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PLAN ORGANIZATION

The *2002 Kentucky Statewide Rail Plan* is organized as follows:

Chapter 1 – Introduction – This chapter discusses the purpose for preparing the rail plan, a brief history of the Kentucky Rail Program, and presents the goals and objectives established as part of this plan.

Chapter 2 – Freight Rail and Intermodal – This chapter defines the Kentucky rail system by describing the major characteristics of each operating freight railroad and key system wide trends and conditions.

Chapter 3 – Passenger Rail – This chapter highlights past and present Amtrak operations, current tourist/excursion rail lines, and passenger related rail studies.

Chapter 4 – Rail Issues – This chapter discusses the public involvement process undertaken as part of this plan development. In addition, it identifies national rail trends and other issues, such as increasing car weights and short line funding. Utilizing a questionnaire distributed to the active freight railroads, issues unique to Kentucky are identified.

Chapter 5 – Rail Safety – This chapter contains an overview of national and state highway-rail accident histories as well as an explanation of Kentucky's Grade Crossing Program. In addition, Chapter 5 addresses the role of legislation regarding rail safety.

Chapter 6 – Rails to Trails Program – The chapter discusses the Rails to Trails Program as it relates to the transportation network, defines the abandonment process, and describes recent studies undertaken to better identify abandonments within the state.

Chapter 7 – Recommendations – This chapter presents the recommendations as they relate to the established goals and objectives for the plan and the issues and concerns addressed throughout the plan document.

Appendix A – Glossary of Terms – This appendix defines the abbreviations used throughout the plan document.

Appendix B – Kentucky Statewide Rail Plan Contacts and Website References – This appendix provides contact information for operating railroads, Kentucky Transportation Cabinet officials, other local, state, and federal officials, and organizations promoting rail initiatives.

Appendix C – Railroad Commission Abolishment – This appendix provides full text copies of the Kentucky Revised Statutes (KRS) repealed as part of the abolishment of the Railroad Commission.

Appendix D – Miscellaneous Statutes – This appendix provides a copy of the statutes relating to a number of miscellaneous railroad items.

Appendix E – 603 KAR 7:090 Railroads – This appendix contains a copy of 603 KAR 7:090 detailing the requirements by all operating railroads within Kentucky to submit an annual report or equivalent document, map of active routes, notice of abandonments, and accident reports for those resulting in a fatality.

Appendix F – Rail Safety – This appendix provides full text copies of the KRS and Kentucky Administrative Regulations (KAR) that relate to rail safety, in particular those relating to at-grade highway-rail crossings.

Appendix G – House Bill 221 – This appendix provides a copy of House Bill 221 passed during the 2000 General Assembly. This bill relates to the Rails to Trails Program amending KRS to address issues such as trespass rules in regard to trail users and limiting trail owners liability.

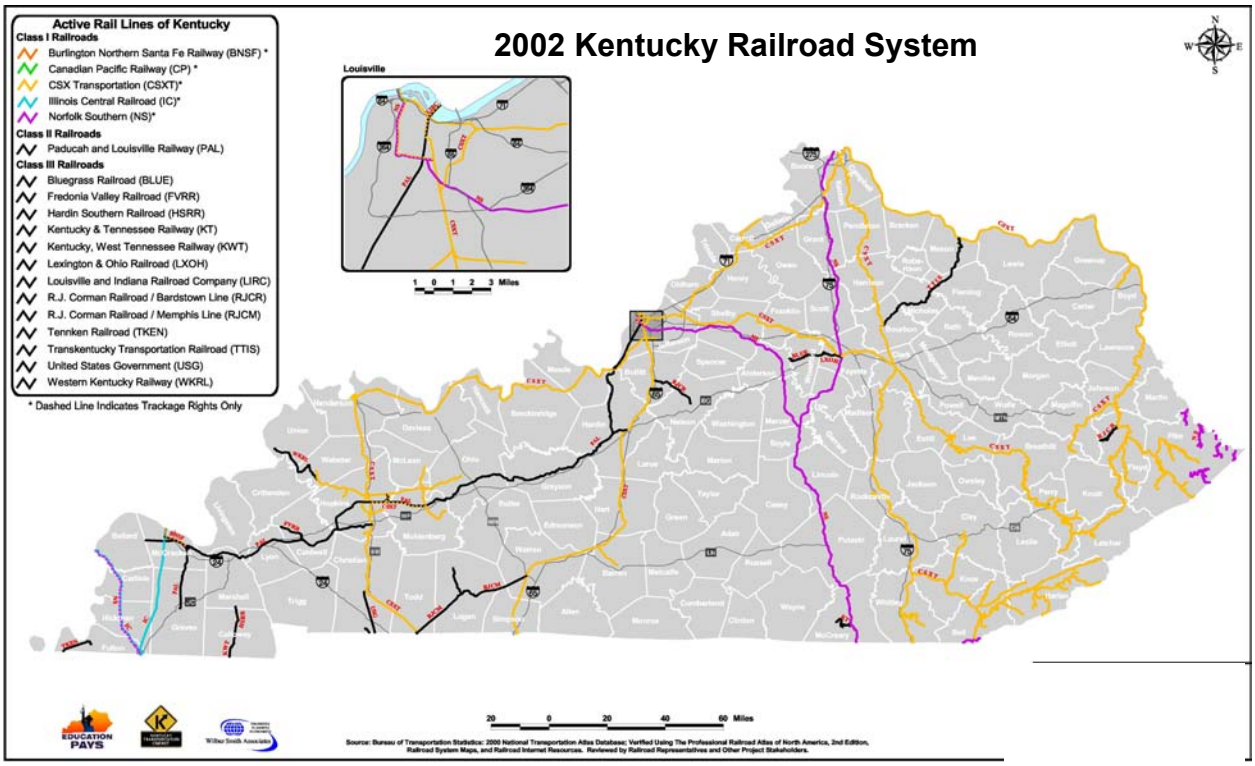
Appendix H – Rails to Trails Program – This appendix provides full text copies of the KRS relating to the Rails to Trails Program, in particular, abandonment notification and rail banking.

In Year 2000, the Commonwealth of Kentucky Legislature authorized funding to develop the *2002 Kentucky Statewide Rail Plan*. The Kentucky Transportation Cabinet (KYTC) has developed the Plan for two reasons. First, it presents the modal plan that (1) identifies system-wide strategies and policies and (2) conforms to the goals established in the *2001 Kentucky Transportation Cabinet's Strategic Plan*[1] and current update of the *1999 Kentucky Statewide Transportation Plan*[2]. Second, it provides a vehicle to identify future rail issues to meet Federal Railroad Administration requirements for federal funding, as it becomes available.

CSXT Track outside Madisonville, Kentucky

KENTUCKY FREIGHT RAILROADS

The Kentucky freight rail system, as seen below, is currently comprised of 18 freight railroads and one United States Government rail line. The carriers range in size from small short line railroads to large Class I national systems serving the US and Canada. These railroads comprise a state rail system of just over 2,800 route miles. Of this total, the state's five Class I railroads represent approximately 2,300 miles, or 82 percent of the statewide rail system.



[1] Kentucky Transportation Cabinet. *Kentucky Transportation Cabinet Strategic Plan.* Frankfort: Kentucky Transportation Cabinet, 2001.
[2] Kentucky Transportation Cabinet. *Kentucky Statewide Transportation Plan.* Frankfort: Kentucky Transportation Cabinet, 1999.

FREIGHT TRAFFIC

In 1999, total rail freight traffic in Kentucky exceeded 286 million tons as shown in the table below. Out of this total, approximately 96 million tons originated in Kentucky with destinations outside the state, 30 million tons of freight traffic terminated in Kentucky, 12 million tons of travel both originated and terminated with the state (intrastate traffic), and over 149 million tons (or just over half) of freight rail traffic used the state's rail network to simply pass through the state. The movement of rail freight is growing in Kentucky, increasing by 11 percent between 1990 and 1999.

Norfolk Southern Train passing through Lexington, Kentucky

Coal is the primary rail commodity in Kentucky, comprising 57% of all rail freight traffic.

Coal is the principal Kentucky rail commodity, leading in originating, terminating, intrastate, and through commodity tonnage. Coal comprises 57 percent of all Kentucky rail freight traffic, and 80 percent of all originating and terminating traffic. Looking further at originating and terminating traffic, transportation equipment, primary metal product and chemical or allied products follow with four, three and two percent, respectively. In terms of total commodity tonnage, farm products account for 10 percent, but this is mostly attributable to through commodity tonnage.

Kentucky Freight Traffic, by Commodity
1999

Commodity		Tonnage (thousands)					
STCC[1]	Description	Originating	Terminating	Intrastate	Through	Total	% of Total
1	Farm Products	659	362	8	26,413	27,442	9.6
10	Metallic Ores	81	2,300	211	2,528	5,120	1.8
11	Coal	83,817	16,313	9,954	53,815	163,899	57.2
14	Nonmettalic Minerals	377	345	650	937	2,310	0.8
20	Food or Kindred Products	287	824	59	11,070	12,240	4.3
24	Lumber or Wood Products	216	1,174	228	4,499	6,117	2.1
26	Pulp, Paper, or Allied Products	687	1,285	61	7,943	9,976	3.5
28	Chemicals or Allied Products	1,083	1,522	179	11,429	14,212	5.0
29	Petroleum or Coal Products	432	371	6	2,458	3,268	1.1
32	Clay, Concrete, Glass, or Stone	524	515	22	4,581	5,642	2.0
33	Primary Metal Product	2,841	1,353	78	6,534	10,806	3.8
37	Transportation Equipment	3,075	1,647	104	5,545	10,371	3.6
40	Waste or Scrap Materials	620	1,131	341	1,899	3,992	1.4
46	Misc. Mixed Shipments	456	433	0	7,363	8,252	2.9
	All Others	392	176	3	2,350	2,921	1.0
Totals		**95,547**	**29,750**	**11,903**	**149,367**	**286,566**	**100.0**

Source: Surface Transportation Board's Waybill Sample
Notes: 1) Waybill Statistics utilize two-digit Standard Transportation Commodity Codes (STCC) and are categorized accordingly.

PASSENGER RAIL

Passenger rail in Kentucky is comprised of Amtrak operations and tourist/excursion rail lines. Amtrak currently serves over 500 communities in 46 states and the District of Columbia. However, due to Amtrak's funding issues, its future is uncertain and service along 18 long distance routes may be curtailed including routes through Kentucky.

Amtrak in Kentucky

Amtrak trains serve five cities in Kentucky. The *Cardinal* serves the cities of Maysville, South Portsmouth, and Ashland and runs from Chicago, Illinois to Washington, D.C. The *City of New Orleans* provides service from Chicago to New Orleans, Louisiana, passing through Fulton. Louisville is served by the *Kentucky Cardinal*, which connects Chicago and Indianapolis to Jeffersonville, Indiana, and Louisville. Amtrak records for the state of Kentucky were obtained for the years FY 1994 through FY 2001 revealing that ridership serving Kentucky held steady or steadily decreased from FY 1994 to FY 1998. In FY 1999, ridership dramatically increased, but decreased again in FY 2000 and FY 2001.

Tourist/Excursion Lines and Attractions

There are five operating tourist/excursion train lines within Kentucky. These lines include the Hardin Southern Railroad (HSRR) in Calloway and Marshall Counties; Big South Fork Scenic Railway in Stearns; My Old Kentucky Dinner Train in Bardstown; Kentucky Railway Museum in New Haven; and the Bluegrass Railroad Museum in Versailles.

Blue Heron Interpretive Center and Depot, one of two stops along the Big South Fork Scenic Railroad tour

In addition to the tourist/excursion lines noted above, there are several attractions throughout Kentucky that focus on the past and present rail industry. These attractions include railroad depots, rail museums, restaurants in former depots, railroad static displays, or some combination of these.

Future Passenger Service

Several studies are underway to explore and potentially expand the availability of passenger rail in Kentucky. Both Louisville, Kentucky and Cincinnati, Ohio are considering light rail systems that could serve those cities and the regional area, including northern Kentucky. At the national level, the Midwest Regional Rail Initiative (MWRRI) is the largest effort that will have, at a minimum, an indirect impact on Kentucky. The MWRRI is made up of nine Midwest states, Amtrak, and the Federal Highway Administration. The Commonwealth of Kentucky in not currently participating in the MWRRI because there is presently no funding available for development of the proposed Midwest Regional Rail System. The KYTC may consider future opportunities to participate in the MWRRI if funding were to become available.

RAILROAD ISSUES/CONCERNS

Throughout the preparation of the Kentucky Statewide Rail Plan, the Steering Committee, Kentucky's rail carriers, public officials, and representatives of government resource agencies were given the opportunity to provide input for this plan. Some of the identified rail issues and related needs include:

Capital Needs

One common concern of big and small railroads alike is the funding for infrastructure needs. Without improvements to existing infrastructure, Regional and Short line carriers are expected to lose business with the Class I carriers because of the requirement to accommodate larger loads. In addition, smaller railroads may not be able to attract new industry looking to take advantage of hauling more freight with less equipment.

Older bridges may need to be upgraded or replaced to accommodate increasing car weights.

Safety Concerns

Safety is a priority throughout the rail industry. Although a safety benefit, warning devices cannot prevent highway-rail at-grade crossing accidents. One way of improving rail safety is to consolidate crossings and/or provide grade-separated crossings. These efforts help to improve public safety, reduce motor vehicle congestion, and increase the railroads' speed and reliability. The latter is important to attracting new business to the railroad.

Economic Issues

Railroad representatives pointed out the need to diversify their services, thereby reducing dependence on the transport of coal. Another identified economic concern is the desire to maintain equitable treatment of rail with respect to other modes of transportation. Rail carriers are required to maintain their own trackage and right-of-way and are taxed on all property and right-of-way through the ad valorem tax. In addition, railroads are required to pay the same 4.3 cents per gallon federal tax on diesel fuel that the trucking industry pays. For the trucking industry, the fuel tax goes to the highway fund while fuel tax generated from the railroads goes to the federal deficit reduction general fund, which is not returned to the system to benefit railroad companies. The Association of American Railroads (AAR) supports the repeal of the fuel tax for railroads while the American Association of State Highway and Transportation Officials (AASHTO) supports moving revenue from the fuel tax to the Highway-Rail Grade Crossing Program.

Passenger Service Concerns

Passenger trains raise important safety, capacity, and engineering concerns. The interaction between passenger and freight service and the importance of each in the transport of people and goods should be viewed over the long term.

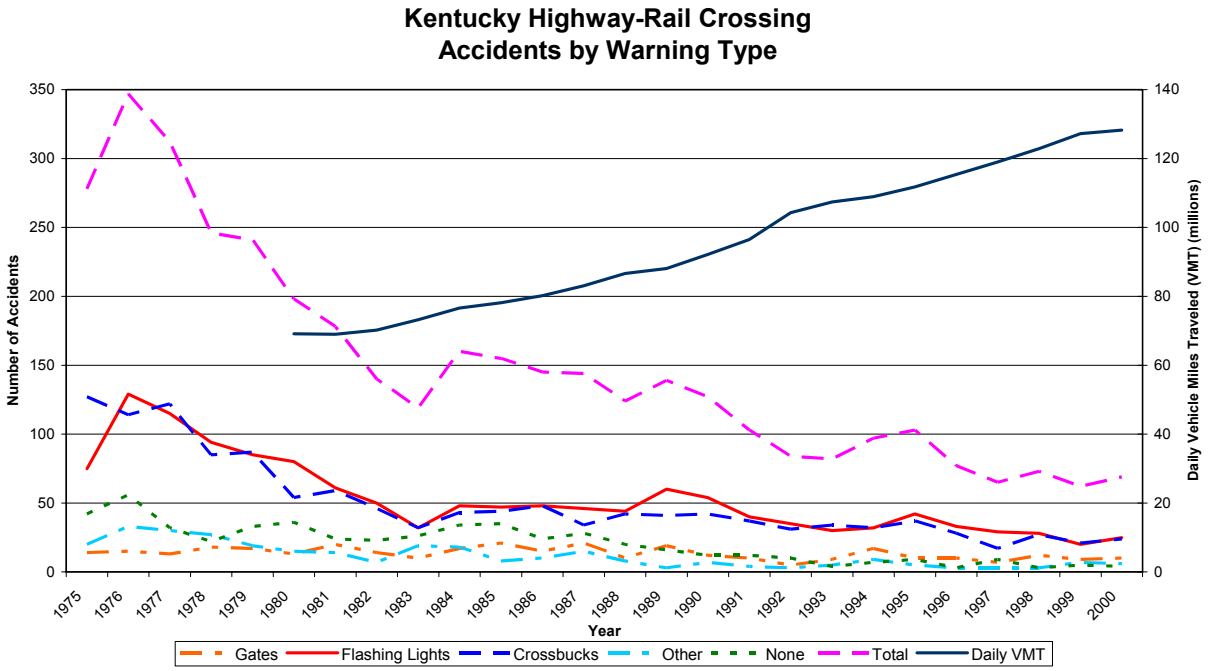
RAIL SAFETY

The Federal Railroad Administration has the charge to maintain safety for the rail network. Safety issues are also addressed by the Kentucky Revised Statutes, and through national and state programs like Operation Lifesaver and the Kentucky Grade Crossing Program.

Since the mid 1970's in Kentucky there has been a 64 percent reduction in accidents and a 42 percent decline in fatalities. As more warning devices are put in place, the number of incidents continues to decrease. The dramatic decline in highway-rail accidents since 1975 is apparent in the figure below. Although the graph represents a historical decline in accidents, in 2001 the number of fatalities doubled to 10 and injuries rose to 31. These increases placed Kentucky in the top 15 for both categories nationally.

*A **64% reduction in accidents** and **42% decline in fatalities** have occurred in Kentucky since the mid 1970's; however, in 2001 the number of fatalities **doubled to 10** in comparison to 2000.*

Equal to the national average, Kentucky has approximately 1.8 crossings per route mile of track. However, only 24 percent of these crossings have active warning devices, which is far below the national average. While accident rates have continued to decline for the state over the same 20-year period, additional measures could help to further improve safety. Consideration should be given to consolidation of crossings and installation of additional safety devices where appropriate.



RAILS TO TRAILS

Rail trails are public paths that have been created from former railroad corridors. These paths are used for activities that may include walking, bicycling, equestrian, and wheelchair use. Currently there are more than 11,000 miles of rail trails in the United States, with more projects being planned. Rail trails, in most cases, are constructed along rail lines that have been abandoned. An abandoned rail line is one on which rail service has been discontinued and the Surface Transportation Board has approved the abandonment.

Another type of rail trail is "rails-with-trails," a recent development that allows the rail trail to share use with active rail corridors. Rail banking is another method of preserving rail right-of-way for the potential future use by the railroad. Instead of abandoning the line, a rail trail may exist on the right-of-way for interim use.

Kentucky Rail Trails

Kentucky currently has 16 miles of existing rail trails, ranking the state among the lowest nationally. National leaders include Minnesota, Wisconsin, and Michigan with 1,301, 1,294, and 1,176 miles, respectively. While Kentucky has few finished rail trails, there are 160 additional miles of rail trails in 28 counties at some stage of planning or development within the state.

Kentucky currently ranks among the lowest nationally with only 16 miles of existing rail trails. There are 160 additional miles of rail trails at some stage of planning or development within the state.

Kentucky Legislation and the Role of the KYTC

House Bill 221 of the 2000 Regular Session of the Kentucky General Assembly updates and amends sections of the Kentucky Revised Statutes to reorganize and enhance Kentucky's rails to trails process. A number of these sections relating to rails to trails are in reference to the responsibilities of the Kentucky Transportation Cabinet. The KYTC must develop a statewide bikeways program that promotes bicycling in order to maximize the use of resources to develop bikeways. Responsibilities of the Cabinet include cooperation with local governments, development of policies and procedures, safety training programs, and the development and construction of a State Bikeway System.

The creation of a Kentucky Bicycle and Bikeway Commission within the Transportation Cabinet is outlined. Created in August 1994, this Commission represents the interests of bicyclists and assists the bikeway program.

The Transportation Cabinet is also responsible for transmitting information regarding abandonments to the Department of Parks and the Rail Trail Development Office. A record of abandoned railroad lines in Kentucky must be maintained, and this record must include a description of the line, the line operator, and whether the line has been railbanked, as well as other pertinent information.

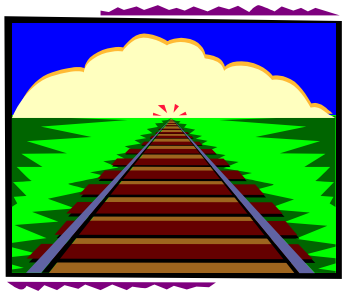
GOALS AND RECOMMENDATIONS

The following four goals were established as part of the *2002 Kentucky Statewide Rail Plan* development process:

- Work to preserve the existing rail system to the extent the Kentucky Transportation Cabinet can influence the largely privately owned and operated Kentucky rail system.
- Support economic development by providing Kentucky's rail system connectivity to the national rail system and Kentucky's transportation system.
- Strengthen customer relationships with the rail industry through coordination and cooperation in the transportation planning process.
- Enhance rail transportation safety and convenience to ensure mobility and access.

To help achieve these goals established for this project, a set of recommended actions was created. They are broken down by goal as follows:

Goal: Promote Rail System Preservation



Recommendation 1: Assist in Preserving Rail Service and Rights-of-Way – The KYTC should work to coordinate initiatives that will help preserve rail service where in the public interest, and rights-of-way where service preservation is not possible.

Recommendation 2: Coordinate Maintenance of System Information – A key element in helping to preserve the existing rail system is to maintain current knowledge of the Commonwealth's rail system and its components. It is this element in which the KYTC can serve a central and direct role.

Goal: Support Economic Development

Recommendation 1: Provide Coordination with Local and State Agencies – The KYTC can act as one of several critical points of coordination between the private and public sectors involved in the funding process.

Recommendation 2: Provide Technical Assistance to Local and State Agencies – In maintaining information on the state's rail system and having staff resources with expertise in the field, the KYTC could be called upon to conduct analysis of rail service proposals, particularly relative to the cost and feasibility of implementing such proposals.

Recommendation 3: Participation in National Initiatives – The KYTC should continue to work in partnership with neighboring states to develop initiatives that promote connectivity to the national rail system and the global market place.

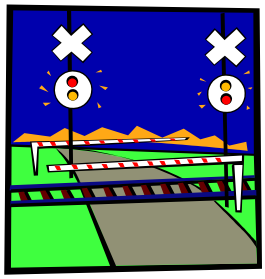
Goal: Strengthen Customer Relationships and Involvement in the Transportation Planning Process

Recommendation 1: Involvement of Rail Industry Partners –The development of the *2002 Kentucky Statewide Rail Plan* has included active participation by representatives of Kentucky's rail industry. Having strengthened these relationships through this effort, the KYTC should maintain this working relationship by regularly involving these groups in future planning processes.

Recommendation 2: Involvement of MPO and ADDs – The KYTC should formalize a process to encourage MPOs, ADDs and other planning organizations to specifically address rail issues as part of their pre-established reporting procedures.

Recommendation 3: Involvement with Operation Lifesaver – Operation Lifesaver is a nationwide, non-profit organization dedicated to ending collisions, deaths, and injuries at highway-rail intersections and along railroad rights-of-way. The Kentucky Transportation Cabinet should explore options to promote Operation Lifesaver and other transportation safety programs.

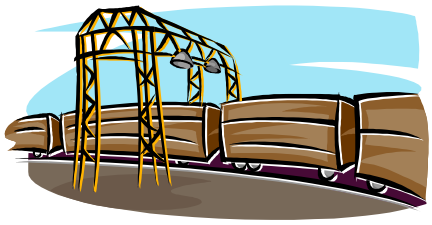
Goal: Enhance Rail System Safety and Convenience



Recommendation 1: Actively Address Rail Safety/Accident Issues – At current funding levels, the Kentucky Grade Crossing Program addresses eight to ten such improvements each year. While maintaining the flexibility to address specific locations throughout the state, consideration should also be given to a corridor-level approach to establish priorities for consideration in future initiatives to address highway-rail grade crossing safety.

Recommendation 2: Address Rail Security Measures –The importance of security for Kentucky's rail system has been heightened with national concerns related to terrorism and transportation security. With such national emphasis comes funding opportunities that could be leveraged to address these issues within the state. Security enhancement initiatives should be considered for freight and passenger rail.

Recommendation 3: Improve System Convenience through Access and Mobility – A multimodal transportation system offering a variety of services is desired for the effective movement of commodities and people. Utilizing available resources such as the intermodal facilities database maintained by the Kentucky Transportation Center, the KYTC can identify rail-related intermodal opportunities or opportunities for rail to provide an effective alternative transportation choice. In addition, The KYTC could identify and evaluate, where justifiable, passenger rail transportation, particularly in the metropolitan areas, and identify opportunities to improve connections to other passenger modes of transportation.



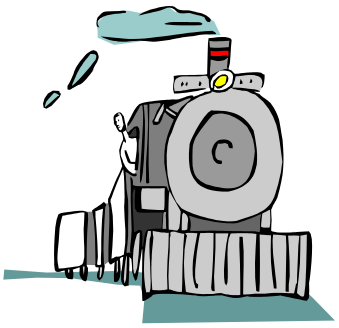
CHAPTER 1: INTRODUCTION

In Year 2000, the Commonwealth of Kentucky Legislature authorized funding to develop the *2002 Kentucky Statewide Rail Plan*. Currently, Kentucky does not have a source of funding to implement any specific rail improvement projects; however, the Kentucky Transportation Cabinet (KYTC) Division of Multimodal Programs has developed this informative and comprehensive document that could be used as part of future updates to identify rail improvements, if funding becomes available.

For additional information regarding the *2002 Kentucky Statewide Rail Plan* or related topics, the Division of Multimodal Programs can be found on the web at the following address: http://www.kytc.state.ky.us/Multimodal/index.htm. As an aid to the reader and to provide the reader with additional reference information, **Appendix A** provide a glossary of terms and **Appendix B** lists contacts and website references.

I. PURPOSE

The Kentucky Transportation Cabinet (KYTC) has developed the *2002 Kentucky Statewide Rail Plan* for two reasons. First, it presents the modal plan that (1) identifies system-wide strategies and policies and (2) conforms to the goals established in the *2001 Kentucky Transportation Cabinet's Strategic Plan*[1] and current update of the *1999 Kentucky Statewide Transportation Plan*[2]. Second, it provides a vehicle to identify future rail issues to meet Federal Railroad Administration (FRA) requirements for federal funding, as it becomes available.



II. PROGRAM HISTORY

The first *Kentucky Statewide Rail Plan* was conducted in 1978 and updated in 1979. Since this time, no updates have been conducted. The following section describes the previous *Kentucky Statewide Rail Plan* and provides a brief overview of the Railroad Commission and the transfer of its responsibilities to the Kentucky Transportation Cabinet.

A. Previous Kentucky Rail Plans

Required by statutory law in accordance with the Railroad Revitalization and Regulatory Reform Act of 1976 (RRRR Act), the Commonwealth of Kentucky conducted the first rail plan in 1978. Similar to the purpose of the current update, the *1978 Kentucky Rail Plan*[3] was prepared to qualify the state for federal funding, to serve as the Commonwealth's statement of its rail planning policy, and to form the foundation of its continuing rail planning activities. The *1978*

[1] Kentucky Transportation Cabinet. *Kentucky Transportation Cabinet Strategic Plan.* Frankfort: Kentucky Transportation Cabinet, 2001.
[2] Kentucky Transportation Cabinet. *Kentucky Statewide Transportation Plan.* Frankfort: Kentucky Transportation Cabinet, 1999.
[3] *Kentucky State Rail Plan.* Prepared by CONSAD Research Corporation. Prepared for Commonwealth of Kentucky Department of Transportation, December 1978.

Kentucky Rail Plan was updated in 1979 through a short addendum. The *1979 Kentucky Rail Plan* was the most recent rail plan created for the state.

B. Railroad Commission[4]

The Railroad Commission (RRC) was formed in 1880 as a statutorily created agency. From 1880 to 1891, the Governor appointed the members of the commission. In 1891, the Constitution established a three-member commission. Each member was elected from separate districts for four year terms. Early on the RRC was responsible for examining the railroad business within the state, reviewing compliance with the laws, and holding related hearings. Over time this responsibility would change. During the 1930's, the federal government became more focused on the regulation of interstate commerce. Finally, in the early 1980's, the federal government was authorized to regulate intrastate rail transportation leaving the RRC with little regulatory and enforcement authority.

Until December 2000, the Railroad Commission was administratively attached to the Kentucky Transportation Cabinet. Under statute, the Railroad Commission was charged with the following responsibilities:

- Address rail safety by promulgating administrative regulations regarding intrastate railroad operations, particularly with respect to railroad crossings;
- Act to resolve complaints against railroad companies; and
- Serve as the freight weight consultant to regulate the tariff charges assessed by rail carriers in Kentucky.

By vote in the November 2000 Kentucky General Election, Constitutional Amendment No. 2 proposing an amendment to Sections 201, 209 and 218 of the Constitution of Kentucky relating to the abolishment of the Railroad Commission was passed. The duties of the Commission were transferred to the Kentucky Transportation Cabinet's Office of Intermodal Programs. The change in statutory law went into effect December 1, 2000 with the Division of Multimodal Programs, within the Office of Intermodal Programs, assuming the above responsibilities. A complete copy of the statutes impacted by the change is included in **Appendix C**.

III. KENTUCKY LEGISLATION

Within the Kentucky Revised Statutes (KRS) and Kentucky Administrative Regulations (KAR) are a number of statutes and regulations that relate directly to the rail system, rail safety and Rails to Trails Program. Those related to rail safety and Rails to Trails are presented in Chapters 5 and 6, respectively. Miscellaneous rail statutes are presented in **Appendix D**. The statutes address a broad range of rail-related topics and are provided for additional reference.

[4] Kentucky Legislative Research Commission. Proposed Elimination of Railroad Commission Amendment. Frankfort: 2000.

In order to monitor Kentucky's rail system, the KYTC enacted Title 603, Chapter 7, Section 090 of the Kentucky Administrative Regulations (603 KAR 7:090 Railroads) as a first step in assuring the availability of up-to-date railroad data. 603 KAR 7:090 puts procedures in place to meet a requirement that all freight railroads must submit the following information to the KYTC:

- Annual report and/or a copy of the Kentucky form State Statistics;
- Map of all active routes;
- Written notice of abandonments; and
- Reports of accidents resulting in a loss of life.

This information is to be submitted to KYTC's Division of Multimodal Programs on or before March 31st of each year. Any person or entity subject to 603 KAR 7:090 who fails to submit any of the information will be notified and required to submit the identified information within 30 days or be subject to a maximum of $500 penalty. With these procedures in place, the KYTC will have information readily available for reference purposes, future updates of the *2002 Kentucky Statewide Rail Plan,* and other planning efforts the KYTC may pursue. For additional information concerning 603 KAR 7:090, the complete text is found in **Appendix E**.

IV. RAIL GOALS & OBJECTIVES

Based on the goals contained in the *2001 Kentucky Transportation Cabinet's Strategic Plan* and *1999 Kentucky Statewide Transportation Plan*, the following goals and objectives were established as part of the *2002 Kentucky State Rail Plan*.

A. Preservation

Work to preserve the existing rail system to the extent the Kentucky Transportation Cabinet can influence the largely privately owned and operated Kentucky rail system.

Objectives (Actions)

- Maintain current knowledge of the Commonwealth's rail system and its components including use, condition and viability updating the *2002 Kentucky Statewide Rail Plan* on a periodic basis.
- Work to preserve rail service, where it is in the public interest and rights-of-way where service preservation is not possible and/or justified.
- Identify sources of public funding that can be used for rail projects.

B. Economic Development

Support economic development by providing Kentucky rail system connectivity to the national rail system and Kentucky's transportation system.

Objectives (Actions)

- Work to develop adequate rail access to the Commonwealth's intermodal facilities such as riverports and other freight transloading

points. Similarly, work to develop adequate access for other modes to rail intermodal facilities.

- Work with economic development groups throughout Kentucky to identify and promote rail-served industrial sites and assist with the location of rail-using industry.
- Partner with neighboring states to develop initiatives that promote connectivity to the national rail system and the global market place.

C. Customer Relationships/Transportation Planning Process

Strengthen customer relationships with the rail industry through coordination and cooperation in the transportation planning process.

Objectives (Actions)

- Educate Metropolitan Planning Organizations (MPOs) and other planning organizations in rail issues, the role that rail plays in transportation in Kentucky, and the Cabinet's position regarding the rail mode.
- Work to involve the railroads in the public planning process, including the development of the *2002 Kentucky Statewide Rail Plan*.
- Support Operation Lifesaver and other rail safety programs.

D. Safety and Convenience

Enhance rail transportation safety and convenience to ensure mobility and access.

Objectives (Actions)

- Work with the railroads to identify grade crossings of particular concern for closure, enhanced warning devices or separation.
- Pursue a program of crossing evaluations on a corridor basis. A corridor can be a route through an urban area, a passenger train route, a route with heavy freight traffic, or other similar characteristics.
- Support future programs and identify potential funding sources that address heightened rail security concerns.
- Identify rail-related intermodal opportunities or opportunities for rail to provide an effective alternative transportation choice.
- Identify and evaluate passenger rail transportation opportunities and identify opportunities to improve connection to other passenger modes of transportation.

CHAPTER 2: FREIGHT RAIL AND INTERMODAL

This chapter defines the Kentucky rail system by describing the major characteristics of each operating freight railroad and key system-wide trends and conditions.

I. KENTUCKY FREIGHT RAILROADS

The Kentucky rail system, as seen in **Figure 2-1**, is currently comprised of 18 freight railroads and one United States Government rail line. The carriers range in size from small short line railroads to members of large systems serving large parts of the U.S. and Canada. **Figure 2-2** displays the connection between Kentucky's rail system and the eastern United States Class I rail system.

Of the railroads operating within Kentucky, five are Class I carriers, one is a Class II carrier, and the 12 remaining are Class III carriers, or short lines. Class I Railroads, as defined by the Surface Transportation Board (STB) for 2001, are those having annual gross revenue of $262 million or more. Class II Railroads, also referred to as regional railroads, are those having annual gross revenue greater than $21 million but less than $262 million. Class III railroads are those having annual gross revenue less than $21 million. Railroad class is summarized to the right.

As seen in **Table 2-1**, these railroads comprise a state rail system of just over 2,800 route miles. Of this total, the state's five Class I railroads represent approximately 2,300 miles, or 82 percent of the statewide rail system.

Within the freight railroad industry, railroads operate on track, based on four main categories. The first category is where a railroad is both operator and owner. The second category is where a railroad operates on line owned by a proprietary company. A proprietary company is a company owned by another railroad but independently operated. Next, a railroad may operate on a line of track under a lease or contract agreement. Within Kentucky, the largest example of a contract agreement would be the north-south Norfolk Southern line in central Kentucky owned by the City of Cincinnati. **Figure 2-3** displays rail line ownership. Last, a freight railroad may operate on line under a trackage rights agreement. In this case, a railroad operates on a line owned and operated by another railroad. Trackage rights are displayed on **Figure 2-1**. **Table 2-1** separates out trackage rights from total mileage.

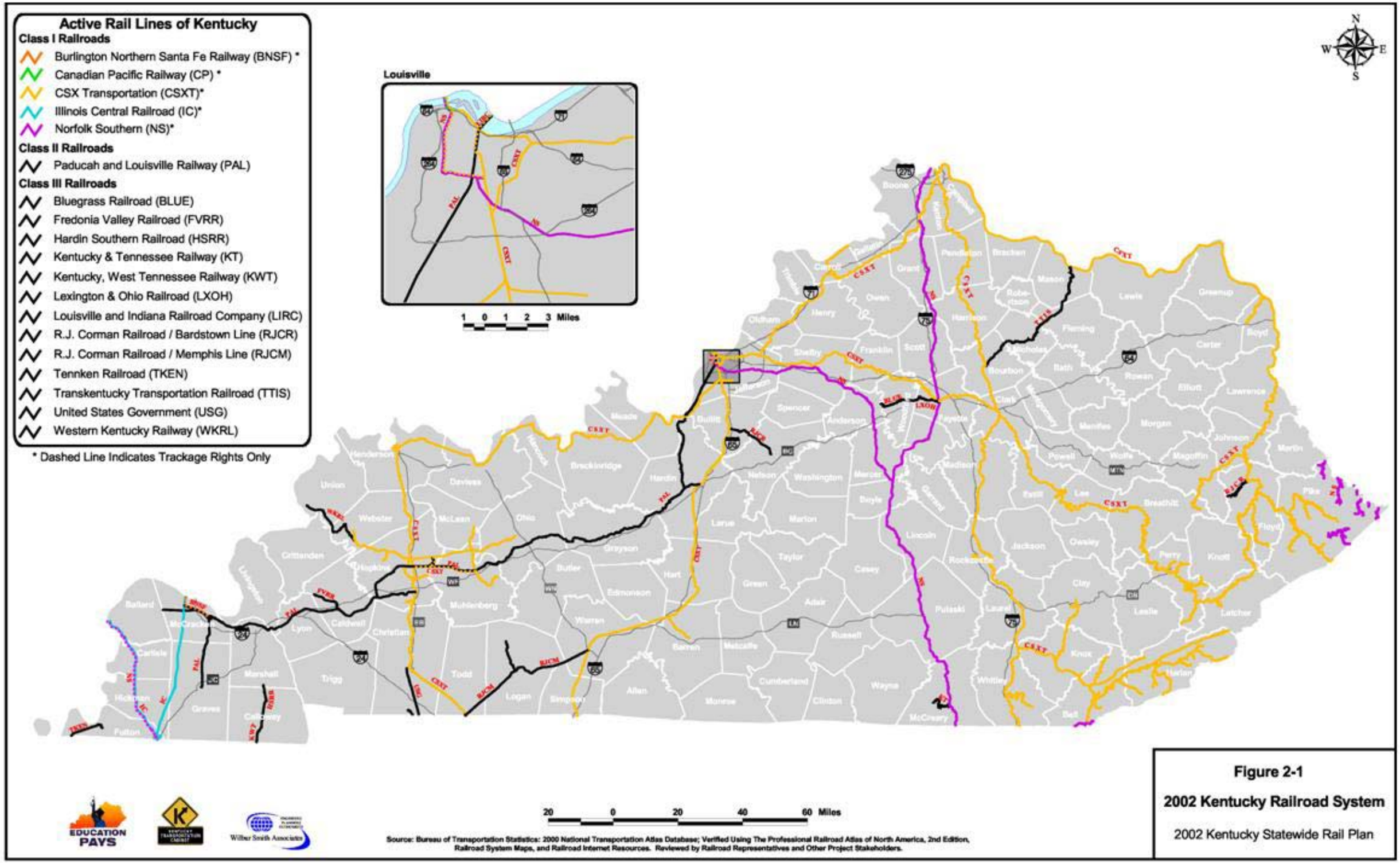


Figure 2-1

2002 Kentucky Railroad System

2002 Kentucky Statewide Rail Plan

Legend

- Amtrak
- Burlington Northern Sante Fe
- Canadian National Railway
- Canadian Pacific Railway
- CSX Transportation
- Kansas City Southern
- Norfolk Southern
- Union Pacific

200 0 200 Miles

N W E S

Source: 2002 National Transportation Atlas Database

Figure 2-2

2002 Eastern United States Class I Rail System

2002 Kentucky Statewide Rail Plan

Table 2-1
Kentucky Freight Railroads Route Miles Operated in Kentucky
2000

Railroad	Route Miles Operated in Kentucky		Percent of Kentucky Rail System Owned/ Leased
	Owned/ Leased	Trackage Rights	
Class I Railroads			
Burlington Northern & Santa Fe Railway	0	13	0.0
Canadian Pacific Railway	0	1	0.0
CSX Transportation	1,827	53	64.9
Illinois Central Railroad	85	17	3.0
Norfolk Southern Railway	382	63	13.6
Total Class I Railroads	***2,294***	***147***	***81.5***
Regional (Class II) Railroads			
Paducah & Louisville Railway	272		9.7
Total Regional Railroad	***272***		***9.7***
Short Line (Class III) Railroads			
Bluegrass Railroad	6		0.2
Fredonia Valley Railroad	10		0.4
Hardin Southern Railroad	9		0.3
Kentucky & Tennessee Railway	11		0.4
Kentucky, West Tennessee Railroad	11		0.4
Lexington & Ohio Railroad	15		0.5
Louisville & Indiana Railroad	2		0.1
R.J. Corman RR / Bardstown Line	20		0.7
R.J. Corman RR / Memphis Line	62		2.2
Tennken Railroad	12		0.4
Transkentucky Transportation Railroad	49		1.7
Western Kentucky Railway	40		1.4
Total Short Line Railroads	***247***		***8.8***
System Totals	*2,813*	*147*	*100.0*

Source: Railroad Data

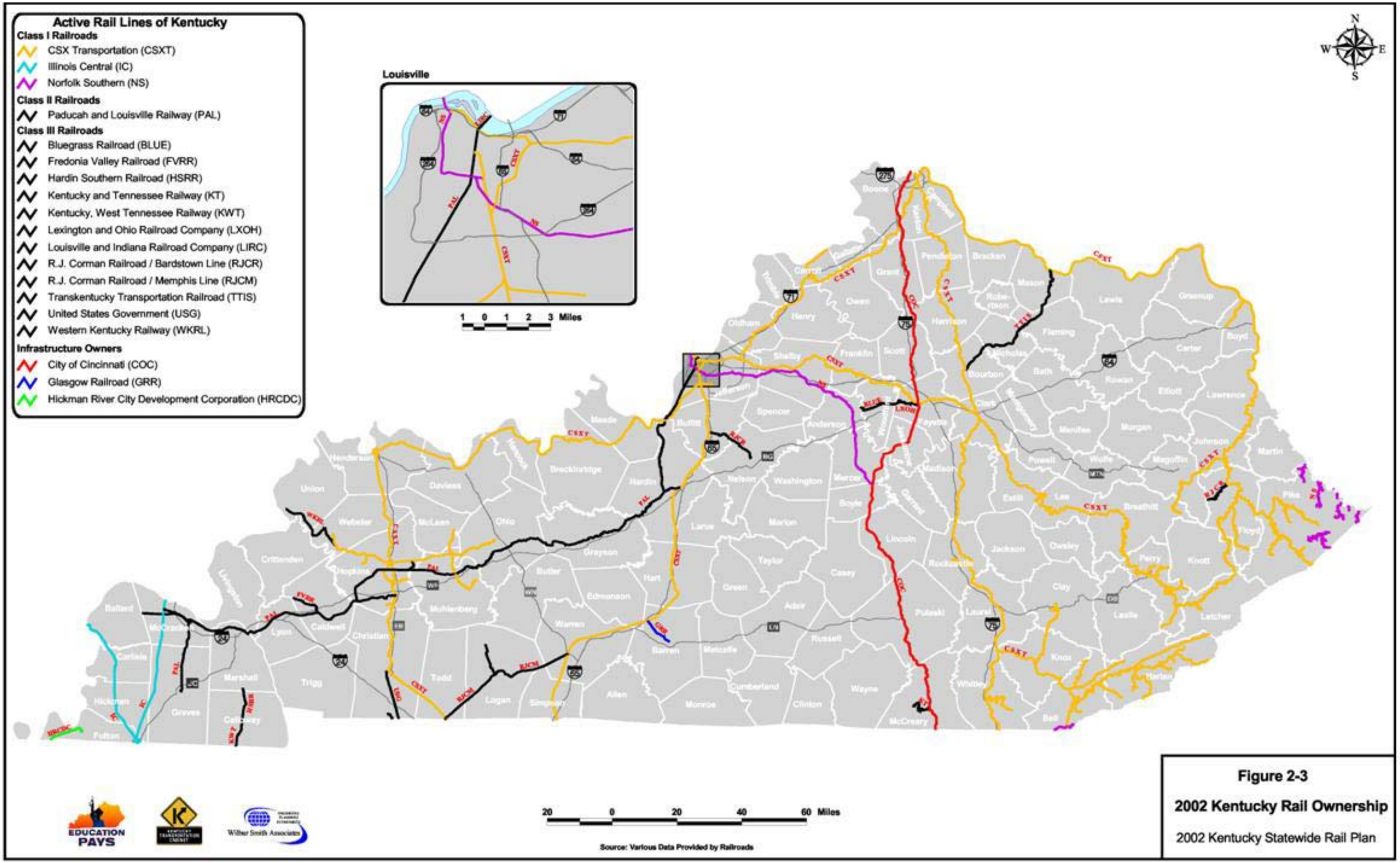


Figure 2-3

2002 Kentucky Rail Ownership

2002 Kentucky Statewide Rail Plan

CSX Transportation (CSXT) is the largest carrier in terms of Kentucky route mileage, accounting for 1,880 miles, or 64.9 percent of the total route miles in the Commonwealth of Kentucky. The second largest railroad is the Norfolk Southern Railway (NS) with 382 miles, or 13.6 percent of the statewide rail system. The third largest carrier is the Paducah & Louisville Railway (PAL), which is Kentucky's only Class II, or regional railroad. The PAL operates 272 miles of railroad, or ten percent of the statewide rail system.

