programs of corresponding degree levels, and for credit toward the baccalaureate degree if such programs are at the associate degree level, as determined by the Council on Public Higher Education; or

(b) The Council on Public Higher Education may determine that because of the uniqueness of a program, or for other valid educational reasons, that courses are not usually transferable but are of collective quality.

(c) In the case of associate degrees and baccalaureate degrees, a reasonable percentage of the total credits for such degrees shall be earned in general education, including science-mathematics, social behavioral sciences, and humanities. A college which offers an interdisciplinary general education program, a block-type program, or other unique general education program shall be considered to be in compliance with the general education requirement stated above if the Council on Public Higher Education determines that such program content and distribution are appropriately related to the degree and institutional purposes.

(d) A college which is licensed under the provisions of KRS 164.945 to 164.947 shall not offer a master's degree, a doctoral-level degree, or any other graduate-level degree, as determined by the Council on Public Higher Education, unless such college is accredited by a regional institutional accrediting agency or a national accrediting agency which is recognized by the U. S. Office of Education, or which accreditation is accepted by the council.

(e) Any new college, and any existing college which initiates a new associate degree or baccalaureate degree program or major, or other concentration or specialty, after the effective date of these regulations, shall comply fully from the outset with the general education requirements as set forth herein.

(f) Any college which is offering a degree program as of the effective date of this regulation shall comply fully with the general education requirements, as set forth herein, within twelve (12) months of the effective date of such regulation.



## (16) [(17)] Student affairs:

(a) Students admitted to the college shall have completed a state-approved secondary school program or its equivalent.

(b) A student who is admitted to an instructional program shall have demonstrated a readiness for such instruction in the field or specialty, and the student's preparation, aptitude, and interest shall be such as to provide reasonable assurance that the student has the potential to benefit from the training offered.

(c) The college shall provide qualified academic counseling to each student at the time of admission, and a reasonable amount of time of qualified faculty and staff shall be made available to students for counseling purposes throughout the program.

(d) Assistance and counseling shall be made available by the college to each student who completes a technical or vocational program, for the purpose of assisting the student with an appropriate job placement or with transfer.

(e) The college shall maintain sufficient records of each student to provide an understanding of his background, to record his progress through the instructional program, and for reference purposes for employers and prospective employers for a reasonable time after the student leaves the college. Administrative officers of the college shall keep informed regarding federal and state laws and regulations concerning the disclosure of information on students and shall comply with such laws and regulations.

(f) The college shall establish suitable policies and procedures whereby a student is assured due process.

## (17) [(18)] College policies:

(a) The college shall maintain records in an orderly manner and make them available for inspection by the Council on Public Higher Education, the council staff, or designated representatives of the council.

(b) A catalog shall be published at least every two (2) years and shall include general information, administrative policies, and academic policies of the college such as is indicated below:

## 1. General information:

a. Official name and address of the college, name of the chief administrative officers, members of the governing body, and names of principal owners.

b. The college's calendar for the period covered by the catalog, such calendar to include beginning and ending dates of each term or semester, registration and examination dates, legal holidays, and other important dates.

c. Names of faculty, including relevant education and experience.

d. Full disclosure with respect to the philosophy and purpose of the institution and its capacity to fulfill these objectives.

## 2. Administrative policies:

a. Admissions policies and procedures, applicable to the various programs, including policies regarding granting of credit for previous education.

b. Policies and procedures regarding student conduct and behavior and the process for dealing with cases which culminate in probation or dismissal.

c. Schedules for all tuition and instructional charges, and refund schedules for such tuition and instructional charges.

d. Statement of financial aids available to students.

e. Procedures for obtaining transcripts in a timely fashion and at reasonable cost.

## 3. Academic policies:

a. Policy on class attendance.

b. Description of grading system.

c. Description of the various degree, diploma, certificate, and other programs, including the course requirements and the time normally required to complete each.

d. Full description of the nature and objectives of all degrees offered.

(c) Refund policy on tuition and other instructional charges: the refund policy shall meet the following minimum requirements:

1. If tuition and other instructional charges are collected in advance of entrance and the student fails to enter, then not more than \$100, or not more than ten (10) percent of such tuition and other instructional charges for a term or semester, whichever is less, shall be retained by the college.

2. If notification of withdrawal is given by the student, or if the student fails, without explanation to the proper institutional authority, to attend classes for a period of thirty (30) days during which class is in session, the college shall officially withdraw the student from class and shall *refund an amount reasonably related to the period for which the student is not enrolled and shall refund 100 percent of all other tuition and other fees collected by the institution for subsequent enrollment or registration periods.* [comply with at least the following refund schedule:]

[a. During the first twenty-five (25) percent of the semester or other registration period at least seventy-five (75) percent of tuition and other fees for that period and 100 percent of all other tuition and other fees collected by the institution for subsequent periods shall be returned to the student.]

[b. During the second twenty-five (25) percent of the semester or other registration period at least fifty (50) percent of tuition and other fees collected by the institution for that period and 100 percent of all other tuition and instructional charges or fees collected by the institution for subsequent periods shall be returned to the student.]

a. [c.] After completion of fifty (50) percent of the enrollment period, the college is not required to make refunds of tuition or other fees for that period but shall refund 100 percent of tuition or other fees collected by the institution for subsequent enrollment or registration periods.

b. [d.] In all other cases, including illness or accident, the college shall make a settlement which is fair and reasonable; and

c. [e.] Refunds shall be made within thirty (30) days after notification of withdrawal has been received by the college.

3. Notwithstanding the provisions as set forth herein, if the college is accredited by an accrediting agency which is recognized by the United States Office of Education, and if that accrediting agency has a specific refund policy which is more favorable to the student, then such policy shall be followed.

4. A college which is chartered, organized, or which has its principal location outside Kentucky, shall refund in accordance with the policies indicated herein unless their policy is more favorable to the student, in which case the latter shall be followed.

## (18) [(19)] Other requirements for license renewal:

(a) An annual report from each licensed college shall be



submitted to the Council on Public Higher Education, and it shall contain the following:

1. A copy of the institution's financial portion of the Higher Education General Information Survey (HEGIS) or a financial statement including assets and liabilities, as well as a profit and loss statement for the previous twelve (12) months in the case of proprietary colleges subject to this regulation, shall be submitted to the Council on Public Higher Education. Such statements shall be prepared by a licensed accountant on forms prescribed by the Council on Public Higher Education, and such reports shall be due no later than sixty (60) days following the end of the previous academic year;

2. A current list of the college's agents. [; and]

[3. Such annual license renewal fee as may be established by the council.]

(b) An application for license renewal [; to be accompanied by the license renewal fee as established by the council,] or a supplementary application in such form and manner as may be prescribed by the Council on Public Higher Education, may be required within sixty (60) days following any of these developments:

1. A change in the name of a college;

2. A change in the principal location of a college;

3. A change in ownership or governance of a college;

4. Major curricula additions or deletions of such nature as to result in a fundamental change in the focus of the college;

5. Action by a nationally recognized accrediting agency which results in a college being placed in a probationary status for more than one (1) year, or which results in the loss of the college's accreditation.

6. Determination by the Council on Public Higher Education that other sufficient cause exists which requires a supplementary application or an application for license renewal.

(c) As pertains to licensure under the provisions of KRS 164.945 to 164.947, the Council on Public Higher Education may at its discretion require that:

1. All colleges so licensed shall apply for license renewal at established time intervals from the date of original licensure, which time interval shall not exceed five (5) years;

2. Individually identified colleges, due to their stage of development, financial circumstances, or for other stated reasons, shall apply for license renewal at established time intervals from the date of original licensure;

3. Time intervals referred to herein need not be uniform, but each license shall indicate the time interval which is applicable in the case of that college.

Section 4. Hearings and Appeals. (1) As pertains to licensure under the provisions of KRS 164.945 to 164.947, the Council on Public Higher Education may, for cause, require the chief administrative officer or officers of a college so licensed, to appear for a hearing before the council or a designated committee or officer of the council, in order to determine the facts in the case. At such hearings the officer or officers of the college may be accompanied by counsel of their own choosing and at their expense. If the findings warrant, the council may impose such sanctions as are hereinafter authorized.

(2) A college which is sanctioned as a result of the actions of an officer or a committee of the Council on Public Higher Education may appeal to the full council. Notice of such appeal shall be made in writing to the council within ten (10) days of notification of such

sanctions. Implementation of such sanctions shall be held in abeyance until appeal is heard and such appeal shall be scheduled on a timely basis.

(3) Sanctions: probation, suspension of license, or revocation of license:

(a) If the Council on Public Higher Education determines, on the basis of a hearing as described herein, that the public interest requires that sanctions be imposed, the council may take one or more of the following steps:

1. Place the college's license in a probationary status for a designated period not to exceed one (1) year;

2. Suspend the college's license for a period not to exceed one (1) year;

3. Revoke the college's license; or

4. Refer the case to other officials for appropriate action.

(b) A college which is sanctioned by the Council on Public Higher Education, whether such sanction is probation, suspension of license, or revocation of license, shall comply with the terms of such sanction.

(c) Any expense incurred in site visits, and for other purposes related to the removal of such sanctions, shall be borne by the college, notwithstanding the provisions of Section 3/10/[(11)].

HARRY M. SNYDER, Executive Director

ADOPTED: June 1, 1977

RECEIVED BY LRC: June 1, 1977 at 8:15 a.m.

#### CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources (As Amended)

301 KAR 2:105. Deer gun and archery season; restrictions.

RELATES TO: KRS 150.025, 150.170, 150.176, 150.305, 150.330, 150.340, 150.360, 150.390, 150.370, 150.400

PURSUANT TO: KRS 13.082

EFFECTIVE: July 6, 1977

NECESSITY AND FUNCTION: This regulation pertains to the statewide deer gun season, the deer gun and archery season on specified wildlife management areas and refuges and the turkey archery season on Land Between the Lakes. This regulation is necessary for the continued protection of the species 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 deer and turkey within reasonable limits based upon an adequate supply. This amendment is necessary to change [the] season dates, [;] and close additional counties and game management areas to deer hunting. [; add a mandatory deer check station system and to better manage the deer herd by dividing the state into zones for gun deer hunting.]

Section 1. Statewide Deer Gun Season, limits and Hunting Hours [.] for *White-tailed Deer* only. (1) Season. Opens on November 12 [the first Saturday in December (4th)] and continues through November 14, 1977.



[December 8, 1976.] *Opens on December 3 and continues through December 5, 1977.*

(2) Zones and legal deer which may be taken:

(a) Zone No. 1: McCracken, Livingston, [and] Crittenden and Ballard Counties. Bucks only with at least one (1) forked antler *during November 12 through November 14, 1977, and December 4 and 5, 1977.* [December 5 through December 8, 1976.] Either sex deer on December 3 [4] only.

(b) Zone No. 2: Barren, Hart and Edmonson Counties. Bucks only with at least one (1) forked antler *during November 12 through November 14, 1977, and December 4 and 5, 1977.* Either sex deer on December 3 only. [from December 4 through December 8, 1976.]

(c) Zone No. 3: Gallatin and Owen Counties. Bucks only with at least one (1) forked antler *during November 12 through November 14, 1977, and December 4 and 5, 1977.* [December 5 through December 8, 1976.] Either sex deer on December 3 [4] only.

(d) Zone No. 4: Remainder of state [( ) except those counties closed to deer hunting; those management areas which are closed to all hunting; and those management areas where the season dates vary from the statewide hunting dates ( )]. Bucks only with at least one (1) forked antler, [white-tailed, fallow or European red deer,] *November 12 through November 14, 1977 and December 3 through December 5, 1977.* [December 4 through December 8, 1976.]

(e) All Zones: Limit is one (1) white-tailed deer per season per hunter, either by gun or archery, *except as stated herein on Fort Campbell Wildlife Management Area.*

(3) Hunting Hours. *One-half (½) hour before sunrise to one-half (½) hour after sunset prevailing local time for gun or archery.* [Day-light hours only for gun or archery.]

Section 2. *This section pertains to counties closed to both gun and archery deer hunting; areas open to small game hunting and trapping during the statewide gun deer hunting season; wildlife areas closed to all hunting.*

(1) The following counties are closed to both gun and archery deer hunting: Jackson, Owsley, Clay, Powell, Harlan, Leslie, Wolfe, Clark, Johnson, Perry, Knott, [Breathitt and that portion of Breathitt county south of Buckhorn Creek Road], Martin, Floyd and Magoffin. [All other counties are open to archery and gun deer hunting.]

[(2) The entire state will be closed to hunting for all game species except waterfowl, rails and gallinules and trapping for furbearers during the December 4 through 8 statewide deer gun season, except the following areas where hunting will be allowed:]

[(a) West Kentucky Wildlife Management Area in McCracken County.]

[(b) Higginson-Henry Wildlife Management Area in Union County.]

[(c) Land Between the Lakes Wildlife Management Area in Trigg and Lyon Counties.]

[(d) Fort Knox Wildlife Management Area in Hardin, Meade and Bullitt Counties.]

[(e) Fort Campbell Wildlife Management Area in Christian and Trigg Counties.]

(2) [(3)] The following wildlife management areas are closed to all hunting: Grayson Wildlife Management Area in Carter and Elliott counties, Beaver Creek Wildlife Management Area, including all private inholdings, in Pulaski and McCreary Counties, Pine Mountain Wildlife Management Area in Letcher County, Robinson Forest Wildlife Management Area in Breathitt, Perry and Knott

Counties, [and] Redbird Wildlife Management Area, including all private inholdings, in Leslie and Clay counties and Dewey Lake Wildlife Management Area in Floyd county.

Section 3. License Requirements for Gun and Archery Deer Hunting. Each hunter taking or attempting to take deer must have in his or her possession a valid deer hunting permit, unless exempted by KRS 150.170(3), (5) or (6) (the resident owner of farmlands, his wife or dependent children; resident tenants or their dependent children residing upon said farmlands; residents sixty-five (65) years or older; and resident servicemen on furlough of more than three (3) days in their county of legal residence). All persons except those exempted by KRS 150.170(3), (5) or (6), must have a valid Kentucky hunting license in addition to the deer hunting permit. All non-residents are required to possess an annual non-resident hunting license and a deer permit.

Section 4. Mandatory Deer Check Stations: (1) All deer gun hunters *harvesting* [killing] a deer during the *November 12 through November 14, 1977 and December 3 through December 5, 1977* [December 4 through 8] season, must have it checked at a [an open] check station nearest to where the deer was *harvested* [killed], or by the nearest available conservation officer, no later than 9:00 a.m. the next day. This also applies to the last day's hunt *during both hunting periods.* The hunter must fill out the stub attached to his deer permit, and this stub will be detached by the check station operator or conservation officer. A list of statewide check stations may be obtained from any county clerk's office.

(2) Hunters *harvesting* [killing] a deer on military posts, Land Between the Lakes or state-owned wildlife management areas listed in this regulation, must conform to check station requirements on those areas.

(3) Persons eligible to hunt without a hunting license or deer permit (see Section 3 of this regulation) must contact their nearest conservation officer for a free tag whenever they kill a deer.

Section 5. General Requirements for Gun and Archery Hunting. (1) Deer hunting is prohibited within the exterior boundaries of Mammoth Cave National Park.

(2) Each hunter who *harvests* [kills] a deer must immediately attach to the deer the *adhesive paper* [locking] tag provided with the deer permit. The tag may be attached to any portion of the deer, provided that it cannot be removed without mutilating the deer carcass or damaging or destroying the *adhesive paper* [locking] tag. The tag must remain attached to the deer until the carcass is processed and packaged by locker plant, butcher or hunter. The card portion of the deer permit must be separated from the *adhesive paper* [locking] tag when tagging the deer and retained in possession of licensee. All persons eligible to hunt without a hunting license or deer hunting permit as exempted by KRS 150.170(3), (5) or (6), must attach to the deer a free identification tag obtained from a conservation officer [or deer check station] before removing said deer from their land or other lands.

(3) The deer hide tag attached to the deer permit must be attached to the raw hide immediately after removal from the carcass. Deer hides legally taken and tagged may be possessed and processed, but cannot be bought or sold.

(4) Hunters *harvesting* [killing] a deer must leave the head attached to the body until the carcass is removed



from the field and processed by a locker plant, butcher or hunter.

[(5) All eligible hunters hunting in accordance with KRS 150.170(3), (5) or (6), shall notify the department in writing as to deer killed.]

(5) [(6)] Non-residents whose state does not grant residents of Kentucky the same hunting privilege as provided by KRS 150.176, may not hunt deer in Kentucky.

(6) [(7)] Deer may not be taken with the aid of dogs.

