

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 4, NUMBER 3

SATURDAY, OCTOBER 1, 1977



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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.

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1977 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

HOW TO CITE: Cite all material in the *Administrative Register of Kentucky* by Volume number and Page number. Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

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

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

VOLUME 4, NUMBER 3

OCTOBER 1, 1977

PUBLICATION NUMBER 044310

Administrative Register of Kentucky

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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Room 300, State Capitol, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$24 per volume of 12 issues, beginning in August and ending with the July issue of the subsequent year.
Second class postage paid at Frankfort, Kentucky.

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Public Hearing Scheduled

PUBLIC PROTECTION AND REGULATION CABINET Department of Banking and Securities

A public hearing will be held at 10 a.m. EST on November 1, 1977 at the Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601 on the following proposed regulation [4 Ky.R. 140]:

808 KAR 3:040. Share draft accounts.

Emergency Regulations Now In Effect

JULIAN M. CARROLL, GOVERNOR
Executive Order 77-704

EMERGENCY REGULATION Department of Fish and Wildlife Resources

WHEREAS, the federal government has jurisdiction over migratory birds; and

WHEREAS, the Commonwealth cannot set its hunting seasons till notified of the decision of the federal government; and

WHEREAS, the Department of Fish and Wildlife Resources has determined and finds that an emergency exists and there is an immediate necessity to provide for regulation of the hunting season on migratory birds; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources, in conjunction with the Secretary of the Development Cabinet, pursuant to KRS 13.082 and KRS 150.300, has promulgated the Regulation herein above referenced:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and direct that the attached Regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor
DREXELL R. DAVIS, Secretary of State

CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources

301 KAR 2:024E. Migratory bird seasons.

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

PURSUANT TO: KRS 13.082

EFFECTIVE: August 22, 1977

EXPIRES: December 18, 1977

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed

herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons: (1) Doves: September 1 through October 31, 1977; December 10 through December 18, 1977.

(2) Woodcock: October 8 through December 2, 1977; December 10 through December 18, 1977.

(3) Wilson snipe: October 8 through December 2, 1977; December 10 through December 18, 1977.

(4) Teal; statewide: September 3 through September 11, 1977.

Section 2. Limits:

| | Bag Limits | Possession Limits |
|--------------|------------|-------------------|
| Doves | 12 | 24 |
| Woodcock | 5 | 10 |
| Wilson snipe | 8 | 16 |
| Teal | 4 | 8 |

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

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

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

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

(3) Teal: sunrise until sunset prevailing time.

Section 5. Wildlife management areas open to dove hunting (with certain exceptions): (1) Ballard County Wildlife Management Area, located in Ballard County; September 1 through October 15, 1977. No firearms shall be permitted on the Ballard County Wildlife Management Area except during shooting hours.

(2) West Kentucky Wildlife Management Area, located

in McCracken County; September 1 through October 15, 1977.

(3) Central Kentucky Wildlife Management Area, located in Madison County; September 1 through October 15, 1977.

(4) Curtis Gates Lloyd Wildlife Management Area, located in Grant County; September 1 through October 15, 1977. Closed areas are designated by refuge signs.

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

(a) Doves: September 1 through October 2, 1977; December 10 through December 18, 1977.

(b) Woodcock and snipe: December 10 through December 18, 1977.

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

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

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

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

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

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

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

(6) Dewey Lake Wildlife Management Area in Floyd County.

Section 7. This regulation will not be valid after December 18, 1977.

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

ADOPTED: March 7, 1977

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: August 22, 1977 at 8 a.m.

Amended Regulations Now in Effect

(The following regulation, as proposed to be amended, was published originally in Volume 3 of the *Administrative Register*. They were approved by the Administrative Regulation Review Subcommittee at its September 7, 1977 meeting and became effective on that date. They are republished here as a convenience to subscribers.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

Division of Occupations and Professions Board of Examiners and Registration of Architects As Amended

201 KAR 19:095. Professional practice standards; violations, penalties.

RELATES TO: KRS 323.095, 323.120

PURSUANT TO: KRS 323.210

EFFECTIVE: September 7, 1977

NECESSITY AND FUNCTION: To define basis for board to proceed against architects for unprofessional practice.

Section 1. Penalties for Unprofessional Practice. (1) The board may refuse to renew or may suspend for a period or revoke any license, or forbid practice by any architect for any of the following reasons:

(a) Gross incompetency or gross negligence.

(b) Unprofessional conduct or conduct tending to bring the profession into disrepute.

(c) Conviction of a felony.

(d) *Fraudulent* [Fradulent] or dishonest architectural practice.

(e) Use of false evidence, or misrepresentation in an application for licensing.

(f) Signing or affixing his seal to any plans, prints, specifications for buildings, or reports which have not been

prepared by him personally or by his employees under his supervision.

(2) The procedure for such action shall be in accordance with the provisions of KRS 323.130 and 323.140.

Section 2. Gross Incompetence and Gross Negligence Defined: The following acts or omissions shall be deemed to be gross incompetence or gross negligence within the meaning of the law and be cause for denial, suspension or revocation of a license:

(1) Willfully failing to use reasonable care and diligence in his professional practice, resulting in a building or structure being improperly constructed to the detriment of the occupants.

(2) Willfully failing to use reasonable care and diligence in preparing [contracts and other documents] *drawings, specifications, and other documents relating to the design and construction of buildings* for the protection of a client in all relationships as agent of the client.

Section 3. Unprofessional Conduct Defined: Any of the following acts by an architect shall be deemed to be "unprofessional conduct" and be cause for denial of registration, or suspension, revocation or refusal to renew a license to practice architecture:

(1) Accepting compensation for architectural services from other than his client or employer.

(2) Submitting competitive bids for professional employment, or knowingly competing against another architect on the basis of professional charges, or using

kickbacks or forgiveness of portions of his fee in order to obtain competitive advantage; or furnishing uncommissioned architectural services of any kind in the attempt to obtain competitive advantage; or misrepresenting his qualifications.

(3) Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless his client has been so advised and has waived any objection he may have had thereto.

(4) Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply such endorsement. However, he may be identified with any product, system, or service designed or developed by him.

(5) Engaging an agent or representative to solicit work on his behalf whose compensation is either (i) unreasonable or (ii) contingent, in whole or in part, upon the obtaining of professional work for the architect.

(6) Using paid advertising; indulging in self-laudatory, exaggerated, misleading, or false publicity; or soliciting, or permitting others to solicit in his name, advertisements for any publication presenting his work.

(7) [Knowingly,] Falsely or maliciously injuring the professional reputation, prospects or practice of another architect.

(8) Attempting to supplant another architect after a definite commitment has been made by the client for the latter's employment.

(9) Undertaking a commission for which he knows another architect has been retained until he has conclusively determined that the original commission has been terminated with reasonable compensation for work already performed by the latter.

Section 4. Conviction of a Felony: Any conviction of a felony within the United States of America or its possessions is prima facie evidence of misconduct.

Section 5. Fraudulent or Dishonest Practice Defined: The following practices shall be deemed to be "fraudulent or dishonest practice" within the meaning of the law and be cause for denial, suspension or revocation of a license to practice architecture:

(1) Making untrue or deceitful statements in an application for examination or registration, or in any other statements or representations to the board.

(2) Affixing his seal to any drawings other than those for which he is the author. All plans must be sealed by the author or authors thereof. "Authors" is defined as those in responsible charge of the preparation of plans which are made by them personally or under their supervision.

(3) Bribing any person or persons who may influence the selection of an architect.

(4) Willfully misleading or defrauding any person or persons employing him as an architect.

(5) Willfully violating the laws of Kentucky or any other state, *where such are applicable*, relating to the practice of architecture; or willfully violating any rule or regulation of this board made in pursuance to law.

(6) Using, or attempting to use, or practicing under, a license that has been suspended or revoked or which has not been renewed as required by law and the regulations of the board.

Section 6. Registration While Working for Others: (1) An architect may work as the employee of another architect without affecting the status of his registration.

(2) Or he may work as an employee for any firm in which his duties are not those of any architect, without affecting the status of his registration. But if he works as an architect for, or with, an individual not an architect, or a firm or corporation not under the control of architects, then he must maintain free and unbiased judgment and unrestrained use [used] of his professional prerogatives and services to clients; and the terms of his employment or agreement shall be compatible therewith, and such as to permit full compliance with the "obligations of practice," and these regulations.

(3) Violations of these requirements shall be cause for a license to be denied, suspended or revoked.

Section 7. (1) Office Staffing: A firm, partnership, or association maintaining one or more places of business in this state, except where a project office is established only for on-site supervision or inspection; shall maintain in charge of each separate place, a resident registered architect; "resident" as used in this section shall mean the architect or architects who spend the majority of the normal office hours in said place of business. The firm, partnership, or association shall inform the board of the name or names of the resident architect or architects in charge of each separate place of business. [Any office maintained by an architect in Kentucky must be staffed with an architect in charge who is licensed in this state;]

(2) Violations of this requirement shall be cause for a license to be denied, suspended or revoked.

L. WAYNE TUNE, Director

ADOPTED: August 7, 1977

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: August 16, 1977 at 3:20 p.m.

Proposed Amendments

**EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION
Division of Occupations & Professions
Board of Pharmacy
(Proposed Amendment)**

201 KAR 2:050. Licenses and permits; fees.

RELATES TO: KRS Chapter 315

PURSUANT TO: KRS 13.082, 315.035, 315.050, 315.060, 315.110(1) and (2), 315.191(2), 315.195, and 315.210

NECESSITY AND FUNCTION: This regulation is to provide reasonable fees for this agency to perform all the functions for which it is responsible and to operate within its budget. All monies are held in a trust and agency fund to the credit of the board.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits and the issuance and renewal of licenses and permits:

| | |
|---|------------|
| Application for a registered pharmacist license by examination including a license issued as a result thereof | \$ 75 |
| Application for a registered pharmacist license by reciprocity including license issued as a result thereof | \$100 |
| Certifying the grades of a licentiate of Kentucky to the licensing agency of another state.. | \$ 3 |
| Annual renewal of a pharmacist license | \$ 30 [20] |
| Annual renewal of an assistant pharmacist license | \$ 25 [10] |
| Duplicate pharmacist license certificate | \$ 10 |
| Application for a permit to operate a pharmacy | \$ 50 |
| Renewal of permit to operate a pharmacy..... | \$ 35 |
| Change of location or change of ownership of a pharmacy permit | \$ 35 |

JOHN H. VOIGE, Executive Secretary

ADOPTED: August 23, 1977

APPROVED: RUSSELL R. McCLURE, Secretary

RECEIVED BY LRC: September 7, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Kentucky Board of Pharmacy,
P. O. Box 553, Frankfort, Kentucky 40601.

**EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION
Division of Occupations and Professions
Board of Nursing Education
and Nurse Registration
(Proposed Amendment)**

201 KAR 20:130. Retaking examination.

RELATES TO: KRS 314.041, 314.051

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: The licensure examination indicates minimum competence for safe practice. If an individual cannot demonstrate the knowledge for minimum safe practice in five (5) years after graduation from an educational program they need remedial work and up-dating before again attempting to show competence. *This regulation is being amended by deleting subsection (3). It is no longer needed because of national test dates for the examination.*

Section 1. Retaking State Board Test Pool Examination.

(1) Candidates shall be required to rewrite only the test(s) failed, except those candidates who have not passed all tests of the licensing examination within two (2) years after the first writing. After two (2) years the total examination must be repeated each time and the applicant shall show evidence of having a remedial program in a school of nursing or with a registered nurse whose credentials are acceptable to the board each time the examination is repeated.

(2) If an individual does not achieve licensure within five (5) years after the date of the first examination after graduation she/he shall not be permitted to take the examination again without repeating a state approved nursing program.

[(3) When an individual has taken the state board test pool examination for an original license in another state, she/he shall not take the state board test pool examination for an original license in Kentucky.]

DORIS McDOWELL, Executive Director

ADOPTED: January 20, 1977

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: September 14, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Doris McDowell, R.N., Executive Director, Kentucky
Board of Nursing, 6100 Dutchmans Lane, Louisville,
Kentucky 40205.

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

301 KAR 1:055. Angling; limits and seasons.

RELATES TO: KRS 150.025, 150.470, 150.990

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: In order to perpetuate and protect the size and well being of fish populations, it is necessary to govern the size and numbers fishermen can harvest. *The Commissioner, with the concurrence of the Commission, finds it consistent with established fish management practices to increase the size limit for black bass and so amends this regulation.*

Section 1. The statewide season, creel limits and size limits for taking fish by angling shall be as follows except as specified on specific bodies of water by separate regulation:

| Species | Daily Creel Limits | Pos- session Limits | Size Limits Inches |
|--|--------------------------|---------------------------|--------------------------|
| Black bass (largemouth, smallmouth and Ky. bass) | 10 | 20 | 12[10] |
| Rock bass (goggle-eye, redeye) | 15 | 30 | None |
| Walleye (jack salmon, pike) | 10 | 20 | 15 |
| Sauger (sand pike, pickerel) | 10 | 20 | None |
| Muskellunge (musky, pike) | 5 | 10 | 30 |
| Northern pike | 5 | 10 | None |
| Chain pickerel | 5 | 10 | None |
| White bass (striped bass and yellow bass) | 60 | 60 | None |
| Rockfish (ocean striped bass) | 5 | 5 | 15 |
| Crappie | 60 | 60 | None |
| Trout (all species) | 8 | 8 | None |
| Frogs (bull frogs) | 15 | 30 | None |

Seasons for all species, except frogs (bull frogs), is year round. Frog [s] (bull frogs) season is May 15 to October 31, annually.

Section 2. All fish must be measured from the terminal end of the lower jaw to the tip of the longest tail fin. All fish caught that are smaller than those prescribed minimum lengths must be returned immediately to the waters from which they were taken in the best physical condition possible. Under no circumstances may a fisherman remove the head or the tail or part thereof of any of the above named fish while in the field and before he has completed fishing for the day.

Section 3. *The ten (10) inch size limit on black bass will remain in effect through December 31, 1977. On and after January 1, 1978, the size limit on black bass shall be twelve (12) inches.*

DR. JAMES C. SALATO, Chairman
 ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary

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

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

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

301 KAR 1:075. Giggling, grabbing or snagging, tickling and noodling.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.235, 150.360, 150.440, 150.445, 150.470

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. *The Commissioner with the concurrence of the Commission finds it necessary to revise the list of streams where giggling and snagging are prohibited and to authorize the hand grabbing of rough fish in all waters and so amends this regulation.*

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

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

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

Section 4. Giggling and/or snagging for rough fish is permitted night and day in all lakes and streams, except where specifically prohibited as described in Sections 2 and 5.

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

(1) (a) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, and in the Cumberland River in the area below Barkley Dam downstream to US 62 bridge.

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

(2) (a) Within 200 yards of any dam on any stream.

(b) Snagging only is permitted in the Tennessee River below Kentucky Dam subject to restrictions in 301 KAR 1:020.

(3) *Little Kentucky River—Trimble, [Russell Fork—Pike]*

(4) *Goose Creek—Russell and Casey,*

(5) *Casey Creek—Trigg,*

(6) Rough River, below Rough River Dam downstream to where Ky. 54 crosses the stream, and above the first rifle on Rough River Lake,

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

(8) Trammel Creek—Allen and Warren,

(9) *Peters Creek—Barren and Monroe*, [Long Creek—Allen]

(10) *Beaver Dam Creek—Edmonson*, [Puncheon Creek—Allen]

(11) *Canada Creek—Wayne*, [L. Whippoorwill Creek—Logan]

(12) Shultz Creek—Greenup,

(13) Sulphur Spring Creek—Simpson,

(14) Lick Fork Creek—Simpson,

(15) Sinking Creek—Breckinridge,

(16) Beaver Creek—Barren,

(17) Big Brush Creek—Green,

(18) Rough Creek—Hardin,

(19) *Claylick Creek—Crittenden*, [Cloverlick—Harlan]

(20) Lynn Camp Creek—Hart,

(21) Roundstone Creek—Hart,

(22) Ravens Creek—Harrison,

(23) Boone Creek—Fayette and Clark,

(24) Caney Creek—Elliott,

(25) *Greasy Creek—Leslie*, [Kinniconnick Creek—Lewis]

(26) Laurel Fork Creek—Harlan,

(27) Beaver Creek—Wayne,

(28) Craney Creek—Rowan,

(29) Swift Camp Creek—Wolfe,

(30) Middle Fork—Powell and Wolfe,

(31) War Fork—Jackson,

(32) Indian Creek—Jackson,

(33) Clover Bottom Creek—Jackson,

(34) Cane Creek—Laurel,

(35) Hawk Creek—Laurel,

(36) Beaver Creek—McCreary,

(37) *Little South Fork—McCreary and Wayne*, [Hurricane Fork—McCreary]

(38) Rock Creek—McCreary,

(39) Lick Creek—McCreary,

(40) Bark Camp Creek—Whitley,

(41) Dogslaughter Creek—Whitley,

(42) *Laurel Creek—Elliott*, [Bunches Creek—Whitley]

(43) Big Double Creek—Clay,

(44) *Hood Creek—Johnson and Lawrence*.

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

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

noodling shall be from 12:00 noon to 12:00 noon the following day, prevailing time.]

DR. JAMES C. SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

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

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

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

301 KAR 1:090. Bow fishing.

RELATES TO: KRS 150.025, 150.175, 150.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The purpose of this regulation is to define and limit bow fishing. It is necessary to protect the fish population. *The Commissioner, with the concurrence of the Commission, finds it necessary to amend this regulation to extend the bow fishing season to year around on all waters.*

Section 1. *Definition*. The words "bow and arrow" as used in this regulation means any long bow with a barbed arrow of one or more points, but does not include cross bows.

Section 2. *Permitted conditions and waters*. [Any person may take by bow and arrow, with twine and rope attached, rough fishes from:]

(1) *Rough fish may be taken year round during daylight hours by bow and arrow with line attached, from all waters except as specified in subsection (2).* [All navigable (see KRS 150.010) streams and impoundments which shall be open the year around, but all nonnavigable streams shall be closed during the month of May. The open season as applicable shall be during daylight hours between sunrise and sunset.]

(2) No bow and arrow *may* [can] be used within one (1) mile below Wolf Creek Dam or within 700 yards below Kentucky Dam or within 200 yards below any other dam in the state. All persons using the bow and arrow for fishing are required to have an appropriate fishing license and may take rough fish from either the bank or from a boat. There is no limit on the number of rough fishes taken.

DR. JAMES SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary

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

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

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

301 KAR 1:132. Sale of live bait.

RELATES TO: KRS 150.025, 150.175, 150.180, 150.280, 150.450, 150.485

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation gives the conditions and provisions under which live bait may be taken, transported, and sold. It is necessary to protect the state's aquatic resources. [fish populations]. It is necessary to amend this regulation to more clearly designate licenses needed to take and sell live bait, and to add a more effective method to take Asiatic Clam (*Corbicula fluminea*), a recently recognized live bait.

Section 1. Live bait includes minnows; shad; herring; crayfish; salamanders; all frogs, except bull frogs; all tadpoles; native lampreys; *Corbicula* and aquatic invertebrate organisms. [as herein referred to is defined in 301 KAR 1:130.] Live bait refers to the condition of the animal when taken even though it may eventually be sold as a part no longer living.

Section 2. Live bait may be sold by a licensed live fish and bait dealer if [:] purchased from a legal source as specified in this regulation. Live bait can be sold by a licensed commercial fisherman only if taken in accordance with this regulation. *Corbicula* may be taken and sold as bait by a licensed mussel fisherman. The source of live bait is legal if:

(1) They were hatched and [or] reared by a licensed propagator in standing private water (ponds or lakes) or commercial hatchery raceways within the boundaries of Kentucky.

(2) They were purchased from legal commercial sources [licensed commercial live bait dealers] located in states other than Kentucky; however, [all] licensed live fish and bait dealers doing [with a] business [establishment] in Kentucky having possession of live bait obtained [purchased] from sources outside of Kentucky must have a bill of sale showing the date and number of each kind of organism purchased or obtained.

(3) Purchased from a licensed mussel fisherman, *Corbicula* [Asiatic Clam] may, if taken by means of a legal brail, be resold as bait. No other species of mussel may be sold for bait.

(4) Purchased from a licensed commercial fisherman, *Corbicula* taken by means of a tagged commercial bait rake may be resold as bait as specified in Section 3. [Shad, and herring only taken by use of a dip net diameter three (3) feet or less or cast net nine (9) feet maximum diameter and three-eighths (3/8) inch maximum mesh in the Tennessee River, Kentucky River downstream from Lock 14, Ohio River, Cumberland River below Barkley Dam, Mississippi River and in all lakes 1,000 acres or larger.]