In comparison with the data contained in the *1978 Kentucky Rail Plan*, total route miles have dropped 20 percent from approximately 3,500 route miles to approximately 2,800 route miles. As reported in the *1978 Kentucky Rail Plan*, there were ten Class I railroads accounting for 98 percent of the system with Louisville and Nashville (a CSXT predecessor) being the largest carrier. As stated above this compares to the current system of five Class I carriers with CSXT as the largest carrier.

The following discussion will detail each freight railroad currently operating within Kentucky, divided by class of railroad.

A. Class I Railroads

Burlington Northern and Sante Fe Railway (BNSF) – The BNSF operates over 33,000 miles of track within the United States and two Canadian provinces. In the U.S., it predominantly serves the territory west of the Mississippi River, but it has short extensions into the Southeast. Within Kentucky, the BNSF operates on 13 miles of track owned by the PAL, running from the Kentucky-Illinois state line to a terminus in Paducah. The BNSF provides no local switching operations, only pick-up and delivery service. Major commodities hauled by the BNSF include chemicals or allied products, lumber or wood products, primary metal products, and farm products.

Canadian Pacific Railway (CP) – In 1990, the CP and the Soo Line Railroad were merged, providing CP access to Louisville, Kentucky. Operating now under the Canadian Pacific name, this Class I carrier currently operates 3,225 miles of track in the United States. Within Kentucky, Canadian Pacific operates on one mile of track owned by CSXT.

CSX Transportation (CSXT) – According to the 2000 CSX Annual Report, CSXT operates 23,000 route miles serving every major market east of the Mississippi. As Kentucky's largest railroad, it operates 1,880 route miles in Kentucky, geographically traversing the state. Of the 1,880 miles operated, CSXT currently owns more than 93 percent of this route mileage. In addition, CSXT owns a minority share of the Paducah and Louisville Railway and wholly owns the Transkentucky Transportation Railroad. Both operate as independent railroads. Principal commodities hauled by CSXT include coal,

Two CSXT engines at work in Eastern Kentucky

chemicals or allied products, farm products, food or kindred products, and primary metal products. Of these commodities, coal comprised over half of the tonnage hauled in Kentucky by CSXT for the year 2000.

Illinois Central Railroad (IC) – In 1999, Illinois Central merged with Canadian National, a major Canadian Class I carrier. Currently, the merged railroads operate approximately 18,000 route miles within the United States and Canada, running through 14 states and several provinces. In Kentucky, the IC operates 102 route miles of track located in far western Kentucky. Major commodities transported by the IC within Kentucky include coal, farm products, chemicals or allied products, pulp and paper, and food or kindred products.

Norfolk Southern Train passing through Lexington, Kentucky.

Norfolk Southern Railway (NS) – NS operates approximately 21,800 route miles system-wide and serves 22 states as well as one Canadian province. In Kentucky, the railroad operates 445 miles of track, which is the second highest amount of track operated within the state by a single railroad company. Two separate lines serve the Louisville and Cincinnati markets, merging at the Mercer/Boyle county line and continuing south to the Kentucky/Tennessee state line in McCreary County. NS also accesses coal fields in eastern Kentucky via main lines through West Virginia. Major commodities hauled by NS include coal, farm products, chemicals or allied products, and primary metal products.

B. Class II Railroads

Paducah & Louisville Railway (PAL) – The PAL was created in 1986, having acquired the line from the Illinois Central Railroad. The PAL is the only Class II railroad within Kentucky. It operates 272 miles within the state, 223 miles of which comprise its mainline, from Paducah in the western portion of the state to Louisville. Branch lines connect Paducah to Kevil and Mayfield; also connected are Elizabethtown and Cecilia. In Paducah, the PAL connects to the BNSF and IC. Similarly, in Louisville, it connects to NS, CSXT, and CP.

PAL train crossing a PAL high trestle bridge near Muldraugh, KY, one of the longest curved truss bridges in Kentucky.

C. Class III Railroads

Bluegrass Railroad (BLUE) – The Bluegrass Railroad operates approximately six route miles of track in Woodford County, Kentucky. The track was formerly owned and operated by Norfolk Southern. The railroad's principal commodity is lumber products. In addition to serving as a freight railroad, the Bluegrass Railroad operates a recreational/tourist railroad. Additional information can be

found in Chapter 3 on this and other recreational/tourist railroads within Kentucky.

Fredonia Valley Railroad (FVRR) – The FVRR is a short line carrier that operates ten miles of track in western Kentucky. This Class III carrier serves a local market between Princeton and Fredonia, Kentucky interchanging with the PAL in Princeton.

Hardin Southern Railroad (HSRR) – The HSRR owns and operates nine route miles of track originating in Hardin, Kentucky. Although interested in the freight market, the HSRR is currently not used as a freight line. The railroad has the potential to interchange with the Kentucky, West Tennessee Railroad, but is a recreational/tourist railroad at this time.

Blue Heron Interpretive Center and Depot, one of two stops along the Big South Fork Scenic Railroad tour.

Kentucky & Tennessee Railway (KT) – The KT is a Class III railroad that operates 11 miles of track within Kentucky. It is located in McCreary County, which is in the southern portion of the state. Similar to the HSRR, the Big South Fork Railroad, a recreational carrier, is the exclusive operator on this line.

Kentucky, West Tennessee Railroad (KWT) – The KWT is a short line that operates 62 miles of track in two states. Of these 62 miles, 11 miles of track are located in the western portion of Kentucky. In the Commonwealth, the KWT Railroad begins at the Tennessee state line and terminates in Murray, Kentucky, where it connects with the Hardin Southern Railroad. Major commodities handled by the KWT Railroad include food and consumer products, chemicals and plastics, clay, and transportation equipment.

Lexington & Ohio Railroad (LXOH) – This short line operates 15 miles of track within the state of Kentucky. A division of Gulf and Ohio Railways, the LXOH is located in Fayette and Woodford Counties in the central portion of the state.

Louisville & Indiana Railroad (LIRC) – The LIRC railroad operates 113 miles in two states; however, only two route miles are located in Kentucky. The LIRC crosses the Ohio River from Louisville into southern Indiana continuing toward Indianapolis. Within Kentucky the LIRC interchanges with the PAL.

R. J. Corman Railroad Company / Bardstown Line (RJCR) – The RJCR consists of approximately 20 route miles of track within Nelson and Bullitt Counties and 35 route miles in Floyd County. The section within Nelson and Bullitt Counties begins in the east near Bardstown and travels west to a termination point on a CSXT line midway between Louisville and Elizabethtown. Principal commodities include plate steel, plastics, lumber, building supplies, brick, and distiller's grain. My Old Kentucky Home Dinner Train also operates along this track and is further described in the following chapter. The second section of track in Floyd County

interchanges with CSXT and the principal commodity hauled along this line is coal.

Two R.J. Corman trains sitting outside their distribution facility in South Union, Kentucky

R. J. Corman Railroad Company / Memphis Line (RJCM) – The RJCM was purchased from CSX Transportation and operates a total of 100 miles in both Kentucky and Tennessee. Of these 100 miles, 62 miles of track are located in Kentucky, running between the Tennessee border and Bowling Green in Western Kentucky. Also included as part of the 62 route miles is a branch line that runs between Russellville and Lewisburg. The line connects with CSXT in Bowling Green and Guthrie. Major commodities hauled by the railroad include aluminum can stock, grain, fertilizer, steel, lumber, paper, chemicals, wallboard, and zinc.

Tennken Railroad (TKEN) – The TKEN operates 51 miles of track in Tennessee and Kentucky. The 12 miles of track within Kentucky are operated under lease with the Hickman River City Development Corporation, which owns the line. It connects Dyersburg, Tennessee and Hickman, Kentucky. Primary commodities handled by this railroad include coke, pitch, and steel products.

Transkentucky Transportation Railroad (TTI) - This short line railroad operates as a proprietary company of CSXT owning 49 route miles of track between Paris and Maysville interchanging with CSXT at each end and operating the TTI River Terminal in Maysville. The primary commodity shipped along the railroad is coal.

Western Kentucky Railway (WKRL) – This short line operates 40 miles within Kentucky. Located in the western portion of the state, this railroad currently operates within Union and Webster Counties. The principal commodity shipped along this railroad is coal.

United States Government (USG) – Serving Fort Campbell in southern Kentucky, the United States Government operates 18 route miles of track. The United States Government's track interchanges with CSXT in Hopkinsville, providing this facility connection to the national rail network.

II. FREIGHT TRAFFIC

The Surface Transportation Board (STB), described below, provided Waybill Sample data for years 1990 through 1999. This data was used to conduct the following commodity and traffic density analyses.

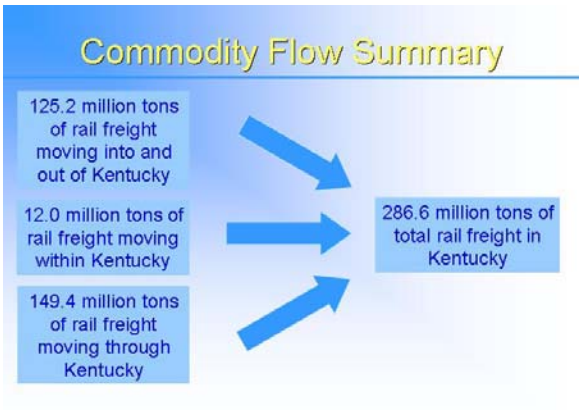
A. Surface Transportation Board

The Surface Transportation Board was established in 1996 as the successor to the Interstate Commerce Commission. Its mission is to "ensure that competitive, efficient, and safe transportation services are provided to meet the needs of

shippers, receivers, and consumers."[1] The STB is an adjudicatory body organizationally housed with the United States Department of Transportation, but decisionally independent, responsible for certain surface transportation economic regulatory matters. As this relates to rail, the STB's jurisdiction includes railroad rates and service issues, rail restructuring transactions, labor matters, and data collection and oversight. For additional information on the Surface Transportation Board, the following website can be referenced: www.stb.dot.gov/.

One example of a database maintained by the STB is the Carload Waybill Sample. A waybill is a contract between railroads moving a particular shipment and contains some of the following information: car initial and number, date, origin and destination, shipper, route, commodity code, weight, rate, and associated charges. The overall sampling rate for 1999 was close to three percent. Although a small sample, the Waybill Sample is regularly used for judicial and regulatory uses, market research and analysis, utilization studies, car cycle analyses, and hazardous material flow and risk cost assessment.

B. Commodities and Flows



In 1999 total rail freight traffic in Kentucky exceeded 286 million tons. Out of this total, 95.5 million tons originated in Kentucky with destinations outside the state, far outweighing the 29.7 million tons terminating in Kentucky from other states. Nearly 12.0 million tons of rail freight traffic both originated and terminated within the state (intrastate traffic). Traffic moving through Kentucky (neither originating nor terminating in the state) accounted for 149.4 million tons of rail freight traffic. **Table 2-2** displays 1999 freight tonnage by commodity and by type of movement for Kentucky and is also summarized above.

Originating Traffic

Coal makes up 88 percent of the 95.5 million tons of traffic originating by rail in Kentucky, and terminating outside the state. Transportation Equipment (three percent) and Primary Metal Products (three percent) follow, but are minor in comparison to coal traffic.

Rail freight originating in Kentucky predominantly terminates within Georgia, North Carolina, Florida, and South Carolina. Combined, the four states account for over 54 million tons or 57 percent of originating Kentucky volumes. This tonnage is predominantly coal being transported to southern power plants. **Figure 2-4** shows out-of-state destinations.

[1] Surface Transportation Board. http://www.stb.dot.gov/organization/people.htm. March 6, 2003.

Table 2-2

Kentucky Freight Traffic, by Commodity

1999

Commodity		Tonnage (thousands)					
STCC[1]	Description	Originating	Terminating	Intrastate	Through	Total	% of Total
1	Farm Products	659	362	8	26,413	27,442	9.6
10	Metallic Ores	81	2,300	211	2,528	5,120	1.8
11	Coal	83,817	16,313	9,954	53,815	163,899	57.2
14	Nonmettalic Minerals	377	345	650	937	2,310	0.8
20	Food or Kindred Products	287	824	59	11,070	12,240	4.3
24	Lumber or Wood Products	216	1,174	228	4,499	6,117	2.1
26	Pulp, Paper, or Allied Products	687	1,285	61	7,943	9,976	3.5
28	Chemicals or Allied Products	1,083	1,522	179	11,429	14,212	5.0
29	Petroleum or Coal Products	432	371	6	2,458	3,268	1.1
32	Clay, Concrete, Glass, or Stone	524	515	22	4,581	5,642	2.0
33	Primary Metal Product	2,841	1,353	78	6,534	10,806	3.8
37	Transportation Equipment	3,075	1,647	104	5,545	10,371	3.6
40	Waste or Scrap Materials	620	1,131	341	1,899	3,992	1.4
46	Misc. Mixed Shipments	456	433	0	7,363	8,252	2.9
	All Others	392	176	3	2,350	2,921	1.0
Totals		**95,547**	**29,750**	**11,903**	**149,367**	**286,566**	**100.0**

Source: Surface Transportation Board's Waybill Sample

Notes: 1) Waybill Statistics utilize two-digit Standard Transportation Commodity Codes (STCC) and are categorized accordingly.

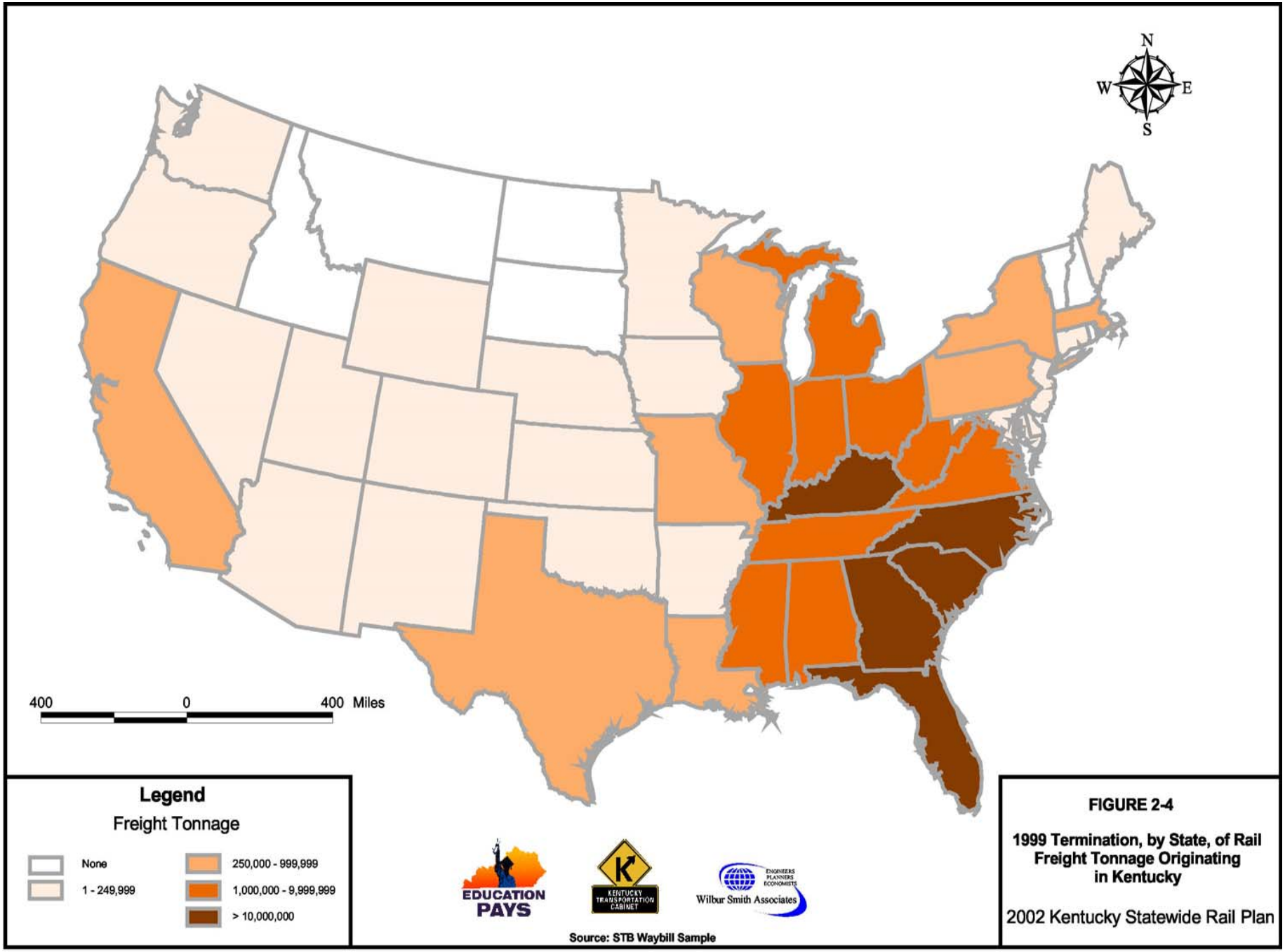


FIGURE 2-4

1999 Termination, by State, of Rail Freight Tonnage Originating in Kentucky

2002 Kentucky Statewide Rail Plan

Terminating Traffic

Coal makes up 55 percent of the approximately 30 million tons of rail traffic terminating in Kentucky. Metallic Ores and Transportation Equipment are next with eight percent and six percent, respectively.

Much of the rail freight traffic terminating in Kentucky originates in Illinois, Colorado, West Virginia, and Wyoming. These four states account for 19 million tons (67 percent) of all rail traffic terminating in Kentucky from non-Kentucky sources. **Figure 2-5** illustrates these out-of-state origins.

Intrastate Traffic

Kentucky intrastate rail traffic at 12 million tons accounts for only 4 percent of 1999 total rail freight traffic in the Commonwealth. Coal is the principal intrastate commodity, making up 84 percent of all intrastate rail traffic.

Through Commodities

Rail traffic passing through Kentucky, neither originating nor terminating within the state, comprises the largest rail traffic movement at 149.4 million tons. Four commodities, Coal (36 percent), Farm Products (18 percent), Chemicals or Allied Products (8 percent), and Food or Kindred Products (7 percent), make up almost three-fourths of rail traffic moving through Kentucky. The largest originator of through traffic is the State of West Virginia with over 37 million tons, with the majority of this tonnage being coal shipments. The largest point of termination is Ohio with over 20 million tons of rail freight. More than half of this tonnage is coal shipments from West Virginia.

C. Historical Trends

Figure 2-6 presents rail tonnage amounts from 1990 through 1999 as derived from the STB's Waybill Sample. The same data are presented in a tabular format in **Table 2-3**. It is evident that total rail freight tonnage increased during the period. Originating traffic varied in tonnage during the period, peaking in 1996, an increase of 13 percent, but returned to the 1990 level by the year 1999. There was a seven million ton (30 percent) increase in terminating traffic, and intrastate traffic declined by 43 percent throughout the period. Through traffic showed a 30 million ton increase in traffic, or a 25 percent rise. Overall, traffic between 1990 and 1999 increased by approximately 11 percent. This increase largely reflects increases in the movement of rail freight through the state.

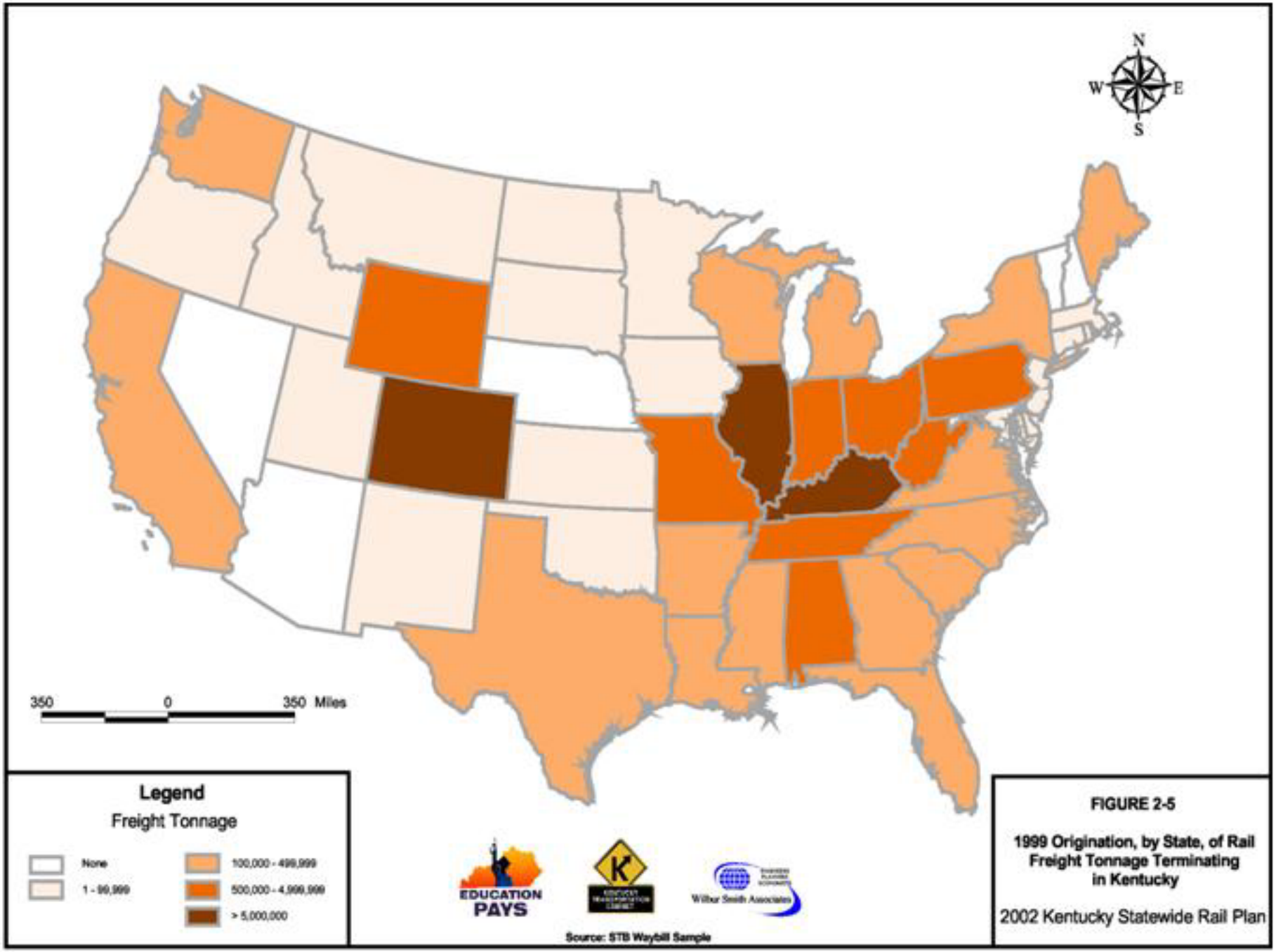


FIGURE 2-5

1999 Origination, by State, of Rail Freight Tonnage Terminating in Kentucky

2002 Kentucky Statewide Rail Plan

Figure 2-6
Kentucky Freight Traffic, by Origin/Destination
1990-1999

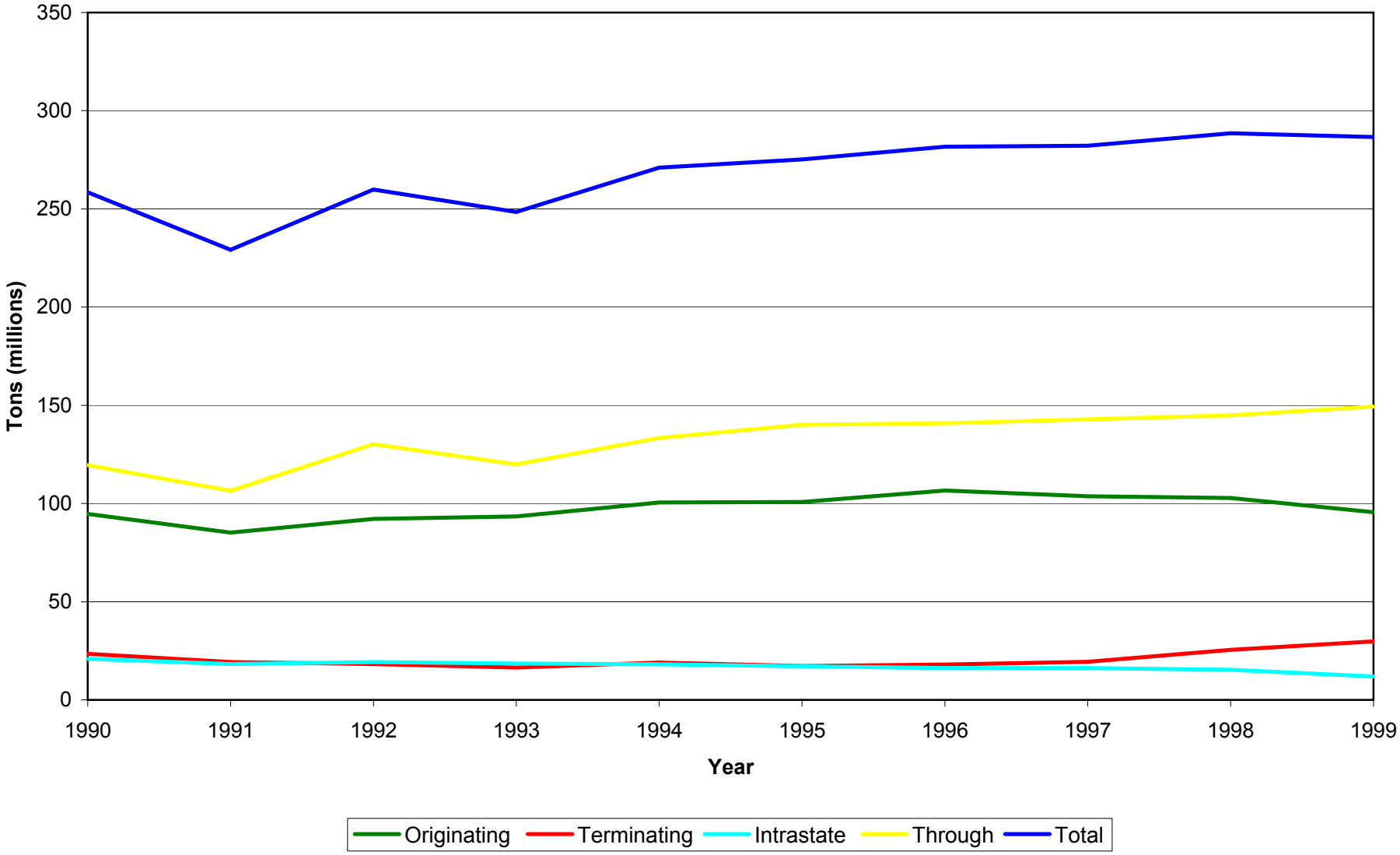


Table 2-3
Kentucky Freight Rail Traffic 1990-1999,
by Origin/Destination Type
Tonnage (millions)

Year	Originating	Terminating	Intrastate	Through	Total
1990	95	23	21	119	259
1991	85	19	18	107	229
1992	92	18	19	130	260
1993	93	17	19	120	248
1994	101	19	18	133	271
1995	101	17	17	140	275
1996	107	18	16	141	282
1997	104	19	16	143	282
1998	103	25	15	145	288
1999	96	30	12	149	287

Source: Surface Transportation Board's Waybill Sample

D. Kentucky's Principal Rail Commodities

Coal is the principal Kentucky rail commodity, leading in originating, terminating, intrastate, and through commodity tonnage. Coal comprises 57 percent of all Kentucky rail freight traffic, and 80 percent of all originating and terminating traffic. Looking further at originating and terminating traffic, transportation equipment, primary metal product and chemical or allied products follow with four, three and two percent, respectively. In terms of total commodity tonnage, farm products account for 10 percent, but this is mostly attributable to through commodity tonnage.

Coal Traffic

Coal makes up a significant portion of all commodities shipped in Kentucky, whether it originates or terminates in the state, is shipped intrastate, or passes through Kentucky. Data were compiled for the rail movement of coal traffic for the years 1990 through 1999. For each of these years, the coal originating in Kentucky comprised the majority of total freight traffic. Through traffic also made up an important, although smaller, portion of the total coal traffic. Coal traffic terminating in Kentucky comprised the smallest portion of total coal traffic.

As seen in **Table 2-4**, with the exception of a decrease in traffic between 1990 and 1991, state-originating coal traffic increased until 1996 and

decreased in the following years largely due to a downturn in the export market and an increase in the movement of Powder River Basin coal west to east. State-terminating coal traffic generally decreased until 1996, at which point it began to increase steadily. Intrastate coal traffic has shown a general decrease, while through coal traffic movements have fluctuated.

Table 2-4
Kentucky Coal Rail Traffic 1990 to 1999, by Origin/Destination Type
Tonnage (millions)

Year	Originating	Terminating	Intrastate	Through	Total
1990	88.4	13.8	19.5	51.0	172.7
1991	78.3	10.7	17.1	39.1	145.2
1992	84.6	9.7	18.2	56.3	168.8
1993	85.5	8.4	17.4	46.3	157.5
1994	91.6	8.9	16.8	51.3	168.5
1995	91.6	6.4	15.5	52.7	166.2
1996	96.9	6.5	14.7	57.9	176.0
1997	93.5	7.2	14.5	55.2	170.5
1998	91.5	12.0	13.6	51.6	168.7
1999	83.8	16.3	10.0	53.8	163.9

Source: Surface Transportation Board's Waybill Sample

As a percentage of all freight rail traffic in Kentucky, coal traffic was highest (67 percent) in 1990. Coal comprised only 57 percent of all freight traffic in 1999, the lowest percentage for all years tabulated.

Data were compiled for the years 1990, 1993, 1996, and 1999 regarding the origin and destination of coal traffic in Kentucky. As shown in **Figure 2-7**, when originating in Kentucky, the principal destination state in 1990 and 1993 was Kentucky. Other major destinations were Georgia, Virginia, and North Carolina. However, in 1999, Florida was a major destination, while both Kentucky and Virginia held a much smaller percentage. When terminating in Kentucky, the principal point of origin was also Kentucky for all years for which data were compiled, as can be seen in **Figure 2-8**. Other major points of origin were Illinois, West Virginia, Wyoming, and Colorado.

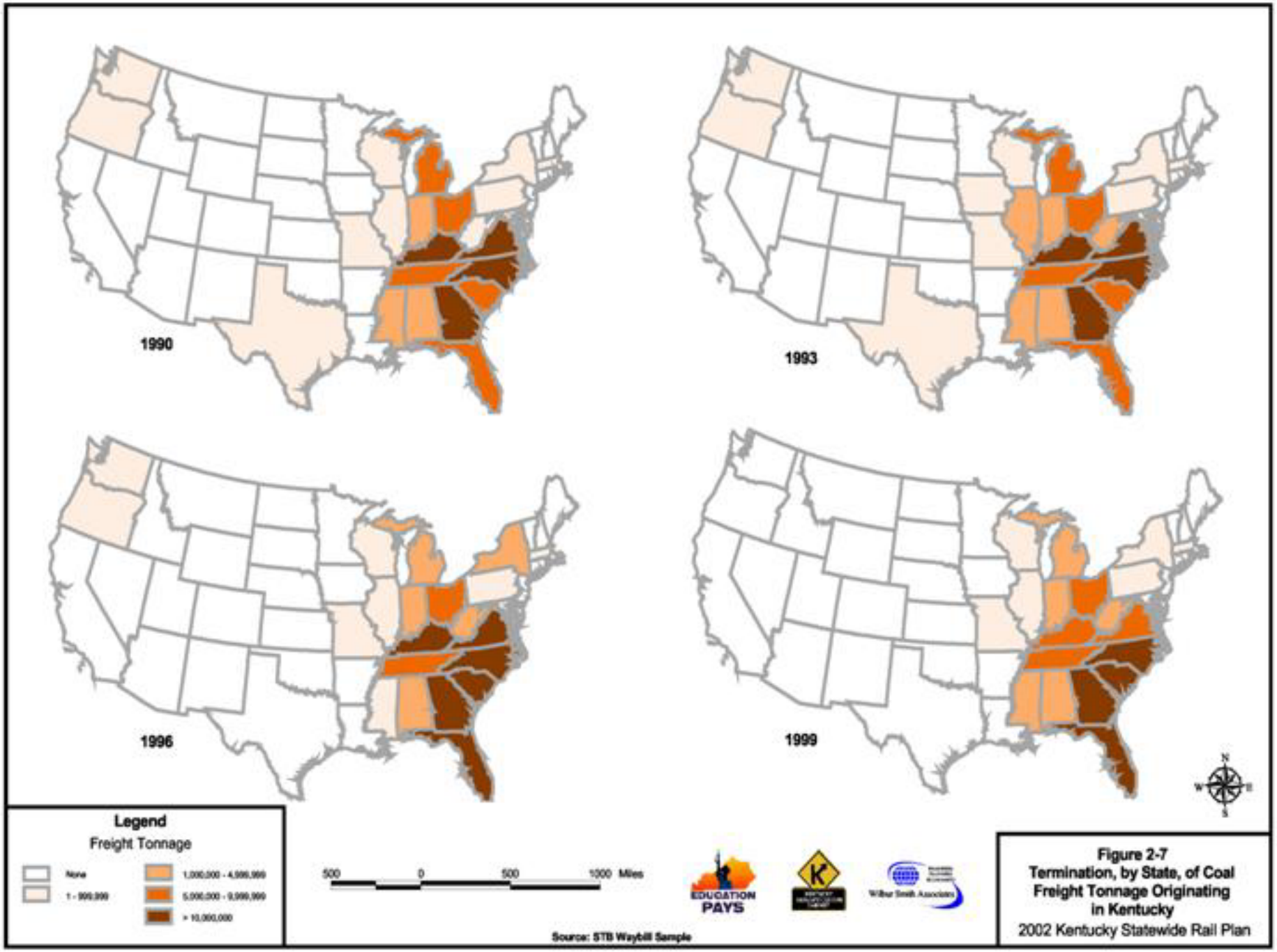
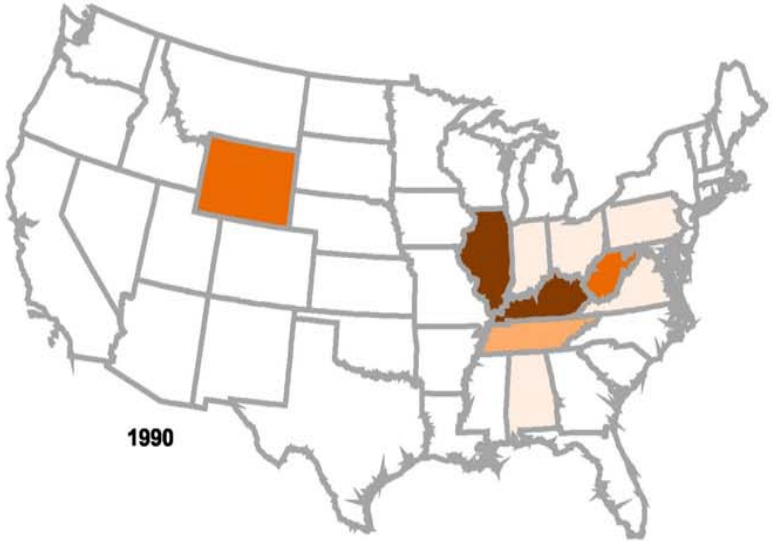
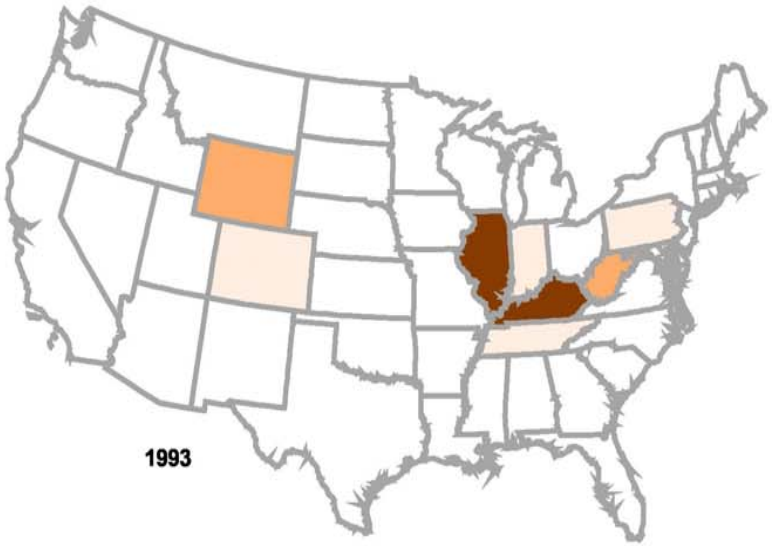
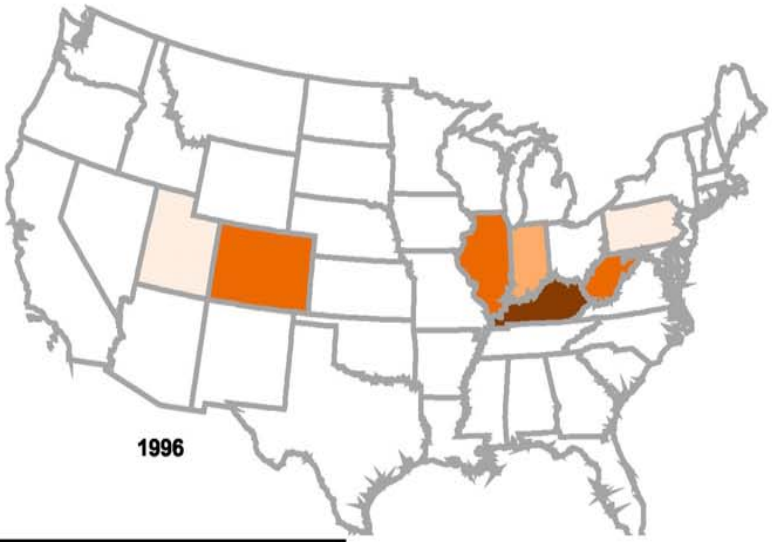
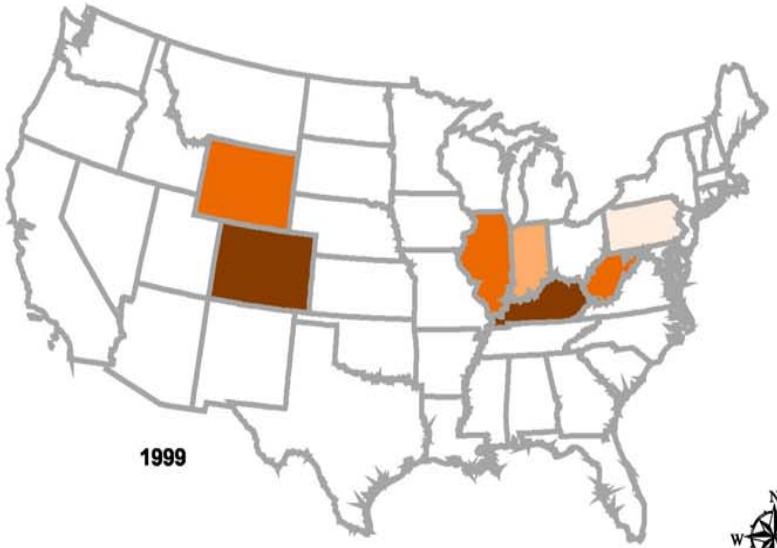


Figure 2-7
Termination, by State, of Coal Freight Tonnage Originating in Kentucky
2002 Kentucky Statewide Rail Plan









Legend

Freight Tonnage

- None
- 1 - 499,999
- 500,000 - 999,999
- 1,000,000 - 4,999,999
- > 5,000,000

500 0 500 1000 Miles

Source: STB Waybill Sample

FIGURE 2-8
Origination, by State, of Coal Freight Tonnage Terminating in Kentucky

2002 Kentucky Statewide Rail Plan

Transportation Equipment

The movement of transportation equipment has shown significant increases since 1990. Powered by continued production growth at the Ford, Toyota and Chevrolet manufacturing plants, originating traffic increased approximately 400 percent while terminating traffic increased approximately 500 percent. Currently, the Ford Explorer, Ford F-150, Toyota Camry, and Chevrolet Corvette, among others, are manufactured in Kentucky, yielding a high volume of automobiles produced within the state. In addition to finished goods, large volumes of parts are produced within Kentucky bound to both Kentucky and other out-of-state manufacturing facilities. Parts not produced in Kentucky must be shipped to Kentucky, accounting for additional flows. **Table 2-5** displays the overall growth in Kentucky transportation equipment.