(7) [(8)] Deer may not be taken with the use of boats, any type of land vehicle or any domestic animal.

(8) [(9)] Deer may not be taken at any time or place while the deer is in the act of swimming or in any stream or body of water where the deer's body is submerged except for neck and head.

**Section 6. General Statewide Gun Season Requirements.** *Unless listed here or under specified wildlife management areas, all other firearms are prohibited.*

(1) Permitted Weapons:

(a) Shotgun ten (10) gauge maximum and twenty (20) gauge minimum with shells carrying a single slug.

(b) Center fire rifles .240 caliber or larger.

(c) Muzzle-loading rifles of .38 caliber or larger fired from the shoulder.

(d) Semi-automatic rifles (trigger has to be pulled each time the rifle fires).

(e) *Handguns with barrel lengths of 3.90 inches or longer. Only the following cartridges may be used: .30 Herret; .357 magnum; .357 Herret; .357 auto mag.; .41 magnum; .41 auto mag.; .44 magnum; .44 auto mag.; .44/40; .45 colt long; .45 auto mag.; and .45 ACP; the last of which must use either semi-jacketed hollow points or semi-jacketed soft point bullets. No full metal jacketed bullets of any caliber may be used.*

[(e) Any type of muzzle-loading weapon may be used on Pioneer Weapons Wildlife Management Area in Bath and Menifee Counties. If muzzle-loading shotgun is used, the shot must be No. 2 buckshot or larger. Muzzle-loading shotguns and rifles using ball ammunition only on Land Between the Lakes Wildlife Management Area during the gun season only. Muzzle-loading rifles of not less than .40 caliber or more than .58 caliber on Fort Campbell Wildlife Management Area during the deer gun season only. Muzzle-loading rifles of .38 caliber or larger on Higginson-Henry Wildlife Management Area during the deer gun season only.]

(2) Prohibited Weapons and conditions:

(a) Persons under eighteen (18) years of age may not hunt deer unless accompanied by an adult.

(b) No one may hunt deer with a gun unless wearing a visible vest, or coat, or coveralls, or cap or hat of hunter orange color. The entire vest, coat, coveralls, cap or hat must be of the hunter orange color. Any one of these items may be worn to comply with this regulation.

(c) Buckshot or any type of shot shells are prohibited except on the Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties.

(d) Fully automatic rifles (when holding down the trigger will fire all remaining shells in the rifle).

(e) Full jacketed (military type) ammunition.

(f) Tracer bullet ammunition.

(g) Any Army issue M-1 .30 caliber carbine or its equivalent commercially sold counterpart. Any .256 caliber rifle.

(h) Muzzle-loading shotgun, except on Pioneer Weapons Wildlife Management Area and a portion of the Land Bet-

ween the Lakes Wildlife Management Area.

(i) [(j)] Crossbow and Longbows.

[(i) Revolvers, pistols or any type of handgun may be carried during the deer gun season, but cannot be used in any way to take deer (except for muzzle-loading handguns on Pioneer Weapons Wildlife Management Area).]

**Section 7. Archery Season Requirements.** (1) Permitted weapons:

(a) Longbows and compound bows.

(b) Barbless arrows with broad head points at least seven-eighths (7/8) inch wide.

(c) Crossbows on Pioneer Weapons Wildlife Management Area only in Bath and Menifee Counties. Crossbows must be of not less than eighty (80) pounds pull with barbless arrows with broad head points at least seven-eighths (7/8) inch wide.

(2) Prohibited weapons and conditions:

(a) Any type of firearms.

(b) Crossbows, except as stated under permitted weapons.

(c) Chemically treated arrows, or attachments containing chemicals.

**Section 8. Exceptions to Statewide Deer Hunting Regulations on the following Wildlife Management Areas and Refuges.**

(1) West Kentucky Wildlife Management Area located in McCracken County:

(a) Deer Archery (either sex): October 1 [15] through October 31, 1977 on Tracts 1, 2, 3, 4, 5 and 6. December 10 [13] through December 31, 1977 [1976] on Tracts 4, 5 and 6 [only].

(b) Deer Gun (either sex): November 8 and 9, 1977 [13 and 14] on Tracts 1, 2, 3, 4, 5 and 6. Limited to hunters possessing a Kentucky hunting license whose last digit ends in an odd number. November 19 and 20, 1977 [December 11 and 12, 1976] on Tracts 1, 2, 3, 4, 5 and 6. Limited to hunters possessing a Kentucky hunting license whose last digit ends in zero (0) or an even number. Persons sixty-five (65) or more years old, possessing a lifetime hunting license may hunt during any one (1) of the two (2) weekends.

(c) Checking in and out: All hunters must check in and out at the designated check station.

(d) Permitted [Legal] and prohibited guns: No rifles or sidearms permitted. Only shotguns twenty (20) gauge to ten (10) gauge with slug ammunition may be used for taking deer.

(e) Permitted [Legal] and prohibited archery weapons: Refer to Section 7(1) and (2) of this regulation.

(f) Closed areas: All tracts designated by a number followed by the letter "A" are closed to hunting.

(2) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties:

(a) Deer Archery (either sex): *White-tailed deer only.* October 8 [9] through November 2 [10], 1977. December 10 [18] through December 31, 1977 [1976].

(b) Deer Gun: *White-tailed deer only.* Bucks with at least one (1) forked antler. Some areas either sex or antlerless only. [species as specified on permit.] November 7, 11, 16 and 19, 1977 [17, 20, 22, 29, 1976].

(c) Turkey Archery: Gobblers only with visible beards. One (1) per hunter. October 8 [9] through November 2 [10], 1977. December 10 [18] through December 31, 1977 [1976].

(d) Deer Gun (for youths only): November 5, 1977 [13, 1976]. Youths who will be at least ten (10) years of age, but



who will not have reached sixteen (16) years of age on the day of the hunt will be allowed. Youths must be accompanied by an adult and the youth must have a valid Kentucky hunting license, a state deer permit, a Land Between the Lakes Youth Hunt Permit, and a state Hunter Safety Certificate. The accompanying adult must have a valid Kentucky hunting license and deer permit. There will be a quota on the number of hunters. Applications must be submitted to Kentucky Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231 and be postmarked [received] no later than *midnight* [12 noon] *August 10, 1977* [September 1, 1976] or *delivered in person to the Wildlife Management office at Golden Pond, Kentucky by 4:30 p.m. of this same date. Applications not complying with this deadline will be rejected.* Bag limit is one (1) deer of either sex.

(e) Areas open and closed to hunting. State line to Barkley Canal is open to hunting except for developed public use areas, safety zones and posted areas. *Duncan Bay Area on Kentucky Lake is closed to all hunting, as posted, from October 1 through March 31 each year as an eagle sanctuary.*

(f) Deer gun hunt applications and drawing. A drawing by computer will select hunters for each of the hunts. Application forms must be submitted to Kentucky Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231, and be postmarked no later than *midnight August 10, 1977* [not later than 12 noon September 1, 1976] or *delivered in person to the Wildlife Management office at Golden Pond, Kentucky by 4:30 p.m. of this same date. Applications not complying with this deadline will be rejected.*

(g) Checking in and out; gun hunters. All hunters, including those camping in Land Between the Lakes, must check in, but will not be required to check out unless a deer [or turkey] is *harvested* [killed]. Hunters may check in between 9:00 a.m. [noon] and 5:00 p.m. the day before the hunt, or after 4:00 a.m. on hunt days. Check stations will be open from 4:00 a.m. to 6:30 p.m. (CST) [EST] on hunt days.

(h) Checking in and out; archery hunters. Archery hunters are not required to check in or out, but all deer and turkey *harvested* [taken] must be checked out.

(i) Tagging Deer. All deer *harvested* [taken] during the gun hunts must be tagged with a Land Between the Lakes *locking* deer hunt tag in addition to the state *adhesive paper* [locking] tag.

(j) Turkey archery hunting restriction. turkey hunting will not be allowed after a hunter has *harvested* [killed] a deer.

(k) *Permitted or Prohibited Weapons.* The same as statewide regulations (see Section 6(1) and (2) and Section 7(1) and (2)), except that muzzle-loading shotguns using ball ammunition only are permitted. *Hunting deer with handguns is not permitted.*

[(k) *Prohibited Weapons.* Firearms and crossbows are prohibited during the bow hunt.]

(l) For Land Between the Lakes general hunting rules refer to *regulation 301 KAR 2:050.*

(3) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties:

(a) Deer Archery (either sex): October 1 through November 11, 1977 [14, 1976]. December 10 [18] through December 31, 1977 [1976].

(b) Deer Gun: Bucks with at least one (1) forked antler. November 12 through November 14, 1977. December 3 [4] through December 5, 1977 [11, 1976].

(c) *Permitted* [Legal] archery weapons: Longbows, compound bows and crossbows. Crossbows must not be less than eighty (80) pounds pull with barbless arrows with broad head points at least seven-eighths (7/8) inch wide.

(d) *Permitted* [Legal] guns: Only pioneer weapons are permitted. These include muzzle-loading rifles, muzzle-loading shotguns *using No. 2 buckshot or larger* and muzzle-loading pistols.

(4) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties, there will be no hunting on Mondays and Tuesdays except when Monday is a federal holiday, then hunting will be permitted.

(a) Deer Archery (either sex): October 5 [13] through October 10 [17], 1977. October 15 [20] through November 20, 1977 [21, 1976] on selected areas. November 30 through December 31, 1977 [December 15 through December 31, 1976] on selected areas.

(b) Deer Gun (either sex): October 15 [20] through November 20 [21], 1977. November 30 through December 31, 1977 [December 1 through December 12, 1976] on selected areas.

(c) Shooting Hours: *One-half (½) hour before sunrise to one-half (½) hour after sunset prevailing local time for gun and archery.* [Daylight hours only for gun or archery deer hunting]

(d) *Bag Limits:* The deer bag limit for Kentucky license holders hunting on Fort Campbell will be two (2) deer of either sex taken by either gun or bow provided; only one (1) deer of either sex is taken by gun or bow during the first hunting period of October 5 through November 20, 1977 and one (1) deer of either sex by gun or bow during the second hunting period of November 30 through December 31, 1977. If no deer is taken during the first hunting period, this does not entitle the hunter to take two (2) deer during the second hunting period. *Persons having taken a deer at Fort Campbell are not eligible to hunt deer anywhere else in the state. Persons having taken a legal deer elsewhere in Kentucky may take only one (1) deer at Fort Campbell.*

[(d) *Bag Limit and Permits:* The deer bag limit for Kentucky license holders will be one deer of either sex per season per hunter taken by either gun or bow. Persons having taken a deer at Fort Campbell are not eligible to hunt deer elsewhere in Kentucky during the season. Deer taken on post must be tagged with a statewide deer tag. Fort Campbell hunting permits are required and may be purchased for seven dollars (\$7) at building # 6645 on post.]

(e) *Permits and tagging requirements:*

1. Deer hunters must purchase a ten dollar (\$10) post hunting and fishing permit which includes a Fort Campbell deer tag, at building # 6645. All Fort Campbell deer hunters must also have a valid Kentucky deer permit. Persons sixty-five (65) years of age or older are not required to purchase a post hunting and fishing permit.

2. All deer taken on post must have a Kentucky adhesive paper deer tag and a Fort Campbell locking tag attached to the carcass.

3. All persons taking a deer on post during the first hunting period will have their name, address and permit number recorded by Fort Campbell authorities at building # 6645. This will entitle the individual to receive a free Fort Campbell and special state deer tag for use during the second hunting period.

4. Any person legally taking a deer elsewhere in Kentucky may obtain the necessary special state and Fort Campbell tags upon presentation of the card portion of his Kentucky deer permit for validation.



(f) [(e)] *Permitted* [Legal] guns: Muzzle-loading rifles of not less than .38 [.40] caliber [or more than .58 caliber] will be allowed during the deer gun season. Shotguns of twenty (20), sixteen (16) and twelve (12) gauge only using slugs are also allowed. *No handguns will be permitted.*

(g) [(f)] *Permitted* [Legal] and prohibited archery weapons: Bows for deer hunting must have a minimum pull of thirty-five (35) pounds. Big game hunting arrows must be not less than twenty-four (24) inches in length, equipped with broad head barbless blades not less than seven-eighths (7/8) inch nor more than one and one-half (1½) inches wide for single two-edged blades, or not more than three (3) inches in circumference for three (3) or more blades. The minimum weight for all broad heads will be 100 grains. Chemically treated arrows or explosive heads are prohibited. Crossbows are prohibited.

(5) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties:

(a) Deer archery (either sex): October 1 through October 31, 1977 [1976].

(b) Deer gun (either sex): *December 3 and 4 and December 10 and 11, 1977. [November 20 and 21, November 27 and 28, 1976.] The period December 17 and 18, 1977 will be used only if harvest goals are not met during the previous two (2) weekends.*

(c) *Permitted* [Legal] or [and] prohibited archery weapons. Refer to Section 7(1) and (2) of this regulation.

(d) *Permitted* [Legal] guns: Shotguns of sixteen (16), twenty (20) and twelve (12) gauge with slug ammunition only. Muzzle-loading rifles of .38 caliber or larger firing a single projectile.

(e) Applications for deer archery and gun hunting permits: Separate applications are required for each hunt. Applications for permits should be made by letter with enclosed fee of ten dollars (\$10) by certified check or money order payable to Treasurer of United States and mailed to the Fort Knox Conservation and Beautification Committee, P. O. Box 1052, Fort Knox, Kentucky 40121. [(f)] Applications for the deer archery hunt will be accepted no earlier than August 1, 1977 [1976], and for the gun hunt no earlier than September 6, 1977 [August 27, 1976]. Deadlines for accepting applications are: for bow hunting, August 20, 1977 [1976]; for gun hunting, September 16, 1977 [24, 1976]. The fees of those applicants not selected will be returned. All area and hunting assignment dates are final and fees will not be returned to those individuals selected to hunt.

(f) *Validation of state deer permit: All deer hunters taking deer on Fort Knox must have the paper portion of their Kentucky deer permit stamped at a check point or deer check station with the words "Taken at Fort Knox."*

(6) Higginson-Henry Wildlife Management Area located in Union County:

(a) Deer archery (either sex): October 1 through November 11, [14] 1977. December 10 [18] through December 31, 1977 [1976].

(b) Deer gun (either sex): November 15 and 16, 1977 [16 and 17, 1976].

(c) *Permitted* [Legal] and prohibited archery weapons. Refer to Section 7(1) and (2) of this regulation.

(d) *Permitted* [Legal] guns: Shotguns of ten (10) gauge maximum and twenty (20) gauge minimum with slug ammunition only and muzzle-loading rifles of .38 caliber or larger.

(e) Checking in and out: All hunters must check in and out daily at a designated check station.

(f) Applications for Deer Gun Hunting Permits: Deer

gun hunters will be limited to 300 persons chosen by a drawing. Requests for deer gun hunting application[s] forms should be made to: Manager, Higginson-Henry Wildlife Management Area, Route # 5, Morganfield, Kentucky 42437, and must be accompanied by a stamped, self-addressed envelope. Completed application[s] forms for a deer gun permit will be accepted only during the period August 13, 1977 [15] through noon September 3, 1977 [4, 1976]. Requests for applications received before or after these dates will be discarded. The drawing of 300 names will take place shortly thereafter in the Union County Court House. Permits will be mailed by September 24, [25] 1977 to successful applicants [the persons drawn]. Persons unsuccessful in the drawing will not be notified.

(7) Blue Grass Army Depot Wildlife Management Area located in Madison County:

(a) Deer archery (either sex): [Bucks only with at least one (1) forked antler.] October 15, 16, 29 and 30, 1977. [9 and 10, 23 and 24, 1976.]

(b) Deer gun (either sex): December 3, 4 and 17, 1977.

(c) [(b)] Applications for deer hunting [archery] permits: Requests for deer hunting permits should be mailed on a postcard to the Chairman, Wildlife Management Subcommittee, Building S-14, Lexington Blue Grass Army Depot, Lexington, Kentucky 40507. To be eligible for a hunting permit, the card must contain the following information: Name of hunter (one person only), address, age, [and] telephone number [.] and method of hunting (archery or gun). Each person is limited to only one (1) day of hunting by either gun or archery. All cards must be postmarked no earlier than August 15 or no later than September 15, 1977. More than one (1) card from an individual will disqualify the applicant. A ten dollar (\$10) fee will be charged by the Army Depot, payable only after the hunter is notified of his selection and specific hunting date.