(5) Purchased from a licensed commercial fisherman. Shad, herring, and other live bait may be sold in whole or part if taken as specified in Section 3. [If taken by the use of a seine no larger than thirty (30) feet long, six (6) foot deep and one-fourth (1/4) inch mesh from the Mississippi and Ohio Rivers only.]

[(6) Unless otherwise stated in this regulation, gear must conform to those specifications listed in 301 KAR 1:130; except, special gear may be specifically permitted in a propagation permit.]

Section 3. Live bait may not be harvested by any method from any public stream for commercial purposes except as specified [noted] in this section [2(4) and (5)].

(1) Licensed commercial fishermen may sell live bait taken in legally set commercial fishing gear.

(2) Licensed commercial fishermen may take and sell shad and herring only if taken by use of a dip net of a diameter of three (3) feet or less made of any type material or cast net nine (9) feet maximum diameter with three-eighths (3/8) inch maximum mesh in the Tennessee River, Kentucky River downstream from Lock 14, Ohio, Cumberland River below Barkley Dam, Mississippi River and in all lakes 1,000 acres or larger.

(3) Licensed commercial fishermen may sell live bait if taken from the Mississippi and Ohio rivers only by the use of a one-fourth (1/4) inch mesh seine no more than thirty (30) feet long and six (6) feet deep.

(4) Licensed commercial fisherman may take and sell *Corbicula* by use of a tagged commercial live bait rake in commercial waters only.

(a) The rake may be no more than twenty (20) inches wide, have tines no longer than five (5) inches, the tines may be set no more than one (1) inch apart, and the basket of any material may be no larger than eight (8) inches by twenty (20) inches by ten (10) inches with a rigid handle no longer than twenty (20) feet. A commercial gear tag must be permanently attached to the handle.

(b) The rake must be operated with the handle in hand. No bridle to permit dragging is allowed.

(c) All mussels taken other than *Corbicula* must be immediately returned to the water unharmed.

(d) It shall be illegal to have a commercial live bait rake in a boat that also has a mussel brail aboard or attached to the boat regardless of what type licenses the occupants possess.

Section 4. Possession of live bait by a licensed live fish or bait dealer obtained in any other manner than those specified in Section 2 is prohibited.

Section 5. All individuals, corporations, or other business entities transporting, selling, or possessing live bait for sale in Kentucky are required to have an appropriate live fish and bait dealers license issued in the name of the individual, corporation, or other business entity that is transacting business in this Commonwealth. This license or exact copy thereof must be in the possession of the persons who are transporting, selling, or possessing these organisms in Kentucky. This license is not in lieu of a propagation or transportation permit if they also are applicable to the operation.

Section 6. Those individuals, corporations, or other business entities transporting live bait from one state to another state through Kentucky without conducting any type of business in this Commonwealth are not required to have a live fish and bait dealers license, but must have a valid transportation permit.

Section 7. Those individuals, corporations, or other business entities who sell any of the organisms above mentioned for food in establishments licensed by another state

agency to sell retail or wholesale food stuffs are not required to have a live fish and bait dealers license.

DR. JAMES C. SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: September 13, 1977 at 3 p.m.

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

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

301 KAR 3:020. License fees.

RELATES TO: KRS 150.025, 150.175, 150.237, 150.225

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation sets the license fees for hunting and fishing as provided for in KRS 150.225. This amendment is necessary to *add a special experimental commercial fishing permit and remove discontinued or outdated commercial fishing licenses and gear tags.* [change the commercial fishing license fees and to change the price of the commercial gear tags to a block cost of ten (10) tags and to consolidate the number of different gear tags.]

Section 1. License fees for hunting and fishing are as follows:

| | |
|--|---------|
| (1) Sport fishing licenses: | |
| Statewide fishing license (resident)..... | \$ 5.00 |
| Statewide fishing license (nonresident) | 10.00 |
| Ohio River fishing license (resident Ohio, Indiana and Illinois only) | 5.00 |
| 15-day fishing license (nonresident only)..... | 4.00 |
| 3-day fishing license (nonresident only)..... | 2.50 |
| Trout stamp | 2.25 |
| Fishing and hunting license (combination resident) | 9.00 |
| (2) Commercial fishing license: (Effective until January 1, 1976) | |
| Commercial fishing license (resident) | 16.50 |
| Commercial fishing license (nonresident) | 35.50 |
| Ohio River commercial fishing license (resident Ohio, Indiana and Illinois only) | 16.50] |
| (2) [(3)] Commercial fishing license: [(Effective January 1, 1976, and thereafter until amended.)] | |
| Commercial fishing license (resident) plus 10 commercial gear tags | 50.00 |
| Commercial fishing license (nonresident) plus 10 nonresident commercial gear tags | 100.00 |
| Ohio River commercial fishing license (resident Ohio, Indiana and Illinois only) plus 10 Ohio River commercial gear tags | 50.00 |
| [(4) Hoop net tag: (Effective until January 1, 1976) | |

| | |
|--|--------|
| Commercial trotline tag (resident) | 2.50 |
| Commercial trotline tag (nonresident) | 6.00 |
| Ohio River commercial tag (resident Ohio, Indiana, and Illinois only) | 2.50] |
| (3) [(5)] Commercial gear tag: (Not to be sold singly.) [(Effective January 1, 1976, and thereafter until amended.)] | |
| Commercial gear tag (resident) blocks of 10 tags | 15.00 |
| Commercial gear tag (nonresident) block of 10 tags | 40.00 |
| Ohio River commercial gear tag (resident Ohio, Indiana, and Illinois only) blocks of 10 tags | 15.00 |
| (4) <i>Special experimental commercial fishing permit</i> | 500.00 |
| [(6) Seine tag for each 100 ft. seine, gill net, trammel net or part thereof: (Effective until January 1, 1976) | |
| (resident) | 2.50 |
| (nonresident) | 4.50 |
| Ohio River commercial seine tag (resident Ohio, Indiana, and Illinois only) | 2.50] |
| (5) [(7)] Live fish and bait dealers license: | |
| Live fish and bait dealers license (resident): | |
| Separate license required for each place of business | |
| Live fish and bait dealers license (nonresident) .. | 30.00 |
| (6) [(8)] Musseling license (resident) | 17.00 |
| Musseling license (nonresident) | 250.00 |
| (7) [(9)] Hunting license: | |
| Statewide hunting license (resident) | 5.00 |
| Statewide hunting license (nonresident) | 27.50 |
| Statewide hunting license (3-day nonresident) (small game only) | 10.00 |
| Statewide Jr. hunting license (resident only) | 3.50 |
| Hunting and fishing license (combination resident) | 9.00 |
| (8) [(10)] Trapping license (resident) | 5.00 |
| Trapping license (nonresident) | 27.50 |
| Trap tags | .05 |
| (9) [(11)] Big Game permit (deer) (resident or nonresident) | |
| (10) [(12)] Taxidermist license | 5.00 |
| (11) [(13)] Commercial guide license (resident) | 10.00 |
| Commercial guide license (nonresident) | 30.00 |
| (12) [(14)] Fur processor's license (resident) .. | 100.00 |
| Fur buyer's license (resident) | 7.50 |
| Fur buyer's license (nonresident) | 100.00 |
| (13) [(15)] Special nonresident hunting preserve license valid only for preserve issued (not required if hunter has valid hunting license) | |
| (14) [(16)] Kentucky regulated shooting preserve permit | 5.00 |
| (15) [(17)] Propagation permit (either fish or game) including pet permit | 25.00 |
| (16) [(18)] Scientific permit | 5.00 |
| (17) [(19)] Mussel buyer's license (resident) .. | 1.00 |
| Mussel buyer's license (nonresident) | 100.00 |
| (18) [(20)] Food permit for selling bobwhite quail from propagation farms only | 300.00 |
| Retail food permit for propagated quail | 100.00 |
| (19) [(21)] Commercial waterfowl shooting permit fee (Operator's license) | 1.00 |
| (20) [(22)] Falconry permit (birds of prey) | 25.00 |
| (21) [(23)] Pay lake license (minimum \$50 for first two acres or less; \$10 per additional acre or part thereof up to maximum of \$100) | 10.00 |

Section 2. The kind of license or tags authorized by this regulation shall not be changed, altered or defaced in any manner, except trout stamp, which must carry the licensee's signature in ink across the face of stamp and be attached to the back of the proper fishing license. All licenses, permits, tags and stamps are nontransferable.

DR. JAMES C. SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary

RECEIVED BY LRC: September 13, 1977 at 3 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 3:020. Advertising devices on federal aid primary system.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS 13.082, 174.050, 177.830 to 177.890

NECESSITY AND FUNCTION: KRS 177.830 to 177.890 authorizes the Bureau of Highways to establish regulations for the control of advertising devices on the Federal Aid Primary System.

Section 1. (1) Except as provided in this regulation no person shall erect or maintain any advertising device within any protected area if such device is legible or identifiable from the main traveled way of any federal aid primary highway.

(2) The erection or maintenance of any advertising device located outside of urban areas and beyond 660 feet of the right of way which is legible and/or identifiable from the main traveled way of any federal aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

Section 2. Definitions. (1) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highway, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(2) "Billboard" advertising devices are those devices that contain a message relating to an activity or product that is foreign to the site on which the device and message is located or is an advertising device erected by a company

or individual for the purpose of selling advertising messages for profit.

(3) "On-premise" advertising devices are those devices that contain a message relating to an activity or the sale of a product on the property on which they are located.

(4) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the center line of the main traveled ways of a non-divided highway.

(5) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any way bring into being or establish.

(6) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(7) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking area.

(8) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(9) "Protected areas" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet of the edge of the right-of-way of all federal aid primary highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected areas" means all areas inside the boundaries of the Commonwealth which are within 660 feet of the edge of the right-of-way of a federal aid primary highway in an adjoining state.

(10) "Federal aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass including a turnpike or limited access highway which is designated a portion of the federal aid primary highway system as may be established by law or as may be so designated by the Bureau of Highways and the United States Department of Transportation.

(11) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing such relationship.

(12) "Turning roadway" means a connecting roadway for traffic turning between two (2) intersecting legs of an interchange.