Table 2-5
Kentucky Transportation Equipment Rail Traffic 1990 to 1999
Tonnage (millions)

Year	Originating	Terminating	Intrastate	Through	Total
1990	0.8	0.3	0.1	3.8	4.9
1991	0.8	0.4	0.0	3.2	4.3
1992	1.0	0.3	0.0	3.8	5.1
1993	0.9	0.3	0.0	3.6	4.7
1994	1.0	0.5	0.1	5.0	6.6
1995	1.2	0.7	0.2	5.2	7.3
1996	1.5	0.6	0.0	6.2	8.4
1997	1.4	0.6	0.0	6.5	8.6
1998	2.8	1.6	0.1	5.1	9.6
1999	3.1	1.6	0.1	5.5	10.4

Source: Surface Transportation Board's Waybill Sample

Primary Metal Products

In 1999, primary metal products accounted for a little over three percent of all originating and terminating traffic. Kentucky's originating tonnage between 1990 and 1999 has grown from 1.2 to 2.8 million tons, while terminating tonnage for the same period has grown from 0.7 to 1.4 million tons.

Chemical or Allied Products

Between 1990 and 1999, Kentucky rail transport of chemical or allied products have shown a trend of continued growth. Over these years, such commodities have remained the third largest component of all the

commodities moved on Kentucky's rails and the fourth largest when only considering originating and terminating traffic. Chemical or allied products were from three to five percent of all goods shipped by rail in Kentucky each year.

As represented in **Table 2-6**, the Kentucky rail system primarily acts as a through movement mechanism for such products, with the majority of tons simply passing from one state to another. It should be noted, though, that originating, terminating, and intrastate rail transport of these products have nearly doubled over the 1990-1999 time period. While these numbers are not significant in terms of total tonnage they do show a growth rate much higher than that of through tonnage.

Table 2-6

Kentucky Chemicals/Allied Products Rail Traffic 1990 to 1999, by Origination/Destination Type

Tonnage (millions)

Year	Originating	Terminating	Intrastate	Through	Total
1990	0.6	0.9	0.1	8.0	9.5
1991	0.8	1.0	0.0	7.6	9.4
1992	0.7	1.1	0.0	7.9	9.8
1993	0.8	0.8	0.1	8.2	9.9
1994	0.7	1.0	0.0	9.6	11.3
1995	0.7	1.1	0.0	9.2	11.0
1996	0.9	1.2	0.1	9.9	12.1
1997	1.0	1.1	0.2	10.3	12.6
1998	1.1	1.4	0.2	11.0	13.7
1999	1.1	1.5	0.2	11.4	14.2

Source: Surface Transportation Board's Waybill Sample

Farm Products

From 1990 to 1999, farm products were the second largest commodity group by percentage of total rail commodity tonnage. In regard to farm products, the Kentucky rail system is used mainly as a means for a through movement of goods from and to locales outside of the state's boundaries. Between 1990 and 1999, farm commodities transported by rail in Kentucky have grown from approximately 22 million tons to 27 million tons; however, only one million tons or less per year actually originated or terminated within the state. Even less is seen in intrastate transport for that same time period.

Over this period the through and total tonnage moved by rail has fluctuated, but has remained positive. Originating, terminating, and intrastate rail movements for farm commodities have remained relatively constant, with only minor losses and gains over this time frame.

Hazardous Materials

According to the U.S. Department of Transportation, materials that fall into one of the following nine hazard classes are classified as hazardous materials[2]:

- Explosives;
- Gases;
- Flammable Liquids;
- Flammable Solids;
- Oxidizers and Organic Peroxides;
- Toxic Materials and Infectious Substances;
- Radioactive Materials;
- Corrosive Materials; and
- Miscellaneous and Dangerous Goods.

Data compiled from the Waybill Sample for the 1990-1999 period shows that hazardous materials comprised four to five percent of total commodities shipped from, into, and through the Commonwealth of Kentucky. As shown in **Table 2-7**, intrastate hazardous material traffic is the lowest of these origin/destination types, rising slightly in volume from 1990 until 1995 when the tonnage was 0.4 million tons and decreasing after that until 1999, when the tonnage was 0.1 million tons.

Hazardous material shipped through Kentucky but not originating or terminating in the state had the highest tonnage over the ten-year period. With the exception of reductions in 1993 and 1996, the volume of this commodity group has steadily increased from 7.1 million tons in 1990 to 11.8 million tons.

Volumes of hazardous materials either originating or terminating in Kentucky remained relatively unchanged or varied slightly over the ten-year period. For hazardous traffic originating in Kentucky, the volume varied from 1.1 million tons to 1.6 millions tons. For hazardous traffic terminating in Kentucky, the volume varied from 1.5 millions tons to 2.7 million tons, with little uniformity in pattern.

[2] US Census Bureau. "Hazardous Materials, Transportation, 1997 Commodity Flow Survey." *1997 Economic Census*. U.S. Department of Transportation, Bureau of Transportation Statistics and U.S. Department of Commerce, Economic and Statistics Administration, U.S. Census Bureau, December 1999.

Table 2-7
Kentucky Hazardous Rail Traffic 1990 to 1999, by Origin/Destination Type

Tonnage (millions)

Year	Originating	Terminating	Intrastate	Through	Total
1990	1.4	2.0	0.3	7.1	10.9
1991	1.5	2.1	0.2	7.9	11.6
1992	1.2	1.9	0.3	8.6	12.0
1993	1.1	1.5	0.3	7.6	10.5
1994	1.2	1.9	0.3	9.6	13.0
1995	1.3	1.9	0.4	9.8	13.4
1996	1.6	2.2	0.2	9.2	13.1
1997	1.4	2.5	0.2	10.0	14.2
1998	1.3	2.7	0.2	10.8	14.9
1999	1.3	2.5	0.1	11.8	15.6

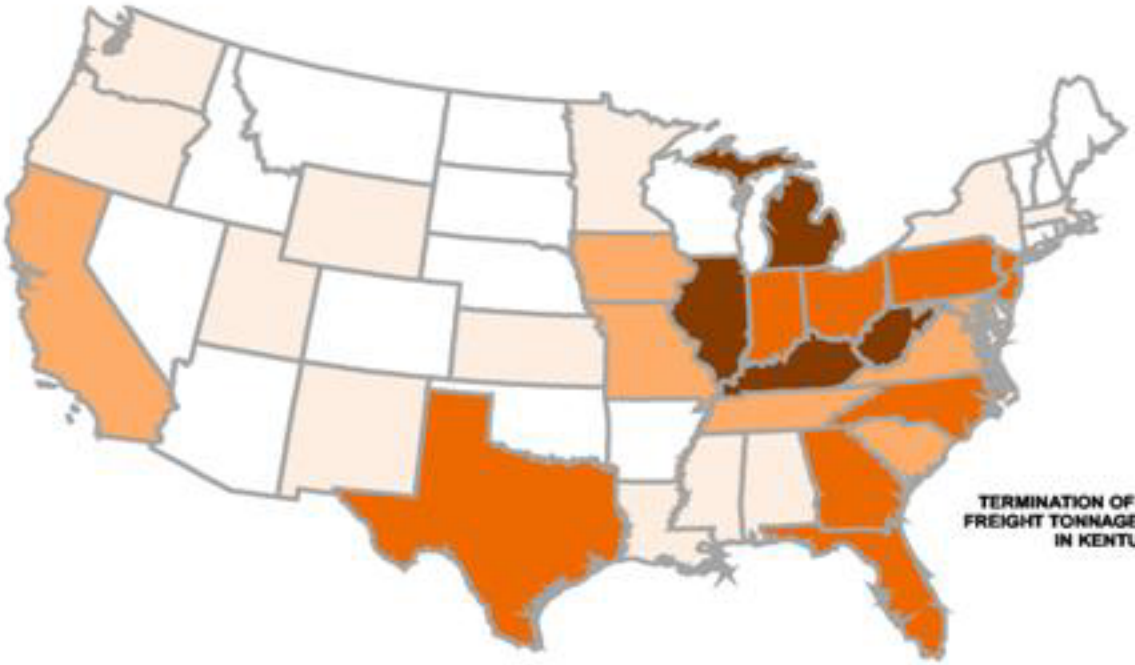
Source: Surface Transportation Board's Waybill Sample

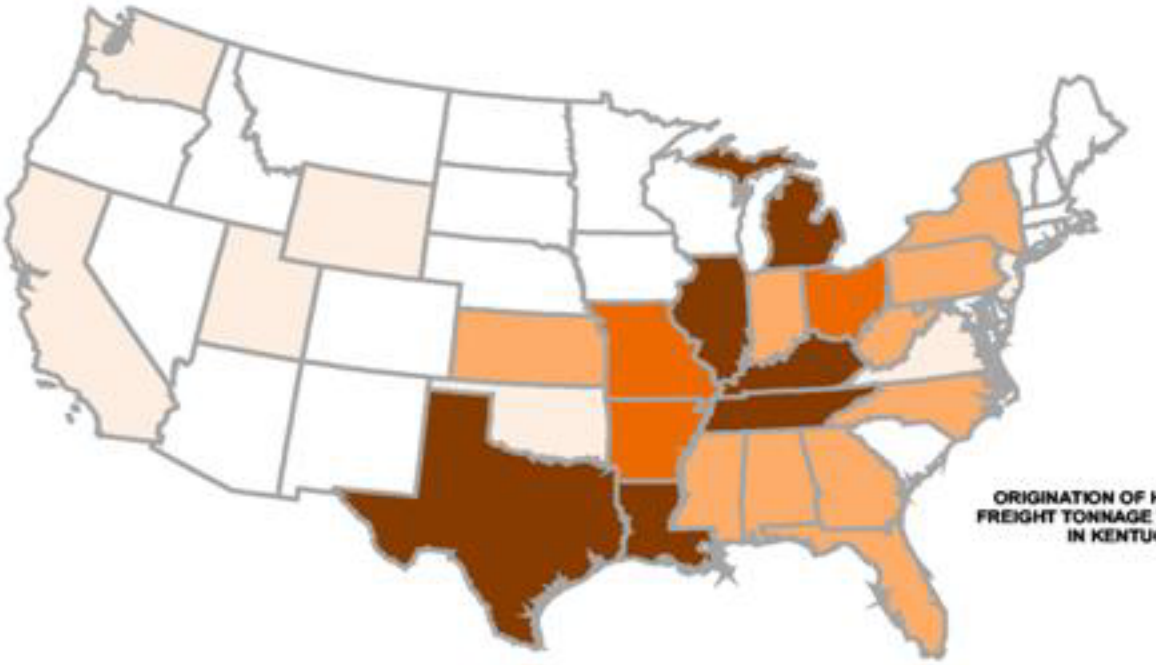
As shown in **Figure 2-9**, Illinois, Michigan, and Kentucky originate and terminate the highest tonnage of hazardous materials. Other states originating high volumes of hazardous materials include Texas, Louisiana, and Tennessee. Much of Kentucky's transported hazardous materials terminate in West Virginia.

E. Traffic Density

Figure 2-10 shows the freight traffic density of each rail line of the Kentucky rail system in 2000. The densities are estimated or computed on a line-by-line basis depending on availability of data. The traffic density is measured in terms of annual million gross ton-miles per mile (MGT-M/M). Gross tons are comprised of the weight of locomotives, rolling stock, and the commodities hauled. Traffic density is the principal indicator of the use of a line – the higher the density, the more heavily used the line.

Examination of **Figure 2-10** reveals the most heavily used lines in the state. CSX Transportation and Norfolk Southern mainlines are handling large volumes of through traffic. The first key corridor is the north-south CSXT rail line between Evansville, Indiana, and Nashville, Tennessee. To the south, CSXT transports large volumes of freight to Alabama and on into New Orleans for export. To the north, CSXT is transporting commodities to Chicago and then onto several key northeast cities, including Pittsburgh and New York.





500 0 500 Miles

Legend

Freight Tonnage

- None
- 1 - 19,999
- 20,000 - 49,999
- 50,000 - 99,999
- > 100,000

Source: STB Waybill Sample

Figure 2-9

1999 Hazardous Freight Tonnage, by State and Origination/Destination

2002 Kentucky Statewide Rail Plan

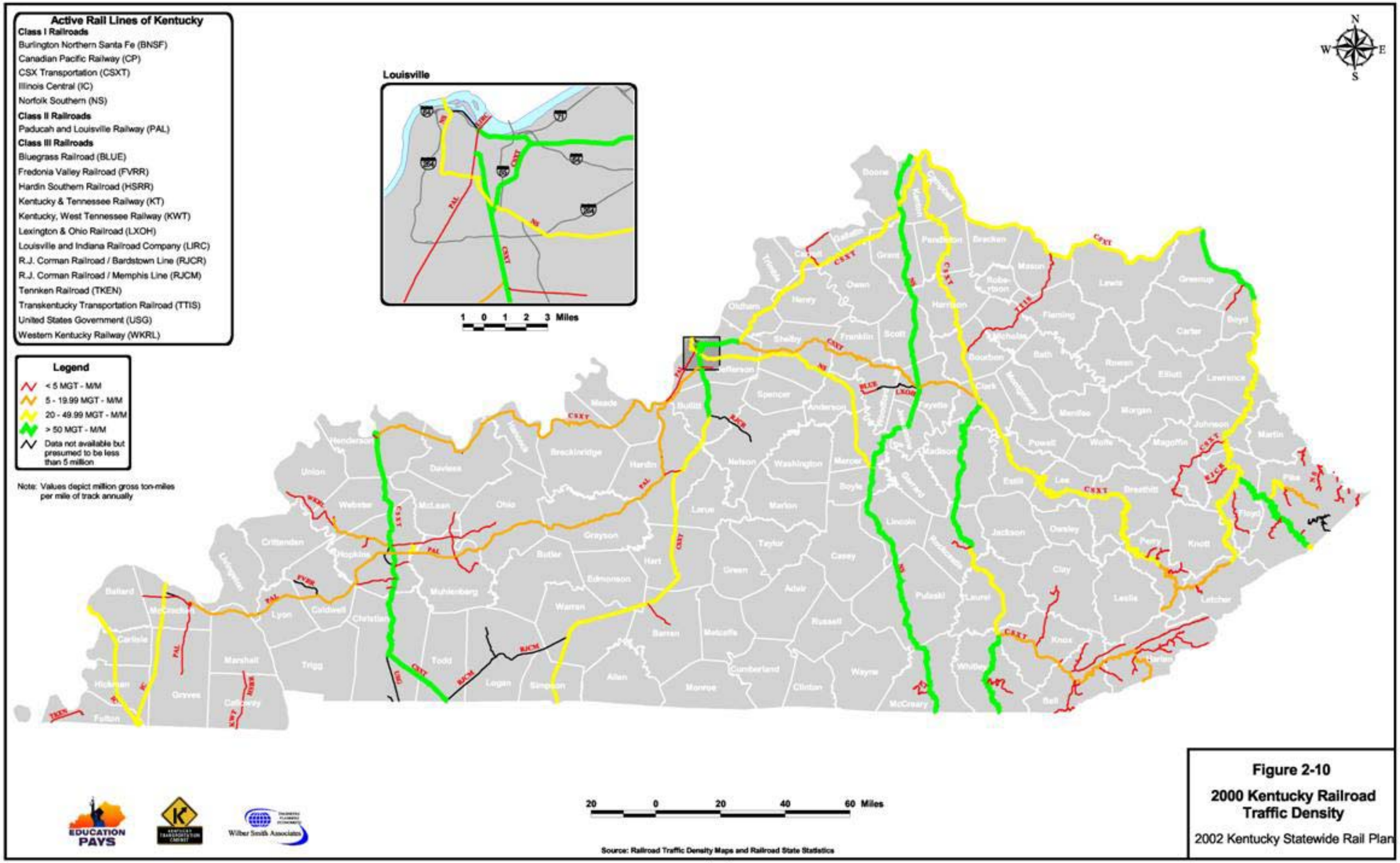


Figure 2-10

2000 Kentucky Railroad Traffic Density

2002 Kentucky Statewide Rail Plan

In eastern Kentucky, high traffic density is attributed to the large coal movements in this area, including West Virginia. As mentioned previously, the largest through movement is between West Virginia and Ohio. The northeastern CSXT rail line bordering Ohio is one route responsible for the transfer of coal product between these two neighboring states. Other heavily utilized CSXT routes are for the shipment of coal found in eastern Kentucky and include lines in Floyd, Pike, Greenup, and Boyd County along with Perry, Breathitt, Lee, Estill, and Madison Counties. Coal shipments through Madison County are shipped, north and south to Cincinnati and Atlanta, respectively. From these cities, shipments are dispersed to predominantly Jacksonville, Florida, Chicago, and various northeastern cities.

The key NS corridor runs between Chattanooga and Cincinnati. From Chattanooga, commodities are shipped to Memphis, Atlanta, Jacksonville, and New Orleans. From Cincinnati, shipments predominantly travel to the major east-west rail lines between Chicago and New York. This east-west corridor is one of the most heavily utilized corridors on the NS system. The other key route for Norfolk Southern splits from the line previously described at Danville and travels west to Louisville, continuing to St. Louis, Missouri, and Kansas City, where traffic can interchange with other western carriers.

F. Modal Comparison

The mode used to move commodities is of importance to highway planning, urban traffic congestion, air quality, and both local and national economies. The modes available for transport utilize infrastructures centered on roadways, waterways, rails, and air. Many shippers rely upon a combination of these to move their commodities from and to their desired locales. Several sources can be used to examine and make comparisons between the various Kentucky transport modes. The primary resources are as follow:

1997 Kentucky Commodity Flow Survey[3]

The Commodity Flow Survey is released at four-year intervals by the United States Departments of Transportation and Commerce. This functions as a primary source of facts regarding freight goods transport detailed by mode and commodity. This resource is relied upon by policy-making entities of federal and state governments, as well as businesses, trade associations, and consulting organizations. This data is limited in that it only identifies originating freight traffic. As such, commodities transported through and into Kentucky are not accounted for in terms of value and tonnage.

The *1997 Commodity Flow Survey* indicates that originating rail transport in Kentucky ranks second behind trucking for tons of all commodities moved. However, looking at the previous survey, taken four years earlier, it can be

[3] US Census Bureau. "Kentucky, Transportation, 1997 Commodity Flow Survey." *1997 Economic Census*. U.S. Department of Transportation, Bureau of Transportation Statistics and U.S. Department of Commerce, Economic and Statistics Administration, U.S. Census Bureau, December 1999.

seen that rail transport in tons has experienced a sharp decline, suffering a 14.2 percent loss.

When looking at total value of originating goods shipped, rail transport ranks fourth overall, behind trucking, trucking/rail, and parcel/postal services. While rail transport has experienced a sizable decrease in tons moved, the value of the goods shipped via rail has only decreased slightly (1.8 percent loss). This indicates that heavy inexpensive items (such as crude resources) that were once shipped are getting replaced by commodities that carry a higher price per ton (intermodal shipments, chemicals, etc.). Again, this reinforces the concept of changing national economies, where crude resources that used to fuel heavy manufacturing are now declining in demand.

Freight Commodity Flow in Kentucky, 1999[4]

This research report was conducted through the Kentucky Transportation Center and the University of Kentucky's Department of Civil Engineering by engineering faculty and scholars. The report provides another source of information on Kentucky's statewide freight commodity flow. Based on data provided by Reebie Associates, researchers identified the types of commodities originating, terminating, and passing through Kentucky - aggregated to a three-digit zip code level. With this data, comparisons were made between the various modes of transport.

The Reebie data is based on the Transearch database developed and maintained by Reebie Associates. This database utilizes several domestic traffic flow sources and product and shipment sources to represent commodity flows. Examples of primary domestic traffic flow sources include proprietary shipment data, Railroad Waybill Sample, Corp of Engineers waterborne commerce statistics, Federal Aviation Administration airport activity statistics, import/export trade statistics, and Inland Traffic Survey. Examples of primary production and shipment sources include Bureau of Mines commodity reports, motor carrier industry financial and operating statistics, railroad freight commodity statistics, trade association production and shipment reports and state economic output by industry. Resources available and the project goals typically dictate the commodity and geographic detail of the data. For further information on Reebie Associates or the Transearch database, please refer to www.reebie.com.

Transportation in America, 2000[5]

This information summarizes all freight transport within the nation and makes comparisons between various modes. The data, however, is limited to national freight traffic and does not provide information on a state level.

[4] Aultman-Hall, Lisa, Brad Johnson, and Brian Aldridge. "Freight Movement and Intermodal Access in Kentucky." *Freight Commodity Flow in Kentucky*. KTC Report 99-65. Lexington: Department of Civil Engineering and the Kentucky Transportation Center, University of Kentucky, July 1999.
[5] Wilson, Rosalyn A. *Transportation in America 2000*. 18th Edition. 2001.

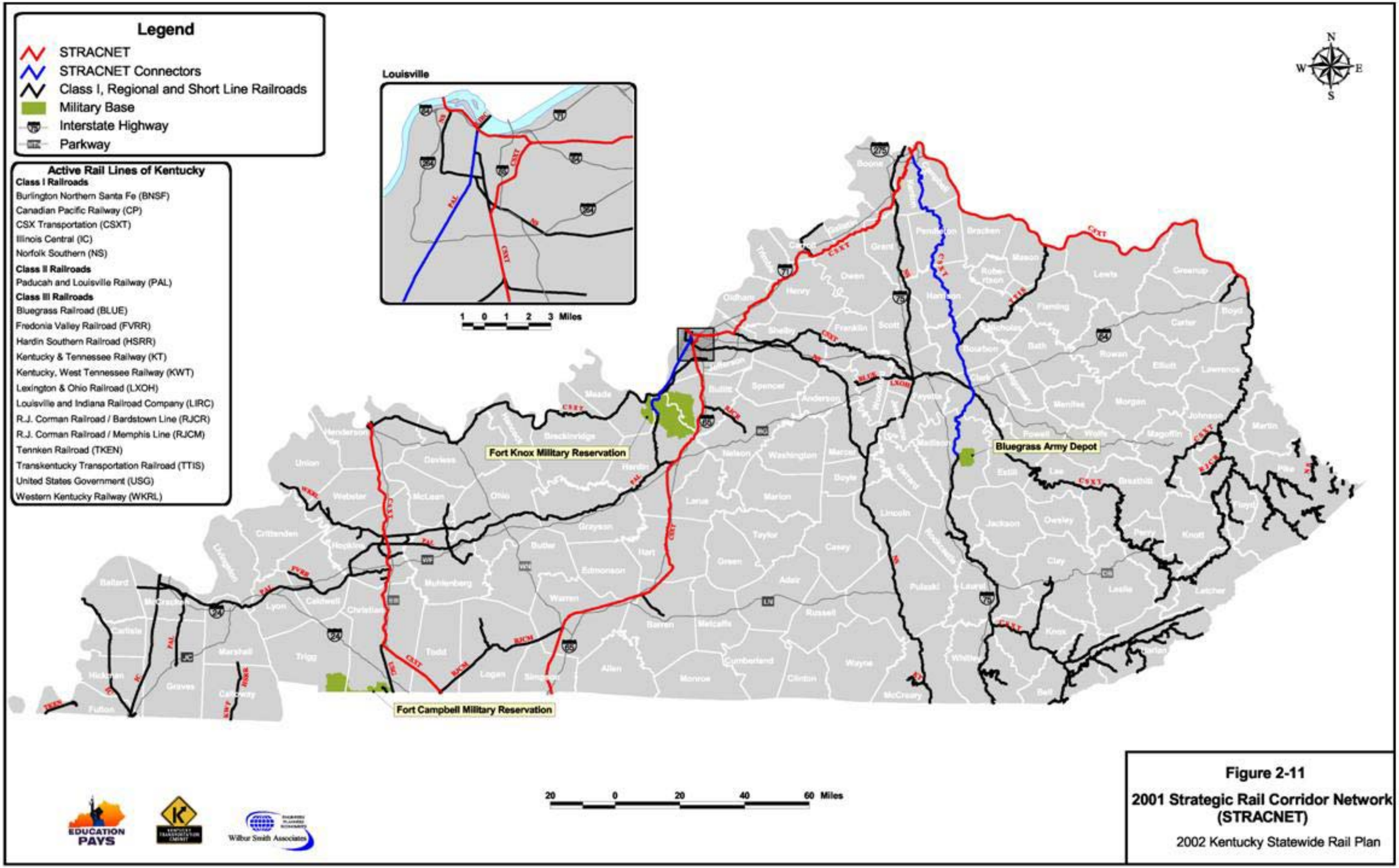


Figure 2-11

2001 Strategic Rail Corridor Network (STRACNET)

2002 Kentucky Statewide Rail Plan

According to *Transportation in America*, at a national level, rail transport is responsible for the second largest amount of freight revenue, at 6.4 percent of all freight revenue. This is a distant second behind trucking which has 81.3 percent of the share. However, rail transport leads in ton-miles, carrying 40.3 percent of all tons moved on the national transport system (consisting of rails, roads, waterways, pipelines, and air). Rail carries this tonnage using the second smallest system size, with approximately 122,000 miles of rail compared to 832,000 miles of roadway and 177,000 miles of pipeline.

III. STRATEGIC RAIL CORRIDOR NETWORK

The Department of Defense (DOD) has designated a Strategic Rail Corridor Network (STRACNET) with connector lines between STRACNET and military installations and activities requiring rail service. The network follows along predominantly CSXT rail lines within the Commonwealth. It provides strategic movement in all directions, along with providing connection to key military facilities such as the Bluegrass Army Depot, Fort Knox Military Reservation, and Fort Campbell Military Reservation.

FRA periodically reviews the designated corridors, typically every three years, to ensure they meet defense readiness requirements for maintenance condition, clearance for oversize shipments, and weight-bearing capacity. The designated STRACNET and connector lines are illustrated in **Figure 2-11**.

IV. INTERMODAL FREIGHT

Intermodal transport is not only a system of using multiple forms of transportation for higher efficiencies, but it is an entire approach to planning, building, and operating a transportation system enhanced by existing technology. This enhanced system occurs through establishing good connections between transportation modes that carry freight, as well as people. It is this linkage that determines the quality and performance of intermodal transportation. These interconnections can have significant impacts upon economies, industries, metropolitan areas, states, and regions. The mode is irrelevant from the perspective of the public, the provider, or the shipper. What is important is the end result of the quality, cost, timeliness, and safety of the transportation.

The concept of intermodal transportation offers the potential of lowering transportation costs, increasing economic productivity and efficiency, reducing congestion, increasing returns from private/public infrastructure investments, improving mobility of all sectors of the population, and reducing energy consumption. Congress recognized the importance of the intermodal approach to transportation decision-making and the transportation system in the Intermodal Surface Transportation Efficiency Act (ISTEA). This act states “it is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an energy efficient manner.” This policy continued in the Transportation Equity Act for the 21st Century (TEA-21).

A. TOFC/COFC

Many of these rail connections are related to TOFC (trailer on flat car) / COFC (container on flat car) intermodal facilities. Rail-highway intermodal facilities were once more common when the focus was on the movement of trailers (TOFC) and only a ramp was needed for loading and unloading. A combination of a greater use of containers, requiring more investment in loading equipment, and overall operating efficiency, has led to the creation of hub centers consolidating many former facilities and increasing trucking distance. The creation of the double-stack car and its cost savings has spurred the use of containers, the number of which surpassed the number of trailers in intermodal facilities for the first time in 1992.

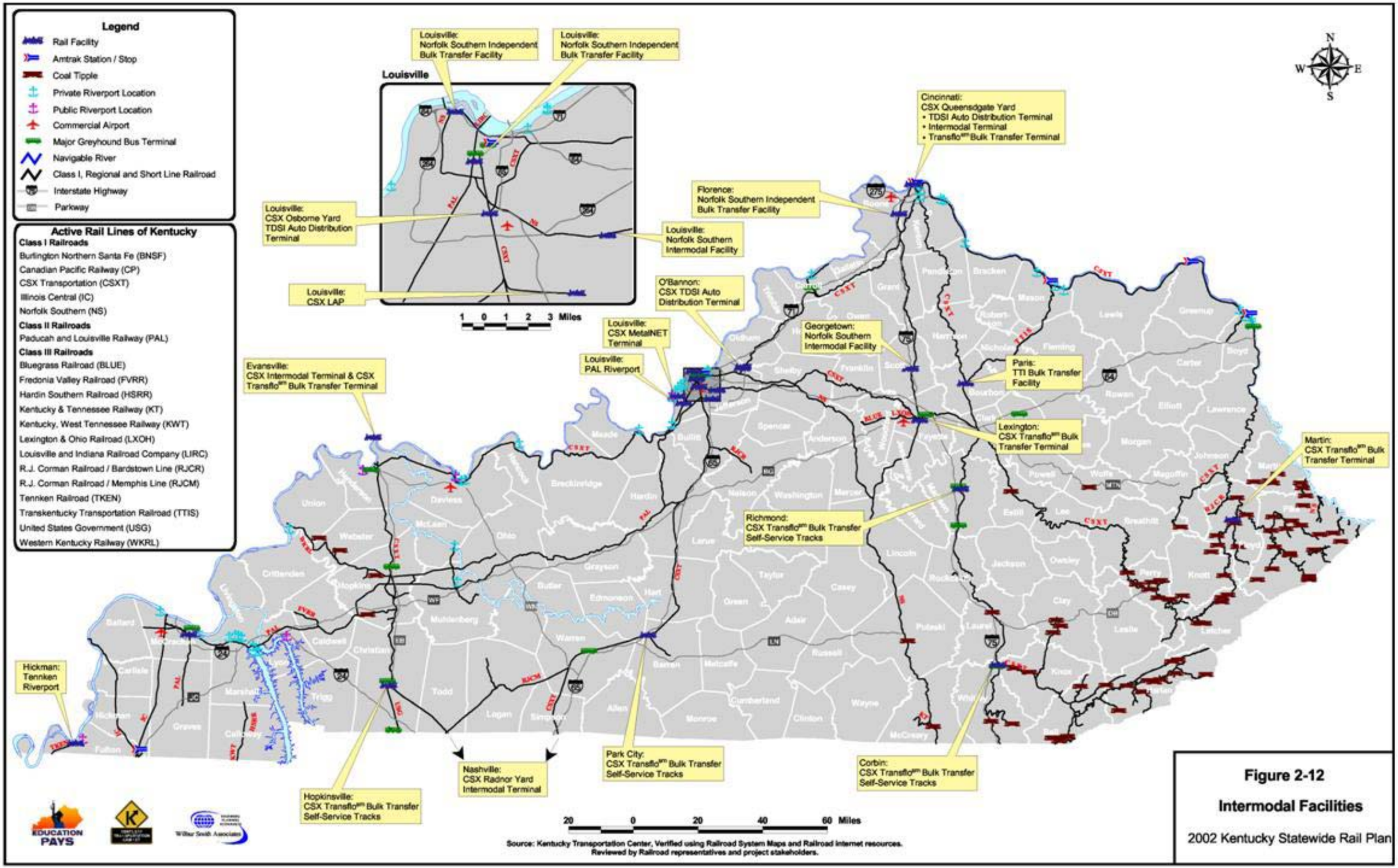
A complement to TOFC/COFC hub centers is rural intermodal terminals. Although not presently utilized within Kentucky, these rural intermodal terminals offer the potential to connect the entire Commonwealth with a network of intermodal facilities and provide access for rural areas of the state a more direct access to the national transportation system.

B. Bulk Transfer Facilities

Another form of intermodal terminal used by the railroads is the bulk transfer facility. These facilities permit the transfer of bulk materials between rail and truck for those businesses that do not have direct rail service. These transfer stations have the necessary equipment to transfer all types of products efficiently and safely. However, all products are not handled at all terminals. Some terminals are owned by railroads, although usually operated under contract by an outside party, while others are privately owned and operated, many of which are associated with trucking companies.

The RJ Corman Distribution Center in South Union, Kentucky is an example of a bulk transfer facility.

An inventory of Kentucky's intermodal infrastructure and facilities can be seen in **Figure 2-12**. Most rail facilities are located near urban areas, with concentrations in Louisville, Kentucky, and near Cincinnati, Ohio. In addition to rail owned and/or operated intermodal facilities, **Figure 2-12** displays rail served coal tipples and riverports, commercial airports, and bus terminals.



Source: Kentucky Transportation Center, Verified using Railroad System Maps and Railroad Internet resources.
Reviewed by Railroad representatives and project stakeholders.

Figure 2-12

Intermodal Facilities

2002 Kentucky Statewide Rail Plan

V. RELEVANT FREIGHT AND INTERMODAL STUDIES

A number of freight and intermodal studies have been identified as part of this rail plan and are described below:

A. *Kentucky Water Transportation Corridors Public Riverport Development and Intermodal Access*, 2000[6]

This study was commissioned by the Kentucky Transportation Cabinet to determine the development and intermodal access needs of Kentucky's public riverports. Ports studied included Henderson County Riverport, Hickman-Fulton County Riverport, Jefferson Riverport, Lyon County Riverport, and Paducah-McCracken County Riverport. Since general cargo facilities and infrastructure exist at each of these ports, improvements and developments will have a direct effect on the efficiency of commodity flow shipments.

B. *Kentucky Appalachian Regional Intermodal Airpark Study*, 2001[7]

This study was conducted to examine the various opportunities that might be afforded by the development of improved cargo distribution systems in Eastern Kentucky and the role that aviation system improvements have in supporting this effort. This study identified existing infrastructures and facilities throughout Appalachian Kentucky identifying candidate airports qualifying for future enhancements.

C. Final Summary Report on "Truck Route Access Evaluation," Freight Movement Intermodal Access in Kentucky[8]

This report conducted by the Kentucky Transportation Center and University of Kentucky Department of Civil Engineering evaluates truck route access between the National Highway System and 46 truck generating facilities. These include several intermodal sites throughout Kentucky. Studied were 81 routes and 800 miles of highway. Routes were evaluated, assigned an overall rating and recommendations made. Recommended improvements varied from routine maintenance to the need for complete reconstruction. Routes were prioritized by length and amount of truck traffic to recommend the most critical routes for improvement.

D. *An Assessment of Intermodal Transportation Plans, Systems, and Activities in the Appalachian Region*, 1999[9]

This report is a general overview of all modes of transit within the multistate Appalachian Region. Summaries of economic, transit, and developmental trends

[6] *Kentucky Water Transportation Corridors Public Riverport Development and Intermodal Access*. Prepared by Wilbur Smith Associates. Prepared for the Kentucky Transportation Cabinet, February 2000.
[7] *Kentucky Appalachian Regional Intermodal Airpark Study*. Prepared by Wilbur Smith Associates. Prepared for the Kentucky Transportation Cabinet, 2001.
[8] Aultman-Hall, Lisa. *Final Summary Report on "Truck Route Access Evaluation," Freight Movement Intermodal Access in Kentucky.* KTC Report 99-48. Lexington: Department of Civil Engineering and the Kentucky Transportation Center, University of Kentucky, 1998.
[9] *An Assessment of Intermodal Transportation Plans, Systems, and Activities in the Appalachian Region*. Prepared by Wilbur Smith Associates. Prepared for the Appalachian Regional Commission, May 1999.

are given to identify the current transit climate, as well as future possibilities. Rail networks and services are covered.

E. *Latin America Trade and Transportation Study*, 2001[10]

This study explores the ever-growing trade relationship between the United States and Latin American countries. Much of the notable trade increase has been Mexican cross border trade resulting from the North American Free Trade Agreement (NAFTA). Other trade agreements such as the Caribbean Basin and the emerging Western Hemisphere free trade initiatives are expected to enhance Latin America's standing as a United States trade partner. Given the previous sustained growth trend of the United States economy, the emerging and strengthening economies throughout Latin America, and the aforementioned factors, the intermodal trade routes between the two are crucial for sustained growth, job creation, and the continued improvement of developing nations.

Although the study is centered on multi-modal transport, it does call out several key factors that deal with the Midwest, and rail transport. Since Latin American trade represents a broad cross section of commodities, it is expected that this growth in trade will impact all sectors of the economies involved. Grain exports from the Midwest states to Latin America are expected to grow. Additionally, there is an increasing demand for consumer durables such as autos, electronics, and machinery. As Kentucky industries continue to shift toward finished products and higher end consumer goods (cars, electronics, etc.), the rail network will be essential in keeping the state linked to this ever-growing trade system. This study points out that reinvesting in, and keeping rail transport viable is a necessity for the continued expansion of those economies involved in this trade network.

F. Small Urban Area Transportation Studies

The Kentucky Transportation Cabinet funds these studies annually. From these studies local and county level transportation needs are identified. In some instances, these studies identify rail and other multimodal needs. The reports are made on an individual county or urban area basis, and as such are site and need specific. For example, the *Madisonville Urban Area Transportation Study*[11] identifies a rail line relocation through Madisonville, Kentucky as one of several recommended projects.

[10] *Latin America Trade and Transportation Study*. Prepared by Wilbur Smith Associates. Prepared for the Southeastern Transportation Alliance, March 2001.
[11] *Madisonville Urban Area Transportation Study*. Prepared by Wilbur Smith Associates. Prepared for the Kentucky Transportation Cabinet, August 2002.

CHAPTER 3: PASSENGER RAIL

This chapter highlights past and present Amtrak operations, tourist/excursion rail lines, and recent or ongoing passenger related studies.

I. AMTRAK

Amtrak currently serves over 500 communities in 46 states and the District of Columbia. **Figure 3-1** shows Amtrak's national system. In addition to its intercity service, Amtrak is the nation's largest provider of contract-commuter service for state and regional authorities. Originally created in 1970 as a for-profit government corporation, it officially began service on May 1, 1971 with 184 trains serving 314 destinations. Amtrak was granted a monopoly to provide intercity rail transportation. In 1971 its monthly ridership was 1,239,402. In 2001 its monthly ridership had grown to approximately 1,960,000.

Amtrak currently serves more than 500 communities across the United States.

Amtrak has requested $1.2 billion dollars in federal aid for fiscal year 2003. If this is not received, service along 18 long distance routes may need to be discontinued. Research from several of the websites listed below indicate that, most likely, funding for the upcoming fiscal year will not reach the requested level, although Congress has submitted varying proposals, some fairly ambitious.

With as many differing opinions as proposed actions, the future of Amtrak and rail passenger service in general is uncertain. For further or up-to-date information, the following sources are available:

- http://thomas.loc.gov - searchable legislative information
- http://www.amtrak.com - Amtrak website
- http://www.amtrakreformcouncil.gov - Amtrak Reform Council website
- http://www.narprail.org - National Association of Railroad Passengers website
- national or local media providers – media sources regularly provide rail passenger related articles.

Figure 3-1

2001 Amtrak National System

2002 Kentucky Statewide Rail Plan

II. KENTUCKY AMTRAK SERVICE

Amtrak trains serve five cities in Kentucky. The *Cardinal* serves the cities of Maysville, South Portsmouth, and Ashland and runs from Chicago, Illinois to Washington, D.C. The *Cardinal* runs three trains per week offering both sleeper and diner cars. The *City of New Orleans* provides service from Chicago to New Orleans, Louisiana, passing through Fulton. The City of New Orleans offers daily service and offers sleeper and dining cars. No connecting services are provided at Maysville, South Portsmouth, Ashland, or Fulton. Louisville is served by the *Kentucky Cardinal*, which connects Chicago and Indianapolis to Jeffersonville, Indiana, and Louisville. The *Kentucky Cardinal* offers daily service between Louisville and Chicago, providing an alternative to the *Cardinal's* non-daily service. **Figure 3-2** depicts passenger routes and stations serving the Kentucky market.