(d) *General rules and conditions: No hunter under age fourteen (14) will be allowed to hunt. Hunters under sixteen (16) years of age will not be permitted to hunt unless accompanied by an adult. Hunting will be discontinued whenever the quota is harvested or Depot operations make it necessary to stop hunting. All statewide deer hunting regulations apply unless otherwise specified herein.*

(e) [(c)] *Permitted* [Legal] Archery Weapons: Refer to Section 7(1) and (2) of this regulation.

(f) *Permitted guns: Shotguns only of ten (10) gauge maximum and twenty (20) gauge minimum with slug ammunition only.*

(8) Ballard County Wildlife Management Area located in Ballard County.

(a) *Area open to regular statewide deer hunting: Only the wooded area south of Terrell Landing road designated by signs reading "Wildlife Management Area for Public Hunting" is open during the regular statewide deer gun and archery seasons. [Regular statewide deer gun and archery seasons and regulations apply only to the wooded area south of Terrell Landing Road and designated by signs reading "Wildlife Management Area for Public Hunting".]*

(b) *Special deer hunt on designated zones within Ballard County Wildlife Management Area: All statewide deer gun and archery regulations apply unless otherwise stated herein.*

1. *Deer Archery (either sex): October 16 and 17, 23 and 24 and 30 and 31, 1977.*

2. *Deer Gun (either sex): October 21 and 22, 28 and 29 and November 5 and 6, 1977.*

3. *Permitted or prohibited archery weapons: Refer to Section 7(1) and (2) of this regulation.*



4. *Permitted guns: Shotguns only of ten (10) gauge maximum and twenty (20) gauge minimum with slug ammunition only.*

5. *Checking in and out: Hunters must claim reservations at check station one (1) hour before sunrise (C.T.). Hunting Zones will be assigned at the check station and transportation furnished to and from hunting zones. All deer taken must be checked through check station.*

6. *Applications and drawing for deer hunting permits: There will be a limit of 120 hunters for each two-day hunt to be chosen by a drawing. Hunters are limited to one (1) two-day hunt, either with gun or bow. A ten dollar (\$10) fee will be charged, payable only after the person is notified of his selection and assigned specific hunting dates. Applications will be received by letter only during the period July 1 through July 14, 1977 and a drawing will be held shortly thereafter. Applications received before or after this period will be discarded. More than one (1) application from an individual will disqualify the applicant. Mail application to: Manager, Ballard County Wildlife Management Area, Route # 1, LaCenter, Kentucky 42056 and write "Archery" or "Gun" in the lower left hand corner of the envelope. All applications must be accompanied by a stamped, self-addressed envelope. Letters of application are limited to no more than two (2) hunters. Each letter of application must contain the name of each applicant (limit two (2)), address, age, telephone number, hunting license number, method of hunting (gun or bow) and the first, second and third choice of hunting dates. All persons successfully drawn or not, will be notified. Persons drawn and assigned hunting dates will be mailed a deer hunting permit and be allowed fourteen (14) days to submit the ten dollar (\$10) per hunter fee in the form of a cashier's or certified check or money order made payable to the Department of Fish and Wildlife Resources. Failure to send the fee will result in the cancellation of the hunting permit.*

7. *General rules: No prescouting of hunting zones will be allowed. Only portable tree stands are allowed. Hunters are restricted to their assigned hunting zones.*

(9) *Knob State Forest located in Nelson County: All statewide gun and archery regulations and seasons apply unless otherwise stated herein. Permitted guns: Shotguns only of ten (10) gauge maximum and twenty (20) gauge minimum with slug ammunition only.*

DR. ROBERT C. WEBB, Chairman  
Department of Fish and Wildlife Resources Commission  
ARNOLD L. MITCHELL, Commissioner  
ADOPTED: March 7, 1977  
RECEIVED BY LRC: May 11, 1977 at 2:10 p.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Labor**  
**Occupational Safety and Health**  
**As Amended**

**803 KAR 2:020. Adoption of 29 CFR Part 1910.**

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

EFFECTIVE: July 6, 1977

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards, published in the Federal Register June 27, 1974 edition, Volume 39, Number 125, Government Printing Office, Washington, D. C. 20402. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows:

As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National Consensus Standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established Federal Standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards, to report information to the U. S. Department of Labor, or any subsidiary thereof, shall, instead report such information to the Kentucky Department of Labor, 151 Elkhorn Court, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.13 through 1910.16 relating to ship repairing, shipbuilding, shipbreaking, and longshoring; and 1910.267a relating to pesticides, as well as paragraph (a) (6)



in Section 1910.267 which refers to Section 1910.267a, are excluded and deleted in their entirety.

(4) 29 CFR 1910.141 (c) (2) (i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(5) The changes which have been adopted by the U. S. Department of Labor relating to 29 CFR 1910.211, and 1910.217, mechanical power presses, and published in the Federal Register, Volume 39, Number 233, December 3, 1974, a copy of which is attached hereto, are hereby adopted by reference.

(6) The changes and additions which have been adopted by the U. S. Department of Labor relating to Telecommunications which are contained in 29 CFR 1910.67, 1910.70, 1910.183, 1910.189, 1910.190, 1910.268, 1910.274, and 1910.275, published in the Federal Register, Volume 40, Number 59, March 26, 1975, a copy of which is attached hereto, are adopted by reference.

(7) 29 CFR 1910.93q, the Occupational Safety and Health Standard covering Vinyl Chloride which was published in the Federal Register, Volume 39, Number 194, October 4, 1974, a copy of which is attached hereto, is hereby adopted by reference.

[(8) 29 CFR 1910.309(c) (National Electrical Code) shall read as follows:]

["(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the requirements in section 210-7 of the National Electrical Code that all 15- and 20-ampere receptacle outlets on single-phase circuits for construction sites shall have approved ground fault circuit protection for personnel, shall not be applicable."]

(8) [(9)] 29 CFR 1910.106 (d)(2)(iii) of the Federal Register, Volume 39 Number 125, June 27, 1974, shall be amended by adding Table H-12 of the Federal Register, Volume 40, Number 18, page 3982, January 27, 1975, a copy of which is attached hereto, is adopted by reference.

(9) [(10)] 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health.

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonable labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees.

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available.

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(10) [(11)] Recodification of 29 CFR 1910.93 through 1910.93q as 1910.1000 through 1910.1017 respectively, as published in the Federal Register, Volume 40, Number 103,

May 29, 1975, a copy of which is attached hereto, is hereby adopted by reference.

(11) [(12)] 29 CFR 1910.141 (d)(2)(i) of the Federal Register, Volume 40, Number 82, April 28, 1975 amended by deleting the last half of Table J-2, a copy of which is hereby adopted by reference.

(12) [(13)] The new standard, adopted by the U. S. Department of Labor relating to Industrial Slings contained in 29 CFR 1910.184, published in the Federal Register, Volume 40, Number 125, June 27, 1975, a copy of which is attached hereto is hereby adopted by reference.

(13) [(14)] 29 CFR 1910.94 which was amended by revoking paragraphs (b)(2)(i) and (b)(2)(ii) and by revising paragraph (b)(2), as published in the Federal Register, Volume 40, Number 111, June 9, 1975, a copy of which is attached hereto is adopted by reference.

(14) [(15)] 29 CFR 1910.217 (b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(15) [(16)] 29 CFR 1910.94 (d)(4)(i) Table G-14, Page 23594, published in the Federal Register, Volume 39, Number 125, Thursday, June 27, 1974 as adopted, contains a typographical error and is hereby revoked. The corrected version, published in the Federal Register, Vol. 37, No. 202, Wednesday, October 18, 1972, Table G-14, Page 22155, a copy of which is attached hereto, is hereby adopted by reference.

(16) [(17)] 29 CFR 1910.1001 (i)(1) which was revised by the U. S. Department of Labor, for retention of records of Asbestos Exposure Monitoring from three (3) years to twenty (20) years, as published in the Federal Register, Volume 41, No. 55, Friday, March 19, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(17) [(18)] 29 CFR 1910.184 (f)(6) which was amended by the U. S. Department of Labor, to delete the paragraph which prohibits the use of knots or wire rope clips to form eyes in wire rope slings, as published in the Federal Register Volume 41, No. 62, Tuesday, March 30, 1976, a copy of which is attached hereto is hereby adopted by reference.

(18) [(19)] 29 CFR 1910.401 through 1910.441 Subpart T, the Occupational Safety and Health Emergency Standard covering Diving Operations which was published in the Federal Register, Vol. 41, No. 116, Tuesday, June 15, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(19) [(20)] Paragraph 1910.1005 (c)(7) of 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4, 4' Methylene bis (2-Chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials;"

(20) [(21)] 29 CFR 1910.101 (b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(21) [(22)] 29 CFR 1910.1029 Exposure to Coke Oven Emissions as printed in the Federal Register, Volume 41, Number 206, Friday, October 22, 1976, a copy of which is attached hereto, is adopted by reference.

(22) [(23)] Corrections and omissions which have been adopted by the U. S. Department of Labor, relating to Coke Oven Emissions Standards, 29 CFR 1910.1029,



published in the Federal Register Volume 42, Number 12, Tuesday, January 18, 1977, a copy of which is attached hereto, is hereby adopted by reference.

(23) [(24)] 29 CFR 1910.309 is hereby amended by revising Paragraph (c) to require either the use of Ground-fault Circuit Interrupters or the implementation of an assured equipment grounding conductor program on construction sites. This amendment as published in the Federal Register, Volume 41, No. 246, Tuesday, December 21, 1976, a copy of which is attached hereto, is hereby adopted by reference with the following modification:

"Effective Date: Page 55704, 2nd paragraph is changed to read, 'These amendments of Part 29 CFR 1910 become effective August 22, 1977.'"

Section 2. The Occupational Safety and Health Standards Board hereby adopts the following regulation applicable to general industry.

(1) A safety tire rack, cage, or equivalent protection shall be provided and used when inflating, mounting, or dismounting tires installed on split rims or rims equipped with locking rings or similar devices.

(2) Changing and charging storage batteries (for automotive-type battery charging installations and in-vehicle charging of batteries):

(a) Battery charging installations shall be located in areas designated for that purpose.

(b) In-vehicle charging shall be done in areas designated for that purpose.

(c) Facilities shall be provided for flushing electrolyte from the eyes and skin with water. An adequate water supply shall be within twenty-five (25) feet of any part of the area designated above.

(d) No battery shall be charged or discharged within a closed or unvented container. The batteries shall be charged:

1. In the open, or
2. In a mechanically ventilated space, or
3. In a space providing at least twenty (20) cubic feet per ampere of charging capacity.

(e) A face shield shall be provided and available at each charging unit. The use of the face shield shall be required for connection and disconnection of vehicle or charger leads to the battery terminals and for the addition or pouring of electrolyte.

(f) Tools and other metallic objects not in actual use shall be kept away from the top terminal section of the battery.

(g) The following instructions shall be posted at each charging installation and on each battery charger:

"WEAR FACE SHIELD" (Batteries may explode).  
 "TURN OFF CHARGER TO CONNECT OR DISCONNECT BATTERY." "WASH ACID SPILLS IMMEDIATELY." "FIRST AID FOR ACID IN EYES OR ON SKIN QUICKLY FLUSH WITH WATER FOR 10 MINUTES."

JAMES R. YOCOM, Commissioner

ADOPTED: May 26, 1977

RECEIVED BY LRC: June 15, 1977 at 10 a.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
 Department of Labor  
 Occupational Safety and Health  
 As Amended

**803 KAR 2:030. Adoption of 29 CFR Part 1926.**

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

EFFECTIVE: July 6, 1977

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the Board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926, the Occupational Safety and Health Standards, published in the Federal Register June 24, 1974 edition, Volume 39, Number 122, Government Printing Office, Washington, D. C. 20402. These standards are hereby adopted by reference with the following additions, exceptions, and deletions:

(1) 29 CFR Part 1926.1 shall read as follows:

The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021.

(2) 29 CFR 1926.100 shall read as follows:

(a) Hard hats conforming to specifications of the American National Standards Institute, safety requirements for industrial head protection z89.1 (1971) shall be worn by all employees at all times while engaged in the type of work covered by the scope of this safety standard.

(b) Helmets for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Institute z89.2 (1971).

(3) 29 CFR 1926.552(b)(8) of the paragraph on "Material Hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(4) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.



(5) The changes which have been adopted by the U. S. Department of Labor relating to 29 CFR 1926.750(b)(2), flooring for skeleton structures, and published in the Federal Register, Volume 39, Number 128, July 2, 1974, are hereby adopted by reference.

[(6) 29 CFR 1926.400(h) shall read as follows:]

[(h) Notwithstanding any other provision of this part, the requirement in Section 210-7 of the National Electrical Code that, "all 15- and 20- ampere receptable outlets on single-phase circuits for construction sites have approved ground-fault circuit protection for personnel," shall not be applicable.]

(6) [(7)] 29 CFR 1926.400 is hereby amended by revising Paragraph (h) to require either the use of ground-fault circuit interrupters or the implementation of an assured equipment grounding conductor program on construction sites. This amendment as published in the

*Federal Register, Volume 41, No. 246, Tuesday, December 21, 1976, copy of which is attached hereto, is hereby adopted by reference, with the following modifications.*

(a) 1926.400(h)(3)(i), page 55703, Column 3, 3rd and 4th line, is changed to read "shall be readily available for inspection."

(b) 1926.400(h)(3)(vii), page 55704, 12th and 13th line is changed to read "shall be made readily available for inspection."

(c) Effective Date: Page 55704, 2nd paragraph is changed to read: "These amendments of Part 29 CFR 1926 become effective August 22, 1977."

JAMES R. YOCOM, Commissioner

ADOPTED: May 26, 1977

RECEIVED BY LRC: June 15, 1977 at 10 a.m.

## Proposed Amendments

### SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

#### 101 KAR 1:050. Compensation plan.

RELATES TO: KRS 18.170, 18.190, 18.210, 18.240

PURSUANT TO: KRS 13.082, 18.170, 18.210

NECESSITY AND FUNCTION: KRS 18.210 requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a pay plan for all employees in the classified service, taking into account such factors as the relative level of duties and responsibilities of various classes, rates paid for comparable positions elsewhere, and the state's financial resources. This rule is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. Preparation, Approval, and Amendment of the Plan. After consultation with appointing authorities and the Secretary of the Executive Department for Finance and Administration, the commissioner shall prepare and recommend to the board a compensation plan for all classes of position. The board shall present the plan, through the Secretary of the Executive Department for Finance and Administration, to the Governor for his approval. The plan shall provide salary ranges for the various classes, with the salaries consistent with the functions outlined in the classification plan. Such salary ranges shall include minimum, intervening, maximum, and longevity rates of pay for each class. Each class of position in the classification plan shall be assigned to a salary range in the compensation plan.

Section 2. Entrance Salary. Initial appointments to state service shall be made at the minimum of the pay range for the class unless:

(1) The commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area, in which case, he may, at the request of the appointing authority, authorize the recruitment for a class of position at a higher step of the range, provided that all other employees in the same class of position in the same agency in the same locality are adjusted in salary to the same step.

(2) The commissioner authorizes the appointment of a qualified applicant at the second or third step of the range, provided that any such exception is based on the outstanding and unusual character of the employee's experience, education and ability over and above the minimum qualifications specified for the class, provided that all other employees possessing similar qualifications in the same class of position in the same agency in the same locality are adjusted in salary to the same step.

Section 3. Re-Entrance to State Service. Appointing authorities, with the approval of the commissioner, may place re-employed, reinstated and probationarily appointed former employees at a salary determined by one (1) of the following methods:

(1) The same class:

(a) Request the same salary that was paid at the time of separation if such salary is within the current salary range;

(b) Request a salary relative to that which was paid employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the current salary range;

(c) Request a lower salary within the current salary range which falls in one (1) of the steps within the salary range;

(d) Request a salary in accordance with the standards used for making new appointments.

(2) A higher class:

(a) Request the same salary that was paid at the time of separation if such salary is within the higher salary range;

(b) Request a salary relative to that which was paid the employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the higher salary range;

(c) Request a salary in accordance with the standards used for making new appointments.

(3) A lower class:

(a) Request the same salary that was paid at the time of separation if such salary is within the lower salary range;

(b) Request a salary relative to that which was paid the employee at the time of separation (original salary plus increases resulting from the change of salary range) if such salary is within the lower salary range;

(c) Request a salary in accordance with the standards used for making new appointments.