(13) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(14) "Permitted" as used in this regulation means to exist only by permit from the Department of Transportation, Bureau of Highways.

(15) "Allowed" as used in this regulation means to exist without a permit from the Department of Transportation, Bureau of Highways.

(16) "Commercial or industrial zone" means an area zoned for business, commerce or trade pursuant to state or local law, regulation or ordinance. To be zoned commercial or industrial, the entire city or county must be "comprehensively" zoned.

(17) "Comprehensively zoned" means that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(18) "Unzoned commercial or industrial area" means an area which is not zoned by state or local law, regulation or

ordinance and on which a commercial or industrial activity is located, together with an area extending along the highway for a distance of 700 feet on each side of the activity boundary line and on the same side of the road. Each side of the highway where a commercial or industrial activity is located will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or process areas of the activities and not, from the property boundary lines.

(19) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

- (a) Outdoor advertising structures.
- (b) Hospitals, nursing homes, cemeteries, funeral homes, etc; professional office buildings; and roadside markets not open over three (3) months a year.
- (c) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
- (d) Activities normally or regularly in operation less than three (3) months a year.
- (e) Transient or temporary activities.
- (f) Activities not visible from the main traveled way.
- (g) Activities more than 300 feet from the nearest edge of the right-of-way.
- (h) Activities conducted in a building principally used as a residence.
- (i) Railroad tracks and minor sidings.
- (j) The sale or leasing of property.

(20) "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one (1) state, that part of the urbanized areas in each such state or an urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation. Such boundaries shall as a minimum encompass the entire urban place designated by the Bureau of the Census. Such urban areas shall be designated by official order of the Kentucky Secretary of Transportation.

(21) "Routine maintenance" means that maintenance is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting or manipulating to level or plumb the device but not to the extent of adding guys or struts for the stabilization of the sign or structure or substantially changing the sign. Replacement of new or additional panels or facing shall not constitute routine maintenance. The routine changing of messages is considered to be routine maintenance. Routine maintenance includes laminating or preparing panels in a plant or factory for the changing of messages.

(22) "Activity boundary line" means regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the activity.

(23) "Abandoned or discontinued" means that for a period of one (1) year or more that the sign:

- (a) Has not displayed any advertising matter; or
- (b) Has displayed obsolete advertising matter; or
- (c) Has needed substantial repairs.

(24) "Non-Conforming sign" means a sign which was unlawfully erected but does not comply with the provisions of state law or regulations passed at a later date or later

fails to comply with state law or regulations due to changed conditions such as but not limited to, zoning change, highway relocation or reclassification, size, spacing or distance restrictions. Performance of other than routine maintenance shall cause a non-conforming sign to lose its status and to become an illegal sign.

(25) "Destroyed" means that the sign has sustained damage by any means in excess of sixty (60) percent of the structure and facing or sixty (60) percent of the replacement value of such sign.

(26) "Church and civic club off premise sign" means any nationally, regionally or locally known religious, or non-profit organization advertising device.

(27) "Public service sign" means a sign erected or located on a school bus shelter.

(28) "Public service message" means a message pertaining to an activity or service which is performed for the benefit of the public and not for profit or gain of a particular person, firm or corporation. This definition applies to signs on school bus shelters only.

Section 3. General Provisions. (1) Erection or existence of the following advertising devices may not be permitted or allowed in protected areas;

(a) Advertising devices advertising an activity that is illegal under state or federal law.

(b) Obsolete advertising devices.

(c) Advertising devices that are not clean and in good repair.

(d) Advertising devices that are not securely affixed to a substantial structure.

(e) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(f) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(g) Signs which contain, include, or are illuminated by any flashing, intermittent or moving lights, except those giving such public service information as time, date, temperature or weather and limited to two (2) displays per cycle. They may contain no commercial message.

(h) Advertising devices which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway, or unless it is of such low intensity or brilliance as not to glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(i) Advertising devices which move or have any animated or moving parts, unless they are "on-premise" advertising devices and are located in commercially or industrially zoned areas.

(j) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(k) Advertising devices erected upon or overhanging the right-of-way.

(l) Advertising devices exceeding 1,250 square feet in area, including border and trim, but excluding supports.

(2) An advertising device which is not visible from the main travelled way of the highway may be allowed in protected areas.

(3) If the advertising device is legible from more than one (1) highway on which control is exercised, the appropriate criteria applies to all of these highways. (See also: 603 KAR 3:010.)

(4) No advertising device may be erected or maintained within the state right-of-way except directional or other official signs or signals erected by the state or other public agency having jurisdiction.

(5) Directional and other official signs, including signs placed by the Bureau, signs denoting the location of underground utilities (limited to two (2) square feet), signs erected by federal, state and local governments to delineate boundaries of reservations, parks or districts (limited to 150 square feet), civic and church signs giving meetings, time and place (limited to eight (8) square feet and limited to locations specifically permitted by the Bureau), and signs such as "posted," "no fishing," "no hunting," etc. placed by property owners to discourage trespassing (limited to two (2) square feet) *may be permitted or allowed subject to other provisions in these regulations.*

(6) No on-premise advertising device, in zoned or unzoned commercial or industrial areas, will affect spacing for billboard advertising devices.

(7) A permit will be required from the Department of Transportation Bureau of Highways for any billboard advertising device. On-premise advertising devices will be allowed and controlled by surveillance.

(8) A non-conforming sign may continue to exist until just compensation has been paid to the owner, only so long as it is:

- (a) Not destroyed, abandoned or discontinued; and
- (b) Subjected to only routine maintenance; and
- (c) A sign conforming to local zoning or sign or building restrictions.

Section 4. Measurements of Distance. (1) In determining protected areas, distances from the edge of a right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the center line of a highway for a distance of 660 feet.

(2) In measuring distances for determination of spacing for billboard advertising devices, two (2) lines shall be drawn perpendicular to the center line of the main traveled way, so as to cause the two (2) lines to embrace the greatest longitude along the center line of said highway.

(3) V-shaped or back to back type billboard advertising devices shall have no greater distance than fifteen (15) feet apart at the nearest point and must be connected by bracing or maintenance walkway.

(4) The spacing for billboard advertising devices as described in Section 5, subsections (12) and (13) shall be measured from the nearest point between each device.

(5) In measuring distances for the determination of an unzoned commercial or industrial area, two (2) lines shall be drawn perpendicular to the center line of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway. All areas within the confines of these lines shall be considered a part of the unzoned commercial or industrial area. Measurements for these areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet in each direction.

Section 5. "Billboard" advertising device provisions.

(1) "Billboard" advertising devices may be constructed and maintained in protected areas which are zoned or unzoned commercial or industrial as defined in Section 2, subsections (16) and (18) of this regulation and comply with the provisions of this regulation for this type advertising device and other applicable state, county or city zoning ordinances or regulations and shall be limited to a maximum of 1,250 square feet subject to other provisions of this regulation.

(2) V-shaped or back to back "billboard" advertising devices will be considered as one (1) advertising device structure and must meet specifications as described in Section 4, subsection (3).

(3) "Billboard" advertising devices may contain two (2) messages per facing not to exceed the maximum sized area as set forth in Section 3, subsection (1).

(4) V-shaped or back to back structures will be allowed the maximum 1,250 square feet per facing.

(5) "Billboard" advertising devices that were legally erected may remain in place if they meet all criteria except spacing. Only routine maintenance may be performed on the sign and its structure until such time as proper spacing as described in this regulation is attained.

(6) Spacing rights will be issued on a "first come, first served" basis. Proof of lease of a site must accompany the application. Updating of proof of lease and application will be required annually until a sign has been erected.

(7) Billboard advertising devices may be permitted in zoned or unzoned commercial or industrial areas subject to other provisions of this regulation.

(8) Billboard advertising devices constructed in unzoned commercial and industrial areas will be permitted to exist as long as there is a commercial or industrial operated business. Upon the termination or abandonment of a business or industry for which the unzoned commercial or industrial area was created, the billboard advertising devices may remain in existence for one (1) year.

(9) No billboard advertising device may be illuminated by other than white lights.

(10) Any billboard advertising device which is legible or identifiable from the main traveled way must have an approved permit from the Department of Transportation, Bureau of Highways.

(11) No unzoned commercial or industrial area may be created when a commercial or industrial activity is more than 300 feet from the right-of-way.

(12) Spacing for billboard advertising device structures in unzoned commercial or industrial areas as described in Section 4, subsections (4) and (5) will be 300 feet measured from the nearest point between each advertising device, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time. This spacing will be reduced to 100 feet within incorporated municipalities which do not have comprehensive zoning.

(13) Spacing for billboard advertising device structures in any comprehensively zoned commercial or industrial area will be 100 feet, unless separated by a building, roadway, or natural obstruction, in such a manner that only one (1) sign located within the required spacing is visible from the highway at any time.

Section 6. "On-premise" advertising devices. (1) "On-premise" advertising devices may have a maximum of 1,250 square feet in area if they qualify as commercial or industrial activities as set forth in Section 2, subsection (19) of this regulation, and are on or within fifty (50) feet of the advertised activity and are within the property boundary lines of such activity.

(2) Only one (1) "on-premise" advertising device advertising a commercial or industrial activity as described in Section 2, subsection (19), may be located at a distance greater than fifty (50) feet from the activity boundary line.

This advertising device will be limited in size as set forth in subsection (4) of this section. All other advertising devices must be within fifty (50) feet of the advertised activity.

(3) To qualify as an "on-premise" advertising device, the device must be within the property boundary lines of the advertised activity.

(4) No "on-premise" advertising device may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim, but excluding supports, if it is farther than fifty (50) feet from the activity boundary lines (not the property boundary lines).

(5) Only one (1) "on-premise" advertising device which is listed as an exception in Section 2, subsection (19) may be located in such a manner that it is legible or identifiable from the main traveled way.

(6) Only one (1) of the following "on-premise" advertising devices may be located in such a manner that it is legible or identifiable from the main traveled way.

(a) The setting forth or indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located; or

(b) The name or type of business or profession conducted on the property on which the advertising device is located; or

(c) Information required or authorized by law to be posted or displayed on such property; or

(d) The sale or leasing of the property upon which the advertising device is located.

1. Advertising devices which are for the purpose of sale or leasing of property by a real estate company or agency will be limited to a six (6) month permit. After the six (6) months, the real estate company or agency name must be removed and the message advertising the sale or lease of the property along with the telephone number of the real estate company or agency is all that may remain. This will be a condition of the permit.