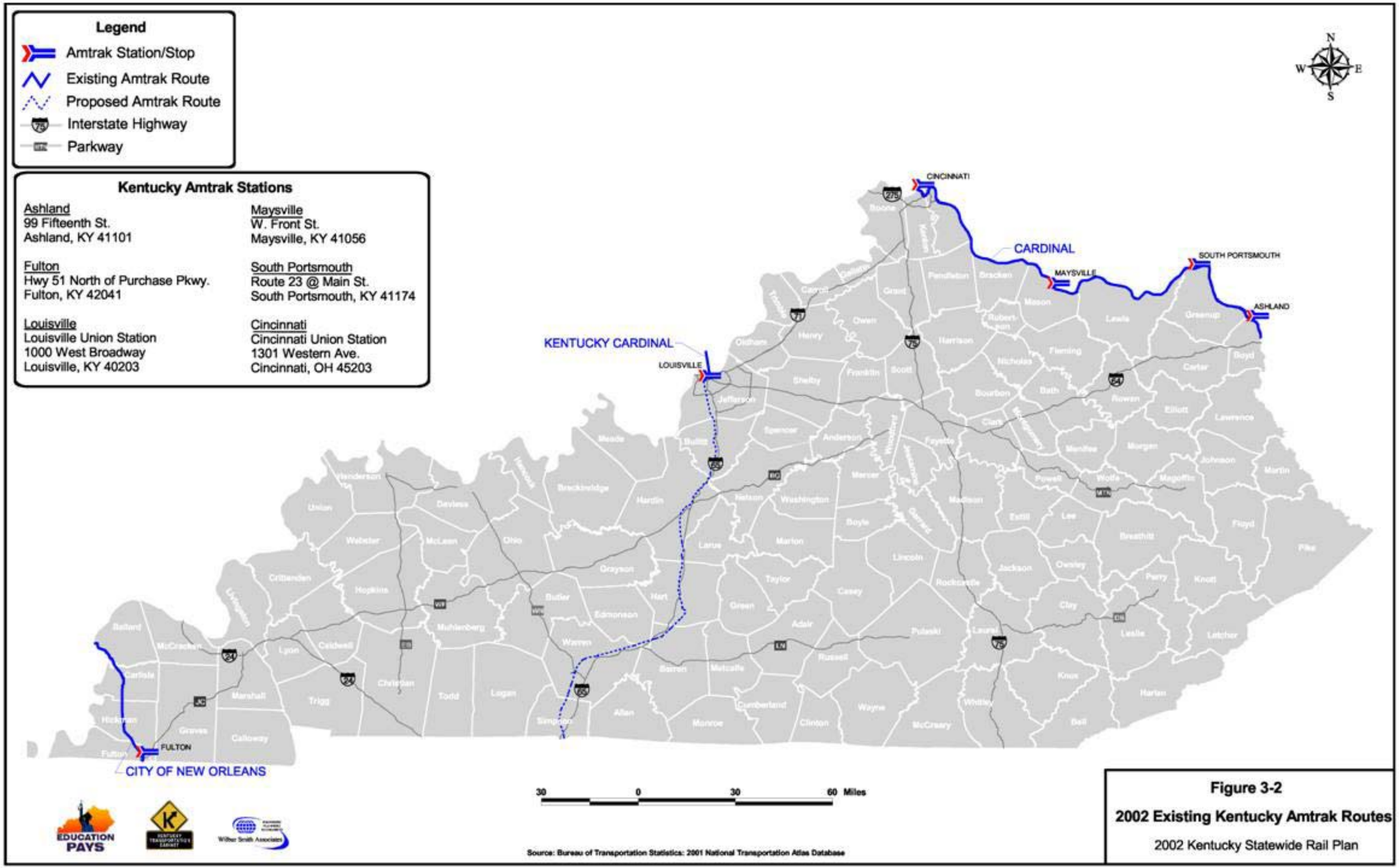
Amtrak records for the state of Kentucky were obtained for the years FY 1994 through FY 2001 and are summarized in **Table 3-1** below. As can be seen, ridership serving Kentucky held steady or steadily decreased from FY 1994 to FY 1998. In FY 1999, ridership dramatically increased, but decreased again in FY 2000 and FY 2001.

Table 3-1

Amtrak Ridership for Seleted Years and Cities

City	1994	1995	1996	1997	1998	1999	2000	2001
Kentucky Stations								
Ashland	--	--	--	--	1,391	2,833	2,778	2,631
Catlettsburg	2,273	2,461	2,133	2,574	--	--	--	--
Fulton	3,759	3,163	2,454	2,362	2,470	2,721	2,645	2,309
Maysville	1,101	1,017	1,248	1,345	1,723	3,360	1,731	1,646
S. Portsmouth	1,337	1,755	1,495	1,620	1,337	1,357	1,223	1,483
Louisville	--	--	--	--	--	--	--	--
Kentucky Total	***8,470***	***8,396***	***7,330***	***7,901***	***6,921***	***10,271***	***8,377***	***8,069***
Regional Stations								
Cincinnati, OH	15,803	13,976	13,066	16,095	16,928	17,930	14,298	19,084
Jeffersonville, IN	--	--	--	--	--	--	6,309	5,551
Regional Total	***24,273***	***22,372***	***20,396***	***23,996***	***23,849***	***28,201***	***28,984***	***32,704***

Notes: The Catlettsburg Amtrak station was moved to Ashland in 1997. Service to Louisville began December 2001 and service to Jeffersonville, IN began in 1999.



Source: Bureau of Transportation Statistics: 2001 National Transportation Atlas Database

Figure 3-2

2002 Existing Kentucky Amtrak Routes

2002 Kentucky Statewide Rail Plan

III. CONNECTING PASSENGER SERVICE

Thruway bus service is a passenger option providing connections between Amtrak and cities not currently served by Amtrak. Guaranteed connection to an Amtrak train station, through fares and common ticketing are provided in most cases. A Thruway motorcoach connection is provided at Louisville, connecting Louisville and Indianapolis and continuing to Chicago. Also serving Kentucky passengers is a station in Cincinnati. This station is served by the *Cardinal* and a Thruway motorcoach connection. The Thruway motorcoach connection out of Cincinnati provides a more direct link to Columbus, Ohio, Cleveland, Ohio, and Pittsburgh, Pennsylvania, as apposed to traveling by Amtrak train via Chicago.

IV. TOURIST/EXCURSION RAIL LINES

As previously mentioned, five tourist or excursion trains operate in the Commonwealth of Kentucky. These are described below and displayed in **Figure 3-3**.

A. Hardin Southern Railroad (HSRR)

Designated a Kentucky landmark, this short line currently operates eleven miles in the western portion of the state. It runs from Hardin to North Murray in Calloway and Marshall Counties. Volunteers conduct train service and are also working to establish a railroad museum.

B. Big South Fork Scenic Railway

Located in Stearns, Kentucky, the Big South Fork Scenic Railway is a recreational railroad that takes its passengers on a twelve-mile tour. It operates on track that is owned by the Kentucky & Tennessee Railroad. A tunnel, a restored mining camp, walking paths, an abandoned mine, and a gift shop are features available to the patrons. The train is in operation from May to October.

Big South Fork Scenic Railway train awaiting departure

C. My Old Kentucky Dinner Train

My Old Kentucky Dinner Train is located in Bardstown, Kentucky, and began its operation in 1988. Originally constructed by the Bardstown and Louisville Railroad in 1860, the branch was purchased by the R. J. Corman Company in 1987 from CSXT. The two-hour train ride operates year-round.

Legend

- Depot
- Museum in Depot
- Restaurant in Depot
- Railroad Museum
- Railroad Static Display
- Excursion Train
- Railroad Museum with Static Display
- Railroad Museum with Excursion Train
- Excursion Lines

Attractions

1. Ashland Depot
2. My Old Kentucky Dinner Train
3. Carlisle Passenger Depot
4. Railway Exposition Museum
5. Danville Model Train Museum
6. Elkhorn City Railroad Museum
7. Southern Railroad Depot
8. Fordsville Depot Museum
9. L&N Railroad Passenger Station
10. The Depot
11. Whistle Stop Restaurant
12. Depot and Pedestrian Bridge
13. Hardin Southern Railroad Nostalgia Train
14. Union Station
15. David A. Zegeer Coal-Railroad Museum
16. Kentucky Central Railway (Excursion Train Inactive)
17. Morehead Depot
18. Kentucky Railway Museum
19. Paducah Railroad Museum
20. Steam Locomotive No. 1518
21. Russell CSX Depot
22. Depot Railroad Museum
23. Big South Fork Scenic Railway
24. Vanceburg Depot Museum
25. Nostalgia Station
26. Bluegrass Scenic Railroad
27. Caldwell County Railroad Museum & Caboose
28. L&N Depot at Bowling Green
29. Buechel Train Depot
30. L&N Depot at LaGrange
31. Cloverport Depot Museum

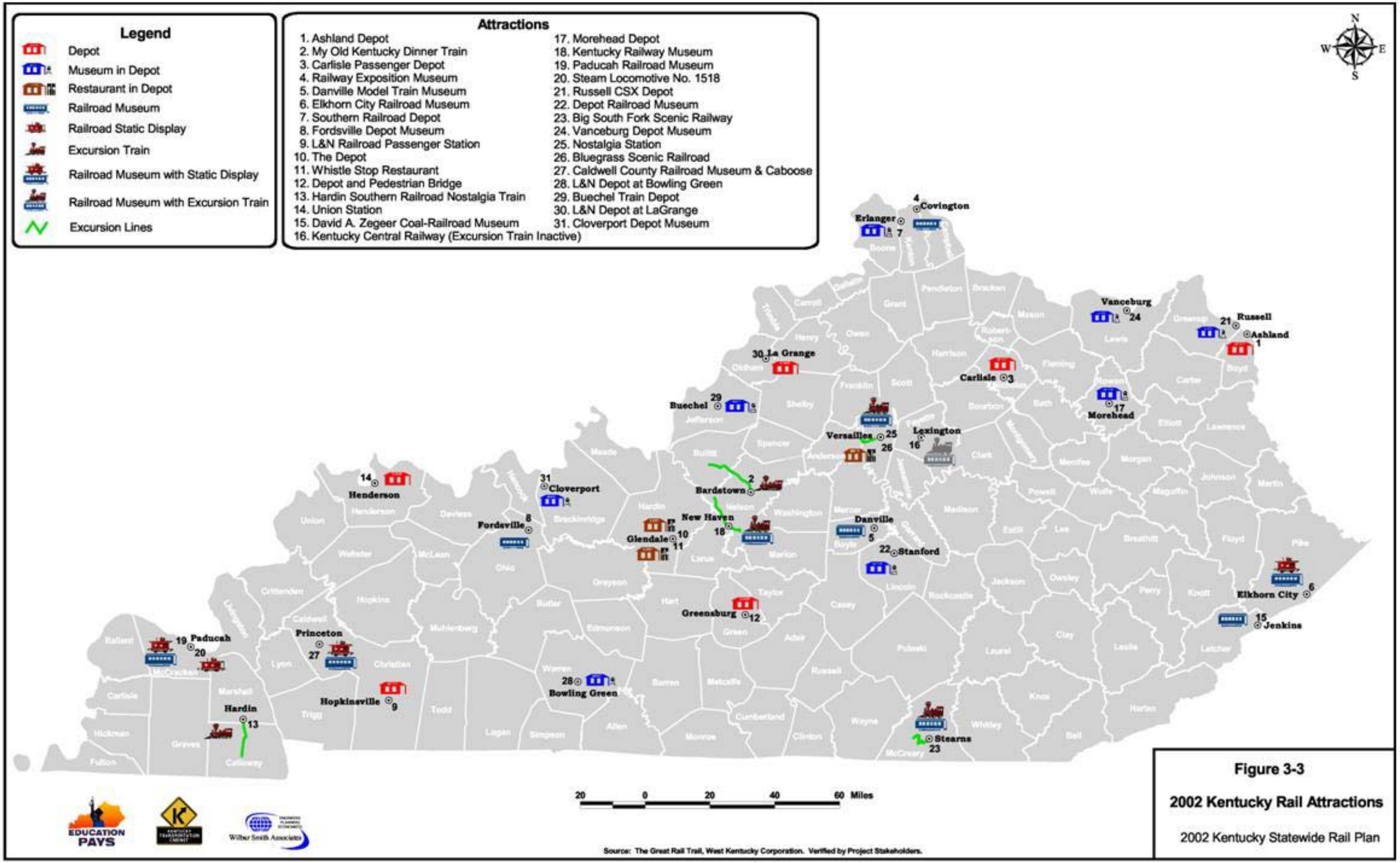


Figure 3-3

2002 Kentucky Rail Attractions

2002 Kentucky Statewide Rail Plan

D. Kentucky Railway Museum

The Kentucky Railway Museum is located in New Haven, Kentucky. It operates over 17 miles of track that was formerly part of the Louisville & Nashville (a CSXT predecessor) Lebanon branch. A passenger boarding area is found in Boston, Kentucky. A scenic tour, a collection of artifacts and memorabilia, and a gift store are features that are offered at the Kentucky Railway Museum.

Kentucky Railway Museum in New Haven, Kentucky

E. Bluegrass Railroad Museum

Located 1.5 miles from downtown Versailles, the Bluegrass Railroad Museum offers a short tour within the Bluegrass Region of Kentucky. Visitors are able to travel down the former mainline of the Louisville Southern Railroad. Other features include a display car and museum exhibits.

F. Additional Attractions

In addition to the tourist/excursion lines noted above, there are several attractions throughout Kentucky that focus on the past and present rail industry. These attractions include railroad depots, rail museums, restaurants in former depots, railroad static displays, or some combination of these. In addition to tourist/excursion trains, **Figure 3-3** displays a number of other rail attractions. **Table 3-2** provides additional information for each.

V. FUTURE PASSENGER SERVICE

Several studies are underway to explore and potentially expand the availability of passenger rail in Kentucky. Some of these studies are described below.

A. Midwest Regional Rail Initiative (MWRRI)

The Midwest Regional Rail Initiative was formed in 1996 in an effort to improve and expand passenger rail service in the Midwest. Participants in the MWRRI include the states of Indiana, Illinois, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin and Amtrak and the Federal Railroad Administration. The Commonwealth of Kentucky is not currently participating in the MWRRI because there is presently no funding available for development of the proposed Midwest Regional Rail System (MWRRS). The KYTC reserves the right to reconsider its position if funding were to become available.

Table 3-2
Kentucky Rail Attractions

1	Ashland Depot Ashland, Kentucky (606) 327-2057	2	My Old Kentucky Dinner Train Bardstown, Kentucky (502) 348-7500
3	Carlisle Passenger Depot Carlisle, Kentucky (606) 289-5174	4	Railway Exposition Museum Covington, Kentucky (859) 491-7245
5	Danville Model Train Museum Danville, Kentucky (859) 236-8090	6	Elkhorn City Railroad Museum Elkhorn City, Kentucky (606) 754-4554
7	Southern Railroad Depot Erlanger, Kentucky (606) 727-7955	8	Fordsville Depot Museum Fordsville, Kentucky (270) 683-3636
9	L&N Railroad Passenger Station Hopkinsville, Kentucky (270) 885-9096	10	The Depot Glendale, Kentucky
11	Whistle Stop Restaurant Glendale, Kentucky (270) 369-6000	12	Depot and Pedestrian Bridge Greensburg, Kentucky (270) 932-4298
13	Hardin Southern Railroad Nostalgia Train Hardin, Kentucky (270) 437-4555	14	Union Station Henderson, Kentucky (270) 831-1200
15	David A. Zegeer Coal-RR Museum Jenkins, Kentucky (606) 832-4676	16	Kentucky Central Railway Lexington, Kentucky (859) 293-0807 (Call First)
17	Morehead Depot Morehead, Kentucky (606) 784-6221	18	Kentucky Railway Museum New Haven, Kentucky (800) 272-0152
19	Paducah Railroad Museum Paducah, Kentucky (270) 442-4032	20	Steam Locomotive No. 1518 Paducah, Kentucky (800) PADUCAH
21	Russell CSX Depot Russell, Kentucky (606) 836-9666	22	Depot Railroad Museum Stanford, Kentucky (606) 365-0207
23	Big South Fork Scenic Railway Stearns, Kentucky (800) 462-5664	24	Vanceburg Depot Museum Vanceburg, Kentucky
25	Nostalgia Station Versailles, Kentucky (859) 873-2497	26	Bluegrass Scenic Railroad Versailles, Kentucky (800) 755-2476
27	Caldwell County Railroad Museum & Caboose Princeton, Kentucky (270) 365-0582	28	L&N Depot at Bowling Green Bowling Green, Kentucky
29	Buechel Train Depot Buechel, Kentucky	30	L&N Depot at LaGrange LaGrange, Kentucky
31	Cloverport Depot Museum Cloverport, Kentucky		

The objectives of the MWRRI are increased operating speeds, train frequencies, system connectivity, and high service reliability. The Initiative has developed the proposed MWRRS to improve the level and quality of regional passenger rail service. This, in turn, will improve mobility and stimulate economic development. The proposed MWRRS network is comprised of nine corridors consisting of 3,000 miles of track. The majority of the system is owned by freight railroads, and the remainder is owned by Amtrak and Metra (Chicago's commuter rail operator). The rail system will have a station located in Cincinnati and Louisville with feeder bus service from Lexington to Cincinnati. Feeder bus service will also connect Paducah and Carbondale, Illinois. The implementation of the plan is expected to take place over a 10-year phasing program.

There are five major plan elements. These elements are as follows:

- The use of 3,000 miles of existing rail rights-of-way to connect rural, small urban, and metropolitan areas;
- The operation of a passenger rail system providing through-service in Chicago to locations throughout the Midwest;
- The introduction of modern train equipment operating at speeds up to 110 mph;
- The provision of multi-modal connections to improve system access; and
- Improvement in reliability and on-time performance.

Based on the Midwest Regional Rail Initiative Executive Report[1], the capital costs of MWRRS include two components. These components are rolling stock and infrastructure. The total capital investment is projected to be $4.1 billion. The rolling stock costs are expected to be approximately $652 million, while infrastructure costs are estimated to be $3.4 billion. Infrastructure costs include the implementation of a state-of-the-art positive train-control signaling system, improvement of highway/railroad grade crossings, and construction or renovation of passenger stations. As stated above, the costs were provided as part of the Executive Report. It is anticipated that the above costs will increase as the study is further refined.

An economic analysis of the plan by the Federal Railroad Administration established that a Midwest rail passenger system would offer the highest level of economic benefit associated with rail investment anywhere in the United States, with the exception of Amtrak's Northeast Corridor. Resource savings will be evident in automobile operating costs, relief of airport and highway congestion, and reduced exhaust emissions and energy usage. Other benefits of the proposed MWRRS include the enhancement of the Midwest region's existing transportation system, its practicability as a public and private investment, and

[1] *Midwest Regional Rail System, A Transportation Network for the 21st Century Executive Report.* Prepared by Transportation Economics and Management System, Inc. Prepared for Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, and Wisconsin Departments of Transportation, Nebraska Department of Roads, Ohio Rail Development Commission, and Amtrak. February 2000.

spin-off benefits such as freight and commuter rail improvements, community development, and job creation.

For up-to-date information on the Midwest Regional Rail Initiative and the proposed Midwest Regional Rail System, the following websites can be referenced:

- www.midwesthsr.org – Midwest High Speed Rail Coalition's website
- http://www.dot.wisconsin.gov/projects/state/docs/railmidwest.pdf - Executive Report
- www.amtrak.com – Amtrak's website
- www.fra.dot.gov – Federal Railroad Administration's website

B. *Examination of I-75, I-64, and I-71 High Speed Rail Corridors*, 1999[2]

A review of high-speed rail services, proposals, and a preliminary assessment of the potential for high-speed ground transportation between the Kentucky cities of Lexington, Louisville, and Covington was performed for the Kentucky Transportation Cabinet. The three metropolitan areas in the study area had a combined population of 3.1 million in 1997.

A rail ridership forecast was designed to produce an initial estimate of potential patronage. Additional ridership could be derived from air connect passengers and a Cincinnati connection with the Midwest Regional Rail Initiative. The revenues of a high-speed rail corridor would be generated solely from patronage using fares competitive with other land transport means. The estimated cost to construct the system is $5.48 billion.

It has been concluded that two major factors work against the proposal. First, the system suffers from highway-competitive travel times. In addition, the trips are not long enough to compete for airline traffic, the target of many high-speed rail proposals. However, it may be desirable to re-examine the proposal if the Cincinnati-Chicago leg of the Midwest Rail Initiative becomes a reality and proves successful.

C. Louisville Transportation Tomorrow Light Rail Project

The Louisville Transportation Tomorrow Light Rail Study is a project that investigates the possibility of the addition of a light rail system in Louisville, Kentucky, that would connect downtown Louisville with the University of Louisville, Louisville International Airport, the Kentucky Fair and Exposition Center, and the United Parcel Service (UPS) air hub. As defined by the Transit Authority of River City, the group performing the study, light rail is an electrified train system that can run at street level and is powered by overhead electrical lines.

There are two phases involved in the Light Rail Study. Phase I took place in 1997 and 1998 and examined the benefits a light rail system would bring to

[2] Examination of I-75, I-64 and I-71 High Speed Rail Corridors. Prepared by Wilbur Smith Associates. Prepared for the Kentucky Transportation Cabinet. May 1999.

Louisville. These benefits include improved mobility, the support of development and redevelopment of certain neighborhoods, reduced air pollution, and the easing of congestion on I-65. Alternatives to a light rail system included doing nothing, enhancing bus service, improving roadways, and adding bus-ways and high occupancy vehicle lanes. In Phase II (1998-2000), community advisory groups determined that light rail was the preferred alternative and chose a general route for the system.

The expected users of the light rail system are car commuters, commuters utilizing bus connections, and downtown and neighborhood residents. The expected cost is $551 million, with $25 million being used to enhance the current bus system.

For up-to-date information on the Louisville Transportation Tomorrow Light Rail Project, the following website is the official project website and can be referenced: http://www.t-2.org/index.html.

D. Ohio Kentucky Indiana Light Rail Project

The Ohio Kentucky Indiana (OKI) Light Rail Project, also known as the I-71 Corridor Study, is a current study to determine the best way to fight rising congestion along a stretch of I-71 in northern Kentucky and Cincinnati. Presently, traffic congestion in Cincinnati is creating economic costs of $500 million per year. This congestion, which is projected to increase under current conditions, will cause increased fuel consumption, increased pollution levels, and increased economic costs.

To fight the increasing congestion problems, three alternatives were considered for the I-71 corridor. The first option was to add bus routes; the second was to construct a light rail system while simultaneously improving the current bus system; and the third option was to construct one additional travel lane on I-71 in each direction. Ultimately, the light rail option was chosen because of the following benefits: congestion would be relieved, mobility would become more affordable, and light rail would lead to improved land use and more community development. The proposed light rail system would be composed of nineteen miles in the I-71 corridor with twenty-one stations.

For up-to-date information on light rail developments in the Greater Cincinnati area, the Ohio Kentucky Indiana Regional Council of Governments website (www.oki.org) can be used as a point of reference.

CHAPTER 4: RAILROAD, PUBLIC AND AGENCY INVOLVEMENT

This chapter describes the public and agency involvement that occurred throughout the study process, describes the comments and input received as a result of these efforts and discusses national rail trends and issues as they relate to the Commonwealth of Kentucky.

I. PROJECT MEETINGS

Throughout the preparation of the *2002 Kentucky Statewide Rail Plan*, the Steering Committee, Kentucky's rail carriers, public officials, and representatives of government resource agencies were given the opportunity to provide input for this plan. The following sections describe the project meetings process.

A. Steering Committee Meetings

A Steering Committee was formed at the onset of the plan development to provide guidance to the consultant, and to serve as a channel for input from the general public and other interest groups. The *2002 Kentucky Statewide Rail Plan* Steering Committee was comprised of representatives from the following divisions:

- KYTC Division of Multimodal Programs
- KYTC Division of Planning
- KYTC Division of Right-of-Ways and Utilities
- Department for Local Government (DLG) Division of Training and Area Development District (ADD) Services

Five Steering Committee meetings were held throughout the development of the *2002 Kentucky Statewide Rail Plan*. The purposes of these meetings were to discuss the purpose, goals and objectives; review preliminary data, analysis and mapping; and identify future plan needs. The five meetings are listed below:

Event	Date	Key Topics
Kick-Off Meeting	March 6, 2001	Project Scope/Coordination
SC Meeting #2	June 7, 2001	KRA concerns and data requests
SC Meeting #3	October 2, 2001	Intermodal, safety and Rails to Trails
SC Meeting #4	January 25, 2002	Mapping and schedule
SC Meeting #5	March 6, 2002	Preliminary Draft Review

Copies of the meeting minutes may be obtained from the KYTC Division of Multimodal Programs.

B. Kentucky Railroad Association Meetings

Throughout the plan process, Kentucky's rail carriers were involved. On April 27, 2001, a letter was sent to each Kentucky railroad that had not submitted an annual State Statistics Form as required by the Railroad Commission. The following information was requested: 2000 Annual Report with State Supplement; current system map; system diagram map; current tonnage or traffic density data for Kentucky lines; and potential or planned improvement projects in Kentucky. As a result of this request, Kentucky's rail carriers, in particular, the Regional and Local Railroads, expressed their concern in completing the State Supplement form. A meeting between KYTC, consultant staff and the Kentucky Railroad Association (KRA) was held June 7, 2001 as part of the scheduled Steering Committee Meeting #2, to discuss this and other concerns. Based on this meeting and follow-up discussion, a new State Supplement form was developed for the Regional and Local Carriers to annually complete and submit to the KYTC Division of Multimodal Programs.

On September 6, 2001, KYTC representatives and consultant staff attended their second Kentucky Railroad Association meeting. The meeting was held at CSX Transportation in Louisville, Kentucky. The purpose of this meeting was to discuss and approve the organization of the KRA and talk about important issues relative to the railroad industry. In addition, association members were briefed on the work-to-date of the *2002 Kentucky Statewide Rail Plan*.

A follow-up to the first Kentucky rail carriers' correspondence letters was mailed November 2, 2001. These letters were sent to all railroad operators within the Commonwealth. These letters were catered to each railroad based on the amount of information received to date by each. If not received previously, the same requests that appeared in the first letter were requested again. In addition each rail carrier was asked to complete and return a short questionnaire. The questionnaire can be seen in **Figure 4-1**. Questionnaires were received from the following nine railroad companies:

- CSX Transportation
- Norfolk Southern
- Paducah and Louisville Railway
- Bluegrass Railroad
- Kentucky West Tennessee Railway
- Louisville and Indiana Railroad
- Tennken Railroad
- Transkentucky Transportation Railroad
- Western Kentucky Railroad

On June 27, 2002, KYTC representatives and Wilbur Smith Associates staff attended a Kentucky Railroad Association Meeting at CSX Transportation in Louisville, Kentucky. Wilbur Smith Associates, on behalf of the KYTC, made a

short presentation on the *Draft Kentucky Statewide Rail Plan*. Valuable feedback was received from the represented railroads and is briefly summarized below:

- There were concerns regarding potential legislation that could place tighter restrictions on crew size, limiting the use of one-man crews;
- Some railroad representatives feel overtaxed because of the need to pay real estate and diesel tax among others;
- Tax credits would be preferred over public funding; and,
- There is a need for rail to play a larger role in the economic development efforts of the state.

As a follow-up to the meeting, a letter from Tony Reck with PAL was sent to the Division of Multimodal Programs. The concerns raised in this letter are discussed later in this chapter.

C. Other Organizational Meetings

As part of the coordination process, KYTC attended several other organizational meetings obtaining valuable input from these groups. A summary of these meetings are as follows:

Kentucky Rail-Trail Advisory Group Meeting

On July 23, 2001, a meeting of the Rail-Trails Advisory Group was held at the Department for Local Government in Frankfort, Kentucky. The purpose of this meeting was to discuss progress-to-date on the on-going Kentucky Transportation Center (KTC) project to map and identify abandoned rail lines throughout the state of Kentucky. In addition, committee members were briefed on the work-to-date and objectives for the Rails to Trails element of the Kentucky Statewide Rail Plan.

On November 15, 2001, a second meeting of the Rail-Trails Advisory Group was held at the Department for Local Government in Frankfort, Kentucky. The purpose of this meeting was to discuss the continued progress-to-date of the Department for Local Government project. From this meeting, the consultant was provided GIS mapping detailing the development of the pilot area. This project and mapping is further explained in Chapter 6.

Kentuckians for Better Transportation Rail Committee

On September 6, 2001, a meeting of the Kentuckians for Better Transportation (KBT) Rail Committee was held at CSX Transportation in Louisville, Kentucky. The purpose of this meeting was to discuss a proposed change to the KBT Policy and Issues Statement and review the work-to-date of the Kentucky Statewide Rail Plan. Wilbur Smith Associates, on behalf of the KYTC, made a short presentation on the plan receiving important feedback from those in attendance.

Kentucky Operation Lifesaver Meeting

On November 13, 2001, a meeting of the Kentucky Operation Lifesaver Group was held at CSX Transportation in Louisville, Kentucky. Operation Lifesaver is a nationwide, non-profit organization dedicated to ending collisions, deaths, and injuries at highway-rail intersections and along railroad rights-of-way. The purpose of this quarterly meeting was to elect a new state coordinator, discuss 2002 annual projects, discuss old business and review new booth signage. In addition, consultant staff was available to provide an update on the Kentucky Statewide Rail Plan and answer questions. A follow-up to this meeting occurred on January 6, 2002 when consultant staff met with the Operation Lifesaver State Coordinator. He provided additional information regarding the state and national program.

Kentucky Statewide Transportation Planning Group

On February 6, 2002, a meeting of the Statewide Transportation Planning Group was held at the Lincoln Trail Area Development District in Elizabethtown, Kentucky. Wilbur Smith Associates, on behalf of the KYTC, made a short presentation on the plan. Attendees were then encouraged to review the draft plan when made available in the upcoming months.

Metropolitan Planning Organizations

On April 16, 2002, a meeting of the Metropolitan Planning Organizations was held in Frankfort, Kentucky. Wilbur Smith Associates, on behalf of the KYTC, made a short presentation on the plan. As with the Statewide Transportation Planning Group, attendees were encouraged to review the draft plan when made available.

Barren River Area Development District Transportation Council

On August 29, 2002, a meeting of the Barren River Area Development District (BRADD) was held at the ADD in Bowling Green, Kentucky. As part of their normally scheduled meeting, Wilbur Smith Associates, on behalf of the KYTC, presented the *Draft Kentucky Statewide Rail Plan* to the BRADD Transportation Council. Questions raised by those in attendance included:

- To what detail are intermodal facilities called out in the Plan?
- Is the Plan recommending improvement projects?
- How will the state promote economic development as it relates to rail or will it at all?
- Are lines within the state being evaluated for their potential to handle high speed rail and/or improved passenger service?

II. RAILROAD ISSUES/CONCERNS

The following section discusses national rail trends and issues. Utilizing the previously mentioned questionnaire distributed to the active freight railroads, issues unique to Kentucky are highlighted.

A. Capital Needs

One common concern of big and small railroads alike was the funding for infrastructure needs. Most of the smaller railroad lines were light density lines spun off from Class I systems. Maintenance has been deferred on them and rehabilitation needs already existed. The trend to heavier cars (286,000 lbs.) has exacerbated the problem in these cases and created new ones in others.

Heavier cars are straining the physical plant and structures, including rail and wooden bridges. To accommodate larger loads, existing track needs to be upgraded to at least 100 lb. rail, with a preferable minimum being 115 lb. rail. In addition to upgrading rail, all rail carriers responding to the questionnaire expressed the need to improve or replace existing bridges.

Older bridges may need to be upgraded or replaced to accommodate increasing car weights.

Without improvements to existing infrastructure, regional and short line carriers are going to lose business with the Class I carriers because of the requirement to accommodate larger loads. In addition, smaller railroads will be hampered in their ability to attract new industry looking to take advantage of hauling more freight with less equipment.

For the larger railroads, needs for funding are more project-related, such as capacity expansions and new or improved facilities; however, funding shortages and adequate returns on investment are similar. Although admitting to infrastructure needs, Class I carriers do closely consider issues such as using public funding for private infrastructure and the use of this public funding to benefit one private competitor over another.

Kentucky's rail carriers identified additional capital needs to include motive power, signals, and grade separations. In addition to track infrastructure needs, they expressed a need for improved motive power. Their current locomotives continue to age with funds unavailable for maintenance of existing infrastructure. Both large and small carriers expressed the need for improved signal systems, in particular, as they relate to highway-rail crossings.

B. Safety Concerns

Safety is a priority throughout the rail industry. Based on comments received from Kentucky's rail carriers, private/public partnerships are needed to focus on safety, education, and personal liability. Although a safety benefit, warning devices cannot prevent highway-rail at-grade crossing accidents. One way of

overcoming this safety issue is to close crossings and/or provide grade-separated crossings. This approach will improve public safety, reduce motor vehicle congestion, and increase the railroads' speed and reliability. The latter is important to attracting new business to the railroads.

C. Economic Issues

Other issues include those economic in nature. Two issues are the general economy in the short term and coal production in the long term. Railroads pointed out the need to diversify their services, thereby reducing their dependence on the transport of coal. If and when aid is provided for the upgrade of existing facilities, rail carriers would then turn their attention to the marketing of their services. A desire to develop a public/private industrial development program was called out. This would provide short line carriers the ability to maintain existing business while potentially attracting new business.

Another identified economic concern is the desire to maintain equitable treatment of rail with respect to other modes of transportation. Rail carriers are required to maintain their own trackage and right-of-way and are taxed on all property and right-of-way through the ad valorem tax. In addition, railroads are required to pay the same 4.3 cents per gallon federal tax on diesel fuel that truck pay. For the trucking industry, the fuel tax goes to the highway fund while fuel tax generated from the railroads goes to the federal deficit reduction general fund, not providing benefit for railroad companies. The Association of American Railroads (AAR) supports the repeal of the fuel tax for railroads while the American Association of State Highway and Transportation Officials (AASHTO) supports moving revenue from the fuel tax to the Highway-Rail Grade Crossing Program.

With increasing traffic along the National Highway System (NHS), state and federal governmental agencies, along with the general public, are going to look for options to reduce congestion. Rail carriers are quick to point out the important role rail service can play in reducing, or at a minimum, stabilizing the growth in traffic along the NHS. However, this transfer of traffic onto rail from the NHS cannot occur without increased rail capacity. Because of the economic concerns discussed above, railroads are beginning to examine public-private partnerships to successfully create additional capacity.

D. Passenger Service Concerns

As indicated in the questionnaire responses, passenger trains raise important safety, capacity, and engineering concerns. The interaction between passenger and freight service, and the importance of each in the transport of people and goods; should be viewed over the long term. Current trends show the potential benefit of creating high-speed passenger corridors, most likely along existing freight routes. This difference in speed between the freight train and the passenger train results in safety concerns. The need to accommodate on-time delivery of passengers to their desired location contributes to capacity constraints for the freight owner and operator.

III. FEDERAL FUNDING

The following section provides a brief look at past and current federal funding programs and discusses potential for future funding.

A. LRSA/LFRA

The federal freight program began in the Northeast and spread to the Midwest during the 1970s dealing with railroad bankruptcies. The federal rail service assistance program was established by the Federal Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), and was amended by the Local Rail Service Assistance (LRSA) Act of 1978, and the Omnibus Budget Reconciliation Act of 1981. The LRSA program provided funding on a federal/local matching share basis for four types of projects: rehabilitation, new construction, substitute service, and acquisition. The LRSA Program permitted states to provide funds on grant or loan basis.

A few years later, The Local Rail Service Reauthorization Act was reauthorized and the name of the program was changed to Local Freight Rail Assistance (LFRA). With this change, also came change in the criteria used to establish eligibility to receive assistance. During the early 1990's, funds for the program were drastically reduced, and congressional appropriations were halted in 1995. From the time of its inception in 1976 until 1985, over $544 million federal funds were expended for this program.

B. TEA-21 Rail Funding

The Transportation Equity Act for the 21st Century (TEA-21) contains several provisions concerning rail funding and assistance as part of the overall $218 billion program. Two of these, Section 7302 – Light Density Line Pilot Programs (created to replace LRFA) and Section 7203 – Rail Rehabilitation and Improvement Financing (RRIF), are both designated specifically for rail lines. However, there are many other programs under TEA-21 that can be used for rail purposes when part of an overall program.

Rail initiatives are concentrated in seven sections within TEA-21. They are as follow:

Light Density Line Pilot Program

The purpose of this mechanism is to fund capital improvements and rehabilitation for light density rail lines (LDL) owned either publicly or privately. An annual total of $17.5 million was authorized for the life of TEA-21, but as of yet funds have not been appropriated.

Rail Rehabilitation and Improvement Financing (RRIF)

This section provides loans and loan guarantees for the development, improvement, acquisition, or rehabilitation of rail equipment or intermodal facilities. It permits an aggregate unpaid balance of $3.5 billion over the life of TEA-21 with $1 billion to be designated for non-Class I carriers. To insure against default, a risk factor premium is required. The factor will be computed

by the U.S. Department of Transportation and must be funded from nonfederal sources. Priority will be given to projects that do the following:

- Enhance safety;
- Enhance the environment;
- Promote economic development;
- Are included in state transportation plans;
- Promote U.S. competitiveness; and
- Preserve/enhance service to small communities.

Congestion Mitigation and Air Quality Improvement Program (CMAQ)

This program is a carry over from ISTEA. Eligibility has expanded to not only include freight and passenger rail projects but also MAGLEV Transportation Technology Deployment Program and promote public-private partnerships. Eligible projects include transportation projects that will reduce carbon monoxide, volatile organic compounds, oxides of nitrogen, and particulate matter in maintenance areas and non-attainment areas as designated by the Clean Air Act. Total available funding for the program is $8.1 billion. Example rail projects to be funded under this program include the Fairfield, Maine Intermodal Facility and Bensenville Rail Yard in northwest Chicago. Refer to http://www.fhwa.dot.gov/environment/cmaqpgs/index.htm for additional information on this program.

National Corridor Planning and Development Program and Coordinated Border Infrastructure Program

The objective of the National Corridor Planning and Development Program is to provide funding for coordinated planning, design, and construction of corridors of national significance, economic growth, and international or interregional trade. The purpose of the Coordinated Border Infrastructure Program is to improve safety and efficiency at or across U.S. borders. Funding of $700 million was to be split between the two programs over the life of TEA-21. For additional information on eligible recipients and eligible activities, the following website can be referenced: http://www.fhwa.dot.gov/hep10/corbor/index.html.

Transportation and Community and System Preservation Pilot Program (TCSP)

There are $25 million allocated annually for initiatives addressing the relationship between transportation, community, and system preservation and private-sector initiatives. States, local governments, and Metropolitan Planning Organizations are eligible for funding. Projects accepted include:

- Planning and implementation strategies that work to improve transportation efficiency;
- Reduction of transportation environmental impacts;

- Reduction of future infrastructure investments;
- Promotion of efficiencies and access to jobs, services, and trade; and
- Examination of public private-sector development and investment patterns.

Funding from this section has been used in Kentucky for a Rails to Trails project. For additional information of the TCSP program, refer to the following website: http://www.fhwa.dot.gov/tcsp/index.html.

Highway-Railroad Grade Crossings Program

The Highway-Railroad Grade Crossings Program, codified as Section 130 in Title 23 of the United States Code, provides Federal money to states to fund projects intended to reduce accidents at railroad crossings. According to Section 130, the money can be used to install or upgrade signs, pavement markings, signals, gates, crossing surfaces, and lighting. The Federal Highway Administration (FHWA) administers the Highway-Railroad Grade Crossings Program. This program is a continuation from ISTEA. The national program is funded from a portion of the Surface Transportation Program (STP). Annually, Kentucky receives $1.268 million to be administered through the Kentucky Transportation Cabinet Division of Right of Way and Utilities for rail-highway grade crossing improvements.

Earmarked Funds

A number of states, working through their Congressional delegations, received earmarked funds for specific freight rail assistance projects identified in the ISTEA legislation.

C. Other TEA-21 Rail Initiatives

Two other TEA-21 programs are described below. Both programs have been used as potential funding sources on various rail related projects.

Transportation Enhancements Program (TE)

Another continuation from ISTEA, the Transportation Enhancement Program offers communities the opportunity to increase recreation opportunity and access and provide safe bicycle and pedestrian facilities, scenic routes, and beautification to their communities. In 1998, as part of TEA-21, $3.8 billion in TE funds were provided through the Surface Transportation Program. According to the Federal Highway Administration, over half of the Federal programmed TE funds between FY 1992 and FY 2000 were used on bicycle and pedestrian facilities and rail trail projects. Other types of projects that received significant funding included historic preservation and preservation of historic transportation facilities and landscape and beautification projects. Additionally TE funds can be used to create transportation museums and visitors centers. The following website can be referenced for additional information on the Transportation Enhancements Program: http://www.fhwa.dot.gov/environment/te.htm. Additional information including application forms can also be found on the Kentucky Transportation Cabinet's

Division of Multimodal Programs website under Transportation Enhancements at http://www.kytc.state.ky.us/Multimodal/TE.htm.

Transportation Infrastructure Finance and Innovation Act (TIFIA) Funding

Although this program is not primarily for rail assistance, certain rail projects could receive funding through the Transportation Infrastructure Finance and Innovation Act. Eligible projects would include improvements to freight facilities on or adjacent to the National Highway System (NHS). This TEA-21 program provides funding in the form of credit (direct loans, loan guarantees, and standby lines of credit) for major projects of critical national importance. The project must cost a minimum of $100 million or 50 percent of the state's annual apportionment of federal aid funds, whichever is less. Federal participation is limited to 33 percent of total project costs, since the program is designed to fill market gaps and to leverage capital from outside sources. The following is the official TIFIA website: http://tifia.fhwa.dot.gov/.

D. Potential Federal Sources

The Transportation Equity Act for the 21st Century will expire on September 30, 2003. The United States Department of Transportation is in the development process of reauthorization of the surface transportation programs. As with the two previous programs, the next reauthorization program will provide federal funding for the next six years. For up-to-date information on the progress of the Surface Transportation Reauthorization, the FHWA maintains a website (http://www.fhwa.dot.gov/reauthorization/index.htm) that is regularly updated to provide the latest information.

In addition, to the Surface Transportation Reauthorization, there are currently several proposals being considered in Congress, that, if they come to fruition, could provide new and increased funding sources for passenger and freight rail. Since these proposals are regularly change, it is recommended to refer to the following website to check the current status of these proposed bills: http://thomas.loc.gov/home/.