**Section 4. Salary Adjustments.** (1) **Change in Salary Range.** Whenever a new or different salary range is made applicable to a class of position, persons employed in positions of that class at the effective date of the adjustment shall have their salary placed at least at the minimum salary step of the new range. An adjustment may be made to the salary step of the new range corresponding to that step which an employee held under the range formerly applicable to his class of position. In fixing salaries on an adjustment, an appointing authority shall afford equitable treatment to all employees affected by the adjustment. Salary adjustments resulting from different salary ranges being made applicable to a class of position shall not affect an employee's normal anniversary increment date.

(2) An employee who is promoted may have his salary raised to the lowest step of the salary range for the class of his new position which will provide an increase over the salary received prior to promotion. If the promotion is to a classification which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the commissioner, may grant a two (2) or three (3) step salary increase over the employee's previous salary, provided the proposed salary is within the salary range for the position.

(3) An employee who is demoted shall have his salary reduced to at least the maximum rate of the new class; however, if an employee whose performance is satisfactory is demoted through no fault of his own as a result of the reallocation of his position to a lower class and his salary is above the maximum, he may retain the salary he received before the reallocation, but he shall not receive salary advancements so long as he remains in a position with a maximum rate no higher than this salary.

(4) **Transfer.** An employee who is transferred to the same class of position shall be paid the same salary that he received prior to transfer.

(5) **Reclassification.** An employee who is advanced to a higher pay grade through a reclassification of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(6) **Reallocation.** An employee who is advanced to a higher pay grade through a reallocation of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(7) **Detail to special duty.** An employee who is approved for detail to special duty as provided by 101 KAR 1:110, Section 4, may have his salary raised to the lowest step of the salary range for the class of the new position which will provide an increase over the salary received prior to the detailed assignment. Annual increments will not be permitted while an employee is on detail to special duty.

(8) **Salary reduction.** Employees who are transferred back to their old class, after completion of a detail assignment or unsatisfactory probationary period following a promotion, shall have their salary reduced to the salary rate received prior to the detail assignment or promotion. An employee who reverts back to his old class after a detail to special duty is entitled to all salary advancements he would have received had he not been on detail to special duty.

**Section 5. Salary Advancements.** (1) Annual increments shall be based upon length of service, and shall correspond with the steps of the approved salary range, and shall, in the classified service, be limited to full-time employees and those part-time employees having status who work at least

100 hours a month. Employees who are on educational leave with pay shall receive annual increments.

(2) Employees shall be eligible and may be given consideration by the appointing authority for a one (1) step salary advancement at the beginning of any month following the successful completion of the probationary period. The service may be provisional or probationary. Thereafter, an employee shall be given a one (1) step salary advancement at the beginning of the month following completion of twelve (12) months continuous service since last receiving an annual or probationary increment. An employee may not be given salary advancement more than once for successful completion of a probationary period [in the same class] except as provided in paragraphs (a) or (b).

(a) Former employees reinstated, re-employed or probationarily appointed to a lower salary shall be eligible for a one-step salary advancement at the beginning of any month following successful completion of a probationary period. *Former employees reinstated to a lower step shall be eligible for a one-step salary advancement at the beginning of any month following successful completion of a probationary period.*

(b) An employee reinstated or re-employed at the same or higher salary may be considered for a salary advancement when he has completed twelve (12) months' service since the date he last received a probationary or annual increment. However, a maximum of six (6) months of that twelve (12) months' service may have been earned during the last period of service in which he held status. [In no case shall the period for awarding a one-step salary advancement exceed twelve (12) months' continuous service from the date of reinstatement or re-employment.]

(c) *In no case shall the period for awarding a one-step salary advancement exceed twelve (12) months' continuous service from the date of reinstatement, re-employment or probationary appointment.*

(3) Any permanent full-time employee who has served continuously for one (1) year immediately preceding the recommendation and who has not received an outstanding merit advancement within twelve (12) months, is eligible for a one (1) step outstanding merit advancement in his present grade in addition to any other salary advancements to which he might be entitled if:

(a) His acts or ideas have resulted in significant financial savings to the Commonwealth, or to a significant improvement in service to its citizens; or,

(b) His job performance is outstanding. The appointing agency must submit written justification to the commissioner and the personnel action form must be approved by the agency head and the commissioner to be effective. In a fiscal year, an agency with sufficient budgeted funds may grant as many outstanding merit salary advancements as thirty (30) percent of the number of its employees at the close of the prior fiscal year.

(4) Subject to the approval of the commissioner, any permanent, full-time employee who, after his probationary period, satisfactorily completes 260 classroom hours of job-related instruction, is eligible for an educational achievement one (1) step salary advancement.

(5) New increment anniversary dates will be established when:

(a) An employee first enters on duty. Increment anniversary date will be the first of the month if the employee enters on duty the first work day of the month. For employees entering on duty after the first work day of the month, the anniversary date shall be the first day of the following month;



(b) An employee receives an increase in salary as a result of a promotion;

(c) An employee going on leave without pay, shall result in a postponement of employee's receiving an increment one (1) month for each full or partial month he is on leave.

(6) Increment anniversary dates will not change when:

(a) An employee's position class receives a new or different salary range;

(b) An employee receives a salary adjustment as a result of his position being reallocated or reclassified;

(c) An employee is transferred from one department to another in the same salary grade and at the same rate of pay;

(d) An employee receives a demotion to a position of a lower class or his position receives a lower classification;

(e) An employee is approved for detail to special duty as provided by 101 KAR 1:110, Section 4. The increment anniversary date will remain the same for the last position in which the employee had status;

(f) An employee receives an outstanding merit salary advancement under 101 KAR 1:050, Section 5(3), or an educational achievement salary advancement under 101 KAR 1:050, Section 5(4);

(g) An employee receives an adjusted increment based on the fact that the employee had not received the maximum number of salary advancements permitted.

(7) An employee who has not received the maximum number of salary advancements permitted by the time limits set forth may be given additional salary advancements at the beginning of any month provided his salary is not advanced to a step of the salary range higher than he would have reached had he received all salary advancements permitted;

(8) No employee shall have his salary advanced to a point above the maximum of the salary range applicable to the class of his position except as provided by 101 KAR 1:050, Section 5(3), (4), and 101 KAR 1:050, Section 6.

Section 6. Longevity Increases. (1) All salary advancements with the longevity plan shall be based upon length of service, and shall correspond with the steps of the approved salary range, and shall, in the classified service, be limited to employees having status.

(2) An employee shall be eligible and advanced to the first longevity step after completion of twelve (12) months service at the salary rate preceding the first longevity step and seven (7) years of total state service.

(3) An employee shall be eligible and advanced to the second longevity step after completion of twelve (12) months service at the salary rate preceding the second longevity step and nine (9) years of total state service.

(4) An employee shall be eligible and advanced to the third longevity step after completion of twelve (12) months service at the salary rate preceding the third longevity step and eleven (11) years of total state service.

(5) Requirements as to total service. The service does not have to be continuous. Absences of leave without pay, except approved educational leave, in excess of thirty (30) working days shall be deducted in computing total service. Re-employed persons who have been dismissed for cause from state service shall not receive credit for service prior to the dismissal. In computing years of total service for the purpose of determining longevity eligibility only those months for which an employee earned annual leave shall be used.

(6) The longevity steps may be used for promotions, demotions, and changes in pay grade, provided the

employee possesses the total service required for advancement to the longevity step.

Section 7. Paid Overtime. Overtime for which pay is authorized shall have the approval of the Commissioner of Personnel and the Secretary of the Executive Department for Finance and Administration.

Section 8. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, such compensation in kind shall be treated as part payment and its value shall be deducted from the appropriate salary rate in accordance with the schedule promulgated by the commissioner after consultation with appointing authorities and the Secretary of the Executive Department for Finance and Administration.

Section 9. Supplemental Shift Premium. Upon request of the appointing authority, the commissioner may authorize the payment of a supplemental shift premium for those employees directed to work an evening or night shift. However, no employee shall receive a supplemental shift premium subsequent to a transfer to a position that is ineligible for a shift differential premium payment. The employee's loss of shift differential pay shall not be a basis for an appeal to the Personnel Board.

PHILIP TALIAFERRO, Chairman  
ADDIE D. STOKLEY, Commissioner

ADOPTED: July 5, 1977

RECEIVED BY LRC: July 14, 1977 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner Addie Stokley, Department of Personnel, Room 373, Capitol Annex, Frankfort, Kentucky 40601.

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

301 KAR 1:145. Gear allowed for commercial fishing.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: It is necessary to accurately describe the gear allowed in commercial fishing so that the limitations and susceptibilities of the gear will permit the harvesting of the proper size and species of fishes, and so that the sport harvest is not affected and the fishery resources perpetuation is assured. *The Commissioner, with the concurrence of the Commission, finds it consistent with accepted fish management practices to reduce the mesh size requirement for certain nets authorized for use in the commercial fishing waters of selected large rivers and so amends this regulation.* [This third amendment is necessary to substitute commercial gear tags for the variously named tags.]



Section 1. The following gear is the only commercial gear that can be used in commercial waters designated in 301 KAR 1:150 and under conditions described in 301 KAR 1:155 by appropriately licensed commercial fishermen.

Section 2. Legal Commercial Gear: (1) All lines and mesh must be made of linen, cotton, or flexible synthetic fiber only.

(2) All mesh is measured by bar measure. This measure is the length of one (1) side of the square, or as measured between two (2) knots on the same line.

(3) The functions of the various commercial fishing tags authorized under KRS 150.175 are consolidated into one tag called "commercial gear tag" which shall serve as they each were designated in KRS 150.175, sections (5), (6), (7), and (8).

(4) Gear:

(a) Hoop net, wing net, straight lead net, heart lead net:

1. Must have a minimum mesh size of three (3) inches, *[.] except in the Ohio and Mississippi Rivers and those portions of the Cumberland River below Barkley Dam and the Tennessee River below Kentucky Dam that are open to commercial fishing where the minimum mesh size shall be one (1) inch.*

2. Hoops may be any size or shape or material.

3. Maximum length of the lead or wing is thirty (30) feet.

4. One (1) commercial gear tag must be attached to the first hoop of each net.

(b) Gill net or trammel net:

1. Are legal gear only in Ohio and Mississippi Rivers and overflow lakes directly connected with each river. Minimum mesh size is three (3) inches in the Mississippi and overflow lakes and four (4) inches in the Ohio River and its overflow lakes.

2. May be fished weighted or as a flag net.

3. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.

(c) Commercial trotline:

1. Must have more than fifty (50) hooks placed no closer than eighteen (18) inches apart.

2. Must have one (1) commercial gear tag attached.

(d) Seine:

1. Must have a minimum mesh size of two (2) inches.

2. Must have both float and lead lines.

3. Must have wood, fiberglass or metal poles or rails attached at each end.

4. When seine is in the water, it must be attended by persons for pulling the seine through the water for the entrapment of fish.

5. At no time may a seine be left unattended to act as a set net or other purpose.

6. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.

(e) Slat trap or wood basket:

1. Must be constructed entirely of wood and nails or similar fastenings. No wire or other mesh may be added to any part of trap.

2. There must be at least two (2) openings left between slats no smaller than one and one-fourth (1 1/4) inches wide in the catch portion of the trap. These openings may not be restricted by cross-bracings to a length shorter than eight (8) inches.

3. The trap may be no larger than two (2) feet in diameter or square end measure.

4. Must have one (1) commercial gear tag attached to opening ring or square.

ARNOLD L. MITCHELL, Commissioner  
DR. ROBERT C. WEBB, Chairman

Department of Fish and Wildlife Resources Commission  
ADOPTED: June 10, 1977

APPROVED: WILLIAM SHORT, Secretary

RECEIVED BY LRC: July 12, 1977 at 1:45 p.m.

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

### DEPARTMENT OF TRANSPORTATION Bureau of Highways (Proposed Amendment)

603 KAR 5:010. Types of limited access; permits for other access.

RELATES TO: KRS 175.450, 176.050, 177.220, 177.310, 177.410, 177.440

PURSUANT TO: KRS 13.082, 174.080

NECESSITY AND FUNCTION: The need exists to define, design, construct, and maintain a system of roads whereby the access (ingress and egress) is controlled. A highway facility will operate at a level of service proportional to the control of access; therefore, the greater the control of [or] access, the higher the level of operation service. In order that the public is properly informed as to the access provided on a specific highway, the roadway plans designate the type of facility that is used to serve this function.

Section 1. Limited access, as defined in KRS 177.220 and 177.240, shall be of the following two (2) types:

(1) A fully controlled access highway which gives preference to through-traffic and which shall have access only at selected public roads or streets and which shall have no highway grade crossings or intersections. *The termini for control of access shall be as shown on the department's plans.*

(2) (a) A partially controlled access highway gives preference to through-traffic. However, access to selected public roads and streets will be provided and there may be some highway grade and some private driveway connections. *The termini for control of access shall be as shown on the department's plans.*

(b) On a partially controlled access highway, access shall be provided [during construction of the road] only where specifically shown on the department's plans. No [new or] additional points of access other than those indicated on the approved plans shall be allowed. An access point on this type of facility may be *relocated, shifted or* modified as to width and type provided that the *relocation, shifting or* modification is approved by department permit, *[.] and provided further that any relocation or shifting of any access point shall comply with the department's current criteria for highway design.* [Access points shall not be relocated or shifted.]



Section 2. On all state highways which are not constructed as limited access facilities, access will be controlled by permits. New points of access may be added and existing ones modified, shifted or relocated, provided that a permit to do so is approved by the Department.

Section 3. All applications for permits pertaining to access shall be filed with the district highway office for the county in which the highway is located.

Section 4. One (1) of the three (3) appropriate boxes with applicable notes inserted, shown below, shall be placed on the title sheet and summary sheet of the plans for all state and federal aid projects.

THIS PROJECT IS A FULLY CONTROLLED ACCESS HIGHWAY.

THIS PROJECT IS A PARTIALLY CONTROLLED ACCESS HIGHWAY. ACCESS SHALL BE PROVIDED ONLY WHERE SPECIFICALLY SHOWN ON PLANS.

THE CONTROL OF ACCESS ON THE PROJECT SHALL BE BY PERMIT.

Section 5. Every deed of conveyance of property acquired by the Department of Transportation for purposes of right of way for any state or federal project shall, in addition to the official order number, show the designation of the type of access highway involved as defined in Sections 1 and 2.

Section 6. The Department of Transportation shall maintain records for public inspection at its office in Frankfort, Kentucky, of all completed state and federal projects, together with the designation of the type of access to be allowed on that project as defined in Sections 1 and 2.

CALVIN GRAYSON, Secretary

ADOPTED: June 14, 1977

RECEIVED BY LRC: June 21, 1977 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Ed W. Hancock, Deputy Secretary for Legal Affairs,  
Department of Transportation, Frankfort, Kentucky 40601

#### DEPARTMENT OF TRANSPORTATION

Bureau of Highways  
(Proposed Amendment)

603 KAR 5:096. Highway 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 each road in the highway system and indicate its classifications.

Section 1. The weight and dimension limits set forth in 603 KAR 5:066 and 603 KAR 5:070 for truckway classifications shall apply on all highways in the State Primary Road System as indicated herewithin, unless bridge postings prohibit such weights on any particular segment.

Section 2. The maximum weight limits for the three (3) classifications of highways are as follows: "AAA" System, 80,000 pounds gross weight; "AA" System, 62,000 pounds gross weight; "A" System, 44,000 pounds gross weight. There shall be no tolerances allowed on gross weight, axle weight, or combinations of axle weights on the Interstate and National Defense Highway System only.

Section 3. The classifications for each highway\* in the State Primary Road System are as follows:

#### KY 30

AAA-From Jct. KY 52, 2.2 miles west of Jackson [15 at Quicksand in Breathitt Co.] to Jct. US 460 near Salyersville.

AA-From Jct. KY 490 at East Bernstadt in Laurel Co. via Tynor to the Jackson-Owsley Co. Line; and [AA] from Jct. KY 11 in Booneville to Jct. KY 52, 2.2 miles west of [15 at] Jackson.

A-From the Owsley-Jackson Co. Line to Jct. KY 11, west of Booneville.

#### KY 109

AAA-From Jct. US 68 near the NWCL of Hopkinsville to a point 0.5 mile north of KY 1682; and from Jct. US 62 at Dawson Springs to [Western Kentucky Parkway; and from Jct. KY 120 at Providence to] Jct. KY 56 near the Illinois State Line in Union Co.

AA-From a point 0.5 mile north of KY 1682 near Hopkinsville to Jct. US 62 at Dawson Springs. [; and from Jct. W. K. Parkway, north of Dawson Springs to Jct. KY 120 at Providence.]

A-From Jct. KY 115 at St. Elmo in Christian Co. to Jct. US 41 at Hopkinsville.