2. If the property is for sale by the owner and the owner is other than a real estate company, or agency the message stating the leasing or sale of the property may list the name of the owner (letters of owners name may be no larger than one-half ($\frac{1}{2}$) the size of the letters in the basic message), and the telephone number and will not be restricted to the six (6) month permit.

(e) Advertising customarily used at similar places of business that are not legible or identifiable from the main traveled way of the highway; or

(f) The advertisement or control of an activity or sale of products on the property where the advertising device is located.

(7) No advertising device referred to in subsections (5) and (6) of this section may exceed twenty (20) feet in length, width or height or 150 square feet in area including border and trim but excluding supports.

(8) Each business is permitted as many signs, stating only the name of the business, as they desire. In the absence of such signs, the owner may have one (1) sign giving the name of the business and a particular brand name product. The sign may not contain more than two-thirds ($\frac{2}{3}$) of the size for the brand name.

(9) The fact that a particular product is sold at a business will not be construed to mean that this is an activity.

(10) Brand name: "On-premise" advertising devices may advertise only the activities conducted upon the property on which they are located with exceptions as to type as follows:

(a) "Ford," "Chevrolet," "Pontiac," etc.

(b) "A & P," "Kroger," etc.

(c) "Kentucky Fried Chicken," "Bob Evans Restaurants," "Stuckeys," etc.

(d) Signs noting credit card acceptance or trading stamps may be allowed subject to a maximum size of eight (8) square feet.

(11) Brand names such as the following may not be advertised because they are incidental to the primary activity:

(a) "Auto-Lite," "Delco," etc.

(b) "8 O'clock coffee," "Armour meats," "Clabber Girl Baking Powder," etc.

(c) "Coca-cola," "Pepsi," "Winstons," etc.

Section 7. "Grandfather Restrictions," On-premise advertising devices in incorporated municipalities and urban areas. Grandfather restrictions as described in this section shall apply to the following advertising devices only:

(1) Only one (1) "on-premise" advertising device will be "permitted" to overhang the state right-of-way, advertising any one (1) business. This refers to only those advertising devices in existence at the time of the adoption of this regulation and where there is not space off the right-of-way to accommodate an advertising device.

(2) Any new building or structure which comes into being after the adoption of this regulation, which abuts or is upon the state right-of-way, in which a business or activity is to be located, and such business or activity requires an advertising device, such new device must meet the conditions set forth in subsection (4)(a) of this section in addition to other provisions of this section and other sections of this regulation.

(3) Only "routine maintenance" as described in this regulation will be "permitted" on any "on-premise" advertising device under grandfather restrictions in this section.

(4) Any time an existing "permitted" advertising device is replaced, it must comply with the following criteria: No advertising device or portion of an advertising device may be erected that extends more than two (2) feet beyond the face of the building, if the building is abutting or within the state right-of-way. This condition does not apply to advertising devices when the building or structure has a setback of more than two (2) feet from the state right-of-way. Any building with a setback from the right-of-way must reduce the overhang of the advertising device by the number of inches of the setback. No advertising device may be erected which has a base or any part of a base on the state right-of-way.

(5) Any advertising device with a base or any portion of a base which is located on the state right-of-way must be relocated off the right-of-way where there is sufficient space. If space is not available to relocate the existing advertising device off the right-of-way, relocation of the device must comply with restrictions as contained in subsection (4) of this section.

(a) Where there is space off the right-of-way to relocate an existing advertising device, the owner shall be notified and be allowed a reasonable amount of time to accomplish the relocation.

(b) In no instance shall the time allowed to relocate an advertising device, whose base is on the state right-of-way, exceed a five (5) year period. No permit shall be issued for this type advertising device.

(6) Any "on-premise" advertising device "permitted" under grandfather restrictions, or any new advertising device, which is "permitted" to be erected under the provisions of subsection (4) of this section, must have an ap-

proved permit from the Department of Transportation, Bureau of Highways, to be a legal advertising device.

(7) No advertising device will be "permitted" under this section which interferes with any official sign, signal, or device.

(8) Any advertising device "permitted" under this section must meet the requirements for an "on-premise" advertising device as set forth in this regulation.

Section 8. "Church and civic club off-premise signs" provisions:

(1) Signs which qualify as "church and civic club signs" as described in Section 2, subsection (26) and which do not exceed maximum size as described in Section 3, subsection (5) including border and trim but excluding supports and which have spacing of 100 feet from any other church or civic club advertising device structure, which measurement is described in Section 4, subsections (2) and (5) shall be permitted.

(2) Only one structure shall be permitted at any one (1) location.

(3) "Church and civic club signs" may contain the following message only:

(a) Name and address;

(b) Location and time of meetings, and a directional arrow;

(c) Special events such as vacation bible school, revival, etc., may be permitted. These temporary messages shall be in lieu of the original or a part of the original message and shall not exceed the maximum of eight (8) square feet.

(4) In the event two (2) organizations desire to erect one (1) structure for their signs, a "Welcome to (City or County)," may be placed at the top of the structure. No slogan, flamboyant design or special message shall be permitted in the "Welcome to" part of the sign.

(5) Maximum size for sign structures as described in subsection (4) of this section will be twenty (20) square feet, including border and trim excluding supports.

(6) Only one (1) advertising device structure which advertises a particular church or civic club, may be erected facing any one (1) direction in advance of the advertised activity on any one (1) road.

(7) No advertising device structure described in this section shall be permitted on the state right-of-way.

(8) Church and civic club sign structures will not affect spacing for "Billboard" advertising structures.

(9) Church and civic club sign structures must have a permit from the Department of Transportation, Bureau of Highways, to be a legal advertising device.

Section 9. "Public Service Signs:" "Public service signs" may be "permitted" if they conform to the following provisions:

(1) "Public service signs" may be permitted on school bus shelters only.

(2) Maximum size for a "public service sign" shall be thirty-two (32) square feet including border and trim.

(3) Must contain a public service message which occupies not less than fifty (50) per cent of the area of the sign.

(4) May identify the donor, sponsor or contributor of the shelter.

(5) Contains no other message.

(6) Has obtained an encroachment permit from the Bureau of Highways prior to the existence of the sign if it is to be located on the state right-of-way.

(7) Has been authorized or approved in writing by the ci-

ty or county having jurisdiction if it is to be located off the state right-of-way.

(8) Does not create a sight distance or safety hazard.

(9) Only one (1) sign on each shelter shall face in any one (1) direction.

CALVIN G. GRAYSON, Secretary

ADOPTED: September 6, 1977

RECEIVED BY LRC: September 12, 1977 at 4 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 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:
US 421

AAA-From Indiana State Line at Milton to Jct. KY 2004[22] at Sand Gap in Jackson County; [Pleasureville in Henry Co.; and from Broadway in Frankfort, via Wilkinson Blvd., and via Lexington, Richmond, and Big Hill to Jct. KY 2004 at Sand Gap in Jackson County] and from the north city limits of Manchester to Jct. KY 80 south of Manchester; and from Jct. US 119 at Baxter to Jct. KY 38 in Harlan; and from Jct. KY 987 at Cawood to Virginia State Line.

AA-[From Jct. KY 22 at Pleasureville in Henry Co. to Jct. Broadway and Wilkinson Blvd. in Frankfort; and] From Jct. KY 2004 at Sand Gap to N.C.L. of Manchester; and from Jct. KY 80 south of Manchester via Hyden to Jct. US 119 at Baxter; and From Jct. KY 38 in Harlan to Jct. KY 987 at Cawood.

KY 561

AAA[A]-From Jct. US 421 near the Franklin-Henry Co. Line to end of State Maintenance 0.28 mile N.W. of Gest in Henry Co.

*COMPILERS NOTE: Only those particular highways affected by the proposed amendment are shown here. 603 KAR 5:096 is printed in full in Volume 2, "Kentucky Administrative Regulations Service."

CALVIN G. GRAYSON, Secretary

ADOPTED: August 16, 1977

RECEIVED BY LRC: August 19, 1977 at 2:20 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Ed W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, 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, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) per cent 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.]

(18) [(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."

(19) [(20)] 29 CFR 1910.101(b) shall be amended by

revocation of referenced pamphlet P-1-1965 and the adoption P-1-1974, herein filed by reference.

(20) [(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.

(21) [(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.

(22) [(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:

(23) [(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 1910.190 Standards Organization, amended;

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

(24) 29 CFR 1910.401 through 1910.441, Subpart T, the Occupational Safety and Health Commercial Diving Standard, published in the Federal Register, Volume 42, No. 141, Friday, July 22, 1977, a copy of which is attached hereto, is hereby adopted by reference.

JAMES R. YOCUM, Commissioner

ADOPTED: August 25, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 9, 1977 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health, 151 Elkhorn Court, Frankfort, Kentucky 40601.

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

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

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, 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 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."

(7) The following paragraphs of 29 CFR 1926, Subpart U, *Blasting and the Use of Explosives*, which were previously adopted by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap this distance may be modified so long as the modification is adequately designed in compliance with .900(k)(5) to prevent any premature firing of electric blasting caps.

(b) 1926.900(k)(4) Mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, may be left "on" for receiving purposes but may only be used to transmit if in compliance with .900(k)(5).

(c) 1926.900(p) The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(d) 1926.900(r) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) 1926.902(d) Explosives, blasting agents, and blasting supplies shall not be transported with other materials or cargoes. Explosives or blasting agents shall be transported in separate vehicles from detonators unless separated by four inches of hardwood or a type 2 outdoor or type 3 magazine. (Ref. 26 CFR 181, Commerce in Explosives.)

(f) 1926.903(o) Deleted.

(g) 1926.905(h) Machines and all tools not used for drilling, loading, and covering the blast shall be removed from the immediate location of holes before explosives are delivered.

(h) 1926.905(i) No activity of any nature other than that which is required for blasting shall be permitted in a blast area.

(i) 1926.905(k) Holes shall be checked prior to loading to determine depth and conditions. Holes shall not be drilled where there is a danger of intersecting a charged or misfired hole.

(j) 1926.905(n) In underground blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of

Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(k) 1926.906(p) *The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the direction of the blaster.*

(l) 1926.906(q) *Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or blasters multimeters approved by M.E.S.A. under 30 CFR 18.68.*

(m) 1926.906(s) *Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.*

(n) 1926.907(a) *The use of a fuse that has been hammered or injured in any way shall be forbidden.*

(o) 1926.910(b) *Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.*

(8) Paragraph (e) of 29 CFR 1926.605 is amended to read as follows: "Commercial diving operations shall be subject to Subpart T of 29 CFR 1910.401 through 1910.441 as adopted by 803 KAR 2:020."