CHAPTER 5: RAIL SAFETY

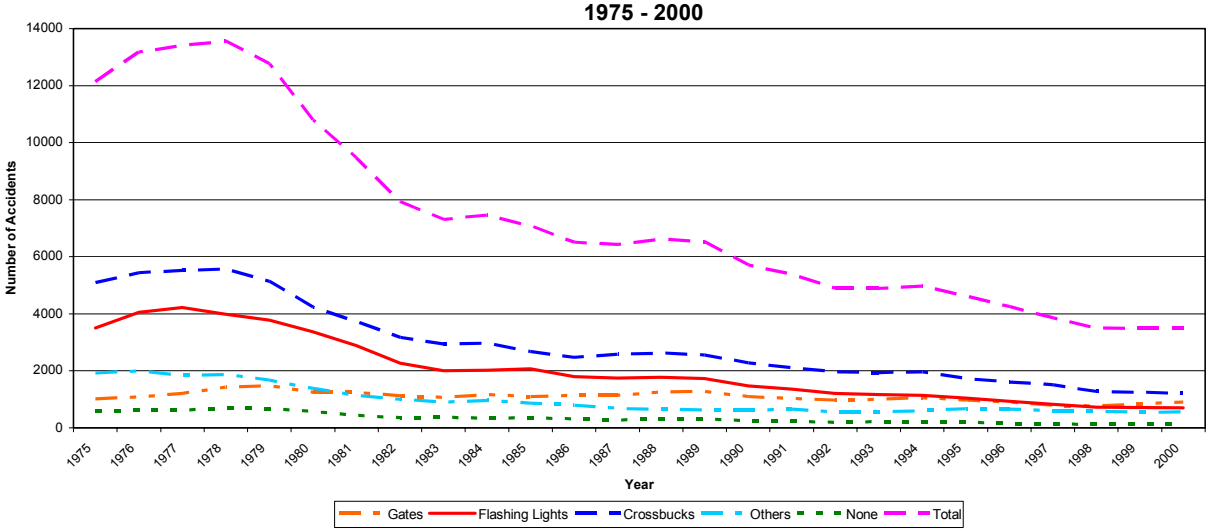
This chapter documents Kentucky's Rail Safety Program. The Program looks at general concerns regarding safety, accident statistics, problem types, Kentucky Grade Crossing Program, nationwide initiatives, and Kentucky's regulations, role, and policy. A focal point of the program is the relationship between the highway and rail networks, as related to highway-rail at-grade crossings.

I. GENERAL CONCERNS

Highway-rail grade crossing in South Union, Kentucky

The total United States rail system is comprised of over 122,000 miles of track. This system in 2000 was crossed at-grade by an estimated 256,000 streets, roads, highways, alleys, driveways, unimproved trails and other thoroughfares (equivalent to approximately 1.8 crossings per route mile of track) intended for the passage of motor vehicles, bicycles, and/or pedestrians. Only about 40 percent of these grade crossings have active warning devices with flashing lights, gates, bells, or some combination thereof. During the mid-1970s, there was an average of approximately 13,000 accidents and 1,000 fatalities per year at these crossings. As indicated in **Figure 5-1**, by the mid-1990s, these statistics had declined to an approximated average of 4,700 accidents and 575 fatalities per year. That represents a 64 percent reduction in accidents and a 42 percent decline in fatalities over the 20-year period, attributed mainly to the installation of active warning devices. In 2000, 3,502 accidents and 425 fatalities occurred at these crossings. These numbers represent a continual decreasing trend.

Figure 5-1
United States Highway-Rail Crossing
Accidents by Warning Device
1975 - 2000

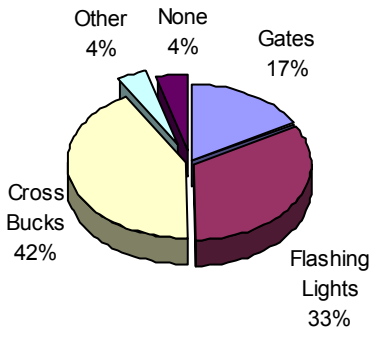


Source: Federal Railroad Administration Office of Safety

II. KENTUCKY RAIL CROSSING STATISTICS

In 2000, Kentucky's rail system was comprised of more than 2,800 route miles of track with 5,037 public and private at-grade crossings, equal to the national average with approximately 1.8 crossings per route mile of track. According to the Federal Railroad Administration's (FRA) Office of Safety, approximately 24 percent of these crossings are equipped with active warning devices, well below the national average. Kentucky Transportation Cabinet records show that there are 2,409 public at-grade crossings; therefore one-half are private crossings with passive warning devices. Approximately 17 percent are fully gated systems with gates, bells and flashing lights, as indicated in **Figure 5-2**.

Figure 5-2
Kentucky Public Highway-Rail Crossings by Warning Device for 2001
2,409 Total Crossings



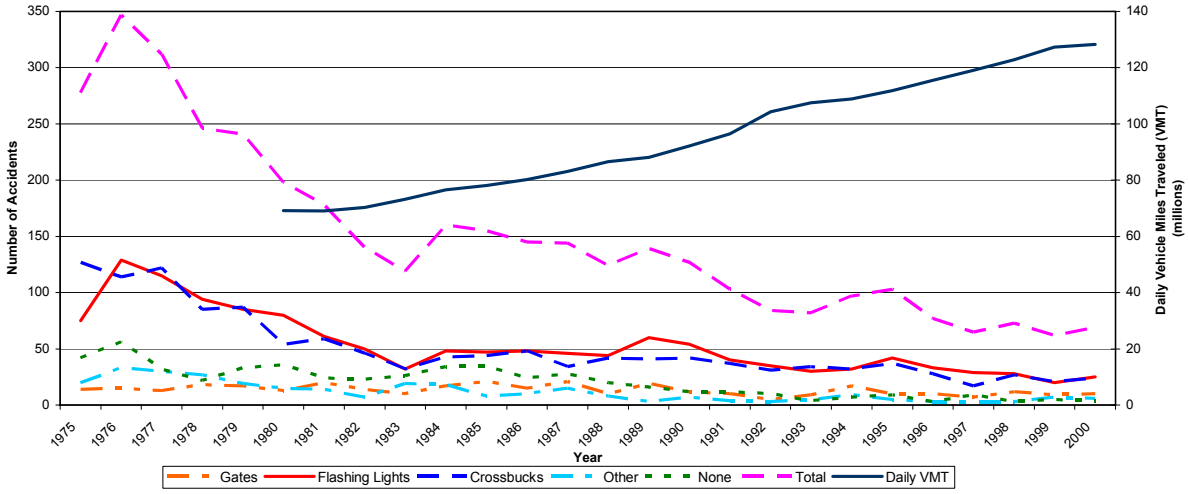
Source: Kentucky Transportation Cabinet

The number of grade crossing accidents in Kentucky has declined significantly since 1975. As shown in **Figure 5-3**, the total number of accidents has decreased from a high of 347 accidents in 1976 to 69 accidents in 2000. This is a result of improved warning devices at crossings, increased education, reduction in railroad route miles, and a decrease in the number of at-grade crossings, among others. The KYTC's Division of Multimodal Programs maintains data for daily vehicle miles of travel (DVMT), which is presented on Figure 5-3. Between 1980 and 2000, accidents have decreased by nearly 65 percent while DVMT has increased by 85 percent.

An example of a fully gated system on Rosemont Garden in Lexington, Kentucky

An example of an active warning system with flashing lights and bells along Brannon Road in rural Fayette County

Figure 5-3
Kentucky Highway-Rail Crossing
Accidents by Warning Type
1975 - 2000



Source: FRA Office of Safety and Division of Multimodal Programs

The FRA annually identifies the top 15 states with the highest number of incidents in the following categories: Highway-Rail Grade Crossing Fatalities, Highway-Rail Grade Crossing Injuries, Pedestrian Trespass Fatalities, and Pedestrian Trespass Injuries. The results are referred to as the "Focus 15" States and are based on Federal Railroad Administration Safety Statistics. For 2000, Kentucky was not in the top 15 for any of the four categories; however for 2001 the decreasing trend sharply rose in regard to the "Focus 15." In 2000, Kentucky had five highway-rail grade crossing fatalities and 20 highway-rail grade crossing injuries. In 2001, the number of fatalities doubled to 10 and injuries rose to 31. These increases placed Kentucky in the top 15 for both categories.

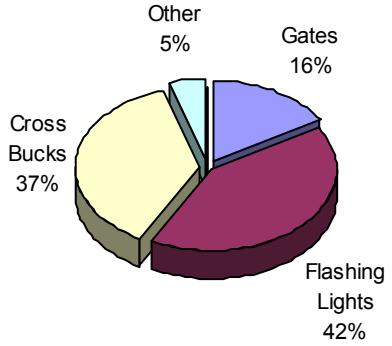
Another major rail safety concern is trespassing on railroad property. As stated in the *2000 Railroad Safety Statistics Annual Report*[1], a trespasser is defined as any person who is on that part of railroad property used in railroad operation and whose presence is prohibited, forbidden, or unlawful. In 2000, eight fatal and eight nonfatal casualties occurred as a result of trespassing in the Commonwealth of Kentucky, up from the previous year. In 2001, four fatal and eight nonfatal casualties occurred as a result of trespassing.

Due to the recent up and down trends of highway-rail grade crossing incidents and pedestrian trespass incidents, it would be desirable to regularly review the FRA Office of Safety statistics. The following FRA website can be used to track current and historical safety data: http://safetydata.fra.dot.gov/officeofsafety/.

[1] U.S. Department of Transportation, Federal Railroad Administration. *2000 Railroad Safety Statistics Annual Report*, July 2001.

Figure 5-4 shows Kentucky public highway-rail crossing incidents for 1999 by warning device. Although crossings equipped with flashing lights account for 33 percent of all public crossings, those crossings account for 42 percent of all incidents. Furthermore, highway-railroad crossings with fully gated systems account for 16 percent of all incidents. Although historical trends show a decrease in highway-railroad crossing incidents, active warning devices do not appear to eliminate incidents, but only to reduce the number.

Figure 5-4
Kentucky Public Highway-Rail Crossing Incidents for 1999 by Warning Device

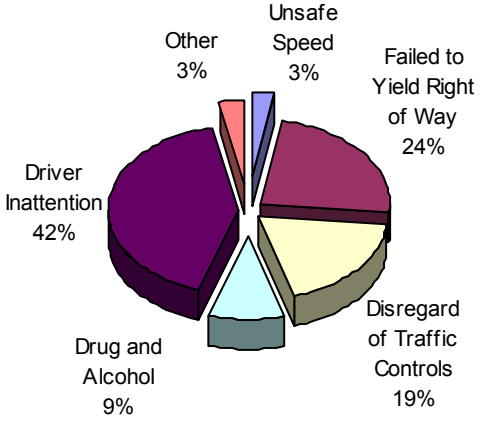


Source: FRA Office of Safety

Figure 5-5 details highway-rail at-grade crossing accidents by motorist action. According to the 1994 to 1999 editions of the *Kentucky Traffic Accident Facts*[2], the biggest contributor to crossing accidents was driver inattention, while the failure to yield right-of-way was the second biggest contributor. As seen in **Figure 5-5**, when looking at only fatal accidents, failure to yield right-of-way is the biggest contributor and disregard of traffic controls is the second largest at 24 percent.

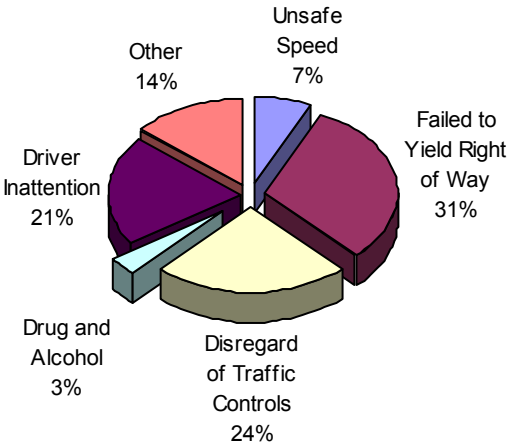
Figure 5-5

Kentucky Highway-Rail Crossing Accidents by Driver Contributing Factors, 1994-1999



Source: Kentucky Traffic Accident Facts

Kentucky Fatal Highway-Rail Crossing Accidents by Driver Contributing Factors, 1994-1999



Source: Kentucky Traffic Accident Facts

[2] Kentucky Transportation Center. *Kentucky Traffic Accident Facts*, published annually.

III. KENTUCKY GRADE CROSSING PROGRAM

The Highway-Railroad Grade Crossings Program funds highway-rail grade crossing improvements and was described on page 4-9. As stated previously, Kentucky annually receives $1.268 million to be administered through the Kentucky Transportation Cabinet Division of Right of Way and Utilities for rail-highway grade crossing improvements. This provides KYTC the ability to upgrade approximately eight to ten crossings per year.

The KYTC is required to maintain an inventory of public at-grade crossings throughout the Commonwealth. Based on physical characteristics and accident history, these crossings are prioritized. Approximately 2,000 of 2,409 are not fully upgraded to include gates, flashing lights, and bells. Therefore, these 2,000 public crossings are candidates for being upgraded under the Highway-Railroad Grade Crossings Program.

IV. KENTUCKY REVISED STATUTES (KRS) AND KENTUCKY ADMINISTRATIVE REGULATIONS (KAR)

Along with the aforementioned measures to improve grade crossing safety, KRS 189.561 charges the cabinet with the responsibility of investigating any public grade crossing that meets all of the following criteria:

- Not equipped with gates
- Carrying an average daily traffic of 4,000 or more
- Having 2 or more accidents within a consecutive 5-year period involving a train and a vehicle traversing the crossing (qualifying accidents are detailed in KAR 9:020)

Once a grade crossing is identified, and after receiving input from the affected local government supporting gate installation, the Cabinet programs the installation of gates. The cost of the gates is absorbed by the Cabinet and railroad, generally a 90% / 10% split, respectively. The cost is not charged to any unit of local government.

Not only can the Cabinet mandate necessary safety improvements, but it can also order any company owning or operating a railroad in the state to eliminate an at-grade crossing or change an existing overpass or underpass structure (as per KRS 177.120). Whenever the Cabinet considers the elimination of a crossing necessary for public safety, they can subsequently determine whether a substitute crossing should be established and what form that crossing takes (whether it be overpass or underpass).

As part of this KRS section, the Cabinet is given the responsibility of composing a list of grade crossings proposed to be closed. This list is comprised of redundant, and/or inherently dangerous grade crossings throughout the state.

The criterion for a crossing to be considered for closure is detailed in KAR 9:010, as follows:

- An alternate railroad crossing is available within one-quarter track mile in urban areas and the highway has a current average daily traffic count of 500 vehicles or less;

- An alternative railroad crossing is available within one track mile in rural areas and the roadway at crossing has a current average daily traffic count of 150 vehicles or less; or
- The railroad crossing has sight distance obstructions, or other layout characteristics which create unsafe conditions; closure of the railroad crossing is an economically preferable alternative to correcting the deficiencies at the site; and an alternate crossing is available.

The Cabinet must show warrant for closing any crossing. This is accomplished by working with and gathering input from public officials and railway companies.

The full text of the applicable KRS and KAR sections can be found in **Appendix F**.

V. PROBLEM TYPES AND LOCATIONS

At-grade crossings make up the largest contingent of rail accidents in Kentucky. In **Figure 5-6,** accidents over a 3-year period are mapped by location, and identified by severity, utilizing data maintained by KYTC as part of its Highway Information System. This data is based on filed police reports; however, this data does not contain the comprehensiveness that can be found in FRA data because of inaccuracies in the filing process. Figure 5-6 provides a general idea of problem at-grade crossings and locational groupings. Note that the accidents shown out of and away from a rail network are crossings of inactive or recreational lines.

In **Table 5-1** the 1996-2000 FRA data is used to identify locations of Kentucky's fatal rail crossing incidents. Five of the seventeen locations have no type of warning devices in place. During the four-year span contained in the table each location has had only one fatal accident. Only Hart and Lewis Counties have two different locations in which a fatal accident took place during that time period.

Table 5-1
Highway Rail Fatality Crossings in Kentucky
January 1996-December 2000

Crossing ID	County	Fatal Incidents	Total Deaths	Total Injuries	Railroad Code	Highway Name	Street Name	Crossing Type	Crossing Position	Warning Device Type	Highway AADT
343627J	Hart	1	3	0	CSX	CR 1253	GUTHRIE STREET	Public Vehicle	At Grade	Crossbucks	155
346942K	Muhlenberg	1	3	0	CSX	SR181		Public Vehicle	At Grade	Flashing Lights	1075
908596C	Todd	1	2	0	CSX			Private Vehicle	At Grade		
229173C	Lewis	1	1	2	CSX		PRIVATE ROAD	Private Vehicle	At Grade		
345396K	Henderson	1	1	1	CSX	SR 136	MADISON	Public Vehicle	At Grade	Flashing Lights	2610
229324P	Bracken	1	1	0	CSX	CITY	FRANKFORT	Public Vehicle	At Grade	Flashing Lights	1068
343576B	Hardin	1	1	0	CSX	SR1136		Public Vehicle	At Grade	Flashing Lights	1305
343613B	Hart	1	1	0	CSX		EDDIE SEGO RD	Public Vehicle	At Grade	Crossbucks	65
299213N	Hickman	1	1	0	IC	KY 1529		Public Vehicle	At Grade	Flashing Lights	200
345342E	Hopkins	1	1	0	CSX		W. MADISON STREET	Public Vehicle	At Grade	Crossbucks	150
345959K	Jefferson	1	1	0	CSX		WASHBURN	Public Vehicle	At Grade	Gates	2480
720022M	Kenton	1	1	0	NS			Private Vehicle	At Grade		
227064S	Lawrence	1	1	0	CSX	SR 3	MADISON	Public Vehicle	At Grade	Gates	10015
345889X	Lee	1	1	0	CSX	KY 1144	CENTER STREET	Public Vehicle	At Grade	Flashing Lights	1910
229215L	Lewis	1	1	0	CSX			Private Vehicle	At Grade		
841819A	McCreary	1	1	0	DOD		ROARING PAUNCH	Private Vehicle	At Grade		6
343763J	Simpson	1	1	0	CSX			Public Vehicle	At Grade	Gates	365
Total:		*17*	*22*	*3*							

Source: FRA

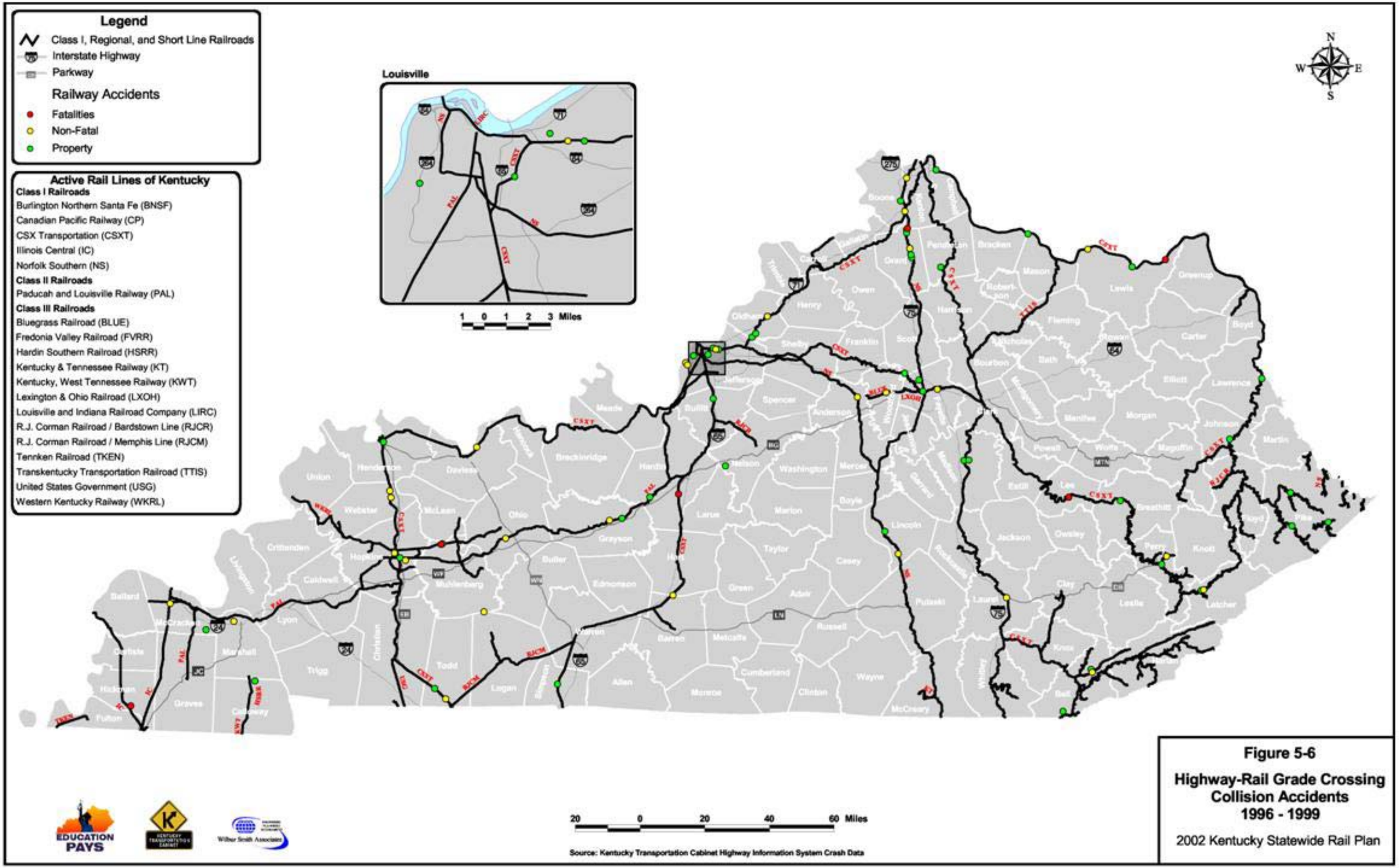


Figure 5-6

Highway-Rail Grade Crossing Collision Accidents 1996 - 1999

2002 Kentucky Statewide Rail Plan

VI. NATIONWIDE INITIATIVES

There are a number of national initiatives in place to improve rail safety. Operation Lifesaver, described below, is one of the most widely known and effective programs working to make both rail lines and highways safer. On the federal government level, the Federal Railroad Administration is responsible for rail safety, with its role described below. One topic, in particular, addressed in this section is the proposed legislation for locomotive horn use. The Louisville Quiet Zone is used as an example to show the benefits of quiet zone corridors, a key component of the proposal.

A. Operation Lifesaver

Operation Lifesaver is a nationwide, nonprofit organization dedicated to ending collisions, deaths, and injuries at highway-rail intersections and along railroad right-of-ways. It accomplishes its task through promoting the three E's: education, engineering, and enforcement. The public program is nationally funded by its many partners, including the United States Department of Transportation, the National Transportation Safety Board, law enforcement organizations, federal, state, and local governments, and the nation's railroads.

Kentucky's Operation Lifesaver Program is a volunteer organization funded by a number of state, local and private partners who participate in the program. The Commonwealth currently participates in Operation Lifesaver through its School Bus Driver Training, Safety Blitz, and Officers on Trains programs. Volunteers also participate in safety presentations at local schools, conventions and other activities such as the Kentucky Horse Park Southern Lights. The target audiences for these programs are railroad companies, law enforcement officers, bus drivers, and students. In 2001, Operation Lifesaver offered 532 presentations seen by over 47,000 people. These presentations included handouts on safety and enforcement, as well as a short video on the importance of railroad safety.

The success of Operation Lifesaver is seen through a decrease in fatalities and railroad-related injuries. Since its introduction in 1972, collisions at highway-rail intersections have been decreased by more than 65 percent. The current push by Operation Lifesaver is to continue to make groups across the state aware of the issues involving railroad safety. Recent actions have been taken to warn truck drivers and farmers through the Rural Safety Council. Other desired activities include public service announcements on the radio and advertising via billboards and electronic highway messaging boards. For additional information on Operation Lifesaver, the following website can be referenced: www.oli.org.

B. Federal Railroad Administration

By law, the Federal Railroad Administration (FRA) has the responsibility for ensuring railroad safety throughout the nation. To monitor railroad compliance with federally mandated safety standards, FRA employs approximately 400 inspectors operating out of 47 offices throughout the country. Regular inspections are conducted for compliance with safety regulations. The federal railroad safety regulations are found in Title 49, Code of Federal Regulations,

Parts 212 through 240. Each inspector records conditions below the minimum safety standards (defects). Should the defect not be corrected in a timely manner, or should it present an immediate safety hazard, penalties can be imposed.

Safety areas include:

- Motive Power and Equipment
- Track
- Signal and Train Control
- Operating Practices
- Highway Rail Crossings
- Hazardous Materials

Kentucky is in FRA's Region III, headquartered in Atlanta. Fred Dennin, 404/562-3800, is Regional Director.

Beginning in 1993, FRA reassessed its safety program to focus on results. The new Safety Assurance and Compliance Program (SACP) is intended to complement FRA's traditional safety enforcement program with a comprehensive approach in which SACP participants work with FRA to identify and correct root causes of problems across an entire railroad system.

FRA Proposed Rule

One key concern discussed earlier in the chapter is at-grade highway-rail crossings. The FRA is proposing a rule entitled *Use of Locomotive Horns at Highway-Rail Grade Crossings* to be included as part of the Code of Federal Regulations Title 49, Parts 222 and 229. It would require by law that a locomotive horn be sounded while a train is approaching and entering a public highway-rail crossing. In order to avoid the use of locomotive horns, two exceptions apply as follows:

- A circumstance where it is deemed there is not a significant risk of loss of life or serious personal injury; and
- A "quiet zone" where supplementary safety measures fully compensate for the absence of the warning provided by the horn.

Quiet zones are intended to give a community options to the sounding of locomotive horns. They can be established by implementing a set of approved supplementary safety measures or a combination of supplementary safety measures and alternative safety measures at each crossing along the "quiet zone" corridor. A "quiet zone" must be at least one-half mile in length, and all crossings within the corridor must, at a minimum, be equipped with gates and lights. Approved supplementary safety measures, as stated by the FRA, include the following:

- Four quadrant gates
- Medians or channelization devices at gated crossings

- Paired one-way streets
- Temporary closure such as nighttime periods
- Use of photo-enforcement technology

Approved alternative safety measures include the following:

- Variations of supplementary safety measures
- Long-term, programmatic law enforcement efforts and initiatives
- Targeted public education awareness efforts and initiatives

Louisville Quiet Zone

Working closely with the FRA, the City of Louisville, CSX Transportation and the KYTC created the first major quiet zone in the country. The corridor is located in Louisville, Kentucky along CSX Transportation's Louisville Division. The project area included 12 highway-rail grade crossings. According to the project website, http://www.louky.org/quietzone/home.htm, the project objectives included the following:

- Provide a highway/rail safety plan that will discontinue the use of locomotive horns;
- Close certain street and alley crossings;
- Improve safety at crossings not designated for closure; and
- Gain both residential and business support for the Louisville Quiet Zone.

In creating the Louisville Quiet Zone, the City of Louisville was able to close four street crossings and three alley crossings. In the process, the City of Louisville opened one new alley crossing, added cul de sacs to closed crossings, cut curbs and added bollards, and widened one street to accommodate two-way traffic. In addition, the project accommodated the existing pedestrian crossings, allowing each to remain open. Several sources of funding were utilized to successfully implement this project. Section 130 funds, City of Louisville General Funds, CSX Transportation, and the Commonwealth of Kentucky all contributed to the funding of the project, making this project a true example of a successful public-private partnership.

An example of an upgraded crossing along the Louisville Quiet Zone

CHAPTER 6: RAILS TO TRAILS PROGRAM

The rail line abandonment process, Rails to Trails Program, concerns and issues associated with rail trail development, and legislation governing the abandonment process and rail trail development are all part of Kentucky's rail trail system.

I. INTRODUCTION

Rail trails are public paths that have been created along inactive railroad corridors. These paths are used for activities that may include walking, bicycling, equestrian, and wheelchair use. Currently there are more than 11,000 miles of rail trails in the United States, with more projects being planned. Rail trails, in most cases, are constructed along the rights-of-way of rail lines that have been abandoned. An abandoned rail line is one on which rail service has been discontinued and the Surface Transportation Board has approved the abandonment. In the case of abandoned rail lines, usually the corridor is purchased by a local, state, or other government agency that then creates a trail along the corridor. However, in some cases, volunteer groups formed by citizens construct the trail. Another type of rail trail is "rails-with-trails," a recent development that allows the rail trail to exist alongside active rail corridors. Rail banking is another method of preserving rail right-of-way for the potential future use by the railroad. Instead of abandoning the line, a rail trail may exist on the right-of-way for interim use.

II. PROGRAM DESCRIPTION

The mid-1970s was a period of economic hardship for America's railroads. In 1980, Congress sought to alleviate this hardship by passing the Staggers Act, which allowed the deregulation of railroads. A result of the Staggers Act was an increased number of rail line abandonments, and growth of the rails to trails movement.

As the number of abandoned rail mileage increased, the rails to trails movement gained momentum. In 1983, Congress passed the National Trails System Act. This set of amendments made it possible for governments and interested parties to preserve abandoned rail corridors to be converted into trailways and linear parks at a later date. These parks could be established with the understanding that, if in the future a railroad wished to reestablish an active railway within a corridor, they were permitted to buy back the land at fair market value and reestablish service.

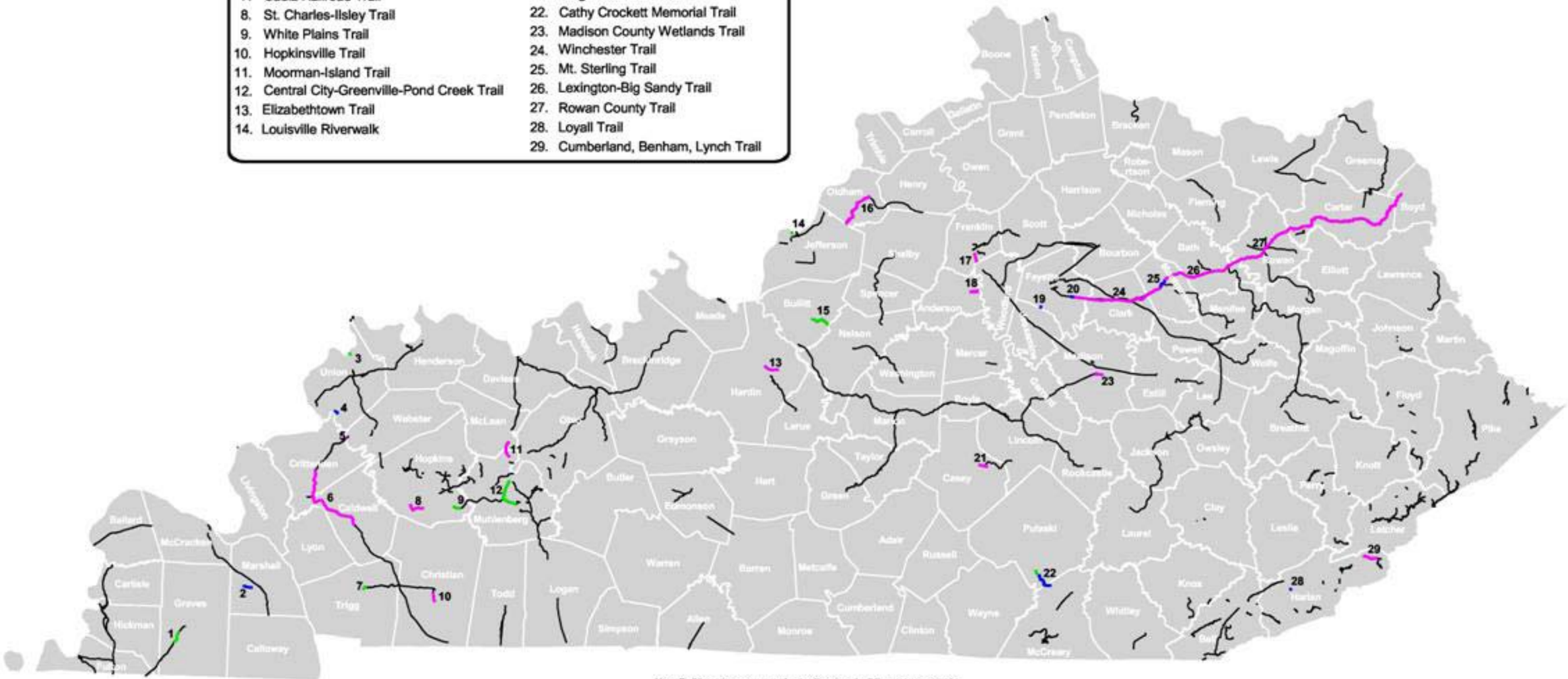
Kentucky has 16 miles of existing rail trails, ranking the state among the lowest nationally. Minnesota, Wisconsin, and Michigan currently have the most mileage nationally with 1,301, 1,294, and 1,176 miles, respectively. There are, however, 160 additional miles of rail trails at some stage of planning or development within Kentucky. However, even with full build out of all proposed trails, Kentucky still would not rank in the top 15 states in terms of mileage and this is assuming other states' figures were held constant. The location of each of these trails can be seen in **Figure 6-1**, and a description follows of the existing and proposed rail trail projects, where available. The trail number as it corresponds to **Figure 6-1** and the county or counties in which the trail is located is in the text.

Legend

- Completed Rail Trail
- Under Construction Rail Trail
- Proposed Rail Trail
- Abandoned Rail Lines

Rail Trail Projects

1. Wingo Trail
2. Benton Trail
3. Uniontown Trail
4. Sturgis Trail
5. Blackford Pedestrian Bridge
6. Crittenden County Trail
7. Cadiz Railroad Trail
8. St. Charles-Ilsley Trail
9. White Plains Trail
10. Hopkinsville Trail
11. Moorman-Island Trail
12. Central City-Greenville-Pond Creek Trail
13. Elizabethtown Trail
14. Louisville Riverwalk
15. Bullitt County Trail
16. Oldham County Interurban Greenway
17. Frankfort Trail
18. Wild Turkey Rail Trail
19. South Elkhorn Trail
20. Brighton East Trail
21. Kings Mountain Trail
22. Cathy Crockett Memorial Trail
23. Madison County Wetlands Trail
24. Winchester Trail
25. Mt. Sterling Trail
26. Lexington-Big Sandy Trail
27. Rowan County Trail
28. Loyall Trail
29. Cumberland, Benham, Lynch Trail



Note: Trail Locations are approximate; Abandoned rail lines represent both Legislative Research Commission and National Transportation Atlas Database identified abandonments.

20 0 20 40 60 Miles

Source: Kentucky Rails to Trails Council, Inc. Verified Through Internet Research and Reviewed by Local and State Project Stakeholders

EDUCATION PAYS

Wilbur Smith Associates

Figure 6-1

2002 Kentucky Rail Trail Projects

2002 Kentucky State Rail Plan

A. Wingo Trail (#1, Graves County)

The Wingo Trail in Graves County, located in the community of Wingo, lies in western Kentucky. The length of this trail is 2.5 miles and is built on an Illinois Central abandonment. The project has a potential length of 18 miles and would connect Wingo, Mayfield, and Fulton.

B. Benton Trail (#2, Marshall County)

This rail trail, which is currently under construction and is expected to be completed in 2003, is located in western Kentucky in Benton. The rail trail will be along an area of the Clarks River, and it is to be 1.5 miles in length. It is being funded entirely by a Recreational Trails Program grant and right-of-way for the project was purchased as a National Wildlife Refuge.

C. Uniontown Trail (#3, Union County)

The Uniontown Rail Corridor Trail is an existing 1,825-foot long asphalt trail that lies in northern Union County in western Kentucky. It is used for walking, jogging, rollerblading, skateboarding, in-line scooters, and bicycling. This trail was funded as part of the Recreational Trails Program in addition to the Transportation Enhancements Program.

D. Sturgis Trail (#4, Union County)

This rail trail, which is currently under construction, is located in southern Union County in the community of Sturgis. It will be 1.5 miles in length when completed.

E. Blackford Pedestrian Bridge (#5, Crittenden and Webster Counties)

This proposed short rail trail will utilize an abandoned railroad bridge across the Tradewater River in Blackford providing pedestrian access for both sides. The Tradewater River separates Crittenden and Webster Counties in western Kentucky. The project is being funded through the Transportation Enhancements Program.

F. Crittenden County Trail (#6, Crittenden County)

The proposed Crittenden County Trail Project is located between Marion and Princeton, Kentucky. The fiscal court in Crittenden County is seeking to purchase the right-of-way owned by the Western Kentucky Railway. The proposed length for the rail trail is 21 miles.

G. Cadiz Railroad Trail (#7, Trigg County)

The Cadiz Railroad Trail, located in downtown Cadiz, is 1.5 miles long. The surface is asphalt, and it is used for hiking, jogging, bicycling, rollerblading, and skateboarding. This rail trail is the site of the former Cadiz Railroad that connected with the Illinois Central and Louisville & Nashville Railroads. The trail was dedicated in 1989, making it the first rail trail in Kentucky.

H. St. Charles-Ilsley Trail (#8, Hopkins County)

This proposed rail trail would connect St. Charles and Ilsey in Hopkins County. Project specifics are uncertain at this early stage of development.

I. White Plains Trail (#9, Hopkins County)

This eight-foot-wide paved rail trail is located in White Plains, which lies in southeastern Hopkins County. The length of the trail is 1.5 miles.

J. Hopkinsville Trail (#10, Christian County)

This proposed four-mile-long trail in Christian County is located in Hopkinsville. It is part of a recent rail relocation project undertaken by the United States Government.

K. Moorman-Island Trail (#11, McLean and Muhlenberg Counties)

This rail trail project, in both McLean and Muhlenberg County, would include the communities of Moorman and Island. Its endpoints are the south shore of the Green River and Moorman. The length of this proposed trail is seven miles and the property is currently owned by CSXT.

L. Central City-Greenville-Pond Creek Trail (#12, Muhlenberg County)

This rail trail is located on right-of-way owned previously by the Paducah and Louisville Railroad. It is known as the Central City to Greenville to Pond Creek Trail, with end points in Central City and Greenville. The total length of this rail trail is six miles, although the Muhlenberg County Rails to Trails Committee has rail-banked an additional three miles from CSXT.

M. Elizabethtown Trail (#13, Hardin County)

The Elizabethtown Trail project in central Hardin County is located in Elizabethtown and is three miles long. This trail is to be built on a railbed abandoned approximately twenty years ago. The railbed is currently privately owned, partially by an individual and partially by an industry.

N. Louisville Riverwalk (#14, Jefferson County)

The Louisville Riverwalk is located in Louisville predominantly along the Ohio River. Its endpoints are the Belvedere River Walk and Chickasaw Park, giving the trail a length of seven miles. The surface is paved asphalt. Only a portion of this total project is considered a rail trail and only this portion is indicated on **Figure 6-1**.

O. Bullitt County Trail (#15, Bullitt County)

The Bullitt County Trail in southeastern Bullitt County is a rails-with-trails project that parallels the track over which the Kentucky Dinner Train operates along Highway 245. Its endpoints are the Bernheim Forest and Highway 1064 at Lotus. The surface of this rail trail is crushed stone.

P. Oldham County Interurban Greenway (#16, Oldham County)

The proposed Oldham County Interurban Greenway is located along KY 146 running 13 miles from LaGrange through Buckner and Crestwood to Peewee Valley. It is located in the right-of-way of the rail line that once connected Louisville and Oldham County. It has received funding through TEA-21.

Q. Frankfort Trail (#17, Franklin County)

The Frankfort Trail Project is to be four miles long within Frankfort, two miles of which the Pinsly Railroad Company has an interest in and two miles that are privately owned. The landowner wishes to sell his section of the land for the proposed trail. Support for the project would be through the Capital Heritage Trail Foundation which local citizens propose to reactivate; however, this reactivation process is currently stalled.

R. Wild Turkey Rail Trail (#18, Anderson County)

The Wild Turkey Rail Trail is proposed to be located in eastern Anderson County. The location of this project is in Tyrone, near the Kentucky River and US 127, and it will run from the Wild Turkey Distillery to Lawrenceburg for a total distance of 2.8 miles. The Rails to Trail Conservancy and the Kentucky Rails to Trails Council, as well as the Bluegrass Railroad Museum, are working with Norfolk Southern to railbank the right-of-way. The surface of this trail is to be crushed stone.

S. South Elkhorn Trail (#19, Fayette County)

The South Elkhorn Bikeway Project, which is under construction, has its endpoints at Waveland Historic Site parking area and the intersection at Grassy Creek Road, for a length of 1.3 miles. This rail with trail project will parallel an existing Norfolk Southern line.

T. Brighton East Trail (#20, Fayette County)

The location of the Brighton East Rail Trail, a project that is currently in progress, is the east side of Fayette County. It is approximately two miles long with its beginning at the intersection of Man O' War Boulevard and Bryant Lane and its end at Walnut Hill-Chilesburg Road. The surface is being constructed as twelve-foot wide asphalt pavement and the intended use of the trail is non-motorized traffic. This project is partially funded by Transportation Enhancements funds.

U. Kings Mountain Trail (#21, Casey County)

This proposed project, known as the Kings Mountain Trail, is located in Yosemite, on KY 70 East. The mileage has not been determined, but the proposed endpoint is at Kings Mountain. The rail trail will have a dirt surface to be used for hiking, biking, and horseback riding.

V. Cathy Crockett Memorial Trail (#22, McCreary and Pulaski Counties)

The Cathy Crockett Memorial Trail begins in Sloans Valley and ends in McCreary County in southern Kentucky. The completed section is two miles long; while the remainder is under construction. When completed, the trail will be 7.5 miles long. The surface of this trail is predominantly gravel, most of which is remnants of the old Cincinnati-Southern railbed. It is to be used for walking, running, and bicycling. The project was funded by a TCSP Grant.

W. Madison County Wetlands Trail (#23, Madison County)

The proposed 0.5-mile-long Madison County Wetlands Trail Project is located in Richmond in central Madison County. The rail bed, which is owned by the city of Richmond, runs adjacent to a wetland area.

X. Winchester Trail (#24, Clark County)

The site of this rail trail project is within the City of Winchester. The trail is under construction and when completed will be two miles long with an asphalt surface, and it will be constructed as part of the Lexington Big Sandy Rail Trail, which is described further below.

Y. Mt. Sterling Trail (#25, Montgomery County)

This three-mile-long rail trail in Mt. Sterling in central Montgomery County is also to be part of the Lexington Big Sandy Rail Trail. It is currently under construction.

Z. Lexington Big Sandy Trail (#26, Fayette, Clark, Montgomery, Bath, Rowan, Carter, and Boyd Counties)

This 109-mile project spans Fayette, Clark, Montgomery, Bath, Rowan, Carter, and Boyd Counties. Its endpoints are Lexington and Coalton (outside Ashland). 30 miles of this trail are owned in fee by CSXT; the remainder may be in private ownership. This project is being funded by grants from TEA-21. The development of this trail is being aided by the Bluegrass Rails to Trails Foundation, a non-profit organization whose mission is to develop the portion of the trail that is located in Fayette, Clark, and Montgomery Counties. As noted above, this trail is being developed in segments, some already in construction.