#### KY 1523

AAA[A]-From Jct. US 62, 2.1 miles west of Calvert City to Jct. KY 95 [US 62 near SCL of Calvert City].

A-From Jct. of KY 95, north of Calvert City to Jct. US 62 near SCL of Calvert City.

\*COMPILERS NOTE: Only those particular highways affected by the proposed amendment are shown here. 603 KAR 5:096 is printed in full in 3 Ky.R. 4-109.

CALVIN G. GRAYSON, Secretary

ADOPTED: June 24, 1977

RECEIVED BY LRC: July 1, 1977 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Ed W. Hancock, 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 *for Elementary and Secondary* [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 *for Elementary and Secondary* [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 *for Elementary and Secondary* [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 1977-78 [1976-77].

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET  
Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:080. Provisional middle grades certificate.

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 *for Elementary and Secondary* [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 an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional *certificate for teaching in the middle grades* [school-junior high school certificate] shall be issued in accordance with the pertinent Kentucky statutes and State Board *for Elementary and Secondary* [of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional *certificate for teaching in the middle grades* [school-junior high school certificate] shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon a completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional *certificate for teaching in the middle grades* [school-junior high school certificate] shall be valid for teaching in grades five (5) through *nine* (9) [eight (8)] and shall be endorsed for grades nine (9) through twelve (12) for any subject assignment in which the teacher holds a regular high school teaching major or minor.

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.



EDUCATION AND ARTS CABINET  
Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

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 for *Elementary and Secondary* [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 an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. The professional certificate for teachers of exceptional children—hearing impaired shall be issued in accordance with the pertinent Kentucky statutes and State Board for *Elementary and Secondary* [of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—hearing impaired shall be valid at any grade level for the instruction of exceptional children who are hearing impaired and shall be endorsed as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each

year after which time the teacher must qualify by having completed the entire curriculum.

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET  
Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

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 for *Elementary and Secondary* [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 an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board for *Elementary and Secondary* [of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of



successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and shall be endorsed as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) *The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.*

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Instruction  
(Proposed Amendment)

**704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.**

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 for *Elementary and Secondary* [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 an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board for *Elementary and Secondary*

[of] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and shall be endorsed as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) *The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.*

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Instruction  
(Proposed Amendment)

**704 KAR 20:255. Visually impaired; teaching endorsement.**

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 for *Elementary and Secondary*



[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 program approval as included in the Kentucky State Plan for the Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The endorsement for teaching visually impaired pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary [of] Education regulations to an applicant who holds either the provisional elementary certificate, the provisional *certificate for teaching in the middle grades* [school-junior high school certificate], or the provisional high school certificate and who has completed the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The endorsement for teaching visually impaired pupils shall be valid for the same grade levels as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate.

(3) *A one (1) year endorsement for teaching visually impaired pupils, valid for the same grade level as the teaching certificate used as a base for the endorsement, shall be issued upon completion of six (6) semester hours credit from the approved curriculum. The endorsement may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.*

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Vocational Education  
(Proposed Amendment)

**705 KAR 1:010. State plan.**

RELATES TO: KRS 156.100, 163.020, 163.030

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: *The Kentucky Five Year [A] State Plan for Vocational Education is necessary in order to be eligible to receive federal funds under P. L. 90-576.*

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, The Kentucky Five

*Year State Plan for [the Administration of] Vocational Education shall be prepared and approved by the State Board of Education, in accordance with the appropriate federal guidelines, and submitted annually to the U. S. Commissioner of Education by June 30 for his approval. Whereas, the duties and responsibilities of the Kentucky State Board of Education have by Executive Order been divided between the Kentucky State Board for Elementary and Secondary Education and the Kentucky State Board for Occupational Education, this document has been approved by both of the aforesaid boards. This document is incorporated by reference and hereinafter shall be referred to as the Kentucky Five Year State Plan for Vocational Education. [the year July 1, 1976, to June 30, 1977 (Revised July 9, 1976)]. Copies of the document may be obtained from the Bureau of Vocational Education, State Department of Education.*

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: June 24, 1977

RECEIVED BY LRC: July 6, 1977 at 11:05 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary, State Board for Occupational Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Vocational Education  
(Proposed Amendment)

**705 KAR 7:050. Adult plan.**

RELATES TO: KRS 156.070, 156.100

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: An annual program plan for adult education is required in order to be eligible to receive federal funds under the Adult Education Act.

Section 1. Pursuant to the authority vested in the [Kentucky] State Board for Occupational [of] Education, the Kentucky Annual Program Plan for Adult Education shall be prepared and approved by the State Board for Occupational [of] Education in accordance with the appropriate federal regulations and guidelines and submitted annually to the U. S. Commissioner of Education by June 30 for his approval. *Whereas, the duties and responsibilities of the Kentucky State Board of Education have by Executive Order been divided between the Kentucky State Board for Elementary and Secondary Education and the Kentucky State Board for Occupational Education, this document has been approved by both of the aforesaid boards. This document is incorporated by reference and hereinafter shall be referred to as the Annual Program Plan for the year July 1, 1977 [6] to June 30, 1978[7]. [Revised July 9, 1976]* Copies of the annual Program Plan may be obtained from the *Adult Education*



Unit, [Bureau of Vocational Education] State Department of Education.

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 24, 1977

RECEIVED BY LRC: July 6, 1977 at 11:05 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary, State Board for Occupational Education,  
17th Floor, Capital Plaza Tower, Frankfort, Kentucky  
40601.

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Education for Exceptional Children  
(Proposed Amendment)

**707 KAR 1:003. Annual program plan for administration of the education of the handicapped act.**

RELATES TO: KRS 156.100, 157.200 to 157.305

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The State Plan for the Administration of [Title VI-B, EHA,] Education of the Handicapped Act, *Part B* must be amended *annually* in order to be eligible to receive Federal funds under P. L. 93-380 as amended by P. L. 94-142.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, the Fiscal Year 1978 [1977] amendment to the Kentucky [State] *Annual Program Plan* for the Administration of the Education of the Handicapped Act is hereby [shall be prepared and] approved by the State Board of Education in accordance with the approved federal guidelines and submitted to the U. S. Commissioner of Education for his approval. This amendment supersedes the 1977 [parts I and III of the 1976] amendment and is incorporated by reference and hereinafter should be referred to as the 1978 [1977] amendment to the *Annual Program* "[State] Plan for the Administration of the Education of the Handicapped Act." Copies of *Annual Program* [State] Plan may be obtained from the Bureau of Education for Exceptional Children, State Department of Education, Frankfort, Kentucky 40601.

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND  
REGULATION CABINET**  
Department of Labor  
Occupational Safety and Health  
(Proposed Amendment)

**803 KAR 2:020. Adoption of 29 CFR Part 1910.**

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards, published in the Federal Register June 27, 1974 edition, Volume 39, Number 125, Government Printing Office, Washington, D. C. 20402. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.2 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows:

As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards, to report information to the U. S. Department of Labor, or any subsidiary thereof, shall, instead report such information to the Kentucky Department of Labor, 151 Elkhorn Court, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.13 through 1910.16 relating to ship repairing, ship-building, shipbreaking, and longshoring; and 1910.267a relating to pesticides, as well as paragraph (a)(6)



in Section 1910.267 which refers to section 1910.267a, are excluded and deleted in their entirety.

(4) 29 CFR 1910.141 (c)(2)(i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(5) The changes which have been adopted by the U. S. Department of Labor relating to 29 CFR 1910.211, and 1910.217, mechanical power presses, and published in the Federal Register, Volume 39, Number 233, December 3, 1974, a copy of which is attached hereto, are hereby adopted by reference.

(6) The changes and additions which have been adopted by the U. S. Department of Labor relating to Telecommunications which are contained in 29 CFR 1910.67, 1910.70, 1910.183, 1910.189, 1910.190, 1910.268, 1910.274, and 1910.275, published in the Federal Register, Volume 40, Number 59, March 26, 1975, a copy of which is attached hereto, are adopted by reference.

(7) 29 CFR 1910.93q, the Occupational Safety and Health Standard covering Vinyl Chloride which was published in the Federal Register, Volume 39, Number 194, October 4, 1974, a copy of which is attached hereto, is hereby adopted by reference.

(8) 29 CFR 1910.106 (d)(2)(iii) of the Federal Register, Volume 39 Number 125, June 27, 1974, shall be amended by adding Table H-12 of the Federal Register, Volume 40, Number 18, page 3982, January 27, 1975, a copy of which is attached hereto, is adopted by reference.

(9) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health.

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonable labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees.

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available.

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(10) Recodification of 29 CFR 1910.93 through 1910.93q as 1910.1000 through 1910.1017 respectively, as published in the Federal Register, Volume 40, Number 103, May 29, 1975, a copy of which is attached hereto, is hereby adopted by reference.

(11) 29 CFR 1910.141 (d)(2)(i) of the Federal Register, Volume 40, Number 82, April 28, 1975 amended by deleting the last half of Table J-2, a copy of which is hereby adopted by reference.

(12) The new standard, adopted by the U. S. Department of Labor relating to Industrial Slings contained in 29 CFR 1910.184, published in the Federal Register,

Volume 40, Number 125, June 27, 1975, a copy of which is attached hereto, is hereby adopted by reference.

(13) 29 CFR 1910.94 which was amended by revoking paragraphs (b)(2)(i) and (b) (2)(ii) and by revising paragraph (b)(2), as published in the Federal Register, Volume 40, Number 111, June 9, 1975, a copy of which is attached hereto, is adopted by reference.

(14) 29 CFR 1910.217 (b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(15) 29 CFR 1910.94 (d)(4)(i) Table G-14, Page 23594, published in the Federal Register, Volume 39, Number 125, Thursday, June 27, 1974, as adopted, contains a typographical error and is hereby revoked. The corrected version published in the Federal Register, Vol. 37, No. 202, Wednesday, October 18, 1972, Table G-14, Page 22155, a copy of which is attached hereto, is hereby adopted by reference.

(16) 29 CFR 1910.1001 (i)(1) which was revised by the U. S. Department of Labor, for retention of records of Asbestos Exposure Monitoring from three (3) years to twenty (20) years, as published in the Federal Register, Volume 41, No. 55, Friday, March 19, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(17) 29 CFR 1910.184 (f)(6) which was amended by the U. S. Department of Labor, to delete the paragraph which prohibits the use of knots or wire rope clips to form eyes in wire rope slings, as published in the Federal Register Volume 41, No. 62, Tuesday, March 30, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(18) 29 CFR 1910.401 through 1910.441 Subpart T, the Occupational Safety and Health Emergency Standard covering Diving Operations which was published in the Federal Register, Vol. 41, No. 116, Tuesday, June 15, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(19) Paragraph 1910.1005 (c)(7) of 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4, 4' Methylene bis (2-Chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials;"

(20) 29 CFR 1910.101 (b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(21) 29 CFR 1910.1029 Exposure to Coke Oven Emissions as printed in the Federal Register, Volume 41, Number 206, Friday, October 22, 1976, a copy of which is attached hereto, is adopted by reference.

(22) Corrections and omissions which have been adopted by the U. S. Department of Labor, relating to Coke Oven Emissions Standards, 29 CFR 1910. 1029, published in the Federal Register Volume 42, Number 12, Tuesday, January 18, 1977, a copy of which is attached hereto, is hereby adopted by reference.

(23) 29 CFR 1910.309 is hereby amended by revising Paragraph (c) to require either the use of ground-fault circuit interrupters or the implementation of an assured equipment grounding conductor program on construction sites. This amendment as published in the Federal Register, Volume 41, No. 246, Tuesday, December 21, 1976, a copy



of which is attached hereto, is hereby adopted by reference with the following modification:

"Effective Date: Page 55704, 2nd paragraph is changed to read, 'These amendments of Part 29 CFR 1910 become effective August 22, 1977,'" with the following modifications:

(24) *The following corrections and omissions which have been adopted by the U. S. Department of Labor, copies of which are attached hereto, are hereby adopted by reference:*

(a) *Federal Register, Volume 39, No. 233, December 3, 1974, Standard for Exposure to Vinyl Chloride - corrections;*

(b) *Federal Register, Volume 40, No. 18, January 27, 1975*

1. *Mechanical Power Presses - corrections;*

2. *Correct error of omission - Table H-12.*

(c) *Federal Register, Volume 40, No. 58, March 25, 1975, Standard for Exposure to Vinyl Chloride - effective date;*

(d) *Federal Register, Volume 40, No. 82, April 28, 1975, National Fire Protection Association mailing address change;*

(e) *Federal Register, Volume 40, No. 125, June 27, 1975, Overhead and Gantry Cranes, Paragraph 1910.179 (j)(2)(iv) - corrections and (v) revoked; Paragraph 1910.179 Standards Organization - amended;*

(f) *Federal Register, Volume 40, No. 145, July 28, 1975, Industrial Slings - correction.*

[Section 2. The Occupational Safety and Health Standards Board hereby adopts the following regulation applicable to general industry.]

[(1) A safety tire rack, cage, or equivalent protection shall be provided and used when inflating, mounting, or dismounting tires installed on split rims or rims equipped with locking rings or similar devices.]

[(2) Changing and charging storage batteries (for automotive-type battery charging installations and in-vehicle charging of batteries);]

[(a) Battery charging installations shall be located in areas designated for that purpose.]

[(b) In-vehicle charging shall be done in areas designated for that purpose.]

[(c) Facilities shall be provided for flushing electrolyte from the eyes and skin with water. An adequate water supply shall be within twenty-five (25) feet of any part of the area designated above.]

[(d) No battery shall be charged or discharged within a closed or unvented container. The batteries shall be charged:]

[1. In the open, or]

[2. In a mechanically ventilated space, or]

[3. In a space providing at least twenty (20) cubic feet per ampere of charging capacity.]

[(e) A face shield shall be provided and available at each charging unit. The use of the face shield shall be required for connection and disconnection of vehicle or charger leads to the battery terminals and for the addition or pouring of electrolyte.]

[(f) Tools and other metallic objects not in actual use shall be kept away from the top terminal section of the battery.]

[(g) The following instructions shall be posted at each charging installation and on each battery charger:]

["WEAR FACE SHIELD: (Batteries may explode)."]

"TURN OFF CHARGER TO CONNECT OR DISCONNECT BATTERY." "WASH ACID SPILLS IMMEDIATELY." "FIRST AID FOR ACID IN EYES OR ON SKIN QUICKLY FLUSH WITH WATER FOR 10 MINUTES."]

JAMES R. YOCOM, Commissioner

ADOPTED: May 26, 1977

APPROVED:

J. C. Roberts, Secretary

RECEIVED BY LRC: July 8, 1977 at 10:10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Occupational Safety and Health Program, Department of Labor, 151 Elkhorn Court, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Quarter Horse and Appaloosa Commission**  
**(Proposed Amendment)**

812 KAR 1:020. Licensing procedures.

RELATES TO: KRS 230.410 to 230.447

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the licensing procedures and requirements.

Section 1. License required. No person, legal entity, or association shall conduct any quarter horse or appaloosa race for any stakes, purse, or reward in the Commonwealth without first securing a license therefor from the commission. No person shall participate in quarter horse or appaloosa racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, without first securing a license therefor from the commission.

Section 2. Conditions precedent to issuance of license. Quarter horse and appaloosa racing and participation therein in the Commonwealth are privileges, not rights, granted only by the commission by license subject to the hereinafter set out conditions precedent. Acceptance of a license shall be construed as consent and agreement to the following conditions precedent by the licensee and failure to comply therewith shall be grounds for immediate voidance or revocation of such license:

(1) Representations made or with license application are complete and correct.

(2) Licensee shall abide by all rulings and decisions of the stewards and all such decisions by the stewards shall remain in force unless reversed or modified only by the commission upon proper appeal thereto. All rulings and decisions of the stewards may be appealed to the commission except those made by the stewards as to



findings of fact as occurred during and incident to the running of a race and as to determination of the extent of disqualification of horses in a race for fouls committed during such race, and all such excepted rulings and decisions by the stewards shall be final with no right of review thereof by the commission or courts.

(3) Licensee shall consent to a reasonable search of his person and property in his possession by the commission or its representatives, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes and containers of any sort, and licensee shall consent to seizure to any object which may be evidence indicating a rule violation. Licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding correctly under oath to the best of his knowledge all questions asked by the commission or its representatives pertaining to racing matters.

(4) A licensed trainer shall be responsible for the condition of horses in his charge and shall be held to a high standard of care in taking all precautions as are reasonable and necessary to safeguard such horses from tampering. Upon a finding of a positive for a prohibited medication, drug, or substance, in a saliva, urine, or blood specimen taken from a horse, the trainer of such horse shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering.