JAMES R. YOCUM, Commissioner

ADOPTED: August 25, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 9, 1977 at 11 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.

Federal Register April 25, 1975 Edition, Volume 40, Number 81, 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 1928.1 shall read as follows:

"This part contains Occupational Safety and Health Standards applicable to agriculture operations. The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1928 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) The additions which have been adopted by the U. S. Department of Labor, relating to Agricultural Standards, which are contained in 29 CFR 1928.57, Subpart D, Safety for Agricultural Equipment, published in the Federal Register, Volume 41, No. 47, Tuesday, March 9, 1976, and Volume 41, No. 109, Friday, June 4, 1976, copies of which are attached hereto, are hereby adopted by reference.

(3) Amendments which have been adopted by the U. S. Department of Labor by making several nonsubstantive editorial changes in 29 CFR Paragraph 1928.57, published in the Federal Register, Volume 41, No. 206, Friday, October 22, 1976, copies of which are attached hereto, are hereby adopted by reference.

(4) 29 CFR 1928.21 is hereby amended by revising Paragraph (b) as follows: *Except to the extent specified in Paragraph (a) of this section, the standards contained in Subparts B through T and Subpart Z of 29 CFR 1910, as adopted by 803 KAR 2:020, do not apply to agriculture operations.*

JAMES R. YOCUM, Commissioner

ADOPTED: August 25, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 9, 1977 at 11 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

Department of Labor
Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:032. Adoption of 29 CFR Part 1928.

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, regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulations contain those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of Agriculture.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1928, the Occupational Safety and Health Standards, published in the

PUBLIC PROTECTION AND REGULATION CABINET

Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 4:190. Out-of-state brewers bond.

RELATES TO: KRS 243.150, 243.040(7), 243.400

PURSUANT TO: KRS 13.082, 241.060

NECESSITY AND FUNCTION: KRS 243.150 provides for the licensing of brewers located within the State of Kentucky. This regulation requires out-of-state brewers desiring to do business in the State of Kentucky, to execute an agreement with the Kentucky Alcoholic Beverage Control Department and post a surety bond to insure their compliance with the alcoholic beverage control statutes and regulations of Kentucky. KRS 243.150 and 243.400, providing for brewer's licenses and bonds to insure the brewer's obligations under these statutes, make no reference to the word "person." As it is presently written, this regulation makes an inadvertent reference to "per-

son." It is necessary to delete the word "person" from the regulation in order that the regulation can conform to the two (2) said statutes.

Section 1. Any brewer, or authorized distributor of that brewer, or an importer of malt beverages from a foreign country, who are located outside the Commonwealth of Kentucky [or other person located outside the Commonwealth of Kentucky], who desires to sell malt beverages to a Kentucky licensee for the purpose of importation into Kentucky and resale therein, in order to qualify under this regulation, shall file with the department's malt beverage administrator, a surety bond in the penal sum of \$1,000, payable to the Commonwealth of Kentucky and conditioned on the principal's faithful performance and discharge of an agreement made with the Kentucky Alcoholic Beverage Control Department; and no Kentucky licensee shall purchase, receive or import any

malt beverages from any such brewer or unauthorized distributor of that brewer, or an importer of malt beverages from a foreign country, who are located outside the Commonwealth of Kentucky [or other person located outside of this state] unless said agreement and surety bond as provided in this section has been accepted by said department and approved by the malt beverage administrator and is concurrently effective. Said bond and agreement, unless suspended or revoked, shall be renewable annually on or before July 1.

BERNARD KEENE, Chairman

ADOPTED: August 23, 1977

APPROVED:

JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 2, 1977 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Alcoholic Beverage Control Board, 8th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Proposed Regulations

CABINET FOR DEVELOPMENT

Department of Fish and Wildlife Resources

301 KAR 1:140. Experimental commercial fishing permit.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.190, 150.450

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: Gill and trammel nets are the most effective gear for the taking of certain rough fishes, but they pose a danger of overharvest of the most desirable rough species and are a threat to certain sport fish if not properly regulated; therefore, the Commissioner with the concurrence of the Commission finds a need to authorize additional use of such gear experimentally through the issuance of a permit which will have strict termination provisions and other safeguards to control their use.

Section 1. Issuance of Special Experimental Permit. The commissioner, after giving due consideration to the composition of the commercial fish population, the vulnerability of the game fish involved, and the ability and reliability of the applicant may issue a special experimental commercial fishing permit to use four (4) inch bar mesh gill and trammel nets in specified waters, other than those designated in 301 KAR 1:145, Section 2(4)(b).

Section 2. Application for Permits and Revocations. An applicant for a special experimental permit to use gill and trammel nets shall file an application to which he signs his name attesting that he has read and will abide by all of the provisions of the permit and will obey all applicable game and fish laws and regulations or have his permit revoked without refund if found in violation by the commissioner. The offending permittee and assistants shall be ineligible to apply together or separately for another permit for a period of one (1) year following revocation.

Section 3. General Provisions of the Special Experimental Permit to use Four (4) Inch Bar Mesh Gill and Trammel Nets. (1) The applicant for a permit must possess a valid commercial fishing license.

(2) The permit fee shall be \$500.

(3) Waters open to special experimental permit fishing:

(a) Commercial fishing waters of Rough River Lake;

(b) Commercial fishing waters of Cumberland Lake.

(4) The permit shall be valid for one (1) year from date of issue.

(5) The permittee shall have no more than two (2) assistants who are licensed commercial fishermen listed on the permit. Assistants may be replaced at any time, after the conservation officer or officers in the counties fished are notified, and a written notice given to the commissioner. The name of a new assistant must be listed on the permit and all copies, and his predecessor's name marked out with ink.

(6) The permittee or assistants must have the permit or copy of the permit in possession at all times gear is being transported, set, raised, or run. Their names shall be on the permit or copy, and each must contain the same names.

(7) Illegal acts by permittee or assistants acting together or separately may result in permit revocation.

(8) The permittee shall make quarterly catch and sales reports to the commissioner no later than thirty (30) days following the end of March, June, September, and December. No subsequent permit will be issued until the final quarterly report required by the preceding permit is received by the commissioner. The report shall include:

(a) The number of each species caught by common name;

(b) Disposition of each fish;

(c) Duplicate sales receipts of all fish sold;

(d) The average total length of nets fished daily listing gill and trammel nets separately.

(9) All rough fish taken in the nets must be removed from the lake.

(10) Each net must be run at least once every twenty-four (24) hours.

(11) Each 100 feet of net must have attached one (1) special experimental gear tag provided by the commissioner with the permit or upon subsequent request by the permit holder which shall serve in lieu of the gear tags required in 301 KAR 1:145 Section 2(4)(b).

DR. JAMES C. SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary

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

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

CABINET FOR DEVELOPMENT Department of Fish and Wildlife Resources

301 KAR 3:061. Endangered species of fish and wildlife.

RELATES TO: KRS 150.025, 150.183

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the buying, selling, transporting, importing, processing and possessing of state and federally protected endangered fish and wildlife species. This regulation is necessary to comply with the U. S. Department of the Interior's Endangered Species Act of 1973 as amended. The function of this regulation is to protect and conserve those endangered fish and wildlife species appearing on present and revised future lists issued by the state and federal governments. The Commissioner, with the concurrence of the Commission, therefore finds it essential to promulgate a new regulation to meet statutory requirements for the management of endangered fish and wildlife.

Section 1. Possession, Buying and Selling Endangered Fish and Wildlife. It is unlawful for any person to import, transport, possess, process, sell or offer for sale any endangered species of fish and wildlife, or parts thereof, except as provided in Sections 3 and 4 of this regulation. Nor shall any article be made in whole or from any part or parts of any species of fish and wildlife designated as endangered by this regulation.

Section 2. Endangered Species, Definition and Exclusions. Any species or subspecies designated as endangered by the Secretary of the Interior on a current United States List of Endangered and Threatened Wildlife as recorded in 50 Code of Federal Regulations, Part 17, is considered an endangered species in Kentucky under the provisions of KRS 150.183. Those species described as "threatened" on the above federal list are not included under KRS 150.183 or this regulation.

Section 3. Exceptions and Permits. The Department of Fish and Wildlife Resources may, under permit, allow the importation, transportation, possession, sale or resale of any native or foreign endangered species or subspecies of fish and wildlife and part or parts thereof, for zoological,

educational or scientific purposes, and for the propagation of such fish and wildlife in captivity for preservation purposes, except as otherwise prohibited by federal and other states' statutes and regulations. This permit will be issued free of charge by applying in writing to the Commissioner of the Department of Fish and Wildlife Resources. Where applicable, an application for a Kentucky permit for zoological, educational or scientific purposes must be accompanied by a copy of the appropriate federal permit or permits from another state. The federal permit may be obtained by writing to the Director, U. S. Fish and Wildlife Service, U. S. Department of the Interior, Washington, D. C. 20240.

Section 4. Possession Prior to 1973. Any person or organization who, prior to the enactment of the Federal Endangered Species Act of 1973, had in their possession an endangered species or part or parts thereof, may continue to possess same without a state permit.

Section 5. 301 KAR 3:060 is hereby repealed.

DR. JAMES C. SALATO, Chairman
ARNOLD L. MITCHELL, Commissioner

ADOPTED: August 29, 1977

APPROVED: WILLIAM SHORT, Secretary

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

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

PUBLIC PROTECTION AND REGULATION CABINET Department of Labor Workmen's Compensation Board

803 KAR 25:025. Joint self insurers.

RELATES TO: KRS 342.350

PURSUANT TO: KRS 342.350

NECESSITY AND FUNCTION: This regulation establishes the procedure and minimum requirements through which groups of employers may join together to self-insure their workmen's compensation liability.

Section 1. Definitions. (1) "Group members" means employers who form a self-insurance group and who have common ownership, common interests or both.

(2) "Common ownership" means two or more entities with more than fifty (50) percent common ownership.

(3) "Common interests" means two or more entities that are members of a bona fide trade association or are engaging in similar activities and with similar worker's compensation risks.

(4) "Manual premium" means the premium produced by using applicable manual rates, manual classifications and payrolls without regard to premium discounts and experience modifications.

