

FILED WITH LRC  
 TIME: Sam  
 FEB 08 2020  
 Emily B Caudill  
 REGULATIONS COMPILER

STATEMENT OF CONSIDERATION  
 RELATING TO:

401 KAR 5:091 (Not Amended After Comments)

Energy and Environment Cabinet  
 Department for Environmental Protection  
 Division of Water

I. The public hearing for 401 KAR 5:091 was scheduled for January 23, 2020 at 6:00 p.m. at 300 Sower Boulevard, Training Room B, Frankfort, Kentucky. Pursuant to KRS 13A.270(7), the hearing was cancelled when the Division of Water did not receive any written notice of intent to attend. The Division of Water received a written comment regarding the administrative regulation.

II. The following people submitted comments:

Name and title	Agency/Organization/Entity/Other	Comments
Lance Wiley	Private citizen	Written

III. The following people from the promulgating administrative body responded to the comments:

- Carey Johnson, Assistant Director, Division of Water
- Carole Catalfo, Policy Specialist, Division of Water
- Michael Mullins, Staff Advisor, Department of Natural Resources

IV. Summary of Comments and Responses for 401 KAR 5:091.

- (1) Subject Matter: Changes to brine water disposal methods.
  - (a) Commenter: Lance Wiley  
 Comment: The commenter inquired about the effect the repeal of 401 KAR 5:090 and rollback of the federal Clean Water Act would have on oil and gas producers in relation to brine water disposal.
  - (b) Response: The repeal of 401 KAR 5:090 does not change the requirements related to brine water disposal. The requirements for pit closure and disposal of brine waters in a Class II UIC did not change. The provisions regarding pits and pit closure are now located in 805 KAR 1:170 Sections 4 and 5. All standing fluids in the pits must be disposed of in accordance with 805 KAR 1:110. Additionally, the Commonwealth retains authority to regulate all "waters of the

Commonwealth” as defined by KRS 224.1-010(32) regardless of any changes to the federal Clean Water Act.