Section 3. Standards for granting licenses and racing dates to associations. The commission may issue a license to any association which applies for same to conduct a quarter horse or appaloosa race meeting on such days as the commission may deem appropriate, if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposed to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the quarter horse and appaloosa industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

Section 4. Standards for granting licenses to participants in racing. The commission may issue a license to any person who applies for same to participate in quarter horse or appaloosa racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or

employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, if the commission finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.

Section 5. Grounds for refusal, suspension, or revocation of a license. The commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued or order disciplinary measures, on the following grounds:

(1) Denial of a license to an applicant, or suspension or revocation of a license in another racing jurisdiction; the commission may require re-instatement in the original racing jurisdiction where applicant was denied a license or where his license was suspended or revoked;

(2) Conviction of a crime or violation of any narcotic regulation;

(3) Falsification, misrepresentation, or omission of required information in license application to the commission; failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of quarter horses or appaloosas;

(4) Failure to comply with any order or ruling of the commission, stewards, or racing official pertaining to a racing matter;

(5) Ownership of any interest in, or participation by any manner in, any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise, or association with any person so engaged in such activity;

(6) Person less than sixteen (16) years of age;

(7) Person unqualified by experience or competence to perform the activity permitted by license as determined by standard examinations prescribed by the stewards;

(8) Intoxication, use of profanity, fighting or any conduct of a disorderly nature, on association grounds;

(9) Employment or harboring of unlicensed persons required by these rules to be licensed;

(10) Discontinuance of or ineligibility for activity for which license was issued;

(11) Possession on association grounds, without written permission therefor from the commission or stewards, of:

(a) Firearms;

(b) Battery, or buzzer, or electrical device, or other appliance other than an ordinary whip which could be used to alter the speed of a horse in a race or workout.

(12) Possession on association grounds by a person other than a licensed veterinarian of:

(a) Hypodermic needle, or hypodermic syringe, or other device which could be used to administer any substance to a horse;

(b) Narcotics, or medication, or drugs, or substance



which could be used to alter the speed of a horse in a race.

(13) Use of profane, abusive, or insulting language to or interference with a commissioner, member of the commission staff, or racing official, while such persons are in the discharge of their duties;

(14) Cruelty to a horse or neglect of a horse entrusted to a licensee's care;

(15) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race or failure to report knowledge of same immediately to the stewards;

(16) Causing, or attempting to cause, or participation in any way in any attempt to cause the pre-arrangement of a race result, or failure to report knowledge of same immediately to the stewards;

(17) Entering, or aiding and abetting the entering of, a horse ineligible or unqualified for the race entered;

(18) Drug addiction, bad moral character, intemperate habits, bad reputation for honesty, truth and veracity, or involvement in a subject of public notice as involved in any activity which, in the opinion of the commission, would be inconsistent with the best interests of racing by reflection on the honesty and integrity of the sport of racing, or association with persons so characterized;

(19) Violation of any rule of the commission, or aiding or abetting any person in the violation of any such rules.

Section 6. License applications for associations. Any person or legal entity desiring to conduct quarter horse or appaloosa racing in the Commonwealth may apply to the commission for association license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office on or before September 1 of the year preceding the calendar year in which the license is to be in force. Such application shall contain:

(1) Name and location of track. Initial applications shall be accompanied by such physical information as the commission may require.

(2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the association with such degree of ownership or type of interest shown; names and addresses of all persons capable of exercising any control over affairs of the association as trustee or guardian or lessor, or mortgagee, or fiduciary. Any corporation, partnership, or other legal entity which owns or controls, a beneficial interest in the association directly or through other corporations or legal entities, shall similarly file with the application lists showing the names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in such legal entities with such degree of ownership or type of interest thereunto pertaining. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(3) Days and hours thereof on which racing is requested to be conducted.

(4) Names of racing officials and persons responsible for track security and fire protection.

(5) Proposed purse schedule, showing minimum

purse, average daily distribution, added money for each stake, if any.

(6) An operating report on forms prescribed by the commission if applicant is currently licensed.

(7) Such other information as the commission may from time to time require to ascertain the fitness of the applicant to conduct quarter horse and appaloosa racing.

(8) *All associations and tracks having gross wagering of less than an average of \$100,000 per day based on their prior year's average daily handle shall pay a daily licensing fee of \$125 to the Kentucky Quarter Horse and Appaloosa Commission for each day of racing. All tracks and associations having gross wagering of \$100,000 and above per day, based on their prior year's average daily handle shall pay a daily licensing fee of \$175 for each day of racing. In the event the commission allows two (2) racing programs on one (1) day, a separate daily fee for each racing program shall be paid (example: If an afternoon and evening program are scheduled, the fee shall be \$250 and \$350 respectively for that day).*

Section 7. License application for participants in racing. (1) Any person other than an association required to be licensed by Section 1 and desiring to participate in quarter horse and appaloosa racing in the Commonwealth may apply to the commission for a license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office or with the commission license administrator at the association on or after January 2 of the calendar year in which the license is to be in force, but not later than twenty-four (24) hours after applicant has arrived on association grounds.

(2) Applications from persons not previously licensed in Kentucky shall include the names of two (2) reputable persons who will attest to the good reputation of the applicant and to the capability and general fitness of the applicant to perform the activity permitted by the license.

(3) Applications from persons whose age is not readily ascertainable by the licensing committee shall be accompanied by an attested copy of birth certificate or work permit showing applicant is sixteen (16) years or older.

(4) Fingerprint identification will be required of all licensees unless waived by the commission (i.e., absentee owners and casual delivery personnel who do not enter the stable area).

(5) Applications from persons, corporations, partnerships, lessors, or other legal entities involving more than one individual person desiring to race horses in the Commonwealth shall, in addition to designating the person or persons to represent the entire ownership of such horses, be accompanied by documents which fully disclose the identity and degree and type of ownership held by all individual persons who own or control a present or reversionary interest in such horses. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(6) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a practicing veterinarian, shall be accompanied by evidence that such person is currently licensed as a veterinarian by the Commonwealth of Kentucky. An accredited practicing veterinarian not licensed by the



commission or the Commonwealth, however, may with permission of the stewards in an emergency be called in as a consultant, or to serve as a veterinarian for one (1) horse on a temporary basis, and shall not thereby be considered as participating in racing in this state.

(7) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a dental technician shall be accompanied by the name of a licensed veterinarian who will attest to the technical competence of such applicant and under whose sponsorship and direction such applicant will work on association grounds.

(8) Applications from persons not previously licensed in the capacity of farrier shall not be forwarded with recommendation to the commission by the licensing committee until such applicant has been administered a standard examination by an experienced farrier known to the stewards so as to provide the licensing committee a reasonable basis for recommendation as to the technical proficiency of such applicant for a farrier's license.

(9) The following annual fees shall accompany the application and shall not be refundable:

(a) \$20-Owner license and annual color registration;

(b) \$15-Trainer, jockey, apprentice jockey, or jockey's agent license;

(c) \$10-Veterinarian, dental technician, assistant trainer, farrier, or apprentice farrier license;

(d) \$5-Stable employee license (foreman, authorized agent, exercise boy, groom, hotwalker, watchman, or pony boy);

(e) \$5-Stable area supplier license (suppliers of horse feed, tack, medication, or feed vendors);

(f) \$5-Racing department employee license, steward, racing secretary, assistant racing secretary, director of racing, starter and assistant starter, paddock judge, patrol judge, placing judge, timer, commission veterinarian, commission chemist, commission supervisor of pari-mutuel betting, commission director of security, commission license administrator, commission inspector, association veterinarian, testing laboratory employee, horse identifier, valet, jockey room custodian, clerk of scales, entry clerk, photo finish operator, film patrol or video tape operator and projectionist, flagman, or outrider;

(g) \$5-Mutuel department employee license, manager, calculator, sheet writer, supervisor, ticket checker, ticket seller, ticket cashier, messenger, runner, outbook clerk, program clerk, porter, information and change clerk, boardman, ticket room and money room clerk, assistant, totalizator employee;

(h) \$5-Occupational license, admission department manager and employees; concessions manager and employees; parking manager and employees; association security department including police chief, detective, policemen, watchmen, fire, ambulance drivers and attendants; track superintendent, groundsman, mechanics, carpenters; maintenance department manager and employees; all other persons employed by the association or employed by a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting;

(i) \$3-Temporary occupational license for persons to be employed in occupations listed in paragraph (h) above for ten (10) days or less during a calendar year.

Section 8. Licensing committee. The commission may appoint a licensing committee including the commission secretary and commission steward or their designated representative. Such licensing committee shall review all applications for all licenses, and forward all such applications to the commission with recommendations thereon, subject to security checks, for final action. Such licensing committee may issue to a license applicant a temporary permit to participate in the activity for which such license application was made pending administrative processing and final action on such license application by the commission.

Section 9. Term of license. Licenses issued by the commission for participation in quarter horse and appaloosa racing shall be valid from the date of issuance through the calendar year shown on such license at all race meetings conducted by associations in the Commonwealth during such calendar year, unless sooner suspended, revoked, or voided. The commission may renew any license and any such renewal shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor. The validity of a license does not preclude or infringe upon the common law right of associations to eject or exclude any persons, licensed or unlicensed, from association grounds.

Section 10. Possession of license required. No person required to be licensed by these rules may participate in any activity required to be licensed on association grounds during a race meeting without having been issued a valid license therefor and having same in his possession. All licenses specified under subsection (9)(b) to (i) shall include a color photograph of the licensee.

Section 11. Applicability of rules and rulings to household. Rules pertaining to, and rulings against, licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

Section 12. Notice for discontinuance of employment. Licensed associations, racing officials, owners, trainers, jockeys, agents, farriers, stable employees, and all other licensees who have accepted with advance notice the conditions under which a race meeting is planned to be conducted, shall before terminating employment, engagements, or activities under such conditions, so notify the commission and respective interested persons or associations of such intention at least fifteen (15) days before such termination. The commission shall upon notice to



parties in interest conduct a hearing on the matter. If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these rules, the commission shall so advise all parties in interest and shall take appropriate action against offending parties. If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these rules, the commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.

WILLIAM D. BENNETT, Chairman

ADOPTED: July 8, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: July 13, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: The Secretary, Kentucky Quarter Horse and Appaloosa Commission, 403 West Third Street, Owensboro, Kentucky 42301.

## Proposed Regulations

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

#### 402 KAR 1:012. Reclamation of lands disturbed by underground mining.

RELATES TO: KRS 350.151

PURSUANT TO: KRS 13.082, 224.033(6),(17),(24), 224.045(6)(b), 350.020, 350.028, 350.050, 350.151

NECESSITY AND FUNCTION: This regulation is necessary to implement KRS 350.151, adopted by the 1974 Session of the Kentucky General Assembly, which places the control of reclamation of the surface effects of underground mines under the jurisdiction of the Kentucky Department for Natural Resources and Environmental Protection.

Section 1. Purpose and Goals of this Regulation. (1) Purpose. The purpose of this regulation is to provide for the reclamation of lands upon which surface disturbances have been or will be created by underground mining.

(2) Goals. In the preparation and enforcement of this regulation, the Kentucky Department for Natural Resources and Environmental Protection has the following goals incidental to underground mining:

- (a) The prevention of land erosion; and
- (b) The regulation in a fair and equitable manner of the reclamation of land disturbed or removed by activities resulting from or incident to a mine as defined in KRS 352.010(1)(s).

Section 2. Definitions. Unless clearly indicated by their context, terms in this regulation are defined as follows:

(1) "Abandoned operation" means any underground mine from which coal has not been removed within one (1) year immediately preceding the effective date of this regulation;

(2) "Access road" means any road that can be traversed by a motorized vehicle and which is used for any purpose incident to the underground mining operation except for

hauling coal, clay or refuse. An access road shall be considered a surface disturbance from the area of land affected to the point at which such road joins a public road or highway;

(3) "Acid producing material" means any material capable of producing a water pH of 5.5 or below, as evidenced by tests set forth in Section 7 herein;

(4) "Area of land affected" means the area of land from which overburden is to be or has been removed, or upon which the overburden is to be or has been deposited, and shall include all lands affected by the construction of surface drainage systems, silt structures, new roads or the improvement or use of existing roads other than public roads, including haul and access roads, mine management areas, processing areas, refuse areas, transportation areas, and all other surface disturbances;

(5) "Coal" means coal or clay;

(6) "Department" means the Department for Natural Resources and Environmental Protection;

(7) "Director" means the Director of the Division of Reclamation of the Department for Natural Resources and Environmental Protection;

(8) "Division" means the Division of Reclamation, Bureau of Natural Resources, Department for Natural Resources and Environmental Protection;

(9) "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity;

(10) "Existing operation" means any underground mine from which coal is being removed on the effective date of this regulation or any operable mine from which coal has been removed within the year prior to the effective date of this regulation;

(11) "Face-up area" means any area where the surface is to be or has been disturbed to make entry into a seam of coal to be recovered by underground mining methods;

(12) "Final grade" means the finished elevation of any surface disturbance to be revegetated as described in the operator's application for permit;

(13) "Gully erosion" means the erosion process whereby water accumulates in narrow channels over short periods and removes the soil from this narrow area to depths greater than one (1) foot;



(14) "Haul road" means any road used for hauling coal or refuse and shall be considered a surface disturbance from the area of land affected to the point at which such road terminates or joins a public road or highway;

(15) "Highwall" means that distance from the point of intersection of the vertical cut and the original slope to the bottom elevation of the coal seam;

(16) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and all related surface acts performed by the operator in the process of underground mining;

(17) "Mine management area" means that portion of the surface at or near an underground mine used for mine management activities, and includes buildings, parking lots, driveways, equipment storage or repair areas and any other building, structure or facility used as part of or incidental to the underground mining operation, not directly related to coal removal, handling, storing, processing, or transporting;

(18) "New operation" means any underground mine for which the surface is disturbed for a face-up area, processing area, refuse area, transportation area, or mine management area, subsequent to the effective date of this regulation;

(19) "Operator" means a permittee or any other person, partnership, corporation, association, or other entity, who extracts or intends to extract coal by underground mining, or who causes a surface disturbance in the processing or handling of coal extracted by the underground mining method;

(20) "Overburden" means all of the earth and other materials which lie above a natural deposit of coal and also means such earth, rock, and other materials removed from their natural state in the installation of the surface facilities of an underground mine;

(21) "Permit" means the written document issued by the department to the permittee pursuant to this regulation;

(22) "Permittee" means any person, partnership, corporation, association, or other entity holding a valid permit issued by the department pursuant to this regulation;

(23) "Plan" means the information submitted by the operator on division forms entitled "Method of Operation and Plan of Reclamation" and "Revegetation Plan," and attachments thereto;

(24) "Processing area" means that portion of the surface affected by tipplers, storage yards, loading ramps, docks, wharves, railroad sidings, washers or other areas on which coal is stored, handled, processed or refined, but shall not include transportation areas;

(25) "Reclamation" means the reconditioning of the area of land affected by underground mining under a plan approved by the division;

(26) "Refuse area" means any area of the surface affected by deposited waste, gob, slurry or any material, liquid or solid, resulting from mining coal by any method or the processing of such materials or coal;

(27) "Rill erosion" means an erosion process in which numerous small channels only several inches deep are formed;

(28) "Secretary" means the Secretary of the Department for Natural Resources and Environmental Protection;

(29) "Settleable matter" means that suspended matter in a water sample which will settle in one (1) hour when kept in a one (1) litre container free from all turbulence;

(30) "Sheet erosion" means an erosion process whereby a uniform layer of soil is removed from the land surface by runoff water;

(31) "Spoil" means removed overburden;

(32) "Stream" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(33) "Surface" means the topmost layer of soil, rock, land, or water present in any location;

(34) "Surface disturbance" means a change in the condition of the surface in any manner;

(35) "Transportation area" means any surface controlled or used by the operator for any means of transporting coal or supplies from any point of underground mine entry to any point on the area of land affected;

(36) "Underground mine" means all underground workings from which coal is produced for sale, exchange or commercial use, and all shafts, slopes, bore holes, drifts or inclines leading thereto, and includes all buildings and equipment on the surface used in conjunction with such workings; and

(37) "Underground mining" means any method of extracting coal and removing it from an underground mine, but shall not include excavation or grading when conducted solely in aid of onsite farming or construction.

Section 3. Permits. (1) No operator shall engage in underground mining without having first obtained from the department a permit authorizing such mining.

(2) Permits shall be issued for the life of the underground mine or operation, subject to faithful compliance with the requirements of this regulation and applicable statutes. The division may periodically review performance under this regulation.