AA. Rowan County Trail (#27, Rowan County)

This proposed rail trail in Rowan County—the Rowan County Trail—is to run from KY 32 to Cave Run Lake.

BB. Loyall Trail (#28, Harlan County)

The Loyall Trail in southern Kentucky is located in the community of Loyall. This 0.75-mile project is considered to be under construction having already been funded.

CC. Cumberland, Benham, Lynch Trail (#29, Harlan County)

This proposed trail in eastern Harlan County would serve the Cities of Cumberland, Benham, and Lynch. The City of Benham is taking the lead on the project, trying to acquire right-of-way to a 3.2-mile CSXT abandoned line segment through their town.

III. RAILS TO TRAILS ORGANIZATIONS

Currently, there are several key rail trail organizations assisting in the development, funding and promotion of rail trails in Kentucky. These are described below.

A. Kentucky Rails to Trails Council, Inc.

The mission of the Kentucky Rails to Trails Council is to enhance the quality of life in communities by developing a statewide rail trail program. Formed in 1994, this not-for-profit corporation is fully staffed by volunteers. The Council works with local organizations to develop trails and greenways, and seeks to increase public awareness of the benefits of rail trails. The Kentucky Rails to Trails Council is also a source of information on project funding, design, and management. It maintains a website at *www.KyRailTrail.org*. The Council is a Trail Partner of the Rails-To-Trails Conservancy, described below.

B. Rails-To-Trails Conservancy

The mission of the Rails-To-Trails Conservancy, which was founded in 1986, is to enrich America's communities and countryside by creating a nationwide network of public trails from former rail lines and connecting corridors. Its headquarters are in Washington, D.C., and there are six field offices, located in California, Florida, Ohio, Michigan, Pennsylvania, and New England. The Rails-To-Trails Conservancy is the largest trails organization in the country, and it connects people and communities with the help of citizen groups, public agencies, railroad companies, and other organizations. The Conservancy also provides direct assistance for rail trail and greenway projects. Its web address is *www.railtrails.org*.

C. Railtrail Development Office, Department for Local Government

This office was established within the Department for Local Government by the 2000 Kentucky General Assembly. The office has a list of responsibilities that work solely to further the creation of rail trails, and to make the Rails to Trails process more efficient. One of the office's purposes is to continue and further the work of the Legislative Research Commission (LRC) by completing an inventory of all abandoned rail corridors in the state, and to assess these corridors' potential for trail usage. This work is being completed by the University of Kentucky Transportation Center and is described in further detail later in this chapter. The Railtrail Development Office will also monitor new abandonment proceedings on a continuing basis and make such information available to local governments and other interested parties. Along with collecting and updating data, this office acts as a central point of rail trail coordination and offers technical assistance to parties involved in trail development. The web address for the Department for Local Government is www.kylocalgov.com.

D. Kentucky Transportation Cabinet

The Kentucky Transportation Cabinet serves as a crucial link in trail development. The Cabinet maintains records of all abandoned lines in the state, and is responsible for notifying the Kentucky Department of Parks of abandonments so that the corridors can be evaluated for potential inclusion in Kentucky's trails system. The Cabinet also administers the federal Transportation Enhancements Program under the Transportation Efficiency Act for the 21st Century. While the state itself does not provide funding for trails, it

does secure federal funds and is authorized and encouraged to spend a portion of these funds on bicycle and pedestrian facilities. Railway and canal trails, as well as other pathway and greenway projects are eligible for such funding.

E. Kentucky Department of Parks

The Department of Parks (http://www.state.ky.us/agencies/parks/parkhome.htm) identifies abandoned railroad corridors for the possible inclusion into its trails systems. However, due to its lack of funds and manpower, the department has thus far been unable to include rail trails in the Kentucky trail system.

F. Kentucky Heritage Council

Like the KYTC, the Kentucky Heritage Council is notified of abandoned rail lines within the state. This council is responsible for identifying structures of historic significance along potential trailways. For information, the Kentucky Heritage Council website is http://www.state.ky.us/agencies/khc/khchome.htm.

G. Kentucky Bicycle and Bikeways Commission (KBBC)

The KBBC advocates bicycling as a legitimate part of the statewide transportation system. This commission is an extension of the Kentucky Transportation Cabinet, which it advises on cycling related issues as they relate to transportation improvement projects and programs. The KBBC offers knowledge in design, planning, and promotion to assist in furthering the state's rail trail efforts.

IV. NEIGHBORING STATE PROGRAMS

Both Ohio and West Virginia have well-established rails to trails programs. Each state has been actively fostering rail trail growth for over ten years, with successful results. Each state has a relatively large amount of established trails, with an even greater number in various stages of development.

Ohio's rails to trails movement is aided by the Rails-To-Trails Conservancy field office located in Ohio which was established in 1989. The director of the Ohio field office works with the Ohio Department of Transportation, the Ohio Department of Natural Resources, the Ohio Department of Tourism and Economic Development, metropolitan planning organizations, county commissioners, and city parks and recreation departments, as well as other public organizations to coordinate the planning, construction, and maintenance of rail trail projects. Currently, Ohio has 51 open trails encompassing over 600 miles and there are 135 trail projects proposed that will comprise another 1600 miles of trails.

West Virginia's Rails-to-Trails Council, founded in 1991, is a part of the Tourism and Parks Department. This non-profit charity provides technical expertise in the areas of acquisition, design, development, signage and funding sources, as well as public education. Currently there are 345 miles of rail trails in West Virginia.

V. RAILS TO TRAILS PROS AND CONS

Proponents of the rail trails movement cite several positive impacts including the creation of additional recreational opportunities to foster healthy lifestyles and promote

physical fitness; preservation of natural habitat, open spaces, and cultural/historic areas; and accommodation of alternative transportation modes such as bicycle and pedestrian. Where rail lines have been abandoned, conversion to trails reclaims deserted land and occasionally provides the impetus to clean up neglected pockets of land that have become illegal dumping sites. In some communities, the proximity of converted trails has been associated with increased property values. The growing movement of rails-with-trails (523 miles in 2000) offers the added benefit of maintaining the rail mode within the corridor. One such trail in Folsom, California, is expected to include commuter light rail, trail, and a road within the same corridor.

Rail banking provides both positive and negative impacts. If the rail line is abandoned, the railroad forfeits all rights to the property, while rail banking provides a method for preserving rail right-of-way for future use by the operating railroad. The drawback to rail banking relates to the difficulty in achieving public support for the reclamation of the rail corridor. Because of many of the benefits noted above, the rail trail users would likely not support the elimination of the trail. Although having rights to the land, the railroad could risk negative publicity in reclaiming the corridor.

The most common negative aspect of rail trails is voiced by adjacent landowners who view the presence of trail users as a nuisance or even a security risk. Such concerns, whether real or perceived, arise from the loss of privacy as rail corridors become popular with pedestrians, bicyclists, and others. Text from House Bill 221, passed during the 2000 Kentucky General Assembly addresses some of these concerns by identifying rules of trespass in regards to trail users. The most applicable text states that private properties abutting the trail use are presumed private and if uninvited users access such, they commit trespass. The full version of House Bill 221 can be seen in **Appendix G**.

Safety is a special concern in regard to rails-with-trails; however, some have noted that one is much safer walking or biking on well-designed rails-with-trails carrying 10 to 20 trains per day than traveling "within a few feet from a road carrying between 10,000 and 40,000 vehicles per day."[1] In this same study, only five (5) of the sixty-one railroads studied were opposed to the trails initially. Opposition was due to concern about safety and/or liability. Although concerns exist on the part of the railroads, these can often times be addressed through increased safety measures such as provisions for fencing and crossings and additional liability insurance provided by state or local government.

There are specific challenges in the conversion of rails to trails. These are addressed fully in "A Study on the Feasibility, Benefits, and Implementation of a Strategy for the Rails to Trails Program throughout the Commonwealth."[2] First is the issue of corridor ownership. Railroads may hold absolute title to a corridor, or they may lease the land

[1] Rails-To-Trails Conservancy. *Rails-with-Trails: Design, Management and Operating Characteristics of 61 Trails Along Active Railroads*, November 2000.
[2] Special Task Force on Feasibility of Rails to Trails (pursuant to 1998 House Concurrent Resolution 77). in *A Study on the Feasibility, Benefits, and Implementation of a Strategy for the Rails to Trails Program throughout the Commonwealth*, August 31, 1999.

under the tracks from other property owners. In the case of railroad ownership, a trail entity may purchase the land from the railroad, or the corridor may be rail banked. Where corridors have been purchased as easements that have been extinguished, the trail entity must deal with individual landowners.

Another challenge is that of the costs incurred in converting a rail corridor to a trail. These costs vary and may be considerable. They include the initial cost to acquire the corridor, costs to develop the corridor as a trail, and ongoing maintenance costs. Some landowners (railroad companies or others) have donated corridors for trail use. Volunteer organizations often are able to mobilize labor and acquire materials and equipment to offset development and maintenance costs. Several funding sources are available and will be discussed later in this chapter.

The third challenge is that of liability. Landowners are responsible to provide safe conditions for users. Where owners make land available for public recreational use without fees, they are afforded protection under Kentucky's recreational use statute. Governmental ownership of trails is common. Federal and state government may set aside their sovereign immunity to allow some recovery in claims arising from trails, although they are also protected by the recreational use statute noted above. Liability and insurance are particularly important issues in regard to rails-with-trails. Railroads increasingly require indemnification by trail managers to minimize their exposure to liability. House Bill 221 amended the KRS to further limit trail owners liability toward users in an effort to further encourage owners of land to make it available for recreational use.

VI. ABANDONMENT

The Interstate Commerce Commission Termination Act of 1995 transferred the ICC's railroad regulatory function to the Surface Transportation Board. One of those functions is rail line abandonment. State-based responsibilities regarding abandonment are discussed under "State and Federal Legislation."

If a railroad wishes to file an abandonment application, it is first reflected on the carrier's system diagram map. Sixty days before an abandonment application can be filed, the carrier must identify any line for which it expects to file an application within the next three years and any line for which abandonment may be considered. Within one to three weeks before the application is filed, the railroad must file a "Notice of Intent" to abandon. After the application has been filed, anyone wishing to protest the abandonment has 45 days to submit protests to the STB. After this 45-day period, the STB will set the proceeding for an oral hearing or modified procedure. When conducting modified procedure, all evidence is filed in writing, with no oral hearing held. The STB must then issue its decision within 110 days of the filing of the abandonment application. If a party is dissatisfied with this decision, it may seek judicial review by filing a petition for review in the applicable United States Court of Appeals.

A. Issues on Abandonment

In order to decide whether or not a rail line is to be abandoned, the Surface Transportation Board must determine if the railroad's burden of continued service outweighs the current and future need for the service.

The railroad's burden may be expressed by either an operating loss and/or the opportunity costs of owning the line. Opportunity costs are the costs of "tying up the railroad's assets in track, land, and materials on the line, rather than putting those assets to other, more profitable uses." The railroad must show that it is not receiving and will not receive adequate revenues from the line considering its operating costs, or that it expects to incur significant unrecoverable costs due to rehabilitation or repair needs. Evidence of public need is considered and the economic impact of abandonment is investigated. Also considered is the impact of the abandonment on the environment.

There are two main exceptions to the abandonment process. The first of these is the class exemption for out-of-service lines. These are lines that have not moved local traffic for a period of at least two years; can reroute any overhead traffic over other lines; and, have not incurred any formal complaints regarding a lack of service decided in favor of the shipper. In this case, no Notice of Intent to abandon is needed, and an exemption notice is filed with the Surface Transportation Board instead. The second exception is the individual exemption. Again, a Notice of Intent to abandon is not required.

B. Kentucky Abandonment Study

Pursuant to 1998 House Concurrent Resolution 77, A *Study on the Feasibility, Benefits, and Implementation of a Strategy for a Rails to Trails Program throughout the Commonwealth* was completed. Much of this study centers on abandoned rail lines and their use as recreational and travel trails.

In the beginning of this study, the Legislative Research Commission realized that, at that time, there were no comprehensive maps of existing railroad lines or an accurate list of railroads. Furthermore, there was neither an accurate listing nor map of previous abandonments within the Commonwealth of Kentucky. The map of abandonments used by the Department of Transportation was acknowledged to be inaccurate. Therefore, the Geographic Information Systems (GIS) Office of LRC was asked to research these subjects and create appropriate maps.

The map of existing rail lines was compiled using data from the Tiger Line Files of the U.S. Census Bureau. Tiger Line Files are a GIS-based transportation network database and include a comprehensive national railroad system. These data, which were the most current that could be produced, were compiled in 1995. This information was compared with that from the maps of the Transportation Cabinet and the CSX Transportation System Map.

Numerous sources were utilized to compile abandonment information. For abandonments taking place before 1967, the book *Ghost Railroads of Kentucky*[3] was consulted. The textual information from this source was verified, although the maps were not considered accurate. To aid in the verification, the railroads, railroad historians, and the University of Kentucky and the University of Louisville, and the Kentucky State Library and Archives were consulted. For

[3] Sulzer, Elmer Griffith. *Ghost Railroads of Kentucky*. 1967.

abandonments taking place after 1967, data was taken from the Surface Transportation Bureau and the Interstate Commerce Commission. Kentucky's Official Coal Haul System was used to determine the location of coal abandonments. The maps created are, therefore, only a representation of the existing and abandoned rail lines; however, these maps are considered more accurate than any maps to date. The LRC map is presented in **Figure 6-2**.

The National Transportation Atlas Database (NTAD), which is a collection of geo-spatial databases, was started in 1995 and comprises another source of mapping and identification for abandoned rail corridors. It is compiled using data from the U.S. Department of Transportation, including the Federal Highway Administration, the Federal Railroad Administration, the Federal Aviation Administration, and the Federal Transit Administration, as well as the U.S. Army Corps of Engineers, the U.S. Bureau of the Census, the National Park Service and the Bureau of Economic Analysis. The database was designed to be used with GIS software to locate transportation features such as modal networks, intermodal terminals, airports, train stations, and waterports. The NTAD map is presented in **Figure 6-3**.

Discrepancies exist between the LRC and NTAD databases which have resulted in map differences. A combination of the two may render a relatively complete portrait of known abandonment corridors.

An additional inventory and analysis of abandoned rail lines is currently being conducted by the Kentucky Transportation Center with the goal of identifying such rail corridors and assessing their suitability for conversion to trails. The completion date for this study is June 2003. One of the study tasks is verification of abandoned line locations using such methods as aerial over flights, photo analysis, and field verification via global positioning satellite (GPS) technology. The study team has noted the difficulties of accurately locating some railbeds, especially those of smaller coal and logging lines, due to poor aerial visibility during leaf-on periods, difficulty of access, and railbed deterioration with time. The researchers are expected to focus on common carriers but will document lesser corridor locations using secondary information. They will distinguish between route locations that have and have not been verified.

Figure 6-4 represents the pilot area for the Kentucky Railbed Inventory Project. This figure displays the determined condition of the line and represents a grade scale from A to C. Condition A represents a clear path that is either paved, gravel, dirt, grass or a combination. Condition B indicates a recognizable and intact roadbed. It can be somewhat overgrown, but should be hikeable. Condition C represents a detectable roadbed, but is extremely overgrown. These routes would be nearly impassable and unrecognizable at times. As indicated in **Figure 6-4**, of the railbeds that have had condition determined, the majority within the pilot project are Condition A.

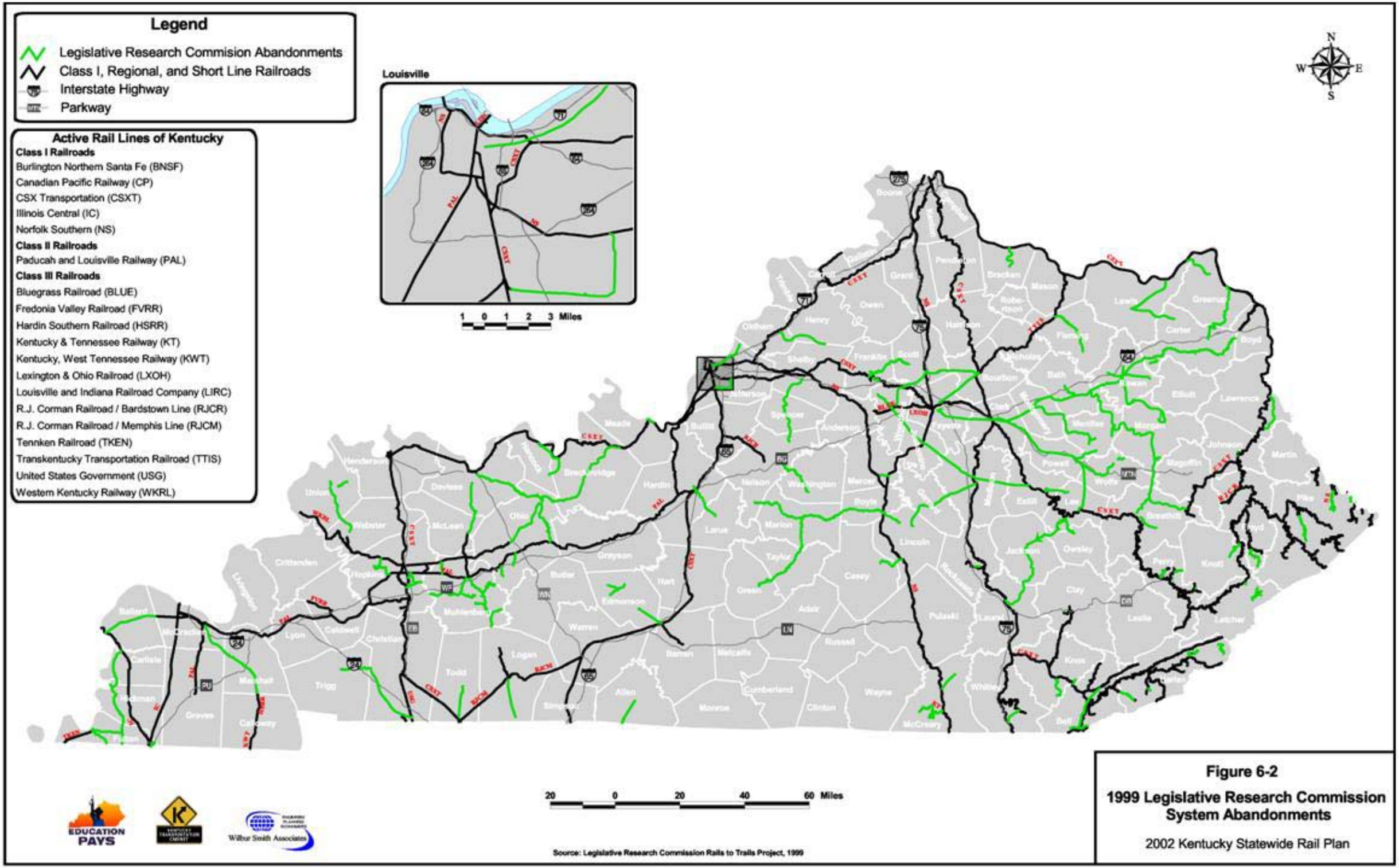


Figure 6-2

1999 Legislative Research Commission System Abandonments

2002 Kentucky Statewide Rail Plan

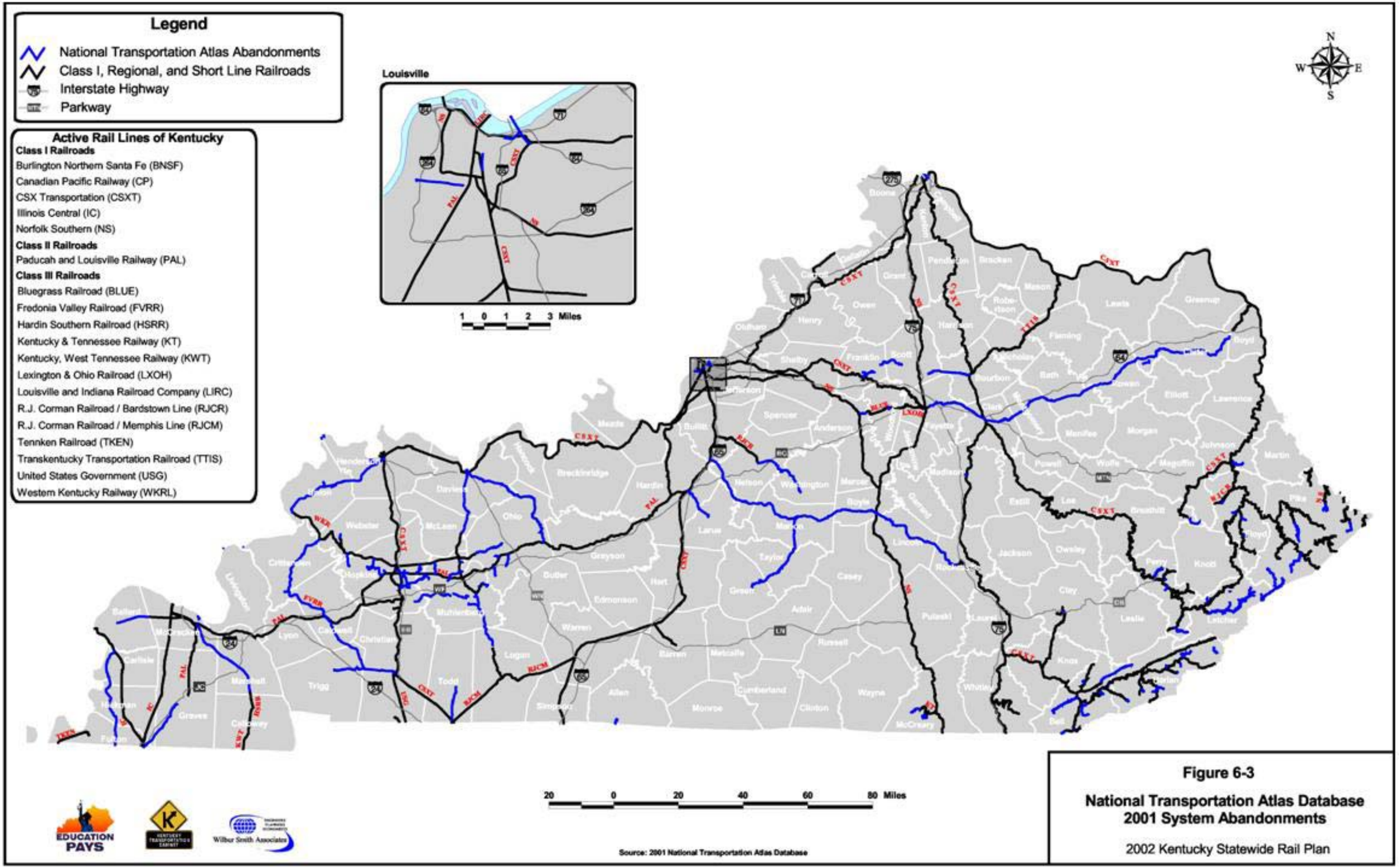


Figure 6-3

National Transportation Atlas Database 2001 System Abandonments

2002 Kentucky Statewide Rail Plan

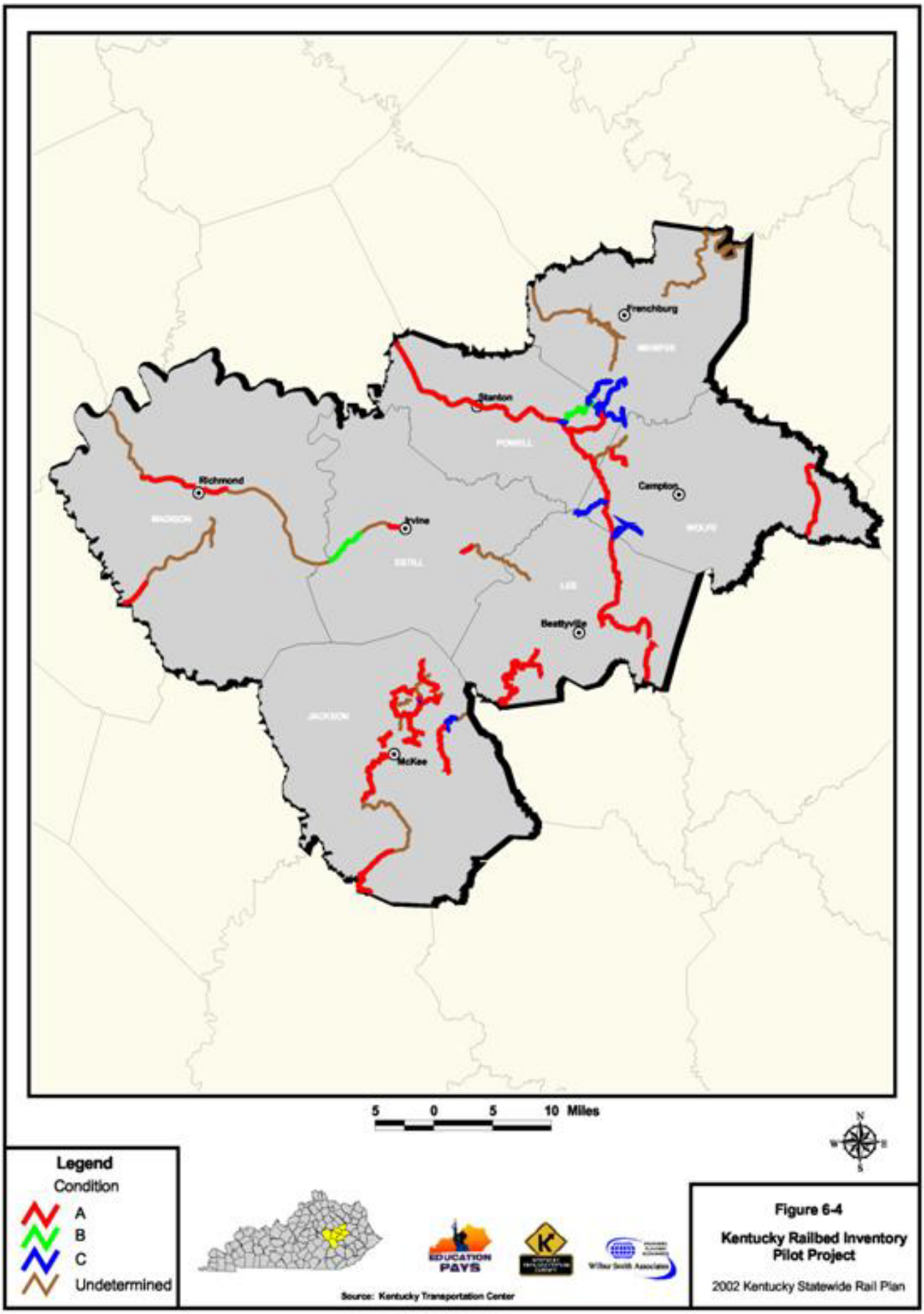


Figure 6-4

Kentucky Railbed Inventory Pilot Project

2002 Kentucky Statewide Rail Plan

C. Alternatives to Abandonment

The Surface Transportation Board encourages finding alternatives to the abandonment of a line. The railroad may no longer see that particular line as economically viable; however, this does not mean that the line cannot continue operations under other arrangements.

Service on a line approved for abandonment may be continued if a financially responsible party makes an offer of financial assistance. Immediately following the Notice of Intent to abandon, interested parties may obtain such information as subsidy and acquisition costs and, if feasible, make an offer. The Surface Transportation Board reviews the offer for reasonableness. If the terms of the offer are acceptable, the Board must approve the offer and dismiss the abandonment application. If the terms are unacceptable, the Board issues a decision setting terms and conditions.

Once a rail line has been abandoned, the right-of-way may be kept intact and protected for future railroad use. This method of railroad corridor preservation is a process known as rail banking. Rail banking is a method of protecting lines proposed for abandonment through interim conversion to trails for nonmotorized public recreational use. The concept of rail banking was created in 1983 when Congress amended the National Trails System Act. If the line is railbanked, the corridor is considered to still be used for railroad purposes, and any right-of-way reversions that could segment the corridor are prevented.

Rail banking can be requested by a public agency or a qualified private organization. The request is sent to both the Surface Transportation Board and the railroad owning the corridor. This request is comprised of a map identifying the pertinent rail corridor; a statement of willingness to accept financial responsibility; an acknowledgment that use is dependent on the user's continuation of meeting the previous obligations; and, an indication that the trail use request has been given to the railroad currently owning the line. For a line to become a trail, the railroad must agree to the terms of the trail use request. A request for rail banking is not a contract; rather, it is an expression of interest in accepting financial responsibility for the property. If a corridor is railbanked, tracks and ties can be removed. However, bridges and trestles may not be removed. A railbanked line may, at a later time, be subject to the restoration of rail service.

Specifics on eligibility to request rail banking and regulations regarding the process are covered in Kentucky Revised Statutes 277.400 and KRS.402, which can be found in **Appendix H**.

VII. STATE AND FEDERAL LEGISLATION

The following sections more closely explore state and federal legislation, as it pertains to the Rails to Trails Program and the abandonment process.

A. State Legislation

Legislation covering Kentucky's rails to trails program has been codified in the Kentucky Revised Statutes. The most recent significant piece of legislation

comes from House Bill 221 of the 2000 Regular Session of the Kentucky General Assembly. This bill updates and amends sections of the Kentucky Revised Statutes to reorganize and enhance Kentucky's rails to trails process. These statutes are described below.

The purpose of the trails system is defined as the provision of outdoor recreation opportunities and promotion of public access to natural, scenic areas of the state located in or near urban areas. The legislation is presented to provide the means for obtaining these recreation opportunities and public access, which is a concern of the Department of Parks and Tourism Development Cabinet.

A list of definitions of terms to be used in all sections pertinent to the Rails to Trails System is provided. The definition of a scenic easement was determined to be "a perpetual easement in land which is held for the benefit of the people of Kentucky, is specifically enforceable by its holder or beneficiary, and limits or obligates the holder of the servient estate…the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it." This statute sets the limits for interpretation of the following statutes.

One of the more significant considerations concerns the establishment of state scenic and recreation trails, such that any areas may be designated trails by the Department of Parks, with the exception of those areas that are located within state-owned wildlife management areas or are not reasonably accessible to urban areas. Guidelines for what may or may not be considered as a trail are given.

Once a trail system has been established, any additions to the system shall go through the process outlined in the statutes. Additions to the existing trails system shall be submitted by the Commissioner of the Department of Parks to the Governor.

The process of locating the routes for proposed trails is covered as well. This process is the responsibility of the Department of Parks. The primary consideration is that the route must minimize adverse effects upon adjacent property, particularly crop land or fenced pastureland. If the trail will be located on a governmental unit or political subdivision, the Department of Parks must consult with the unit or subdivision before finalizing the location of the trail. In general, when selecting the route, the Department of Parks is encouraged to consult with any organization concerned with trail development.

The role of the Department of Parks in the determination of boundaries of abandoned railroad corridors and the evaluation of potential for the conversion to rail trails is discussed. The Commissioner of the Department of Parks is given the authority to develop measures to ensure that properties with the potential to become trails are made available for use as such. The Department of Parks will review abandonment declarations by the Surface Transportation Board for the possibility of adding these abandonments to the trails system. If there is a possibility of adding these abandonments to the trails system, the commissioner

of the Department of Parks may request that the corridor be railbanked or be imposed with a public use condition.

Once trails have been established, the administration of the trails system is of concern. As established in the Kentucky Revised Statutes, the trails system will be administered by the Department of Parks, which will have the responsibility for maintaining trails and adding public use facilities where required.

It is also the responsibility of the Department of Parks to aid in the coordination of the Kentucky Trails System with the national trails system. The Commissioner of the Department of Parks should seek to include Kentucky's trails in the national trails system, and may agree to a joint federal-state administration of a state component of the national trails system. However, the land-use agreements of such an administration must not be less restrictive than those outlined in the Kentucky Revised Statutes. One restriction outlined involves the landowner's consent, such that no access to or use of the land shall be permitted without the consent of the owner.

A number of sections of the Kentucky Revised Statutes relating to "rails to trails" are in reference to the responsibilities of the Kentucky Transportation Cabinet. The Cabinet must develop a statewide bikeways program that promotes bicycling in order to maximize the use of resources to develop bikeways. Responsibilities of the Cabinet include cooperation with local governments, development of policies and procedures, safety training programs, and the development and construction of a State Bikeway System.

The creation of a Kentucky Bicycle and Bikeway Commission within the Transportation Cabinet is outlined. Created in August 1994, this Commission represents the interests of bicyclists and assists the bikeway program.

The Transportation Cabinet is also responsible for transmitting information regarding abandonments to the Department of Parks and the Rail Trail Development Office. A record of abandoned railroad lines in Kentucky must be maintained, and this record must include a description of the line, the line operator, and whether the line has been railbanked, as well as other pertinent information.

Selected statutes fall under the chapter dealing with the organization and operating regulations of railroads. One such statute concerns the preservation of railroad corridors. Kentucky policy dictates that the foremost concern of the state is to preserve railroad corridors for future use, and any holder of a railroad corridor may seek to preserve the corridor by filing a "Preliminary Declaration of State Rail banking." This declaration states that the holder of the corridor does not wish to abandon the corridor.

Any person with a legal interest in land adjoining or traversed by a rail trail is given the right to grant a conservation easement for tax purposes. This easement may be granted for a desired duration or may last in perpetuity.

Any railroad wishing to discontinue service or proceed with an abandonment must notify the Railtrail Development Office and the Department of Parks. This

notification advises the Railtrail Development Office and the trails coordinator of the Department of Parks that the railroad is attempting to obtain federal authority to abandon the line.

B. Federal Legislation

The Surface Transportation Board is responsible for the economic regulation of all interstate surface transportation, particularly railroads. As stated in Chapter 2, its mission is to "ensure that competitive, efficient, and safe transportation services are provided to meet the needs of shippers, receivers, and consumers."

The 1983 Amendment to the National Trails System Act made allowances for the process of rail banking, which is the preservation of a corridor for future transportation use by converting it to a rail trail.

Key federal legislation includes the Intermodal Surface Transportation Efficiency Act and the Transportation Equity Act for the 21st Century, described in the section below entitled "Funding Sources."

VIII. FUNDING SOURCES

Funding for rails to trails projects can come from many sources, including federal, state, and local sources. Some of these sources are listed below. Other sources of financial support for rail trails come in the form of grants from foundations, corporations, or individuals.

A. ISTEA

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), was passed in 1991 and expired in 1998. ISTEA was the predecessor to TEA-21. As part of the overall $155 billion transportation program, this Act provided over $1 billion for multi-use trail development, which included more than $350 million specifically for rail trails.

B. TEA-21

The Transportation Equity Act for the 21st Century (TEA-21) is a reauthorization of ISTEA passed in 1998. Through this $218 billion Act, $270 million was provided for the creation and maintenance of recreational trails, and $3 billion was provided for Transportation Enhancements. These Enhancements cover many types of projects, such as the provision of facilities for pedestrians and bicyclists and the preservation of abandoned railway corridors, including conversion for use as bicycle or pedestrian trails.

C. Recreational Trails Program

The Recreational Trails Program is a specific program created as part of TEA-21. This program is administered though the Kentucky Department for Local Government (DLG). It provides funding for acquisition, construction and maintenance for both motorized and non-motorized recreational trails, including rail trails. Funding is available to cities, counties, and non-profit organizations and is based on a 50/50 local match. Since its 1993 inception, this program has helped fund 74 projects, four of which were rail trails. About $700,000 was

available through this program in fiscal year 2002. The Recreational Trails Program has an advisory committee that makes recommendations to the Commissioner of DLG.

D. Land and Water Conservation Fund

This federal fund, administered in Kentucky by the Department for Local Government, supports land acquisition and development for all types of outdoor recreation facilities, including rail trails. Approximately $1.9 million was available through this program in fiscal year 2002.

E. Federal Public Lands Highways Discretionary Fund

A portion of this fund is set aside to provide support for bicycle and pedestrian trails that provide access to or are located within federal lands. For the 1998 fiscal year, for example, trail projects received approximately $4 million.

F. Community Development Block Grant Program

This program, which is administered by the Department of Housing and Urban Development, directly funds cities and towns for projects that produce community-wide benefits. Rail trails are therefore eligible for these funds.

G. Brownfields Redevelopment Initiative

Funds for rail trails are available through this initiative, which provides funds and loan guarantees to redevelop environmentally contaminated industrial and commercial sites.

H. Additional Funding Sources

Other TEA-21 programs can be used for rails to trails projects. Two of these programs were described in the TEA-21 Rail Funding Section of this report starting on page 4-7. These are the Transportation and Community and System Preservation Pilot Program and the Congestion Mitigation and Air Quality Improvement Program. In addition, with the anticipated Surface Transportation Reauthorization, other federal funding programs could be developed and funds appropriated for these programs in 2004. For additional information of the Surface Transportation Reauthorization, refer to page 4-9.

In addition to Local, State, and Federal funding programs, private foundations may be a key source of funding for rail trail programs. Often seeking out projects that promote a healthy and clean environment, private foundations can provide partial or full funding for the aspects of the desired project.

CHAPTER 7: RECOMMENDATIONS

This chapter provides recommendations based on the goals and objectives presented in Chapter 1, the railroad needs and concerns presented in Chapter 4 and other issues and concerns discussed within the Plan.

The following four goals were established as part of the *2002 Kentucky Statewide Rail Plan* development process:

- Work to preserve the existing rail system to the extent the Kentucky Transportation Cabinet can influence the largely privately owned and operated Kentucky rail system.
- Support economic development by providing Kentucky's rail system connectivity to the national rail system and Kentucky's transportation system.
- Strengthen customer relationships with the rail industry through coordination and cooperation in the transportation planning process.
- Enhance rail transportation safety and convenience to ensure mobility and access.

The following discussion will address each in greater detail, providing an action plan to better define KYTC's position on rail and its role in promoting rail. As stated in Chapter 1, Kentucky currently does not have a source of funding to implement specific rail improvement projects. As a result, recommendations generally refer to policy and program activities and not capital project activities.

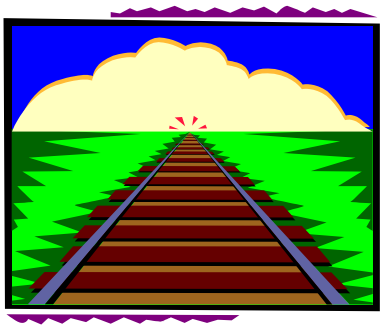
I. GOAL: PROMOTE RAIL SYSTEM PRESERVATION

Rail is one of four key modes used for freight transportation. With increasing capacity constraints on each of these four modes (railroads, water ports, airports and highways), it is important to preserve the existing rail system to provide a viable alternative for the transport of freight. Michael J. Connor, Ohio Central Railroad vice president, noted in an article written by Fred D. Baldwin[1] that: "multimodal transportation systems can improve the quality of community life by improving safety, minimizing environmental concerns and reducing the required maintenance on the local, state and federal highway systems. Furthermore, Mr. Baldwin pointed out the value of existing track and abandoned rights-of-way. Large capital costs associated with acquiring land and laying track were noted as a key reason for discouraging the abandonment of rail lines and selling off the right-of-way for nonrail uses." Mr. Baldwin pointed out that many of the short lines operating today are operating on track once considered "worthless."

To support the goal of rail system preservation, the following actions are encouraged to 1) assist in preserving rail service and rights-of-way and 2) coordinate the on-going maintenance of system information.

[1] Baldwin, Fred D. "Short Line Railroads: Local Lifelines for Business", *Appalachia*, Volume 34, No. 2: May-August 2001.

A. Action: Assist in Preserving Rail Service and Rights-of-Way



The KYTC should work to coordinate initiatives that will help preserve rail service, where in the public interest, and rights-of-way, where service preservation is not possible. A line no longer cost effective for a large Class I railroad may serve as a potential profit generator for a small short line rail shipper able to serve the local needs of a community. A large majority of the current short line railroads were developed in this way. If local economics do not warrant continued service on the line, other options exist. The line can be rail banked, providing temporary use to other service providers such as a tourist/recreational rail line or rails to trails recreational line. Since experience indicates that it is difficult to reacquire abandoned right-of-way it is important that local communities, along with regional and state governments, develop procedures to retain rail service or right-of-way.

As part of this plan development, federal funding sources have been identified and described, including the RRIF, TCSP, Highway Rail Grade Crossing, Transportation Enhancements, and CMAQ programs. With federal and state regulations and/or funding programs regularly changing, the KYTC should maintain a current knowledge of available public funding that can be used for rail projects. With accurate information and a strong understanding of rail project funding opportunities, the KYTC will be in a better position to assist railroads, as well as local industry and communities, in preserving and enhancing the existing rail system.

B. Action: Coordinate Maintenance of System Information

A key element in helping to preserve the existing rail system is to maintain current knowledge of the Commonwealth's rail system and its components. It is this element in which the KYTC can serve a more central and direct role. To facilitate this need, the Commonwealth of Kentucky adopted 603 KAR 7:090, which establishes procedures requiring all railroads to submit the following information to the KYTC:

- Annual report and/or a completed copy of the State Statistics form provided by the KYTC;
- Map of all active routes;
- Written notice of abandonment; and,
- Accident reports for any accident resulting in a loss of life.

Procedural mechanisms should be maintained, or further developed, to strengthen and ensure the consistency of this reporting program. These procedures should include regular notices by KYTC to the reporting entities on the requirements and deadlines for providing information and immediate feedback when information is incomplete. Additionally, a summary report of the collective results of this information should be developed on an annual basis,

whereby the reporting entities can see the application of the information they provide. This summary report should include the adoption, continued development and updating of an official state rail map that identifies track ownership, operating rights and proposed abandonments. This would provide a key tool to update the information assembled as part of this current state rail plan effort.

With this action, the KYTC can continue to ensure the accurate collection and maintenance of this data to better facilitate future updates of the *Kentucky Statewide Rail Plan* and other programming efforts the KYTC may pursue. With accurate and up-to-date data, the KYTC will be better equipped to continue to address the rail industry's needs and concerns.

II. GOAL: SUPPORT ECONOMIC DEVELOPMENT

Economic development is a common goal across Kentucky. Economic development, particularly as related to rail industry issues, is closely tied to the needs and initiatives that extend beyond the border of the Commonwealth of Kentucky. To be successful, many economic development initiatives involving rail system development and utilization must be coordinated with jurisdictions throughout the United States.