(5) "Normal premium" means the premium produced by the application of a percentage to the manual premium. This percentage shall be agreed upon by the trustees and the excess insurers, and shall be based upon the actual past

and anticipated future premiums and losses of the group members.

(6) "Aggregate excess insurance" means an insurance policy which covers statutory claims in excess of a certain percentage of the normal premium subject to a maximum dollar amount.

(7) "Specific excess insurance" means an insurance policy which covers the amount of any claim from any one occurrence involving one or more employees in the same accident or occurrence in excess of a specified dollar amount subject to a maximum dollar amount.

(8) "Loss fund" means the amount of the total retained liability for claims by the group members as set forth in the aggregate excess insurance policy.

(9) "Self-insurance fund" means the loss fund together with all other expenses of the group related to the self-insurance program, including aggregate and specific excess insurance, servicing organization fees, bonds, related taxes and other reasonable and necessary expenses.

(10) "Assessments" means charges to group members to sustain the self-insurance fund.

(11) "Surplus funds" means monies in the self-insurance fund resulting from investment income and resulting from earned premiums in excess of all losses and other costs for the period in which premiums were earned, including all reserves for outstanding liabilities.

(12) "Dividends" means periodic payments to group members from surplus funds.

(13) "Trustees" means persons to be elected by the group members and/or selected by the board of directors of the association for stated terms to direct the administration of the self-insurance fund.

(14) "Fiscal agent" means a person, partnership or corporation, other than a servicing organization or employees or agents of a servicing organization, with whom the trustees enter into a contract for the receipt, investment and disbursement of the self-insurance fund.

(15) "Servicing organization" means a person, partnership or corporation with whom the trustees enter into a contract to perform one or more of the following services:

- (a) Adjustment of claims;
- (b) Safety engineering;
- (c) Purchase of excess insurance;
- (d) Accumulation of statistics and the preparation of needed premium and loss reports and tax reports;
- (e) Development of members, assessments and dividends;
- (f) Administration of a revolving fund; and
- (g) Preparation of self-insurance reports as may be required by the trustees or law.

(16) "Manual" means the manual on worker's compensation insurance as filed by the National Council on Worker's Compensation and approved by the Kentucky Department of Insurance.

(17) "Board" means the Workmen's Compensation Board, Department of Labor, Commonwealth of Kentucky.

Section 2. Requirements for Group Self-Insurance. (1) A group of employers must file an application and an indemnity agreement in the form prescribed by the board to become group self-insurers. Such application must be filed not later than thirty (30) days prior to the proposed inception date of the self-insurance program. The indemnity agreement shall jointly and severally bind the group and each member thereof to comply with the provisions of the Kentucky Workmen's Compensation Act, the rules and

regulations of the board, and the decision of the trustees for operation of the group fund.

(2) Applicants must either meet the requirements of common ownership or common interests, or both.

(3) Group members must have a total estimated annual normal premium of not less than \$100,000. The total group must have a combined net worth of not less than \$500,000 as shown by sworn statements by the owners or officers of each group member. Statements need not be certified, but must have been prepared by a certified public accountant.

Section 3. New Members. New members of a group must meet all the requirements of an original member.

Section 4. Withdrawals. (1) Members of a group. In order to withdraw from a self-insurance group a member must give sixty (60) days notice to the trustees and the board, must receive written acknowledgement from the trustees, and is not entitled to receive any dividends for at least two (2) years after the effective date of its withdrawal.

(2) Entire group. Should a group determine to withdraw from its self-insurance program, the trustees must give thirty (30) days notice to the board and to each of the group members by certified mail and may pay no dividends without the specific written approval of the board for at least three (3) years following the close of each self-insurance year during which it operated. It must also show the board that it has made satisfactory arrangements for the continued payment and servicing of all outstanding claims.

Section 5. Trustees; Duties. (1) Trustees shall consist of not less than three (3) nor more than seven (7) persons, none of whom are to be officers, employees or agents of a servicing organization. The trustees shall have the authority to administer the operations of the self-insurance fund.

(2) The trustees on behalf of the group members shall be responsible for the assessment and collection of all funds from the group members for the self-insurance fund, and for the disbursement of all funds in accordance with written agreements between the trustees and all group members. Such disbursements shall include the payment of claims, or payments into a revolving fund from which such claim payments shall be made, payments of insurance and bond premiums, payment of fees under agreements with servicing organizations and fiscal agents, payment of dividends to members, payment of self-insurance taxes and payment of all other expenses which may be reasonable and necessary.

(a) The trustees may contract with a fiscal agent and/or servicing organization to perform these functions.

(b) A revolving fund of not more than twenty (20) percent of estimated annual normal premiums may be established for the use by a servicing organization for the payment of claims.

(3) The trustees may perform, if qualified, any or all of the functions of a servicing organization or may contract with a servicing organization to perform these functions.

(a) A servicing organization must be qualified to perform the functions that it contracts to perform. Its employees and/or agents must be duly licensed to perform those functions for which a license is required under Kentucky law.

(b) Any contract with a servicing organization that includes the adjustment and settlement of claims must include a requirement that the servicing organization will adjust to final conclusion any and all claims that result from

an occurrence during the period for which the contract is effective.

(c) If there is to be a revolving fund, the servicing organization must maintain a fidelity bond as required herein.

(4) Excess insurance:

(a) The trustees must purchase aggregate excess insurance for losses in excess of a percentage of the normal premium which shall be the retained liability of the group members. That retained liability and other fixed costs of the fund must not exceed 100 percent of the assessment of the group members, unless such amount over 100 percent is secured by unencumbered surplus monies of the group fund. The limit of liability of the aggregate excess insurance shall not be less than \$1,000,000 or fifty (50) percent of the normal premium, whichever is higher.

(b) The trustees shall purchase specific excess insurance with a limit of at least \$1,000,000 per occurrence.

(c) Contracts for excess insurance. Any casualty insurance company, to be eligible to write excess liability coverage for self-insurers in the State of Kentucky, shall at all times, in its financial statement on file with the Insurance Commissioner, show assets, including surplus to policyholders, at least equal to the latest Insurance Department requirements for admission of a new company to do business in the state. The financial and policyholder's ratings, as shown in the most current issue of "Best's Insurance Reports, Property-Liability," shall not be less than "IX" and "A," or "XII" and "B+" respectively. (The ratings are to be read separately, i.e., a rating of "X" and "B+" is not acceptable.) If, upon the publishing of "Best's" the company does not have a minimum rating of "A" policyholder's and "IX" financial or "B+" policyholders and "XII" financial, then the authorization for the company to write excess coverages shall be withdrawn immediately. In the event a company is not rated by "Best's," that company may be approved at the discretion of the board.

(5) Fund balances:

(a) Not less than thirty (30) days prior to inception of each self-insurance year, the trustees must collect from its group members an amount equal to not less than twenty-five (25) percent of the anticipated self-insurance fund for the ensuing year and must collect not less than one-third ($\frac{1}{3}$) of the remaining balance each thirty (30) days thereafter. The amount to be collected shall be based upon estimated annual assessments and shall be adjusted each year accordingly. The assessment to each member shall bear a relationship to the normal premium chargeable to that member.

(b) Disbursements from the fund shall be only for those purposes related to the self-insurance program. Dividends may not be paid for at least twenty-four (24) months after the expiration of the self-insurance term and may be paid only from surplus funds. The distribution of dividends between members shall be based upon a formula which may or may not reflect any individual member's claim experience. Additional dividends may be paid periodically thereafter from surplus funds.

(c) The formula to be used for assessments and for the distribution of dividends shall be in accordance with a written agreement between all members of the group.

(d) The trustees or its fiscal agent shall not utilize any of the monies collected as premiums for any purpose unrelated to worker's compensation. Further, it shall be prohibited from borrowing any monies from the fund. The trustees may, at their discretion, invest any surplus monies

not needed for current obligations, but such investments shall be limited to U. S. Government bonds, U. S. Treasury notes, investment share accounts in any savings and loan association whose deposits are insured by a federal agency, and certificates of deposit if issued by a duly chartered commercial bank. Such deposits in savings and loan associations and commercial banks shall be limited to institutions in the State of Kentucky and the safety of any investments which exceed the federally insured amounts shall be the responsibility of the trustees.

(6) Group members:

(a) The trustees shall not accept as a member of the group, any employer that does not have a net worth of at least two (2) times its estimated annual assessment, unless such employer pays its full annual assessment in advance. The trustees shall not accept as a member of the group any employer that does not meet all other qualifications for being a member of the group as set forth in the by-laws of the group.

(b) At the discretion of the trustees, the self-insurance program may include the Kentucky employees of foreign (out-of-state) employers.

(c) The trustees may suspend or expel any member from the group due to adverse claims experience and/or lack of cooperation with safety and loss prevention policies by giving the member and the board thirty (30) days notice.

(d) The trustees shall secure from each member of the group within forty-five (45) days of the close of the self-insurance year a report of actual payrolls for the year and shall produce from such report a premium adjustment. The trustees shall secure from each member an agreement to report such payrolls in accordance with the rules and classifications of the manual. Willful failure to properly report in accordance with such rules may result in immediate expulsion from the group. Such expulsion shall be reported to the board.

(e) At least thirty (30) days prior to due date, the trustees shall notify each group member of all assessments due, including annual adjustments, and failure by any member to pay such assessments within thirty (30) days of such notice may, at the discretion of the trustees, result in immediate suspension or expulsion from the group.

(7) Reports:

(a) The trustees shall utilize the services of a certified public accountant and shall file a certified audit each year with the board within 180 days of the end of the self-insured term.

(b) Within 120 days of the end of each self-insurance term, the trustees shall furnish group members a statement setting forth all premiums, losses and expenses and the allocation of assessments and the distribution of dividends among its members.

(c) The trustees shall file such additional reports as may be required by appropriate agencies of the Commonwealth.

(8) Bonds:

(a) The trustees shall provide a fidelity bond to the board in the amount of not less than \$100,000.

(b) The fiscal agent shall provide a fidelity bond to the trustees for not less than fifty (50) percent or \$1,000,000, whichever is the lower, of the funds to be handled by the fiscal agent. This requirement shall be waived if the fiscal agent is a national bank.

(c) The servicing organization shall provide a fidelity bond to the trustees of not less than two (2) times the amount of the revolving fund.