(3) New operations. No construction of a face-up area, processing area, refuse area, transportation area, mine management area or any surface disturbance in the area of a proposed new operation shall begin until the operator has received a permit from the department.

(4) Existing operations. Within 240 calendar days from the effective date of this regulation, a permit application for an existing operation shall be filed with the division; said application shall include a reclamation plan. Plans for existing operations shall include a time schedule for bringing the operation into full compliance with this regulation. Time schedules for compliance with this regulation shall not extend beyond one (1) year from the date of the issuance of the permit.

(5) Abandoned operations. This regulation does not apply to an abandoned operation. However, should any portion of the surface of an abandoned operation be disturbed, constructed on, improved or otherwise used in conjunction with underground mining subsequent to the effective date of this regulation, that portion of the surface disturbed shall be considered a new operation and the provisions relating to new operations shall apply.

Section 4. Application for Permit, Fees, Bonds, Reclamation Plan, and Maps. (1) Application for permit. Application for a permit shall be made on forms supplied by the division. Within thirty (30) working days of the receipt of a complete application in an area office of the division, the division shall either issue a permit to the



applicant or notify him in writing of the reasons why a permit is not issued.

(2) Fees. Each application shall be accompanied by a permit fee of \$300, payable by cashier's check or money order to the Kentucky State Treasurer.

(3) Bonds. The applicant shall file with the division a bond payable to the Commonwealth of Kentucky before receiving a permit. The amount of the bond shall be established by the division, but shall not be less than \$500 per acre or fraction thereof nor more than \$3,000 per acre or fraction thereof of the area of land affected, with a minimum bond of \$5,000 required. Maximum bond shall be required on all coal refuse areas. Return of the bond is conditioned upon the faithful performance of the requirements of this regulation. Return of portions of the bond upon satisfactory completion of portions of the requirements of this regulation shall be made under provisions established by the division.

(4) Reclamation plan. The reclamation plan shall include the location and acreage of the area of land to be affected, present and intended future land use, plans and specifications for reclamation measures to be taken, the types and amounts of seeds, fertilizers and mulch to be used, the procedures to be used to reestablish vegetation, and five (5) copies of each map, as described hereinafter.

(5) U. S. Geological Survey Map. A United States Geological Survey topographic map, or aerial photograph-topographic map or equivalent map enlarged or made to a scale of not less than 100 nor more than 660 feet to the inch shall be submitted with the reclamation plan. Other appropriate map scales shall be required by the division in those cases wherein reclamation plans include long roads or extensive conveyor systems. The map shall be prepared and certified by an engineer, registered under the provisions of KRS Chapter 322. The certification of the map by the registered engineer shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the surface effects of underground mining regulation." The certification shall be stamped with the engineer's professional seal. The division shall reject any map as incomplete if its accuracy is not so attested. The engineer's certification, seal and signature shall appear on the map and on any attachment for which the division requires such engineer's certification, seal and signature. Each copy of the map shall show the following information:

(a) The boundaries of the area of land affected, the crop line and the strike and dip of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected, including but not limited to the area on which spoil, gob, slurry or other refuse will be placed;

(b) The names and addresses of the owners of all surface areas within 500 feet of the area of land to be affected and the property lines of such areas; and the names and locations of all areas currently or previously mined by any method within 500 feet of the area of land to be affected;

(c) The names and locations of all streams, creeks, other bodies of water, roads, buildings, cemeteries, oil and gas wells and utility lines on the area of land affected and within 500 feet of such area as of the date of the engineer's certification;

(d) The date on which the map was prepared, the north point, contour interval, and the quadrangle name;

(e) The drainage plan on and away from the area of land affected. Such plan shall indicate the direction of the flow

of water, natural waterways used for drainage, the streams or tributaries receiving the discharge, constructed and proposed drainways and channels, treatment facilities, diversion ditches, settling ponds, silt control structures and other drainage control measures;

(f) Processing areas;

(g) Mine management areas;

(h) Transportation areas; and

(i) Existing vegetation which will screen any portion of the operation from land not included in the permitted area.

(6) U. S. Geologic Quadrangle Map. A United States Geologic Quadrangle Map, if published, shall be submitted with the reclamation plan. The boundaries of the area of land to be affected by the proposed mining operation shall be indicated on said map.

Section 5. Earthmoving, Processing Area, Drainage Control, Transportation and Mine Management Areas, Grading, and Partial Bond Release. (1) In any new operation, the division shall require that the surface will, when treated, support the vegetation proposed in the plan. In areas where resoiling is proposed, the material shall be evenly distributed and shall be capable of supporting the vegetation proposed in the plan.

(2) Earthmoving shall be accomplished in accordance with the following:

(a) On new operations, all overburden in the face-up area shall be deposited in a location on which surface runoff or other drainage is controlled in such a manner as to prevent or minimize the deposit of silt or sediment in a stream. The face-up area shall be cleared of brush and other debris and the material removed. The length and width of proposed face-up areas and the amount of material to be placed in spoil storage areas shall be set forth in the plan. No material is to be placed over the outcrops. The plan shall ensure stabilization of the fill material;

(b) Where new operations are in an area which has previously been surface mined, outcrops resulting from these surface mining operations shall not be disturbed without prior written approval of the division; and

(c) Benches of all face-up areas shall be graded to eliminate holes or depressions in which surface water or other drainage may accumulate. Drainways shall be constructed where necessary to carry drainage, runoff or surface water across or around the face-up area to a sediment control facility in order to prevent or minimize erosion of either the highwall, bench or outslope. Where the terrain precludes the use of sediment control structures, the benches of all face-up areas or portions thereof shall be isolated by dikes, retaining walls, or other approved methods so as to control surface runoff. Plans for the collection of surface water for use in the operation shall be submitted to the division for approval. Where drainage control is difficult, the siphoning or pumping of water from depressions to a point of discharge beyond the toe of the outslope may be approved by the division.

(3) Processing area. To prevent or minimize stream sedimentation from surface water drainage or other runoff from the processing area, operators shall grade the processing area to eliminate holes or depressions in which surface water, drainage or other runoff may accumulate, and shall provide drainways around the processing area to channel such surface water, drainage or other runoff to a sediment control structure or facility. Where the terrain precludes such control structures, the processing area or portions thereof shall be isolated by dikes, retaining walls, or other approved methods.



(4) Drainage control. Drainage on new operations shall be controlled in the face-up area upon completion of the highwall or face, bench and outslope, and prior to making any mine entries, slopes, or shafts to be used for or in connection with coal removal. Except where otherwise provided in this regulation, drainage control measures on new operations shall be operative before any additional area is disturbed in conjunction with underground mining activities. All silt and water control structures shall be designed by a registered engineer and, after completion of the structure, certified by a registered engineer as having been constructed in accordance with the approved design.

(5) Transportation and mine management areas. All transportation and mine management areas shall be constructed or improved so that erosion due to drainage or other surface runoff is prevented or minimized. Existing operations shall have one (1) year from the date of the issuance of the permit to bring these areas into compliance. All parking lots, driveways, and equipment storage or repair areas subject to erosion by surface water or other runoff shall be graded to eliminate holes, depressions, and ruts caused by vehicular traffic, and shall have drainways or channels to carry surface water, drainage or other runoff to an appropriate sediment control facility.

(6) Grading. Where operations are being conducted in an area which has been previously surface mined and reclaimed, grading of new and existing operations shall blend with the previously reclaimed area.

(7) Partial bond release. When the backfilling and grading have been completed and approved by the division and the water pH level of the spoil required by departmental regulations has been satisfied, the secretary shall release the bond which was filed for that portion of such operation in its full amount less \$300 per acre, which shall be retained by the department until such time as the planting and revegetation is done according to law and approved by the division, at which time the secretary shall release the bond in the remaining amount of \$300 per acre.

Section 6. Haul and Access Road Requirements. (1) Haul and access roads at new operations shall comply with the standards set forth in this section. Roadways or surface disturbances between various surface activities of the underground mine, other than haul or access roads as defined in this regulation, shall be considered part of the area of land affected. Existing operations shall have one (1) year from the effective date of the issuance of the permit to bring haul or access roads to the standards established herein. Where, in the opinion of the division, it is clearly demonstrated that bringing existing roads into compliance with this regulation would result in greater environmental damage than leaving them as they are, the division may permit their continued use unchanged.

(2) No haul or access roads shall be constructed in a stream, nor shall any stream or stream bed be used as a haul or access road. When a stream crossing structure is proposed and in the judgment of the division the proposed structure could create a hazard to health, life or property, a permit from the department's Division of Water Resources shall be required. This requirement shall not be construed as a waiver of other permitting requirements of the Division of Water Resources or other applicable statutes and regulations;

(3) All stream fordings shall be approved by the division and other appropriate divisions within the department if required by statute or regulation. Consideration will be given to the time of year the crossing is to be constructed,

and the length of time it is to be used, but in no event and under no condition may the normal flow or sediment load of the stream be materially affected;

(4) The center line of a proposed haul or access road must be flagged, or marked with an acceptable substitute, at the time the permit application is submitted to the division;

(5) Ditch-relief culvert size, location and spacing shall be in accordance with guidelines published by the division. Outlet and inlet ends of structures shall be constructed on original ground when possible. Fill sections shall not be subjected to discharge flows of structures or open channels;

(6) Drainage structures for areas greater than 100 acres shall be large enough to carry a ten (10) year storm without creating a head elevation which might inundate adjacent property which has not heretofore been so inundated;

(7) Cut slopes shall not be steeper than 1-1/2:1 in soils and may be vertical in rock;

(8) All fill and earth cut slopes shall be seeded in accordance with Section 7 of this regulation;

(9) A berm produced in grading a road shall not be left on the ditch side;

(10) Roads shall not be surfaced with any acid producing material;

(11) Bridges, culverts, and other drainage structures shall not be removed from their existing location or have their function altered prior to bond release without the consent of the division;

(12) Before final release of the bond, erosion control and vegetative cover shall be provided as required herein; and

(13) Haul or access road surfaces shall be elevated at a ratio not to exceed one-fourth (1/4) inch per foot of road width. All road surfaces shall normally drain to the outside of the roadway. Whenever road construction requires a cut on both sides of the road, surface drainage shall be on the side of the deepest cut. Where the road is constructed entirely on fill, drainage shall be on the side having the shortest fill slope.

Section 7. Revegetation Requirements. (1) General. Revegetation shall include the establishment of vegetation and other erosion control measures proposed by the operator in the plan. The revegetation measures indicated in the plan shall be performed within time limits hereinafter stated and in such manner that the required percentage of vegetative cover is attained.

(2) Final grading. For purposes of this regulation, a timetable for the establishment of final grading on all surface disturbances shall be set forth in the plan.

(3) Spoil sampling and analysis.

(a) After final grade has been established, a chemical analysis of the spoil material shall be made to determine the water pH of the top six (6) inches of the surface disturbance and the amount of agricultural limestone necessary to raise the water pH of such surface disturbance to the level required herein. A chemical analysis of at least one (1) composite spoil sample per each ten (10) acres or fraction thereof of surface disturbance shall be required. A composite sample shall consist of at least ten (10) thoroughly mixed sub-samples of the surface disturbance. Unless otherwise specified by the division, the composite spoil sample shall be collected by the operator or his authorized agent in accordance with procedures set forth in "Sampling Surface-Mined Coal Spoils (AGR-41)," published by the University of Kentucky College of Agriculture. The operator shall be responsible for



submitting to the division the required number of spoil test reports of the samples analyzed. The chemical analysis shall be performed by laboratories operated under the supervision of the Kentucky Agricultural Experiment Station or other laboratories acceptable to the division.

(b) If the water pH of the surface disturbance is below 5.5, or below a water pH of 6.0 in areas to be seeded with grasses and legumes only, one (1) of the following methods shall be used to determine the amount of agricultural limestone necessary to raise the water pH to the level required herein:

1. The Shoemaker, McLean and Pratt (SMP) buffer pH method, as set forth in "Buffer Methods for Determining Lime Requirement of Soils with Appreciable Amounts of Extractable Aluminum." See also "Soil Science Society of America Proceedings," Vol. 25 (1961) pp. 274-277.

2. The Grube, Smith, Singh and Sobek potential acidity test, as set forth in "Characterization of Coal Overburden Materials and Minespoils in Advance of Surface Mining." See also "Research and Applied Technology Symposium on Mined-Land Reclamation," (1973).

3. The methodology and standards used for the above tests shall conform to the methodology and standards used by the University of Kentucky Soil Testing Laboratory.

(c) On areas to be revegetated, no portion of the performance bond shall be released until a water pH of 5.5 (or 6.0 on areas approved for grasses and legumes only) has been attained on at least eighty (80) percent of the top six (6) inches of the surface disturbance.

(4) Agricultural limestone requirement. On surface disturbances to be seeded having a water pH of less than 5.5, the operator shall apply agricultural limestone which conforms to the requirements of 302 KAR 77:020, or a substitute approved by the division. Such limestone or substitute shall be of a quality and quantity and shall be applied in a manner necessary to raise the water pH of the top six (6) inches of spoil to at least 5.5. Where the plan indicates that a surface disturbance is to be seeded with grasses and legumes only, the water pH of the top six (6) inches of the spoil shall be at least 6.0.

(5) Fertilizing. Fertilizer of a quality and quantity shall be applied in a manner necessary to establish a minimum of seventy (70) percent vegetative cover of the types of vegetation approved in the plan. Surface disturbances on which tree planting is normally required which have been approved for the establishment of grasses and legumes only, pursuant to subsection (7) herein, shall be fertilized in a manner necessary to establish at least eighty (80) percent vegetative cover of the types of vegetation approved in the plan.

(6) Erosion control. The operator shall implement procedures for the control of erosion on all portions of the area of land affected. Erosion control measures set forth in the plan shall be fully operative when an initial surface disturbance is made on any portion of the area of land affected and shall remain fully operative throughout the life of the operation, including all required revegetation and other reclamation measures. Such erosion control measures shall prevent or minimize sheet, rill, and gully erosion.

(7) Seeding and tree planting:

(a) All spoil or exposed overburden, except for solid rock cuts, shall be seeded and protected from erosion within six (6) months of the establishment of final grade. Such seeding and erosion control shall be accomplished using the species and methods approved in the plan.

(b) Unless otherwise provided in the plan, trees shall be planted or seeded within twelve (12) months of the

establishment of final grade on all surface disturbances with slopes greater than twenty (20) degrees. Regardless of the method of establishment used, there shall be at least 600 or more living woody plants per acre, including volunteers, with the distribution of stems uniform on all areas where trees are required.

(c) If the operator proposes to develop areas for wildlife habitat, he shall submit with the plan, detailed maps, drawings, narratives, and any other information which would facilitate review of the proposal by the division and the Department for Fish and Wildlife Resources.

(d) If the landowner, or the surface owner, where there are separate surface and mineral estates, does not want trees established on slopes greater than twenty (20) degrees, he and the applicant may indicate an alternative preference, which preference shall be stated in an affidavit completed by him in conjunction with the applicant and submitted with the plan for the consideration of the division.

(8) Post mining land use. The applicant shall include in his plan a statement of the proposed post mining land use. When there are separate surface and mineral estates, the applicant shall demonstrate the surface owner's agreement or disagreement with the proposed post mining land use, which demonstration shall be made on forms supplied by the division. When the surface owner is in disagreement with the proposed post mining land use, he may indicate by affidavit an alternate use, which shall be considered by the division in its review of the permit application.

(9) Refuse area. When a final grade is attained on any refuse area or portion thereof, such area shall be treated and revegetated in conformity with this regulation.

(10) Completion of seeding and planting. Within two (2) weeks after the completion of seeding and planting, the operator shall complete the form entitled "Planting Report" and file same with the local area office.

(11) Time limits. Revegetation procedures shall commence within six (6) months after the establishment of final grade. An inspection will be made by the division upon receipt of the "Planting Report" and also within six (6) months of the establishment of final grade to determine if the operator is in compliance with his plan. If the division determines that the operator is not in compliance with his plan at the six (6) months inspection, the division shall proceed under Section 16(1) of this regulation.

(12) Complete bond release. Complete bond release shall be made after partial bond release and upon the establishment of the required percentage of vegetative cover and all measures specified in the plan.

(a) Where the plan specifies grasses, legumes, and trees, the required vegetative cover shall be at least seventy (70) percent and shall consist of the seeded species and shall have at least 600 living woody plants per acre, including volunteers, with the distribution of the stems uniform on all areas where trees are required.