As such, the goal of promoting economic development will require action on different levels, ranging from local to national involvement.

A. Action: Provide Coordination with Local and State Agencies

Understanding that the implementation of identified projects generally must be privately or privately/publicly funded initiatives, the KYTC cannot directly provide the funding sources for these projects. More important, the KYTC can act as one of several critical points of coordination between the private and public sectors involved in the funding process. In addition, the KYTC can provide an important source of technical assistance to involved agencies, helping to assess the logistical viability and costs for implementing rail development initiatives that may be under consideration.

Coordination and communication is the first step in this process and KYTC, along with other state agencies and the railroads, should continue to routinely organize for the purpose of addressing rail service needs related to economic development initiatives. These rail service needs largely involve industrial rail service requirements or initiatives related to recreational rail service opportunities. With responsibilities for Kentucky's transportation system the KYTC is a central player in these efforts.

Other state and local partners play important roles in these initiatives. For example, the Kentucky Cabinet for Economic Development works to support business and industrial development within the Commonwealth of Kentucky and maintains a database of information on existing and proposed industrial developments. In addition, this Cabinet works with local and regional interests to help secure grants and funding for economic development projects.

Another example is the Kentucky Department for Tourism. They are a state partner that can be called upon for coordination on needs and opportunities as

they relate to the development and operation of recreational rail lines or rail trails. This department also works with state and local entities to seek funding opportunities and matching grants that serve to develop tourism-related initiatives and then to promote these attractions throughout the state.

B. Provide Technical Assistance to Local and State Agencies

Technical assistance is another key element whereby the KYTC can work to support economic development needs and opportunities. Areas of technical assistance could include the following:

- Assessing Cost and Feasibility of Proposed Initiatives
- Identifying Rail Service Needs
  - Relative to Intermodal Facilities
  - Relative to State Transportation Plan Goals and Objectives

In maintaining information on the state's rail system and having staff resources with expertise in the field, the KYTC could be called upon to conduct analysis of rail service proposals, particularly the cost and feasibility of implementing such proposals. The KYTC can also work to evaluate existing access deficiencies for intermodal facilities that lack sufficient rail access but have the potential justification for being rail-served. Rail system initiatives related to broader state transportation planning objectives and multimodal system development can be identified and evaluated.

C. Action: Participation in National Initiatives

Outside Kentucky, both nationally and globally, rail-related economic development goals are similar. Where rail is concerned, the longer the trip, the greater the economic advantage over truck freight transport. With this in mind, the KYTC should continue to work in partnership with neighboring states to develop initiatives that promote connectivity to the national rail system and the global market place. A rail project not considered feasible for Kentucky alone may prove to be feasible if the project scope is expanded to include other partnering states. As an example, the Commonwealth of Kentucky and the KYTC have been active participants in regional initiatives, such as the *Latin America Trade and Transportation Study,* whose goal is to "support economic development through improved transportation for trade."

Another example of a similar project being conducted in the Western United States which exemplifies multistate cooperation is the *Western Trade and Transportation Network Study.* This is a multistate freight initiative, intended to:

- Identify the high-priority freight multimodal corridors and intermodal facilities throughout the western United States;
- Assess the performance of each corridor and facility from the freight perspective; and
- Coordinate a regional approach to identifying and addressing freight transportation needs for these multimodal corridors and facilities.

III. GOAL: STRENGTHEN CUSTOMER RELATIONSHIPS AND INVOLVEMENT IN THE TRANSPORTATION PLANNING PROCESS

As part of the *2002 Kentucky Statewide Rail Plan*, a variety of public and private partners were instrumental in the program planning and development process. These included representatives from the KRA, Department for Local Governments, MPOs, ADDs, Operation Lifesaver, and KBT Rail Committee among others. For any transportation initiative to be successful, the effective involvement of these customers and/or other program partners is required.

A. Action: Involvement of Rail Industry Partners

The development of the *Kentucky Statewide Rail Plan* has included active participation by representatives of Kentucky's rail industry. Having strengthened these relationships through this effort, the KYTC should maintain this working relationship by regularly involving these groups in future planning processes. For example, the KRA is an organization comprised of railroad representatives from across the Commonwealth. The KRA meets quarterly to discuss railroad issues that impact Kentucky's rail carriers. With permission from the KRA, the KYTC should attend at least one meeting per year. This would provide the KYTC an opportunity to present the railroad summary information to the KRA and discuss with the group the latest developments associated with Kentucky's rail system. The Kentuckians for Better Transportation Rail Committee is another committee with which the KYTC should maintain regular involvement. This committee meets on an as-needed basis to discuss transportation concerns as they impact the rail system. As with the KRA, the KYTC should periodically attend KBT meetings to keep intact the line of communication.

B. Action: Involvement of MPO and ADDs

The Metropolitan Planning Organizations and Area Development Districts throughout Kentucky are routinely involved with the KYTC in transportation planning and programming efforts. MPOs and ADDs participate with the KYTC as part of the statewide transportation planning process to recommend local transportation improvement projects. Examples include the Unscheduled Needs List and MPO Transportation Improvement Programs (TIPs) and Long Range Transportation Plans.

Oftentimes, rail-specific projects are not always identified or fail to be prioritized relative to the highway projects identified in these documents. The KYTC should formalize a process to encourage MPOs, ADDs and other planning organizations to specifically address rail issues as part of their pre-established reporting procedures. In other words, additional reporting requirements are not required for this action. Instead, building in a focus on rail projects and issues as part of the current reporting programs should be sufficient. For instance, the identification of a separate set of rail-specific projects should be encouraged. If these projects are reported separately, these local and regional planning agencies will be more prone to identifying them. Particular attention should be

given to rail projects that serve to reduce the demands on public resources, improve safety, and increase efficiency for the overall transportation system.

The *Drive Smart* program is another activity in which the KYTC works with local ADDs to identify critical accident areas and safety needs. Similar to the above discussion, efforts should be included in this program to give particular attention to rail safety needs as they relate to rail-highway grade crossings. This effort should also be coordinated with the *Operation Lifesaver* program discussed below.

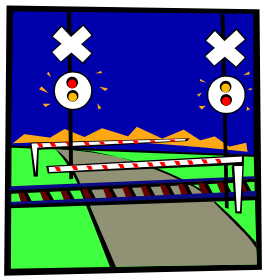
C. Action: Involvement with Operation Lifesaver

Operation Lifesaver is a nationwide, non-profit organization dedicated to ending collisions, deaths, and injuries at highway-rail intersections and along railroad rights-of-way. The Kentucky Transportation Cabinet should explore options to promote Operation Lifesaver and other transportation safety programs. The KYTC should consider looking for set-aside funding to provide monetary support to these organizations. This would allow Operation Lifesaver or similar programs to expand their educational activities. One small example would be to purchase additional brochure materials currently available through Operation Lifesaver, Drive Smart, etc., to be distributed at KYTC public meetings.

IV. GOAL: ENHANCE RAIL SYSTEM SAFETY AND CONVENIENCE

Enhancing rail transportation safety and the system's convenience for ensuring mobility and access is a goal that is consistent with other transportation modes and systems throughout the state. Rail safety issues include both accident areas and security measures. Mobility and access needs include both freight and passenger service opportunities. The following action items discuss initiatives in these areas.

A. Action: Actively Address Rail Safety/Accident Issues



Relative to accident areas, at-grade highway-rail crossings are both operational and safety concerns for both railroads and vehicular traffic. Highway-rail grade crossing projects are regularly identified as justifiable safety improvements by the KYTC, railroad industry and local governments. At current funding levels, the Kentucky Grade Crossing Program addresses eight to ten such improvements each year. While maintaining the flexibility to address specific locations throughout the state, consideration should also be given to a corridor-level approach to establish priorities for consideration in future initiatives to address highway-rail grade crossing safety. These priority corridors may include routes with existing or proposed passenger service, higher speeds, heavier traffic or the highest historic probability of crossing incidents. Potential corridors could include:

- Norfolk Southern Line in Boone, Kenton and Grant Counties (historic instances of crossing incidents);
- CSXT Line from Ashland to Northern Kentucky (Amtrak passenger service);

- Illinois Central Line south of Paducah (Amtrak passenger service); and
- CSXT Line from Louisville to Nashville, Tennessee (proposed Amtrak passenger service).

As part of this program, the KYTC should consider formalizing a methodology for identifying and prioritizing deficient highway-rail grade crossings. This would provide a consistent procedure to conduct larger corridor studies as proposed above, and more importantly provide other agencies and local governments the tools to evaluate highway-rail crossings on an individual or grouped basis.

This overall approach provides an opportunity to address the upgrade and consolidation of crossings on an individual and corridor basis and make efficient use of available funds. It does not need to impact the current Kentucky Grade Crossing Program, but instead complement this program by providing additional means to improve more crossings than the current program addresses. In undertaking this new approach, the KYTC would act as a coordination point to encourage communication between the involved railroad, government agencies and public and to administer funding for identified improvements, as it becomes available.

In addition to the above corridors, potential quiet zone corridors could be identified and evaluated. Intended for communities to provide options to replace sounding of locomotive horns, quiet zone studies could be conducted by communities willing to work with local railroads and government officials to upgrade and consolidate highway-rail grade crossings. As discussed in Chapter 5, certain FRA requirements must be met for a corridor to be considered an approved quiet zone. Upon meeting these requirements, the subject community can provide their residents a quieter and safer transportation network. The KYTC would work with local communities to support coordination efforts between the involved railroad, government agencies and public, encourage buy-in by all involved parties to fund the program, and administer additional funding for the project, if it becomes available.

B. Action: Address Rail Security Measures

The importance of security for Kentucky's rail system has been heightened with national concerns related to terrorism and transportation security. With such national emphasis comes funding opportunities that could be leveraged to address these issues within the state. Security enhancement initiatives could include, but are not limited to, the following:

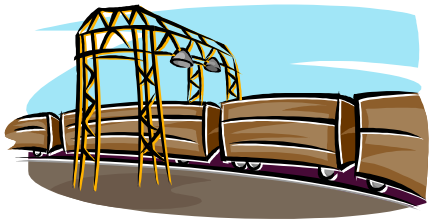
- Closed circuit television cameras, vehicle barriers, lighting and fencing
- Employee identification systems
- Passenger information retrieval system
- Train locator and tracking systems, notification systems and mail, and express tracking systems
- Additional security personnel

- Screening equipment
- Communication equipment

Similar proposals should be considered for freight railroads. These proposals could address some of the same items above, as well as discuss the need to safely and securely transport hazardous materials on the nation's rail system.

C. Action: Improve System Convenience through Access and Mobility

A multimodal transportation system offering a variety of services is desired for the effective movement of commodities and people. Kentucky's economy is dependent on the complete value-added supply chain and therefore is dependent on all mode choices. Utilizing available resources, such as the intermodal facilities database maintained by the Kentucky Transportation Center, the KYTC should identify rail-related intermodal opportunities or opportunities for rail to provide an effective alternative transportation choice.



The KYTC has previously undertaken study efforts that identified access needs and opportunities at existing transportation facilities. Examples include *the Kentucky Water Transportation Corridors: Public Riverport Development and Intermodal Access Study*, *Statewide Aviation System Plan*, *Kentucky Appalachian Regional Intermodal Airpark Study*, and the *Final Summary Report on "Truck Route Access Evaluation," Freight Movement Intermodal Access in Kentucky*. These studies looked at public riverports, statewide airports, Appalachian regional airports, and truck generating facilities to evaluate facility concerns and identify capital improvement needs. A similar study effort should be pursued for rail intermodal facilities. This study would evaluate access to existing facilities by each transportation mode, assess the need for additional access, and identify capital improvements. In addition, as part of this study or through a truck diversion study, the need for new intermodal facilities within Kentucky could be evaluated.

One point of emphasis would be to reduce truck traffic along Kentucky's interstate corridors. An example diversion study effort is the *Feasibility of Diverting I-81 Truck Traffic to Rail Study* conducted for the Commonwealth of Virginia[2]. This study evaluated the potential to divert truck traffic from I-81 to the Norfolk Southern railroad. Norfolk Southern and the Commonwealth of Virginia wanted to evaluate the feasibility for double tracking the NS line instead of adding additional lanes to I-81. Initial findings showed that the potential for significant public benefit exists, but the study recommended further analysis by the Commonwealth of Virginia on the potential to divert highway traffic to rail transportation. In a similar approach, the KTYC should consider options to explore the state's unique rail diversion opportunities, working with neighboring states and understanding the long transport distance typically required to make

[2] Wilbur Smith Associates in cooperation with the Virginia Department of Transportation. *Senate Joint Resolution No. 55 – Feasibility of Diverting I-81 Truck Traffic to Rail Study*, 2001.

these projects feasible. Two examples could be the heavily traveled I-65 and I-75 Interstate Corridors.

There are also many unknowns related to the future of passenger rail transportation, and the KYTC is closely following and proactively participating in this evolving situation. The KYTC could identify and evaluate, where justifiable, passenger rail transportation, particularly in the metropolitan areas, and identify opportunities to improve connections to other passenger modes of transportation. The KYTC could work with local governments to ensure connectivity between the proposed Midwest Regional Rail System, commuter rail service and other passenger transportation services.

The KYTC could also identify other metropolitan areas with the potential to support passenger service. With commuter rail service proposed in Louisville and Northern Kentucky, these areas provide a starting point. Examination of current and proposed passenger initiatives omit the metropolitan area of Lexington from consideration. One opportunity for future passenger service may be extending current service from Louisville or Cincinnati to Lexington. If the opportunity to utilize existing CSXT or NS track was available, this route may be warranted. Although the *Examination of I-75, I-64 and I-71 High Speed Rail Corridors Study* found high speed rail not feasible between the metropolitan areas of Louisville, Lexington and Cincinnati, this does not mean high speed rail or other forms of commuter service could not be feasible at a later date or under a varied project scope. The KYTC, in an effort to identify and evaluate rail passenger service opportunities, should monitor significant changes in the passenger rail service area.

Glossary of Abbreviations

AAR ..... Association of American Railroads
AASHTO.....American Association of State Highway and Transportation Officials
ADD ..... Area Development District
BRADD……..……Barren River Area Development District
BLUE .....Bluegrass Railroad
BNSF .....Burlington Northern and Sante Fe Railway
CMAQ ..... Congestion Mitigation and Air Quality
COFC.....Container on Flat Car
CP .....Canadian Pacific Railway
CSXT .....CSX Transportation
DLG .....Department for Local Government
DOD.....Department of Defense
DVMT.....Daily Vehicle Miles of Travel
FHWA…….…Federal Highway Administration
FRA.....Federal Railway Administration
FVRR .....Fredonia Valley Railroad
GIS……..Geographic Information Systems
GPS ..... Global Positioning Satellite
HSRR.....Hardin Southern Railroad
IC ..... Illinois Central Railroad
ICC.....Interstate Commerce Commission
ISTEA ..... Intermodal Surface Transportation Efficiency Act
KAR .....Kentucky Administrative Regulations
KBBC ..... Kentucky Bicycle and Bikeways Commission
KBT.....Kentuckians for Better Transportation
KRA .....Kentucky Railroad Association
KRS ..... Kentucky Revised Statutes
KT .....Kentucky & Tennessee Railway
KTC..... Kentucky Transportation Center
KWT..... Kentucky, West Tennessee Railroad
KYTC .....Kentucky Transportation Cabinet
LDL .....Light Density Rail Lines
LFRA.....Local Freight Rail Assistance
LIRC.....Louisville & Indiana Railroad
LRC.....Legislative Research Commission
LRSA .....Local Rail Service Assistance
LXOH ..... Lexington & Ohio Railroad
MGT-M/M..... Million Gross Tons-Miles per Mile
MPOs..... Metropolitan Planning Organizations
MWRRI……..……Midwest Regional Rail Initiative
MWRRS.....Midwest Regional Rail System
NAFTA .....North American Free Trade Agreement
NHS ..... National Highway System
NS.....Norfolk Southern Railway

NTAD .....National Transportation Atlas Database
OKI.....Ohio Kentucky Indiana
PAL ..... Paducah & Louisville Railway
RAIL-21.....Railroad Advancement and Infrastructure Law of the 21st Century
RIDE-21 ...Rail Infrastructure Development and Expansion Act of the 21st Century
RJCR .....R. J. Corman Railroad / Bardstown Line
RJCM..... R. J. Corman Railroad / Memphis Line
RRC .....Railroad Commission
RRIF .....Rail Rehabilitation and Improvement Financing
RRRR ..... Railroad Revitalization and Regulatory Reform Act
SACP ..... Safety Assurance and Compliance Program
STB.....Surface Transportation Board
STP.....Surface Transportation Program
STRACNET .....Strategic Rail Corridor Network
TCSP .....Transportation and Community and System Preservation
TEA-21..... Transportation Equity Act for the 21st Century
TIFIA.....Transportation Infrastructure Finance and Innovation Act
TIP ..... Transportation Improvement Program
TEP.....Transportation Enhancement Program
TKEN .....Tennken Railroad
TOFC.....Trailer on Flat Car
TTI ..... Transkentucky Transportation Railroad
UPS .....United Parcel Service
USG.....United States Government
WKRL ..... Western Kentucky Railway
4R ACT ..... Federal Railroad Revitalization and Regulatory Reform Act

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(see R.J. Corman Railroad)

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Hardin Southern Railroad
(See Class III Railroads)

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Web Addresses

Page reference in parenthesis.

Division of Multimodal Programs (1-1)
http://www.kytc.state.ky.us/Multimodal/index.htm

Surface Transportation Board (2-10)
www.stb.dot.gov/

Reebie Associates and Transearch (2-27)
www.reebie.com

National Association of Railroad Passengers (3-1)
http://www.narprail.org

Searchable legislative information (3-1, 4-10)
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Amtrak (3-1, 3-10)
http://www.amtrak.com

Amtrak Reform Council (3-1)
http://www.amtrakreformcouncil.gov

Federal Railroad Administration (3-10)
www.fra.dot.gov

Midwest High Speed Rail Coalition (3-10)
www.midwesthsr.org

Midwest Regional Rail Initiative Executive Report (3-10)
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http://www.t-2.org/index.html

Ohio Kentucky Indiana Regional Council of Governments (3-11)
www.oki.org

Congestion Mitigation and Air Quality Improvement Program (4-8)
http://www.fhwa.dot.gov/environment/cmaqpgs/index.htm

National Corridor Planning & Development Program website; Coordinated Border Infrastructure Program (4-8)
http://www.fhwa.dot.gov/hep10/corbor/index.html

Transportation and Community and System Preservation Pilot Program (4-9)
http://www.fhwa.dot.gov/tcsp/index.html

Transportation Enhancements Program (4-9)
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Transportation Infrastructure Finance and Innovation Act (4-10)
http://tifia.fhwa.dot.gov/

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KYTC's Transportation Enhancements Program (4-10)
http://www.kytc.state.ky.us/Multimodal/TE.htm

FRA Office of Safety statistics (5-3)
http://safetydata.fra.dot.gov/officeofsafety/

Operation Lifesaver (5-8)
www.oli.org

Louisville Quiet Zone Project (5-10)
http://www.louky.org/quietzone/home.htm

Kentucky Rails to Trails Council (6-7)
www.KyRailTrail.org

Rails-to-Trails Conservancy (6-7)
www.railtrails.org

Department for Local Government (6-7)
www.lylocalgov.com

Kentucky Department of Parks (6-8)
http://www.state.ky.us/agencies/parks/parkhome.htm

Kentucky Heritage Council (6-8)
http://www.state.ky.us/agencies/khc/khchome.htm

15.145 Repealed, 2000.

Catchline at repeal: Assistant attorney general for Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1966 Ky. Acts ch. 255, sec. 6. -- Created 1944 Ky. Acts ch. 78, sec. 1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

174.057 Railroad regulation -- Office of Intermodal Programs – Administrative regulations. (Effective December 1, 2000, upon contingency)

The Transportation Cabinet shall have the responsibility of regulating railroads within the Commonwealth. The cabinet shall delegate the Office of Intermodal Programs to carry out the provisions of this section. The secretary may employ such personnel as necessary to perform the duties, functions, and responsibilities associated with the regulation of railroads. The office shall have all the powers previously vested in the Kentucky Railroad Commission. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this section.

Effective: December 1, 2000, upon contingency

History: Created 2000 Ky. Acts ch. 417, sec. 1, effective December 1, 2000, upon contingency.

Legislative Research Commission Note (7/14/2000). This statute takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the statute shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.010 Repealed, 2000.

Catchline at repeal: Definitions.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-1, 201g-1, 201g-la.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.020 Repealed, 2000.

Catchline at repeal: Service and facilities of common carriers to be adequate – Rates and practices to be just and reasonable.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-1, 201g-2.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.030 Repealed, 2000.

Catchline at repeal: Railroad Commission to enforce laws relating to common carriers.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-5, 201e-16, 201e-17, 201e-20, 201g-14, 821, 826, 828.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.040 Repealed, 2000.

Catchline at repeal: Organization of Railroad Commission -- Quorum.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201g-1c, 821.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.050 Repealed, 2000.

Catchline at repeal: Districts from which railroad commissioners to be elected.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 823, 824.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was

met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.060 Repealed, 2000.

Catchline at repeal: Office of Railroad Commission -- Employees -- Salaries -- Transportation.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1948 Ky. Acts ch. 161, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201g-12, 822.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.070 Repealed, 2000.

Catchline at repeal: Appointments or gifts not to be solicited or accepted by, or offered to, railroad commissioner.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 832.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.080 Repealed, 2000.

Catchline at repeal: Fees for copies of records of commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 833.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional

amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.090 Repealed, 2000.

Catchline at repeal: Annual reports by railroads and express companies to Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-15, 825, 4078a.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.100 Repealed, 2000.

Catchline at repeal: Power of Railroad Commission to secure evidence.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-14, 201e-16, 201e-20, 201e-22, 820a-5, 821, 827.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.110 Repealed, 2000.

Catchline at repeal: Public disclosure of information obtained by Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-18, 831.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.120 Repealed, 2000.

Catchline at repeal: Annual report of Railroad Commission to Governor.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 834.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.130 Repealed, 2000.

Catchline at repeal: Express companies and carriers by rail to publish, file and display rate schedules.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 20e-2, 20e-3, 201e-4, 201g-3, 201g-5, 201g-6.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.140 Repealed, 2000.

Catchline at repeal: Written statement of rate to be given on request.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-6.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.150 Repealed, 2000.

Catchline at repeal: Deviation from rate schedule prohibited -- Special contract rates permitted.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-4, 201e-6, 201e-8, 201g-6, 201g-9.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was

met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.160 Repealed, 2000.

Catchline at repeal: Notice of change of rate schedules.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201e-3, 201g-5.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.170 Repealed, 2000.

Catchline at repeal: Hearing on proposed change in rate, classification, regulation or practice.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-7, 206g-13.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.180 Repealed, 2000.

Catchline at repeal: Powers of Railroad Commission as to rates, classifications, regulations and practices of express companies and carriers by water.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201e-5.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional

amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.190 Repealed, 2000.

Catchline at repeal: Interstate freight rates, duties of Railroad Commission concerning.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 826.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.200 Repealed, 2000.

Catchline at repeal: Joint rates and traffic agreements -- Regulations as to more than one rate, regulation or practice.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-5, 201f, 201g-4, 201g-6, 201g-13a.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.210 Repealed, 2000**.**

Catchline at repeal: Rate control arrangements between carriers by water and other carriers prohibited -- One not to own interest in other.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201e-20.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.220 Repealed, 2000.

Catchline at repeal: Demurrage charges.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-10.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.230 Repealed, 2000.

Catchline at repeal: Long and short hauls.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-13, 820.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.240 Repealed, 2000.

Catchline at repeal: Transportation of passengers free or at reduced rates forbidden -- Exceptions.

History: Repealed 2000 Ky. Acts ch. 417, sec. 7, effective December 1, 2000. -- Amended 1978 Ky. Acts ch. 164, sec. 51, effective July 17, 1978. -- Amended 1974 Ky. Acts ch. 386, sec. 55. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201c-1, 201c-2, 201c-4.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.250 Repealed, 2000.

Catchline at repeal: Record of passenger transportation given free or at reduced rates -- Report to Attorney General.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201c-10, 201c-12.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.270 Repealed, 2000.

Catchline at repeal: Transportation of persons for purpose of intimidating public officers forbidden.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 804a-1, 804a-2.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.280 Repealed, 2000.

Catchline at repeal: Extortion.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-10, 816.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.290 Repealed, 2000.

Catchline at repeal: Unjust discrimination.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-10, 817.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on

November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.300 Repealed, 2000.

Catchline at repeal: Undue or unreasonable preference.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, December 1, 2000. – Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e- 11, 818.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.310 Repealed, 2000.

Catchline at repeal: Hearings and orders as to extortion.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-14, 201e-22, 820a-1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.320 Repealed, 2000.

Catchline at repeal: Hearings and orders as to unjust discrimination or undue or unreasonable preference.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-5, 201g-8.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.330 Repealed, 2000.

Catchline at repeal: Railroad Commission may hear complaints concerning common carriers or act on own motion.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-17, 201g-13c, 201g-14, 829.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.340 Repealed, 2000.

Catchline at repeal: Form of complaints -- Conduct of hearings.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 189, effective July 15, 1996. – Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e- 14, 201e-17, 201e-22, 201g-1b, 201g-14, 820a-1, 829.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.350 Repealed, 2000.

Catchline at repeal: Revocation or modification of orders of Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-14, 201e-22, 201f, 201g-4, 820a-1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.360 Repealed, 2000.

Catchline at repeal: Evidentiary effect of award of damages.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-13b.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.370 Repealed, 2000.

Catchline at repeal: Enforcement of award or order -- Appeal.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1974 Ky. Acts ch. 301, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-11.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.375 Repealed, 2000.

Catchline at repeal: Judicial review of orders of Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 261, effective January 2, 1978. -- Created 1974 Ky. Acts ch. 301, sec. 2.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.380 Repealed, 2000.

Catchline at repeal: Sheriff to serve summonses and orders of Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-15.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on

November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.390 Repealed, 2000.

Catchline at repeal: Common carrier statutes are in addition to other laws.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201g-18.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.400 Repealed, 2000.

Catchline at repeal: Two railroads using same line to furnish facilities for traffic without discrimination.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 792.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.410 Repealed, 2000.

Catchline at repeal: Railroad Commission may notify railroad to make repairs or improvements.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 772, 830.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters

in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.420 Repealed, 2000.

Catchline at repeal: Railroads to furnish accommodations for freight and passengers -- Checking of baggage.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 783.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.430 Repealed, 2000.

Catchline at repeal: Waiting rooms -- Ticket offices -- Notice of delay of train -- Announcement of stations and route.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 772, 784.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.440 Repealed, 1966.

Catchline at repeal: Separate coaches or compartments for white and colored passengers.

History: Repealed 1966 Ky. Acts ch. 184, sec. 8. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 795, 796, 799, 801.

276.450 Repealed, 2000.

Catchline at repeal: Transportation of explosives by carriers -- Rules of Railroad Commission governing.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1966 Ky. Acts ch. 239, sec. 196. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 788, 789.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.460 Repealed, 2000.

Catchline at repeal: Unclaimed freight, express or baggage, how sold.

History: Repealed 2000, Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1966 Ky. Acts ch. 239, sec. 197. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201a-1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.470 Repealed, 2000.

Catchline at repeal: Transportation companies to issue bills of lading -- Liability for loss of or damage to freight.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201d-1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.480 Repealed, 2000.

Catchline at repeal: Abandonment of passenger service.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1948 Ky. Acts ch. 162, sec. 1. -- Amended 1942 Ky. Acts ch. 166, secs. 1 and 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 772, 772a-5.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.490 Repealed, 2000.

Catchline at repeal: Obstructing or interfering with Railroad Commission.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 17, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-16, 828.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.500 Repealed, 2000.

Catchline at repeal: Limitation of prosecutions and actions.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1948 Ky. Acts ch. 91, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201e-12, 201e-14, 201e-22, 201g-17, 819, 820a-4.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.510 Repealed, 2000.

Catchline at repeal: Venue of prosecutions and actions.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 201c-7, 201c-10, 201e-12, 201e-13, 201e-14, 201e-15, 201e-16, 201e-22, 201g-8, 793, 798, 804a-3, 819, 820, 820a-2, 828.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.530 Commission's duty to transmit information concerning abandonment of railroad corridor to the Department of Parks and to the Railtrail Development Office.

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 338, sec. 9, effective July 14, 2000.

276.550 Repealed, 2000.

Catchline at repeal: Agreements with Federal Railroad Administration -- Approval.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1978 Ky. Acts ch. 155, sec. 41, effective June 17, 1978. -- Created 1974 Ky. Acts ch. 95, sec. 1.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

276.990 Repealed, 2000.

Catchline at repeal: Penalties.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Amended 1966 Ky. Acts ch. 184, sec. 8. -- Amended 1948 Ky. Acts ch. 162, sec. 1. - - Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 201c-5, 201c-6, 201c-10, 201e-9, 201e-12, 201e-13, 201e-14, 201e-15, 201e-16, 201e-20, 201e-22, 201f, 201g-4, 201g-6, 201g-8, 201g- 16, 784, 789, 792, 793, 797, 800, 804a-1, 804a-2, 819, 820, 820a-1, 827, 828, 832.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 17, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

424.310 Repealed, 2000.

Catchline at repeal: Railroad Commission hearings.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Created 1958 Ky. Acts ch. 42, sec. 21.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was

met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

277.010 Repealed, 1972.

Catchline at repeal: Organization of railroad companies -- Articles of incorporation -- Amendments to articles.

History: Repealed 1972 Ky. Acts ch. 274, sec. 165. -- Amended 1946 Ky. Acts ch. 141, sec. 15a. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 763, 764.

277.030 Repealed, 2000.

Catchline at repeal: Continuation of limited railroad grants and franchises.

History: Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 769a-2.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

277.040 Person operating mine or quarry may construct railroad line, truck road, overhead conveyor or pipeline to transport material.

Any person operating a mine or a stone quarry may, for the purpose of transporting material between any railroad or navigable stream and the mine or quarry, construct and operate a line of railroad, truck road, overhead conveyor, or pipeline from the mine or quarry to the most convenient and accessible point on the railroad or stream, and may, under the Eminent Domain Act of Kentucky, condemn the land necessary for track, truck road, or supports for conveyor, or pipeline, not exceeding sixty (60) feet in width for each track, roadway, conveyor, or pipeline necessarily constructed, and the land for necessary buildings at the railroad or stream, not exceeding two (2) acres. The owner or operator of such railroad shall be governed by the laws relating to other railroads, so far as applicable, and shall have the same rights and privileges granted to corporations owning and operating railroads.

Effective: October 1, 1942

History: Amended 1954 Ky. Acts ch. 140, sec. 1, effective June 17, 1954. – Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 815.

277.050 Corporation constructing or operating union station may condemn land.

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class, acquire by condemnation, in the manner prescribed by the Eminent Domain Act of Kentucky, such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 835a.

277.060 Powers and duties of railroad companies as to construction, alteration and maintenance of railroad line.

(1) Every railroad company may:

(a) Cause such examinations and surveys to be made as are necessary to the selection of the most advantageous route for its proposed railroad, and for that purpose its officers, agents and servants may enter upon the property of any person, subject to liability for all damage done by them to such property.

(b) Receive, hold and take possession of any voluntary grants and donations of property made to it to aid in the construction, maintenance and operation of the road; any real property so received shall be held and used for the purposes of the grant or donation only.

(c) Purchase, hold, take possession of and use all franchises and property necessary for the construction, maintenance and accommodation of its line of railroads, but the same shall not be taken or appropriated without the consent of the owner until the compensation to be made therefor is agreed upon or ascertained, and paid or deposited, as provided by the Eminent Domain Act of Kentucky.

(d) Lay out and construct its road not exceeding one hundred (100) feet in width, unless more than one (1) track is laid, in which case the width may be extended not exceeding fifty (50) feet for each additional track.

(e) Take, in the manner provided by the Eminent Domain Act of Kentucky such lands in the vicinity of or adjacent to its road as are necessary for cuts or embankments, the procurement of stone, gravel or other materials, or for draining the roadbed.

(f) Change, when it deems proper, the gauge of its road.

(g) Change the location or grade of any portion of its road for any reasonable cause, but shall not, except as otherwise provided by law, depart from the general route prescribed in the articles of incorporation.

(h) Construct its road upon or across any private road, highway, street, lane or alley, and across any railroad, canal or watercourse.

(2) Every railroad company shall restore to its former condition, as near as may be, any private road, highway, street, lane, alley, railroad, canal or watercourse upon or across which it has constructed its road, and shall maintain the same in that condition within the right-of-way of the railroad company. It shall construct suitable road and street crossings for the passage of traffic by putting down planks or other suitable material between and on each side of the rails, the top of which shall be at least as high as the top of the rails.

(3) If the railroad is constructed upon any public street or alley, the construction shall be upon such terms and conditions as are agreed upon between the company and the authorities of the city, and the road shall not be constructed until compensation is made, either by agreement or in the manner provided by the Eminent Domain Act of Kentucky, to the owners of the property adjoining those parts of the street or alley on which the road is to be constructed.

(4) Any railroad company may build such spurs, switches, tracks or branches as are necessary to conduct its business or develop business along its line of road, and for that purpose shall have the same powers and be subject to the same restrictions

and liabilities as are conferred or imposed upon it for the construction of its main line.

Effective: October 1, 1942

History: Amended 1976 Ky. Acts ch. 140, sec. 111. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 768, 769.

277.070 Map of route to be recorded -- Notice to Transportation Cabinet if another railroad crossed.

(1) Every railroad company proceeding to construct its road in or through any county shall file and have recorded at its expense, in the office of the county clerk of that county, a map of the route showing the center and the width of the proposed road. If, after the map is filed and recorded, the location or the proposed route is changed, a map showing the change, and the center and width thereof, shall be filed and recorded at the expense of the company in the office of the county clerk of the county in which the change is made.

(2) If the proposed route indicated by the map crosses the line of any other railroad, the company filing the map shall, before commencing the construction of the road near the point of crossing, notify the Kentucky Transportation Cabinet. The cabinet shall notify the company whose road it is proposed to cross, and the company proposing to cross it, that if any objection is made to the crossing the cabinet will meet, at a stated time and place, to consider the question of approving the crossing. The cabinet may determine the manner in which the crossing shall be made in order to protect against accidents.

Effective: December 1, 2000

History: Amended 2000 Ky. Acts ch. 417, sec. 11, effective December 1, 2000. --

Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 767.

277.080 Railroad company may transport by motor vehicle and by air.

Any railroad company may engage in the business of a common carrier for the transportation of persons and property by motor vehicles operated upon the highways and by airplanes in the air, and may purchase or lease the property, rights and franchises of any person engaged in transportation of persons or property by motor vehicle or by airplane, and may acquire the capital stock of any corporation engaged in such transportation, or make any agreement or arrangement, not inconsistent with laws, with any person engaged or authorized to engage in such transportation. All railroad companies exercising the powers granted by this section shall, in their operation of motor vehicles, be deemed common carriers by motor vehicle, and shall be subject to all the laws of this state applicable to such motor carriers.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 768a.

277.090 Railroad company may operate ferry.

(1) Any railroad company may, without securing the grant of any ferry franchise or privilege from the county judge/executive, transport, or employ other persons to transport for it, any passengers, baggage or freight carried, or to be carried, on its railroad line, across any stream within or bordering upon this state.

(2) Any railroad company operating a ferry for the purposes mentioned in subsection (1) of this section may transport thereon any other persons, freight or baggage offered for transportation upon obtaining the grant of a ferry franchise or privilege in the manner prescribed by law, except that no railroad company, employee, agent or trustee of a railroad company, shall be granted a franchise or privilege to establish, operate or maintain a new ferry within one mile and a half in a straight line of any ferry already established and in operation.

Effective: June 17, 1978

History: Amended Ky. Acts ch. 384, sec. 455, effective June 17, 1978. – Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 769a-1.

277.110 Contract or lease under which railroad is operated to be recorded.

Every person operating a railroad in this state under a contract or lease shall, within thirty (30) days after the contract or lease is executed, have it recorded in the office of the Secretary of State and in the office of the county clerk of each county in which the road or any part thereof lies.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 791.

277.200 Period of obstructing highway, street or navigable stream limited.

(1) No railroad company shall obstruct any public highway or street, or the navigation of any stream, by stopping and permitting trains, engines or cars to stand upon a public grade crossing or upon a drawbridge for more than five (5) minutes at any one time, unless such stopping and standing is caused by circumstances beyond control of the railroad company.

(2) No member of a railroad train crew shall be held personally guilty of violating a municipal ordinance regulating the blocking of public grade crossings by trains, engines or cars, on proof that his action was necessary to comply with the orders or instructions of the railroad company or its officers; Provided That nothing in this section shall relieve the railroad company from any responsibility placed upon it by said ordinance.

Effective: October 1, 1942

History: Amended 1970 Ky. Acts ch. 201, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 768.

277.210 Air brake, passenger trains required to have.

No passenger train shall be run without an air brake, or some equally effective appliance for controlling the speed of trains, that can be applied by the engineer to each car composing the train, and that shall at all times be kept in good condition and ready for use. This section does not apply to mixed trains.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 778.

277.230 Frogs on tracks.

Every railroad company shall keep the frogs on its tracks adjusted, fixed or blocked to prevent the feet of its employees from being caught therein.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 780.

277.240 Height of bridges and passways over railroad tracks -- Telltales.

(1) A bridge or passway constructed over any railroad, except in cities having power under their charters to regulate the height of bridges or passways, shall not be at a less height than twenty-two (22) feet above the track of the road, unless by the written authority of the Kentucky Transportation Cabinet.

(2) Whenever there is, over any railroad track, a bridge, tunnel or other obstruction at a height of less than seven (7) feet above the roof of the freight cars used or hauled on that railroad, the officers of the railroad shall erect and keep in repair at or near the bridge, tunnel or obstruction, and on each side thereof, a rod or beam placed across the track at such height and at such distance from the bridge, tunnel or obstruction as the cabinet directs, and from the rod or beam shall be suspended straps, ropes, or cords of such length as the cabinet determines, and not greater than six (6) inches apart, for a width of eight (8) feet, directly over the track.

Effective: December 1, 2000

History: Amended 2000 Ky. Acts ch. 417, sec. 13, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 776.

277.245 Required equipment on cars for transportation of railroad employees.

It shall be unlawful for any owner or operator of a railroad running through or within the boundaries of the Commonwealth of Kentucky and engaged in the business of common carrier to operate for or transport its employees in a motor car which is not equipped with a reasonably substantial top for the protection of said employees from rain, snow, sleet and hail and equipped with a transparent windshield sufficient in width and height to reasonably protect said employees, which windshield shall be of safety glass and such car shall also be equipped with a permanent electric headlamp of sufficient candle power as to render visible at a distance of three hundred (300) feet in advance of such car under ordinary atmospheric conditions, any obstruction, land mark, warning sign or grade crossing on such railroad and said car shall also be equipped with two (2) electric lights on the rear end thereof with sufficient candle power as to be visible at a distance of three hundred (300) feet under ordinary atmospheric conditions, and such car shall also be equipped with an electric windshield wiper that will remove rain, snow and sleet from the windshield on such car while such car is moving, and said windshield wiper shall be so devised that the driver of said car can start or stop said windshield wiper while he is driving the car.

Effective: June 19, 1952

History: Created 1952 Ky. Acts ch. 149, sec. 1, effective June 19, 1952.

277.250 Getting on or off moving train.

No person, except a passenger or an employee in the usual and necessary discharge of his duties, shall get on or off, or swing or ride on, or hang from the outside of, any engine, train or car while it is in motion or switching, or immediately preceding its moving or switching.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 805.

277.270 Railroad policemen, how appointed and removed.

(1) Any company owning or operating a railroad in this state may apply to the Governor to appoint and commission as railroad policemen such persons as the company designates. The Governor, upon such application being made and upon the payment to him of a fee of five dollars ($5) for each policeman to be appointed, shall appoint such persons as the company designates, or as many thereof as he deems proper to be such policemen, and shall give commissions to those appointed.

(2) When a railroad company no longer needs the services of a railroad policeman so appointed, notice to that effect, signed by the general manager or by the person in charge of operating the railroad, may be filed in the several offices in which the commission of the policeman is recorded. The clerk shall note the fact upon the margin of the record where the commission is recorded, and thereupon the power of the policeman shall cease as to any particular county in which such notice is so filed and recorded.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779a-1, 779a-2, 779a-7, 779a-8.

277.280 Bond, powers and compensation of railroad policemen.

(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office. The bond shall be executed in the county in which the policeman resides, or in which the railroad has its registered process agent, if any, within the state, or in which the policeman performs any duties as a railroad policeman, and the bond shall be approved, and the oath administered, by the county judge/executive. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.

(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

Effective: July 15, 1986

History: Amended 1986 Ky. Acts ch. 304, sec. 1, effective July 15, 1986. – Amended 1978 Ky. Acts ch. 384, sec. 456, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 218, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779a-3, 779a-5.

277.290 Badges of railroad policemen -- Insignia of passenger train employees.

(1) Each railroad policeman shall, while on duty, wear a metal badge or shield, with the words "Railroad Police" and the name or initials of the railroad engraved thereon.

When acting as a detective in the service of the railroad, he may wear the badge or shield concealed.

(2) Every railroad company shall require a uniform hat or cap and distinguishing badges to be worn by all its employees, other than engineers and firemen, whose duties relate immediately to the transportation of passengers.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779, 779a-4.

277.310 Liability of railroads for injury or death of employees.

Every common carrier by railroad, while engaged in commerce in this state, shall be liable in damages to any person suffering injury while he is employed by the carrier in such commerce, and in case of the death of such person shall be liable to his personal representative, for such injury or death as resulted in whole or in part from the negligence of any of the officers, agents or employees of the carrier, or by reason of any defect or insufficiency, due to its negligence, in its track, roadbed, rolling stock, machinery, docks, boats, wharves or other equipment.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 820b-1.