(d) In lieu of the bonds required under paragraphs (a),

(b) and (c) above, the trustees may secure a fidelity blanket bond in an amount not less than fifty (50) percent of the self-insurance fund or \$1,000,000, whichever is the lower; said bonds to include the trustees, personnel of the servicing organization and the fiscal agent, unless the fiscal agent is a national bank.

(e) The fund must provide a self-insurance surety bond to the board on a form prescribed by the board in an amount not less than seventy-five (75) percent of the annual normal premium, but not exceeding \$250,000.

(f) Any corporate surety, to be eligible for writing self-insurers' bonds in the State of Kentucky, shall be authorized by the Insurance Commissioner of the State of Kentucky to transact such a business in the state, and its latest financial statement on file with the Insurance Commissioner shall at all times show assets, including surplus to policyholders, at least equal to the latest Insurance Department requirements for admission of a new company to do business in the state. The policyholders' and financial ratings, as shown in the most current issue of "Best's Insurance Reports, Property-Liability," shall not be less than "B+" and "XII," or "A" and "IX," respectively. (The ratings are to be read separately, i. e., a rating of "X" and "B+" is not acceptable.) In the event a company is not rated by "Best's," a corporate surety may be approved at the discretion of the board. No surety shall expose itself to any loss on any one (1) risk in an amount exceeding its current U. S. Treasury limit.

(9) The group shall be considered as an individual employer for all purposes of taxation and the individual members of said groups shall not be exposed to tax liability other than liability existing as a result of the interindemnity agreement with the other group members and the self-insurance fund.

SHELBY DENTON, Chairman

JAMES R. YOCOM, Commissioner

ADOPTED: September 15, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 15, 1977 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Wm. L. Huffman, Director, Workmen's Compensation Board, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Banking and Securities

808 KAR 3:040. 'Share draft accounts.

RELATES TO: KRS 290.070, 290.220

PURSUANT TO: KRS 290.070

NECESSITY AND FUNCTION: KRS 290.070 empowers the Commissioner of Banking and Securities to make regulations necessary for the proper conduct and regulation of credit unions. This regulation authorizes credit unions to establish share draft accounts through the facilities of banks and remote service units.

Section 1. Definitions. For purposes of this regulation, the following terms shall have the following meanings unless the context demands otherwise:

(1) "Bank" means any bank, trust company, combined banking and trust company, combined banking and real estate title insurance business, combined trust and real estate title insurance business or combined banking, trust and real estate title insurance business.

(2) "Liquidity reserve" means a designated amount of the credit union's current assets recorded as cash, cash on deposit with a bank, or investments authorized by KRS 290.220; provided, that any deposits or investments included as a portion of this reserve shall be redeemable upon demand without loss of principal and shall have a maturity of ninety (90) days or less.

(3) "Payable-through bank" means a bank which receives a share draft for presentment to the credit union for payment.

(4) "Remote service unit" means an electronic or mechanical device through and by which communications from customers are received and acted upon by a bank or credit union.

(5) "Share draft" means a negotiable or non-negotiable draft payable through a bank and drawn upon the funds in a share draft account.

(6) "Share draft account" means a share account earning dividends in the same manner as regular share accounts, to which deposits may be made and on which drafts may be drawn.

Section 2. Subject to the limitations contained in Sections 3 and 4 of this regulation, a credit union may establish in any bank a share draft account for its members.

Section 3. No credit union shall establish a share draft account except as specifically authorized by its bylaws.

Section 4. A credit union desiring to establish a share draft account shall first seek approval of such service by the Commissioner of Banking and Securities. It shall submit to the Department of Banking and Securities a written description of the proposed service at least 30 days prior to its proposed implementation. This description shall include:

(1) The name and address of the payable through bank;

(2) The type of share draft transactions available to the members of the credit union;

(3) A statement of operation which shall expressly provide for:

(a) Establishing an agreement between the credit union and each member outlining the responsibilities of each party with regard to the provision of share draft accounts, including specific treatment of overdrafts, member records, statements of accounts, stop payment orders, record retention, processing charges, and detection of forgeries or unauthorized drafts;

(b) Maintaining an average daily liquidity reserve set annually for each credit union by the Commissioner of Banking and Securities;

(c) Establishing policies to insure compliance with the Kentucky Uniform Commercial Code and other applicable state and federal laws.

Section 5. The Commissioner of Banking and Securities shall approve a credit union's application to offer a share draft account to its members if he finds:

(1) All the requirements of this regulation have been met; and

(2) The amount of assets, the number of members, the

prior administrative and fiscal performance of management and the board of directors of the credit union is evidence of the probability of the success of the proposed service; and

(3) The implementation of the proposed service will promote the convenience and advantage of the members of the credit union.

Section 6. The share draft account transactions authorized by a credit union may be initiated, communicated, and acted upon through the remote service

units of a bank or credit union.

JOHN L. WILLIAMS, JR., Commissioner

ADOPTED: September 9, 1977

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: September 12, 1977 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this proposed regulation will be held at 10 a.m. EST November 1, 1977 at the Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

Reprinted Regulations

(As a convenience to subscribers the following regulation, which became effective on September 7, 1977, is being reprinted here. It was published originally in Volume 3 of the Administrative Register but is not included in the bound volumes of the KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.)

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 22

AAA-From Jct. US 42, northeast of Louisville to Jct. US 27 in Falmouth. [421, N. E. of Pleasureville; and from Jct. US 421 at Pleasureville to Jct. KY 389 near the Kentucky River in Henry Co.]

[AAA-From Jct. US 127 near SECL of Owenton to Jct. US 27, north of Falmouth.]

AA-[From Jct. KY 389 in Henry Co. to Jct. US 127 in Owenton; and [f] From Jct. US 27 in Falmouth to Jct. KY 10 at Willow in Bracken Co.

KY 389

AAA [AA]-From Jct. Co. Road at Lockport in Henry Co. to Jct. KY 22, 2.3 miles north of Lockport. [KY 55, 2.3 miles S. of Prestonville in Carroll Co.]

AA-From Jct. KY 22, 2.3 miles north of Lockport to Jct. KY 55, 2.3 miles S. of Prestonville in Carroll Co.

US 421

AAA-From Indiana State Line at Milton to Jct. KY 22 at Pleasureville in Henry Co. [55, south of New Castle]; and from Broadway in Frankfort, via Wilkinson Blvd., [Street, Daily Avenue, and Thornhill Bypass] and via Lexington, Richmond, and Bighill to Jct. KY 2004 at Sand Gap in Jackson County; and [AAA] From the north city limits of Manchester to Jct. KY 80 south of Manchester; and [AAA] from Jct. US 119 at Baxter to Jct. KY 38 in Harlan; and from Jct. KY 987 at Cawood to Virginia State Line.

AA-From Jct. KY 22 at Pleasureville in Henry Co. [55, south of New Castle] to Jct. Broadway and Wilkinson Blvd. [Streets] in Frankfort; and [AA] From Jct. KY 2004 at Sand Gap to N.C.L. of Manchester; and from Jct. KY 80 south of Manchester via Hyden to Jct. US 119 at Baxter; and [AA] From Jct. KY 38 in Harlan to Jct. KY 987 at Cawood.

*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 8, 1977

RECEIVED BY LRC: June 15, 1977 at 3:20 p.m.

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of September 7, 1977 Meeting

(Subject to Subcommittee approval at its next meeting on October 5, 1977.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, September 7, 1977, at 10 a.m. EDT in Room 327 of the Capitol. Present were:

Members: Representative William T. Brinkley, Chairman and Representative David G. Mason.

Guests: Larry W. Potter, Department of Labor; Debbie Diane Harvey, Department of Public Information; Arthur Hatterick, Jr. and H. Gene Taylor, Department of Personnel; Ben B. Fowler, Board of Examiners and Registration of Architects; Carl Kays and Charles Bowers, Department of Fish and Wildlife Resources; A. R. Romine, Department of Transportation; Sidney Simandle, Charles D. Wade, Ted Cook and Lois Adams, Department of Education.

Press: Jon L. Fleischaker and William Cox, "The Courier Journal" and "The Louisville Times."

LRC Staff: William H. Raines, Mabel D. Robertson, E. Hugh Morris, Ollie Fint, Garnett Evins, Joe Hood, Bill Hanes and Joyce Honaker.

The minutes of the August meeting were approved.

On motion of Chairman Brinkley and seconded by Representative Mason, regulation 500 KAR 1:015, Department of Justice, was rejected. Chairman Brinkley stated that it had always been the policy of the subcommittee that the open records law should stand as written, and that it affords the procedure for the determination of those records which are available and for those which are not, and that this regulation goes beyond the intent of the law.

Mrs. Mabel D. Robertson, Regulations Compiler, told the subcommittee that "affirmative considerations" for 805 KAR 7:010 to 805 KAR 7:060 were received too late to be placed on the agenda and with the approval of the issuing agency, the Department of Mines and Minerals, those regulations would be considered at the October meeting. Agreed.

At the request of Representative Mason regulation 603 KAR 5:010 was deferred until the October meeting. Representative Mason stated he would like more time to study the regulation.

The following regulations were approved and ordered filed:

SECRETARY OF THE CABINET**Department of Personnel****Personnel Rules**

101 KAR 1:050. Compensation plan.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION**Division of Occupations and Professions****Board of Examiners and Registration of Architects**

201 KAR 19:095. Professional practice standards; violations, penalties.

DEVELOPMENT CABINET**Department of Fish and Wildlife Resources****Fish**

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

DEPARTMENT OF TRANSPORTATION**Bureau of Highways****Traffic**

603 KAR 5:096. Highway classifications.

DEPARTMENT OF EDUCATION**Bureau of Instruction****Teacher Certification**

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

704 KAR 20:076. Elementary teacher's endorsement for middle grades.

704 KAR 20:078. High school teacher's endorsement for middle grades.

704 KAR 20:080. Provisional middle grades certificate.

704 KAR 20:194. Social workers standard certification.

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

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

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

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

Bureau of Vocational Education**Administration**

705 KAR 1:010. State plan.

Adult Education

705 KAR 7:050. Adult plan.

Bureau of Education for Exceptional Children**Exceptional and Handicapped Programs**

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

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

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

Kentucky Quarter Horse and Appaloosa Commission**Quarter Horse and Appaloosa Racing Rules**

812 KAR 1:020. Licensing procedures.

The meeting adjourned at 11:55 to meet again at 10 a.m. Wednesday, October 5, 1977, in Room 327 of the Capitol.

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