(b) Where the plan specifies grasses and legumes only, the required vegetative cover shall be at least eighty (80) percent and shall consist of the species specified in the plan.

(c) Where the plan specifies the development of a wildlife habitat, which total areas shall not exceed fifteen (15) percent of the permitted area, the required vegetative cover and species composition requirements of subsection (12)(a) and (b) shall be modified in accordance with the approved wildlife habitat plan. In addition, the composition of these species shall include perennial plants to control erosion and maintain vegetative cover in the event that management of the area ceases upon the complete release of the operator's performance bond.



(d) The measurement of the percentage of vegetative cover attained by the operator will be made by the division within one (1) year of the date on which the final grade is established.

Section 8. Mine Closing. (1) If the extraction of coal from an underground mine is discontinued for a period not to exceed two (2) years, said discontinuance shall be deemed a temporary closure for the purpose of this regulation. However, if the discontinuance exceeds a period of two (2) years it shall be construed a permanent closing for the purposes of this regulation.

(2) (a) When a mining operation is permanently closed, all structures, buildings, facilities, and equipment, the use of which is or could be associated exclusively with underground mining, shall be dismantled and removed or buried, and all metal, lumber, equipment and debris removed from the area or buried. Pits shall be filled and all exposed seams of coal shall be covered with a minimum of four (4) feet of non-acid producing material. The fill shall be graded to slope away from the highwall at an angle not to exceed ten (10) degrees from the horizontal. Any mine openings, exposed shafts or tunnels which are required to be sealed by the Kentucky Department of Mines and Minerals or any agency of the United States Government shall be sealed prior to grading.

(b) Upon permanent closing of an operation, any structure, building, facility or equipment which would otherwise be required to be torn down or removed under this section may be left in place if the surface owner and operator jointly request in writing that such structure, building, facility or equipment be left on site, and the surface owner agrees in writing to accept responsibility for its maintenance.

(3) Where the use of a mine management area, processing area, refuse area, or transportation area on either a new or existing operation is temporarily discontinued, such area shall be cleared of scrap metal, used lumber, abandoned equipment, and all debris resulting from the operation, and structures, buildings and facilities thereon shall be put into and maintained in a state of good repair during the period of non-use.

(4) The land on which dismantled or removed structures have stood shall be reclaimed.

Section 9. Procedure for increase or decrease of acreage affected by permit. (1) The division may increase or reduce the area of land affected by an operation under a permit upon application by an operator. The operator shall file a complete application, including modified maps, in the same form and with the same content as required for an original application under this regulation. Any request for increase in acreage made pursuant to this section shall be accompanied by a bond in an amount to be determined by the division. The amount of the bond required by reason of an increase in acreage shall be computed in the manner set forth in Section 4(3) herein; provided, however, that the minimum bond requirement of \$5,000 shall not apply to the increase in acreage.

(2) If the department approves a decrease in the acreage subject to the permit, it shall release the bond in an amount proportionate to the decrease in acreage, but in no event shall the bond be reduced below \$5,000.

Section 10. Denial of Permits, Deletion of Land Areas. (1) No application for a permit shall be approved by the department if there is found on the basis of the information

set forth in the application that the requirements of this regulation will not be observed or that there is not probable cause to believe that the proposed method of operation, backfilling, grading or reclamation of the area of land affected can be carried out consistent with the purpose of this regulation and KRS Chapter 350;

(2) If the department finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the Commonwealth with a similar type operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides, or acid water pollution cannot feasibly be prevented, the department may delete such part of the land described in the application upon which such overburden exists; and

(3) If the department finds that the operation will constitute a hazard to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake or other public property, the department shall delete such areas from the permit application before it can be approved.

Section 11. Report on Cessation of Operation, Contents. Within sixty (60) days after the date of cessation of operation, the operator shall file with the division a report stating the exact number of acres of land affected by the operation, the extent of the reclamation accomplished, and such other information as may be required by the division. The report shall be accompanied by a copy of the map filed with the original application which shall show any revisions made necessary as a result of the operation.

Section 12. Succession of One Operator by Another at Uncompleted Project. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the division may release the first operator from all liability under this regulation as to that particular operation; provided, however, that both operators have been issued a permit and have otherwise complied with the requirements of this regulation and KRS Chapter 350, and the successor operator assumes as part of his obligation under this regulation and KRS Chapter 350 all liability for the reclamation of the area of land affected by the former operator.

Section 13. Reclamation Work by Department, Procedure, Acceptance of Federal and Other Funds, Access to land. (1) In the reclamation of land affected by mining for which it has funds available, the department may avail itself of any services which may be provided by other state agencies or by agencies of the federal government, and may compensate them for such services. The department may also receive any federal funds, state funds or any other funds for the reclamation of land affected by mining. The department may cause the reclamation work to be done by its own employees or by employees of other governmental agencies, soil conservation districts, or through contracts with qualified persons. Such contracts shall be awarded to the lowest responsible bidder upon competitive bids after advertisement. The department and any other agency and any contractor under a contract with the department shall have the right of access to the land affected to carry out such reclamation.

(2) Any funds available to the department and any public works program (both funds and services) may be used and expended to reclaim and rehabilitate any lands that have been subjected to mining that have not been



reclaimed and rehabilitated in accordance with standards set by this regulation or KRS Chapter 350 and which are not covered by bond to guarantee such reclamation.

(3) A person or organization, having qualifications acceptable to the division, may post bond or a cash deposit, in a sum determined by the division, and assume the liability for carrying out the reclamation plan approved by the division in areas where the mining operation and any necessary grading and backfilling have not been completed. The department shall then release the bond posted by the operator for such area.

**Section 14. Signs.** An appropriate sign shall be displayed at the first mine building encountered along each access road from the public road or highway. The sign shall be at least two (2) feet by four (4) feet, constructed of a durable material, clearly visible from the access road, and shall clearly identify the name of the operator and number of his permit. The sign shall be maintained by the operator during the life of the operation, and until all bonding has been released, and shall be kept legible and visible.

**Section 15. Notification of Emergencies.** Any operator shall immediately notify the division, by the fastest available means, of any situation which constitutes a danger to life or property including, though not limited to, the discharge of pollutants into a stream, and shall immediately take the necessary corrective measures.

**Section 16. Notice of Non-compliance, Suspension or Revocation of Permit, Bond Forfeiture, Denial of Future Permits for Non-compliance.** (1) If any requirement of this regulation, or any order of the department issued pursuant thereto has not been complied with or has not been complied with within the time limits set by the department or by this regulation, the department shall cause a notice of non-compliance to be served upon the operator.

(2) A suspension of part or all of a permitted area shall be ordered by the department for violations of this regulation or any departmental order when necessary to prevent environmental damage that may result from the continued operation of the site, and a suspension may be ordered when the operator has failed to comply with a departmental order or these regulations. No suspension or revocation shall be made prior to an investigation and an opportunity for the operator to be heard at a hearing.

(3) A notice of non-compliance or notice of suspension hearing shall be handed to the operator in person or served by certified mail, return receipt requested, or by registered mail addressed to the permanent address shown on the application for a permit. The notice of non-compliance or notice of hearing for suspension or revocation shall specify in what respect(s) the operator has failed to comply with this regulation or orders of the department or is otherwise in violation of law.

(4) An operator's permit may be revoked by the department if:

(a) the operator is in repeated non-compliance with this regulation;

(b) the operator violates a departmental order to take corrective measures; or

(c) the operator does not take corrective measures within the time limits prescribed by the department.

(5) When a bond is forfeited pursuant to this regulation, the secretary shall give notice to the appropriate legal authority, who shall collect the forfeiture.

(6) An operator whose mining permit has been revoked

or suspended shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this regulation in respect to all permits issued him; provided further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without costs to the state. The department shall not issue any additional permits to any operator who has repeatedly been in non-compliance or violation of this regulation or departmental orders, or who has had permits revoked on more than three (3) occasions.

**Section 17. Penalties.** Any person or operator who violates any of the provisions of this regulation or who fails to perform the duties imposed by these provisions, or who fails or refuses to obtain a permit as required herein, or who violates any determination or order issued pursuant to this regulation or KRS Chapter 350 shall be subject to the imposition of the penalties set out in KRS 350.990, such penalties to be sought in the manner therein established.

**Section 18. Severability.** The specific declaration by a court of competent jurisdiction that any of the provisions of this regulation are invalid shall not abrogate the validity of the portion remaining which any such court shall leave unchallenged.

**Section 19. Variances.** The department may, upon written request of the operator, including his justification therefore, and upon the recommendation of the Director and the Commissioner of the Department's Bureau of Natural Resources, provide for variances to the procedures and requirements set forth herein; provided, that said variances do not permit acts which are inconsistent with the purposes and requirements of this regulation or KRS Chapter 350. Such written request and justification shall not be required when the department determines that such variances are necessary to permit experiments to develop improved methods of reclamation.

**Section 20. Conflicting Regulations.** In the event that two (2) or more regulations promulgated by the department impose standards which are at variance with one another when applied to the same set of circumstances, that regulation requiring the more restrictive standards shall apply.

ROBERT D. BELL, Secretary

ADOPTED: July 8, 1977

RECEIVED BY LRC: July 8, 1977 at 1:45 p.m.

**PUBLIC HEARING:** Pursuant to KRS 13.085, a public hearing on this proposed regulation is scheduled for September 1, 1977 at 10 a.m. prevailing Frankfort time, in the Auditorium of the State Office Building, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact John D. Witt, Commissioner, Bureau of Natural Resources, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.



**EDUCATION AND ARTS CABINET**

Department of Education  
Bureau of Instruction

**704 KAR 20:076. Elementary teacher's endorsement for middle grades.**

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 for Elementary and Secondary 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 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. An endorsement for classroom teaching in the middle grades, 5 to 9, shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who holds a certificate valid for classroom teaching in the elementary grades and who has completed the approved program of preparation for the middle grades endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM, Superintendent

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

**SUBMIT COMMENT OR REQUEST FOR HEARING**  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**

Department of Education  
Bureau of Instruction

**704 KAR 20:078. High school teacher's endorsement for middle grades.**

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 for Elementary and Secondary 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 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. An endorsement for classroom teaching in the middle grades, 5 to 9, shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who holds a certificate valid for classroom teaching at the high school level and who has completed the approved program of preparation for the middle grades endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

**SUBMIT COMMENT OR REQUEST FOR HEARING**  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**

Department of Education  
Bureau of Instruction

**704 KAR 20:194. Social workers' standard certification.**

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 for Elementary and Secondary 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 board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The standard certificate for school social worker shall be issued in accordance with the pertinent



Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the qualifications for provisional certification for the position of school social worker, three (3) years of successful experience as a school social worker, and a minimum of sixty (60) semester hours graduate credit from an approved program of preparation which corresponds to this certification at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel. A minimum of thirty-six (36) semester hours of the graduate program shall be in addition to the qualifications for provisional certification and shall be selected from the professional component outlined in the state plan for the school social worker so as to provide further depth and breadth of preparation. As an alternate

curriculum the completion of a master's of social work degree from an institution accredited by the National Council on Social Work Education shall be accepted in lieu of the sixty (60) semester hour graduate curriculum stated above.

(2) The duration period for the standard certificate for school social worker shall be for continuing service.

JAMES B. GRAHAM,

Superintendent of Public Instruction

ADOPTED: June 14, 1977

RECEIVED BY LRC: July 1, 1977 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of July 6, 1977 Meeting

(Subject to Subcommittee approval at its next meeting on August 3, 1977.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, July 6, 1977, at 10 a.m. in Room 327 of the Capitol. Present were:

Members: Representative William T. Brinkley, Chairman; Senator Donald L. Johnson, and Representative David G. Mason.

Guests: Joe Bruna, Department of Fish and Wildlife Resources; Gerard R. Gerhard, Office of Attorney General; Ray Kring, Department of Revenue; Joe R. Johnson and Robert Wolnitzek, Department of Insurance; E. F. Perkins, Arthur S. Curtis, Jr., and Gene Brandenburg, Department for Natural Resources and Environmental Protection; Edward B. Hatchett, Department of Banking and Securities; Gary S. Cox and Roger L. Crittenden, Council on Higher Education; Paul B. Borden, Kentucky Higher Education Assistance Authority; Robert L. Warren and Robert Goodwin, Office of Auditor of Public Accounts; Robert H. Harrison and Larry D. Hamfeldt, Department of Labor; W. O. Hubbard, Ed Mann, D. J. Whitlock, R. M. Fry and H. Doyle Mills, Department for Human Resources; O. B. Arnold and A. A. Flatt, Department of Transportation; Mack J. Morgan, Jr. and John D. Hinkle, Kentucky Retail Federation; Don Chasteen, Kentucky Medical Association; Joseph Gumprecht, David W. Stucker and Lynn D. Wiseman, AAA Clubs; Betty Jo Denton Heick, County Court Clerk's Association; Theodore R. Curtis, County Court Clerk; Reba L. Shoulders, Department of Public Information.

Press: Herb Sparrow, U. P. I.; Livingston Taylor, The Courier Journal.

LRC Staff: William H. Raines, E. Hugh Morris, Mabel D. Robertson, Ollie Fint, Garnett Evins and Mark Watson.

The minutes of the June 1, 1977 meeting were approved.

The following regulations were deferred until the August 3rd meeting:

201 KAR 19:095. Professional practice standards; violations, penalties. Representative Mason requested that the regulation be deferred until a representative from the promulgating agency could be present to answer questions.

808 KAR 2:016. Care, maintenance and embellishment defined. Senator Johnson requested that the regulation be deferred. He questioned the term "overhead expense" as being too broad, and thought the agency should set some guidelines stating what constitutes overhead expense.

808 KAR 2:026. Separate registration for each cemetery. This regulation was deferred because it repeals the regulation which 808 KAR 2:016 will replace.

The following regulations were approved and ordered filed on motion of Senator Johnson, seconded by Representative Mason, with the exception of 601 KAR 9:005, Year-round registration system, on which Representative Mason voted "No."

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

#### KHEAA Grant Program

11 KAR 5:020. Definitions.

11 KAR 5:030. Student eligibility requirements.

11 KAR 5:070. Notification of award.

### COUNCIL ON PUBLIC HIGHER EDUCATION

#### Nonpublic Colleges

13 KAR 1:015. Licensing of private colleges.

### AUDITOR OF PUBLIC ACCOUNTS

#### Audits

45 KAR 1:010. County fee officials' audit standards.

### SECRETARY OF THE CABINET

#### Department of Revenue

#### Sales and Use Tax; General Exemptions

103 KAR 30:235. Sales to the federal government.

### EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

#### Public Records

200 KAR 1:011. Repeal of 200 KAR 1:010.



**DEVELOPMENT CABINET****Department of Fish and Wildlife Resources****Game**

301 KAR 2:047. Specified areas; seasons, limits for birds and small game.

301 KAR 2:105. Deer gun and archery season; restrictions.

**DEPARTMENT FOR NATURAL RESOURCES  
AND ENVIRONMENTAL PROTECTION****Bureau of Environmental Protection****Division of Plumbing**

401 KAR 1:130. Mobile home park waste systems and connections.

**Division of Water Resources**

401 KAR 4:020. General permit procedure exemptions.

**DEPARTMENT OF TRANSPORTATION****Bureau of Vehicle Regulation****Motor Vehicle Tax**

601 KAR 9:005. Year-round registration system.

601 KAR 9:025. Temporary tags.

**PUBLIC PROTECTION AND REGULATION CABINET****Department of Labor****Occupational Safety and Health**

803 KAR 2:020. Adoption of 29 CFR Part 1910.

803 KAR 2:030. Adoption of 29 CFR Part 1926.

**DEPARTMENT OF INSURANCE****Authorization of Insurers and General Requirements**

806 KAR 3:010. Reservation of insurer's names; fee.

**DEPARTMENT FOR HUMAN RESOURCES****Bureau for Administration and Operation****Controlled Substances**

901 KAR 1:030. Schedule IV substances.

**Bureau for Health Services****Radiology**

902 KAR 100:030. Posting and disposal requirements.

902 KAR 100:075. Group classifications.

**Bureau for Social Insurance****Medical Assistance**

904 KAR 1:003. Technical eligibility.

904 KAR 1:004. Resource and income standards of medically needy.

904 KAR 1:009. Physicians' services.

904 KAR 1:014. Out-patient hospital services.

904 KAR 1:024. Intermediate care facility services.

The meeting adjourned at 12:15 p.m., to meet again on Wednesday, August 3, 1977, at 10 a.m., in Room 327 of the Capitol.



# *Administrative Register* <sup>of</sup> *kentucky*

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11 KAR 5:030	750	7-6-77						

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