277.315 Liability insurance requirement for special passenger excursion trains -- Limitation of damages.

(1) As used in this section:

(a) "Nonprofit sponsor" means a corporation whose purpose includes the historic preservation of documents, memorabilia, and equipment associated with the railroad industry, and public education regarding the history, current functions, and future of railroad transportation and which is exclusive to religious, scientific, literary, or educational within the meaning of 26 U.S.C. sec. 501(c)(3) as amended; and

(b) "Special passenger excursion train" means a train offered by a nonprofit sponsor to the public for operation over a common carrier railroad or railroad authority.

(2) Notwithstanding any other statute to the contrary, liability for all claims, whether for compensatory damages or punitive damages arising from a rail incident or accident occurring in the Commonwealth, and made against a nonprofit sponsor of a special passenger excursion train or owner or operator of an excursion train or against the railroad or rail authority over whose tracks the special passenger excursion train was operated when the accident or incident occurred, shall not exceed the valid and collectible liability insurance coverage maintained on the special passenger excursion train. The sponsor of a special passenger excursion train shall maintain or provide evidence of insurance coverage of not less than five million dollars ($5,000,000) per occurrence or per claim. A nonprofit sponsor shall provide evidence of such coverage upon demand of the Transportation Cabinet.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 306, sec. 1, effective July 15, 1994.

277.320 Contributory negligence -- Assumption of risk.

In any action brought against a common carrier by railroad under KRS 277.310 to recover damages for injury to or death of any employee, the employee shall not be held to have assumed the risk of his employment nor to have been guilty of contributory negligence in any case where the violation by the carrier of any state or federal statute enacted for the safety of employees contributed to the injury or death of the employee. In a case where a safety statute has not been violated, the fact that the employee was guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to the employee.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 820b-2, 820b-3.

277.330 Liability of railroads for killing or injuring cattle -- How damages divided.

If cattle are killed or injured by the locomotive or cars of any railroad company on a track adjoining the lands belonging to or occupied by the owner of the cattle, and the owner has not received compensation for fencing his land along the railroad right of way, the loss shall be divided between the railroad company and the owner of the cattle, unless the cattle were killed or injured by the negligence of the agents or servants of the railroad company, in which case the company shall pay full damages.

Effective: October 1, 1942

History: Amended 1966 Ky. Acts ch. 255, sec. 225. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 809.

277.360 Prohibition against requiring train crew members to show motor vehicle operator's license in investigations of train accidents or operation.

In any circumstance involving an accident on a railroad, or any alleged violation of law involving the operation of a train, in which the engineer or any other train crew member is detained by any law enforcement officer investigating the accident or alleged violation of law:

(1) The engineer and other train crew members shall not be required to show the law enforcement officer the person's operator's license issued under KRS Chapter 186; and

(2) The law enforcement officer shall be prohibited from requiring an engineer or other train crew member to show the law enforcement officer the person's operator's license issued under KRS Chapter 186.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 497, sec. 1, effective July 14, 2000.

277.990 Penalties.

(1) Any railroad company that violates or permits any of its agents or employees to violate any of the provisions of KRS 277.110, subsection (1) of 277.160, 277.170, 277.180, 277.210, 277.230 or 277.300 shall, in addition to subjecting itself to any damages that may be caused by such violation, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense, to be

recovered in the Franklin Circuit Court or in the circuit court of any county through which the railroad operates a line of road.

(2) Any person who violates any of the provisions of subsection (2) of KRS 277.160 shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100) for each offense.

(3) Any railroad company that violates, or permits any of its agents or employees to violate, any of the provisions of KRS 277.190, shall, in addition to subjecting itself to liability for any damage caused thereby, be fined not less than ten dollars ($10) nor more than fifty dollars ($50) for each offense. Prosecutions under this subsection shall not be commenced after six (6) months from the commission of the offense charged in the prosecution.

(4) Any person who violates any of the provisions of KRS 277.250 shall be fined fifty dollars ($50) or imprisoned for thirty (30) days, or both.

(5) Any owner or operator of a railroad running through or within this state as a common carrier of persons or property or both, for compensation, who either operates for its employees, or who furnishes to its employees for their transportation to or from the place or places where they are required to labor, a rail track motor car that has not been fully equipped as required by KRS 277.245, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense and each day or part of a day it operates or furnishes each of such rail track motor cars not so equipped as provided in KRS 277.245 to its employees for operation to or from the place or places where they are required to work shall constitute a separate offense.

(6) Any railroad company that violates the provisions of KRS 277.200 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense. If a grade crossing or drawbridge is obstructed by two (2) or more trains stopping and standing thereon in succession without allowing accumulated highway or water traffic to pass, the obstruction by each such successive train shall constitute a separate offense.

Effective: December 1, 2000

History: Amended 2000 Ky. Acts ch. 417, sec. 15, effective December 1, 2000. -- Amended 1970, sec. 201, sec. 2. -- Amended 1964 Ky. Acts ch. 158, sec. 16. -- Amended 1954 Ky. Acts ch. 90, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 773a-2, 786, 793, 805, 806, 842.

603 KAR 7:090. Railroads.

RELATES TO: KRS 174.057, 174.130, 177.120, 277.060, 277.070, 277.170, 277.240, 277.300

STATUTORY AUTHORITY: KRS 174.057

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 174.057, the Transportation Cabinet has authority to regulate railroads and assume powers previously vested with the Railroad Commission. This administrative regulation establishes reporting requirements that will provide a means for review of railroad activity within the Commonwealth of Kentucky.

Section 1. Definition. "Railroad" means any person or entity engaged in the transportation of persons or property for compensation within this state by rail except street, suburban or interurban railway companies.

Section 2. Annual Reports. (1) Any railroad that passes on rail within this Commonwealth shall file annual reports with the Office of Intermodal Programs in the Transportation Cabinet.

(2) Annual reports shall be filed on or before March 31 of each year.

(3) Annual reports shall include the following information:

(a) A copy of information contained in the annual report filed with the United States Surface Transportation Board or other proper federal agency relative to Kentucky including:

1. Summary of road property and equipment and improvements to leased property and equipment within the state;

2. Railway operating revenues earned within the state;

3. Railway operating expenses within the state;

4. Mileage operated at close of year within the state;

5. Statistics of rail-line operations within the state;

6. Revenue freight carried during the year within the state; and

7. Highway-rail grade crossing within the state; or

(b) In the event the company is not required to file the report referenced in subsection (3)(a) pursuant to federal law, a copy of the Kentucky form State Statistics, incorporated by reference.

Section 3. Railroad Routes. (1) Railroads shall file a map of all active routes in the state on or before March 31 of each year.

(2) When a railroad in the Commonwealth of Kentucky discontinues service on any rail located within the state, the railroad shall send written notice of abandonment to the Office of Intermodal Programs within forty-five (45) days of filing an application for federal authority for abandonment.

Section 4. Accident Reports. (1) If the on-track equipment of a railroad is involved in an accident within this state that results in loss of life, the owner or operator of the railroad involved shall notify the cabinet of the accident.

(2) Initial notice shall be given on or before the fifth day after the accident occurred and shall consist of a written notice stating date and location of accident. The day on which the accident occurred shall not be counted in determining the fifth day.

(3) In addition to the initial notice, the owner or operator of the railroad shall send a copy of all accident reports filed with the Federal Railroad Administration or other proper federal agency pursuant to 49 US 20901, or pursuant to the Federal Railway Safety Act to the Office of Intermodal Programs within five (5) days of filing the records.

(4) The notices required by this section may be filed electronically.

Section 5. Penalty. (1) If a person or entity subject to this administrative regulation fails to file any of the forms or notices required in this administrative regulation, the cabinet may collect a penalty.

(a) The cabinet shall give the violator written notice of its intent to collect a penalty which shall:

1. State the amount of the penalty;

2. Identify the specific documents which were not filed; and

3. State that the violator has thirty (30) days to file the documents and avoid any penalty.

(b) The penalty shall not exceed $500.

(c) The penalty shall be waived if the violator complies with this administrative regulation within thirty (30) days of the date of the notice.

(2) Filing of incomplete forms shall be deemed a failure to file for purposes of this section. The notice and penalty requirements set forth in subsection (1)(a) of this section shall apply to incomplete filings.

Section 6. Incorporation by Reference. (1) Kentucky Form State Statistics, revised 2001, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Division of Multimodal Programs, State Office Building Annex, 3rd Floor, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 195; Am. 636; 867; eff. 10-2-2001)

603 KAR 9:010. Railroad crossing closure procedure.

RELATES TO: KRS 177.120-177.130

STATUTORY AUTHORITY: KRS 177.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.120 requires the Transportation Cabinet to promulgate administrative regulations that contain standards governing the closure of public railway/highway grade crossings. This administrative regulation sets forth procedures the Transportation Cabinet shall follow regarding the production of a list of railroad crossings which shall be considered for closure, the evaluation of the candidate list with respect to possible closure, and the ultimate decision to recommend closure. KRS 177.120 considers that public safety will be enhanced by the closure of redundant and inherently dangerous crossings.

Section 1. Candidate Lists. (1) The Transportation Cabinet shall compose a list of candidate railroad crossings for possible closure or other appropriate action drawn from the following sources:

(a) Responses to a letter sent to each county or local government in the Commonwealth through which railroad rights-of-way pass requesting a list of railroad crossings suggested for closure;

(b) Responses to a letter sent to each railroad company operating in the Commonwealth requesting a list of railroad crossings suggested for closure;

(c) Recommendations from other public or private agencies or individuals; and

(d) Railroad crossings which the Transportation Cabinet considers candidates for closure.

(2) The Transportation Cabinet may consider any railroad crossing as a candidate for closure when:

(a) An alternate railroad crossing is available within one-quarter (1/4) track mile in urban areas and the railroad crossing has a current average daily traffic count of 500 vehicles or less;

(b) An alternate railroad crossing is available within one (1) track mile in rural areas and the railroad crossing has a current average daily traffic count of 150 vehicles or less; or

(c) The railroad crossing has sight distance obstructions or other layout characteristics which create unsafe conditions and closure of the railroad crossing is an economically preferable alternative to correcting the deficiencies at the site , and an alternate crossing is available as required in paragraphs (a) and (b) of this subsection.

(3) The Transportation Cabinet shall consider action other than closure when the conditions set forth in subsection (2)(c) of this section are not met at a particular crossing, but when there are unusual safety concerns about the crossing.

Section 2. Evaluation. (1) The Transportation Cabinet's recommendation regarding a candidate railroad crossing shall include one (1) or more of the following factors:

(a) Highway traffic flow through the railroad crossing;

(b) Highway operating speeds through the railroad crossing;

(c) Train traffic through the railroad crossing;

(d) Train speed through the railroad crossing;

(e) Character, function and type of highway traffic through the railroad crossing;

(f) The necessity of the crossing for provision of emergency services;

(g) Accident history at the railroad crossing for the past five (5) years;

(h) Railroad crossing geometry including sight distance, acute crossing angle, high profile;

(i) Type of warning device currently in place at the railroad crossing;

(j) Condition of alternate railroad crossing surface;

(k) Condition of alternate railroad crossing;

(l) Distance and time to alternate railroad crossing;

(m) Character of adjacent road network;

(n) Reasonable access to public and private lands;

(o) Use of the railroad crossing by pedestrians and bicycles;

(p) Frequency of roadway blockage by trains;

(q) Community impacts of train whistle;

(r) Economic importance of the railroad crossing;

(s) Development projections in the vicinity of the railroad crossing; or

(t) Funding availability, or potential availability, for action other than closure.

(2)(a) The Transportation Cabinet may consider a number of railroad crossings as a group in evaluating the merits of closing a given railroad crossing. If many railroad crossings of a rail line exist close together, the cabinet may recommend that one (1) or more of the railroad crossings be closed, subject to other evaluation criteria.

(b) The Transportation Cabinet may perform or recommend the performance of a traffic study of the road network in the vicinity of a railroad crossing being considered for closure to analyze the effect of the closure on users of the railroad crossing and on local traffic flow.

(c) The Transportation Cabinet may evaluate a railroad crossing in terms of its economic costs and benefits, considering:

1. The railroad crossing's effects on highway and rail operations safety;

2. Changes in highway capital and maintenance costs due to closure;

3. Effects on local business operations and property values, either positive or negative;

4. Effects on rail and highway vehicle operating costs due to closure; or

5. Any other effect which may have economic impact.

Section 3. Data Verification. If the evaluation performed pursuant to Section 2 of this administrative regulation indicates that a railroad crossing is a candidate for closure, the Transportation Cabinet shall:

(1) Provide notification to the jurisdictional local government unit and appropriate railroad company of the potential for closure of the crossing;

(2) Verify elements of its information file which are critical to accurate evaluation of the particular railroad crossing. This verification shall, as available, consist of the following:

(a) Collection of updated information from local officials;

(b) Collection of updated information from officials of the affected railroad company; and

(c) Field data collection activities such as updated traffic counts at the railroad crossing.

Section 4. Public Input. (1) If based on the evaluation results of Sections 2 and 3 of this administrative regulation the Transportation Cabinet reaches a preliminary decision to recommend closure of a railroad crossing, the Transportation Cabinet may conduct public information meetings regarding the proposed railroad crossing closure in the region affected by the proposed closure.

(2) If a hearing is requested as specified in KRS 177.120(3), the Transportation Cabinet shall hold a public comment hearing in accordance with 600 KAR 1:030.

(3) The Transportation Cabinet Secretary's decision following the public hearing shall be based on the evaluation performed and information obtained in Sections 2 and 3 of this administrative regulation, subject to new information acquired through the public information and hearing process.

Section 5. Official Order. (1) If the Transportation Cabinet's final decision is to close the candidate railroad crossing, the secretary shall issue an official order to that effect.

(2) The official order shall have an effective date far enough in advance of its issuance to allow the local government unit having jurisdiction to comply with the requirements of KRS 178.050.

178.050.

(3) After the issuance of the official order by the secretary:

(a) The railroad involved shall physically remove the crossing from the tracks; and

(b) The entity maintaining the highway shall:

1. Remove or barricade the approaches to the crossing; or

2. Sign the approaches in accordance with the requirements of 603 KAR 5:050.

Section 6. Local Closures. The Transportation Cabinet's railroad crossing closure program, as mandated by KRS 177.120, shall not preclude local officials and railroad companies from pursuing railroad crossing

closure agreements independent of the cabinet's program. (19 Ky.R. 2757; Am. 20 Ky.R. 307; eff. 8-3-93; 2673; eff. 5-18-94; 21 Ky.R. 2239; 3025; eff. 6-1-95.)

603 KAR 9:020. Automatic gates at public grade crossings.

RELATES TO: KRS 189.561

STATUTORY AUTHORITY: KRS 189.561, 23 CFR Part 924

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.561 requires the Transportation Cabinet to investigate any public grade crossing not equipped with automatic crossing gates, which has an average daily traffic volume of 4000 or more vehicles and at which two (2) or more accidents involving a train and other vehicle have occurred within a five (5) year period. Excluded are nonfatal accidents caused by mechanical failure of the motor vehicle, accidents in which the operator of the highway motor vehicle was in violation of KRS Chapter 189A, or other nonwarning signal related cause as set forth by the Transportation Cabinet in administrative regulation. This administrative regulation sets forth the list of nonwarning signal related accidents.

Section 1. Definition. "Public grade crossing" means as defined in KRS 177.010(4).

Section 2. Qualifying Accident. In evaluating the public grade crossing accident reports, the Transportation Cabinet shall exclude the reports showing the following causes or circumstances associated with the highway vehicle/train collision which are not related to a warning device:

(1) The highway vehicle was not performing a railroad/highway crossing maneuver at the time of the collision;

(2) The driver of the highway vehicle made a willful decision to disregard the warning that a train was approaching and to place self at risk;

(3) The driver of the highway vehicle was warned of the approach of the train but was unable to stop the highway vehicle because of excessive speed or adverse highway conditions;

(4) The driver of the highway vehicle left the scene of the accident prior to the investigation;

(5) The driver of the highway vehicle was stopped on the railroad tracks prior to the approach of a train because of traffic congestion on the highway;

(6) The highway vehicle was struck by another vehicle and propelled into the crossing; or

(7) The driver of the highway vehicle did not hold an operator's license of the type necessary for the operation of that highway vehicle; or

(8) The driver of the highway vehicle was not in control of the vehicle due to external circumstances such as illness.

Section 3. Abandoned Rail Line. If the rail line has been proposed for abandonment, the Transportation Cabinet shall not consider placement of automatic crossing gates unless the abandonment proposal is rejected. (21 Ky.R. 2343; Am. 2718; eff. 6-1-95.)

177.010 Definitions for KRS 177.010 to 177.890.

As used in KRS 177.010 to 177.890, unless the context otherwise requires:

(1) "Department" means Department of Highways of the Commonwealth of Kentucky;

(2) "Construct" includes reconstruct and improve;

(3) "Roads" includes rural roads; highways; bridges and bridge approaches; city streets, viaducts, and bridges;

(4) "Rural and secondary roads" includes:

(a) A county road as defined in KRS 178.010(1)(b);

(b) A publicly-owned road other than a state or federal highway, that is outside a city, town, or urban area having a population of twenty-five hundred (2,500) or more;

(c) A road that is classified as part of the rural secondary road system by the Department of Highways; and

(5) "Public grade crossing" means the at-grade intersection of a railroad track or tracks and a road or highway that has been dedicated to public use and incorporated into either the state primary road system or the highway or road system of a county or municipality.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 238, sec. 1, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 229, sec. 8, effective July 14, 1992. -- Amended 1964 Ky. Acts ch. 23, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356t-17-2e.

177.110 Railroad crossings -- Construction of KRS 177.120 to 177.210.

(1) The provisions of KRS 177.120 to 177.210 shall not apply to any railroad lines or tracks constructed across primary roads after March 23, 1926.

(2) Where railroad lines or tracks constructed after March 23, 1926 cross any primary road, the department shall determine the character of the crossing to be constructed by the railroad company, and the cost of such crossings shall be paid for by the railroad company.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-9.

177.120 Department may order elimination of grade crossings or substitution -- Standards to be set by administrative regulations -- Closure of grade crossings.

(1) Whenever the department considers it necessary for the public safety, it may order any railroad company owning or operating a railroad in this state, to eliminate any grade crossing or change any existing overhead or underpass structure where any public road crosses the railroad tracks of the company. The department may determine whether a substitute crossing should be established and if so, the location of the crossing to be substituted, and whether it shall pass over or under the railroad tracks or intersect them at grade.

(2) In accordance with this section, the department shall promulgate administrative regulations by December 1, 1992, that contain standards governing the closure of public grade crossings. In adopting standards, the department shall request and consider written comments from affected local governments and shall consider that the number of redundant and inherently dangerous grade crossings in this state

should be reduced and that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.

(3) On or before July 1, 1993, and on or before July 1 of each of the next four (4) years, and as necessary thereafter, the department shall compose a list of grade crossings proposed to be closed. The list shall be developed by applying the standards set forth in the administrative regulations adopted under subsection (2) of this section. Grade crossings that are part of an abandonment, closing, or removal shall not be included in the list. The department shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed closures. Either affected party may request a public hearing, and if requested, the department shall hold a public hearing and apply in its determination the information gained at the public hearing and administrative regulations developed under subsection (2) of this section. If after the hearing the department determines that closure is warranted, it may order the crossing closed.

(4) If a request for a hearing on a particular crossing is not received within thirty (30) days of notice of the opportunity for a public hearing advertised pursuant to the requirements of KRS Chapter 424, the department shall order the crossing closed.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 195, sec. 2, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 229, sec. 6, effective July 14, 1992. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4356z-1, 4356z-10.

177.130 Hearing -- Order -- Plans, specifications, and estimates of cost.

If the department finds that a crossing proposed for vacation should be replaced with another grade crossing or a grade separation, it shall give at least ten (10) days' notice by certified mail, return receipt requested, to the railroad company and to the chief executive officer of the affected unit of local government of a public hearing to be held at a time and place stated in the notice. At the public hearing, the department shall consider whether or not the proposed grade separation or substitute crossing is reasonably necessary and the most advantageous method of enhancing the public convenience and necessity. If the department finds that the grade separation or substitute crossing is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by certified mail, return receipt requested, to the railroad company and to the chief executive officer of the affected unit of local government. The order shall specify the location of the crossing to be substituted and whether it shall pass over or under the railroad tracks or intersect them at grade, the width of the crossing, and the angle at which the crossing shall meet and converge into the roadbed on either side of the railroad tracks. The order may direct the railroad company to prepare plans, specifications, and estimates of cost for the grade separation or substitute crossing in accordance with the general plan prescribed by the order. The order may provide that the plans, specifications, and estimates of cost shall be prepared by the department.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 61, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 229, sec. 7, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 114, sec. 29, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1); and ch. 315, sec. 21. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-2.

177.140 Railroad company to present plans and estimates of cost.

Within ninety (90) days after the entry of an order directing a grade separation or change, and the preparation of plans, specifications, and estimates of cost by the railroad company, the railroad company shall present to the department plans, specifications, and estimates of cost for the grade separation or change, including the necessary approaches thereto.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-3.

177.150 Final hearing -- Notice -- Final order -- Waiver of proceedings -- Appeal.

(1) After receipt of the plans, specifications, and estimates of cost from the railroad company, the department shall give at least ten (10) days' notice by certified mail, return receipt requested, to the railroad company of a time and place for a conference with respect to the grade separation or change. If the department elects to prepare plans, specifications, and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of the conference. At the conference, the department shall approve or modify the plans and specifications and shall consider and determine the method of doing the work, whether by the railroad company or by the department, or partly by one and partly by the other, and whether by contract or by the employees of the department or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The department shall embody its conclusions in an order, a copy of which shall be sent by certified mail, return receipt requested, to the railroad company.

(2) The department and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of an agreement, all notices, hearings, and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the department.

(3) Any person aggrieved by an order issued pursuant to subsection (1) of this section may appeal to the department, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 62, effective July 15, 1996. – Amended 1980 Ky. Acts ch. 114, sec. 30, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1); and ch. 315, sec. 22. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-4.

177.160 Rejection of bids -- Department may do work.

(1) The department may by supplemental orders reject or order the rejection of all bids submitted for the work, or any part thereof, and require a readvertisement for bids. The department may reject all bids and elect to do the work itself, or partly by itself and by the railroad company, or by contractors, or by a combination of these

methods. If the department elects to do the work itself there shall not be charged to the railroad company any sum in excess of that it would have been required to pay had the contract been let to the lowest bidder.

(2) In all cases where the work is let by the railroad company on contract, the work shall be done under the general supervision of the department.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-5.

177.170 Division of costs -- Payment.

(1) The cost of preparing the plans, specifications and estimates of cost and of advertising for bids shall be paid wholly by the railroad company. The state shall pay one-half (1/2) of the cost of the work within the right-of-way lines of the railroad company, extended across the highway, and the railroad company shall pay the other one-half (1/2) of the cost of the work lying within said lines. The department shall pay the entire cost of all work lying beyond the right-of-way lines of the railroad.

(2) As the work progresses the department shall furnish to the railroad company, and the railroad company shall furnish to the department, a monthly statement showing in detail all amounts expended in connection with the work. On or about the fifteenth of each month the state highway engineer shall prepare a statement showing the total amount expended to the close of the preceding month, the amount paid or expended by each party up to that time, and the amount due from the department to the railroad company or from the railroad company to the department. Upon receipt of the statement each party shall pay to the other the amounts shown to be due thereby.

(3) All payments made on such monthly statements shall be considered only payments on account, and upon final completion of the work the state highway engineer shall prepare and furnish to the railroad company a statement showing the total cost of the work, the amount paid or expended by the department or the railroad company, and the amount due from one to the other. Each party shall be afforded reasonable opportunities to verify the statements of expenditures by the other, and the balance due as certified by the state highway engineer in his final statement shall be paid by one (1) party to the other promptly upon receipt of such final statement.

(4) The work lying within the right-of-way of the railroad shall be maintained at the expense of the railroad company, but the railroad company shall not be required to keep up the surface of the roadbed of the highway.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4356z-6, 4356z-11.

177.180 Highway engineer to approve contracts.

All contracts let by the railroad company under KRS 177.120 to 177.210 shall have the approval of the state highway engineer, in writing, indorsed on the contract.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-8.

177.190 Appeal by railroad company to Circuit Court.

(1) Any railroad company dissatisfied with a final order of the department directing the elimination of any grade crossing or change of existing overhead or underpass structure, or any order modifying or amending the final order may appeal by filing a petition in the clerk's office of the Franklin Circuit Court in accordance with KRS Chapter 13B.

(2) On the hearing of the appeal, the Circuit Court shall determine whether the elimination of the grade crossing, or the change in existing overhead or underpass structure, is reasonably necessary for the safety of the traveling public, and whether the plans and specifications prescribed by the order of the department are reasonably adequate to provide safety of operation for the trains of the railroad company, its employees and the public, and make reasonably adequate provisions for the future development of the railroad company's facilities.

(3) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is not reasonably necessary for the safety of the traveling public, it shall, by final judgment, enjoin the department from enforcing its final order.

(4) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is reasonably necessary for the safety of the traveling public, it shall, by final judgment, either order the railroad company to proceed with the work in accordance with the final order of the department, or in accordance with other plans and specifications prescribed by the court.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 63, effective July 15, 1996. – Amended 1976 Ky. Acts ch. 62, sec. 93. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1). -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-7.

177.200 Appeal to Court of Appeals.

Either the department or the railroad company affected by the final judgment of the Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

History: Amended 1976 Ky. Acts ch. 62, sec. 94. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1). -- Amended 1960 Ky. Acts ch. 104, sec. 11, effective June 16, 1960. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-7.

177.210 Department may bring action to enforce order.

If any railroad company fails to comply with any order of the department issued under authority of KRS 177.120 to 177.210, the department may cause to be instituted in the Franklin Circuit Court, in the name of the state, an action to compel compliance with the order by mandatory process of the court.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4356z-12.

189.560 Railroad crossings.

(1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:
   (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;
   (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;
   (c) An approaching train is visible and in hazardous proximity; or
   (d) A human flagman signals the approach or passage of a train.

(2) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop at not less than ten feet (10'), nor more than thirty feet (30'), from the nearest rail of the tracks.

(3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than 25' in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than 10" in height.

(4) The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.

(5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.

(6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.

(7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 229, sec. 3, July 14, 1992. -- Amended 1970 Ky. Acts ch. 86, sec. 1. -- Amended 1964 Ky. Acts ch. 65, sec. 5. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2739g- 69w, 4353b-1 to 4353b-5.

189.561 Investigation of certain public grade crossings not equipped with gates -- Results -- Costs.

(1) The cabinet shall investigate any public grade crossing not equipped with gates, with an average daily traffic of four thousand (4,000) or more, at which two (2) or more accidents involving a train and a vehicle traversing the crossing of a railroad and a highway have occurred in a consecutive five (5) year period, beginning January 1, 1986. The cabinet shall not consider nonfatal accidents caused by mechanical failure of the motor vehicle; accidents in which the operator of the highway motor vehicle was in violation of the provisions of KRS Chapter 189A; or other nonwarning signal related cause as set forth by the cabinet in an administrative regulation. If the cabinet installed active warning devices under its normal crossing safety improvement program since January 1, 1986, the five (5) year period for the

determination of accidents shall begin at the time of this installation. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After receiving a report from the affected local government supporting the installation of gates, the cabinet, utilizing matching funds available from the Federal Highway Administration's rail/highway grade crossing safety program, shall program the installation of gates at the crossing. Locations which do not receive a favorable report from the affected local government shall be reconsidered at the time of the next update of the five (5) year accident period.

(2) The cost of installing gates shall be the responsibility of the cabinet and railroad in accordance with KRS 277.065 and shall not be charged to any unit of local government.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 195, sec. 1, effective July 15, 1994. – Created 1992 Ky. Acts ch. 229, sec. 1, effective July 14, 1992.

189.562 Duty of railroad company when warning device incorrectly remains activated.

If a warning device at a grade crossing is activated, for a period of thirty (30) minutes or more, in the absence of an approaching train, due to track maintenance or train movements in the vicinity, and the railroad company responsible is unable to disengage the warning device, then the company shall position a flagman at the affected intersection.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 229, sec. 2, effective July 14, 1992.

189.565 Operator of motor vehicle used in transporting inflammable liquids or explosives to stop vehicle at railroad crossings -- Exceptions.

The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made at not less than ten feet (10') nor more than thirty feet (30') from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction.

Effective: May 18, 1956

History: Created 1956 Ky. Acts ch. 35, sec. 1, effective May 18, 1956.

277.065 Allocation of costs of eliminating grade crossings between railroad and governmental unit.

The entire construction costs of projects for the elimination of hazards of railroadhighway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate railroad grade crossings which may be paid for in whole or part

from state funds, including, but not limited to, the cost of preparing the plans and specifications and supervising the improvement, the acquisition of necessary property, the construction of approaches, drainage structures, roadways and pavements, accommodations for public utilities, and damages paid to abutting property owners, shall be allocated between the railroad involved, and the governmental unit or units involved in the same ratio as the net benefit received by such railroad from the project bears to the net benefit accruing to the public using the highway, and in no case shall the net benefit to any railroad or railroads be deemed to be more than ten percent (10%) of the total benefit resulting from the project. The Department of Highways shall be responsible for determining the proportion of the benefits derived by the railroad from the project, and shall fix standards for the determining of said benefits which shall be consistent with the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal-Aid-Highway Act of 1944. The cost of maintenance of all structures for the elimination of railroad grade crossings, and of installations for the protection of existing grade crossings, constructed or installed under this section, shall be borne by the governmental unit or units constructing them. Before any state funds shall be expended for any project constructed under this section, a contract shall be entered into between the railroad and the governmental unit or units involved setting forth the duties of each as to construction and maintenance of the project.

Effective: June 19, 1958
History: Created 1958 Ky. Acts ch. 78, sec. 1, effective June 19, 1958.

277.160 Signs at railroad crossings -- Imitation forbidden.

(1) Every railroad company shall cause signal boards to be placed and constantly maintained at each public highway where it is crossed by the railroad track at the same level, except that such boards need not be put up in any city unless required by the city authorities. The boards shall be well supported, and shall be placed so as to be easily seen by travelers and not to obstruct travel, and shall contain on each side, in capital letters at least five (5) inches high, the words "Railroad Crossing."

(2) No person shall erect on or near a public highway any signboard or other contrivance similar to or like the danger signals used by railroads, interurbans and electric railway companies at road crossings.

Effective: October 1, 1942
History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 773, 773a-1.

277.170 Flagman or gate at crossing of railroad with highway.

If the Kentucky Transportation Cabinet determines it is in the public interest for a gate to be erected or maintained or a flagman stationed at any highway crossing within one mile of the corporate limits of any city, the cabinet shall give the superintendent or manager of the railroad written notice that a gate or flagman is required. If a gate is required, the notice shall prescribe the time within which the gate shall be erected, the character of gate required, and shall designate the hours during which a man shall be kept in charge of the gate. If a flagman is required, the notice shall designate the hours during which he shall be kept at the crossing. The railroad company shall comply with

the provisions of the notice. The cabinet may authorize the discontinuance of the gate or flagman whenever, in its judgment, the public interest no longer requires it.

Effective: December 1, 2000

History: Amended 2000 Ky. Acts ch. 417, sec. 12, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 774.

277.180 Railroad crossings, when trains to stop before reaching.

Whenever railroad lines cross each other in this state, each train shall be brought to a full stop at least fifty (50) feet before it reaches the crossing, unless the crossing is regulated by a derailing switch or other safety appliance that prevents collisions at crossings, or a flagman or watchman is stationed at the crossing and signals that the train may cross in safety.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 775.

277.190 Bell to be rung or whistle sounded at crossings -- Local government regulation of sounding train whistles at night.

(1) Every railroad company shall provide each locomotive engine running over any of its lines with a bell of ordinary size and a whistle. The bell shall be rung or the whistle sounded at a distance of at least fifty (50) rods from the place where the track crosses upon the same level any highway or crossing where a signboard is required to be maintained. The bell shall be rung or the whistle sounded continuously or alternately until the engine has reached the highway or crossing except as provided in subsection (2) of this section.

(2) A city, county, urban-county, or charter county government may regulate the sounding of train whistles at night if the city, county, urban-county, or charter county government enacts an ordinance adopting the provisions of Emergency Order Number 15, Notice Number 4, issued by the Federal Railroad Administration on August 31, 1993. If the Federal Railroad Administration updates the requirements of Emergency Order 15, a city, county, urban-county, or charter county government that has adopted the provisions of Emergency Order 15 shall by ordinance adopt the most recent federal requirements governing the sounding of train whistles.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 195, sec. 3, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 229, sec. 5. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 786.

277.300 Notice of fatal accident to be given to Transportation Cabinet.

If any accident on a railroad is attended with loss of life, the company operating the road on which the accident occurred shall notify the Kentucky Transportation Cabinet within five (5) days after the accident occurred and shall furnish the cabinet all information requested by it concerning the cause of the accident.

Effective: December 1, 2000

History: Amended 2000 Ky. Acts ch. 417, sec. 14, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 777.

277.350 Criminal trespass on railroad property.

(1) It shall be unlawful for any person without the consent of the railroad:

(a) To go upon the track, property, or right-of-way of a railroad, other than to pass over the track, property, or right-of-way at a public or private crossing; or

(b) To willfully ride, drive, or lead any animal or otherwise contrive for any animal to go over the track, property, or right-of-way at a public or private crossing.

(2) The provisions of this section shall not apply to any section of railroad track that has been legally abandoned and is not being used for railroad purposes.

(3) Any person violating this section shall be guilty of criminal trespass in the third degree and shall be subject to a maximum fine of twenty-five dollars ($25) for the first violation, a maximum fine of fifty dollars ($50) for the second violation, and a maximum fine of one hundred dollars ($100) for the third and any subsequent violation.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 306, sec. 2, effective July 15, 1994.

AN ACT relating to a Rails to Trails Program.

WHEREAS, the 1998 Kentucky General Assembly directed the Legislative Research Commission to establish a special interim Rails to Trails Task Force to study the feasibility, benefits, and implementation of a strategy for a Rails to Trails Program throughout the Commonwealth; and

WHEREAS, the task force appointed by the Commission has reported its findings to the Commission and the General Assembly; and

WHEREAS, the task force has recommended that a Rails to Trails Program be pursued by the Commonwealth as promoting the health, safety, and welfare of the citizenry;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

A Railtrail Development Office is hereby created within the Department for Local Government. The department shall insure that the office has the necessary expertise to carry out the requirements imposed upon it by this section. Among other railtrail functions and duties which may be assigned to it, the office shall carry on at least the following responsibilities:

(1) The office shall monitor the proceedings of the United States Department of Transportation's Surface Transportation Board and shall disseminate to interested entities in Kentucky information regarding those proceedings of interest to railtrail conversion or policy in the Commonwealth. If a railroad applies to the Surface Transportation Board for authority to discontinue service over or abandon a railroad corridor in the Commonwealth, the office shall immediately notify those political subdivisions through which the corridor passes and any interested state agency of the proceedings and the potential for trail

development of the corridor. Notice shall also be sent to the county judge/executive of each county through which the proposed abandonment passes, who shall distribute copies of the notice to each member of the chief legislative body of the county government at the next regularly scheduled meeting of that legislative body. The office shall also send a copy of the notice to each soil and water conservation district through which the abandonment passes. If time is of the essence and it appears that the corridor is a suitable candidate for conversion to a railtrail and that no other railtrail interested entity will be participating in the federal proceeding, the office shall take those steps necessary to cause a railbanking or public use condition to be imposed in the federal proceeding;

(2) The office shall assist any requesting political subdivision or agency of state government with assistance on any application to the Surface Transportation Board regarding an abandoned or about to be abandoned railroad corridor, including any requests for railbanking or imposition of public use conditions;

(3) The office shall coordinate and promote railtrail development efforts among the various agencies of state government, including the Department of Parks and the Transportation Cabinet. While this subsection does not confer upon the office any powers beyond those that it may ordinarily possess, every entity of state government shall cooperate with the office to the extent practicable under the circumstances;

(4) The office shall furnish to requesting political subdivisions assistance in applying to available federal, state, or local funding sources for funds to be used for the process of converting railroad corridors into public use trails; and

(5) The office may apply for federal, state, or private grants or other forms of financial assistance to carry on its mission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) Any organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, agency of state government, or political subdivision or city of this state holding or acquiring a railroad corridor may preserve the corridor for future railroad use while utilizing the right-of-way in the interim for nonmotorized public recreational use by filing with the Secretary of State a "Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall contain the name and address of the filing entity, a textual description and map of the railroad corridor being railbanked, a statement that the entity accepts full responsibility for managing the corridor, for any legal liability arising out of the use of the corridor or, if the entity is immune from suit, that the entity agrees to indemnify the railroad for any liability arising out of the use of the corridor, and for the payment of all taxes which may validly be assessed against the corridor, and a declaration that the property is being railbanked in accordance with the provisions of Kentucky law in that the corridor is held open for future restoration of rail service and that this section only grants authority for the corridor to be utilized for nonmotorized public recreational use during the interim.

(2) Any property that is the subject of a declaration of state railbanking, including property held by easement, shall, during the period a declaration of state railbanking remains in force, be deemed to be held for a railroad use and shall not revert to any other form of ownership. Until rail service is restored over the corridor, the declaration of state railbanking shall only authorize the use of the corridor for public, nonmotorized recreational use, with associated infrastructure. However, a declaration of state railbanking shall not preclude any public utility usage of the corridor if that usage is otherwise permitted under other applicable law. For the specific purpose of allowing railbanking under this section, an easement for railroad use shall not be deemed abandoned until the

person holding the easement conveys the easement to another person for a nonrailroad use, title to the easement and the underlying estate comes into the hands of the same owner by conveyance, the easement owner files a disclaimer in the office of the county clerk of the county where the property is situated disclaiming all interest in the corridor, or the easement is declared abandoned by judicial decree.

(3) After property is railbanked under this section, the property shall be held available for purchase by any bona fide purchaser for the restoration of rail service over the property. The following requirements shall apply to any transfer of property in contemplation of the restoration of railroad service:

(a) The entity that acquired the right to use the railroad corridor for a railtrail under this section or to whom that right had been subsequently transferred shall be compensated for the fair market value of the corridor together with any improvements erected thereon. Funds received by the entity under this paragraph shall be held in trust for the benefit of the public;

(b) All required federal and state permits and authority to reactivate and operate a railroad over the corridor shall be obtained prior to the transfer of the property for the contemplated railroad service restoration;

(c) Adequate bond with good surety shall be posted ensuring that the railroad will be constructed, with the bond being used to cover the cost of restoring the corridor to its physical condition prior to transfer of the railbanked corridor for the contemplated railroad service restoration; and

(d) The physical infrastructure necessary to operate the railroad, including tracks, ties, frogs, signaling equipment, grade crossings, and the like, shall be

in place one (1) year from the date of the transfer. Train service shall be in place and operating two (2) years, from the date of the transfer. If these timelines are not met, the corridor and all associate physical improvements thereon shall automatically forfeit to the ownership of the entity responsible for railbanking the corridor under this section.

(4) Any person aggrieved by the act of railbanking a railroad corridor under the provisions of this section shall bring their claims within one (1) year after the declaration of state railbanking has been filed with the Kentucky Secretary of State. Any entity against whom a claim is asserted may utilize as an offset or setoff to the amount of any recovery those amounts in state or local taxes, together with interest and penalties, that have not been paid on the value of the property through which the claimant asserts title.

(5) Any entity which caused a declaration of state railbanking to be filed shall cause the declaration to be vacated on the files of the Secretary of State upon the cessation of use of the corridor as a nonmotorized public use trail or the reactivation of railroad service over the corridor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) It is the public policy of this state to preserve railroad corridors for future railroad use. Toward this end, the Commonwealth recognizes that the salvage of tracks, ties, signaling equipment, ballast, and other items may indicate an intent to maximize return on present investment and not an intent to abandon any underlying easement for railroad or other use and that the obtaining of federal authority to discontinue service over or abandon a corridor does not necessarily

indicate an intent to relinquish any property interests under state law. In any civil action to determine the status of a railroad use easement, ambiguity as to intent shall be resolved in favor of continued preservation of the corridor.

(2) Any holder of a railroad corridor held by easement or otherwise may preserve that corridor by filing with the Secretary of State a "Preliminary Declaration of State Railbanking," concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall state the name of the entity holding the corridor, a textual description and map of the land area encompassed by the corridor, and a statement that the entity does not intend to abandon the corridor described in the declaration. The entity filing the declaration may at any later time cause that declaration to be withdrawn from the Secretary of State's files. While a preliminary declaration of state railbanking is on file with the Secretary of State, the corridor set out in the declaration shall not, regardless of the status or conclusion of any federal regulatory proceeding or the salvage of track and other material from the corridor, be deemed abandoned and shall continue to exist under Kentucky law and the property encompassed by the corridor shall not revert to any other form of ownership.

SECTION 4. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

In addition to any other legal right, any person having a legal interest in land adjoining a railtrail or in the land traversed by the railtrail itself may grant to the entity holding the right to maintain a railtrail over the property a conservation easement over all or a portion of the property in accordance with KRS 382.800 to 382.860. The entity holding the right to maintain a railtrail over the corridor may, if it finds the easement's terms acceptable, yearly designate for the tax purposes of the party conveying the easement that the entity is holding the corridor pursuant to the authority granted to that entity in the easement as opposed to authority granted in Section 2 of this Act or

any similar law allowing railbanking under federal law. This designation shall not, however, affect in any way the legal right of that entity to hold the corridor pursuant to a federal or state railbanking law or the operation of those laws, and the right to maintain the railtrail on the land shall not lapse as the result of the extinguishment or modification of the easement. The easement, by its terms, may be limited in duration from year to year or for a set period of years, may extinguish itself upon the happening a defined contingent future event, or may last in perpetuity.

Section 5. KRS 148.690 is amended to read as follows:

(1) The department shall review all formal declarations of railroad right-of-way abandonments by the Surface Transportation Board or other agency with jurisdiction and may review former railroad corridors for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.

(2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way, abandoned railroad corridors, or similar properties having value for trail purposes may be made available for such use; however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way, railroad corridors, and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use. ***These procedures shall include, at a minimum, that, for every railroad corridor that is the subject of a request for federal authority to discontinue service or for federal regulatory abandonment, the commissioner shall evaluate the potential of converting that***

corridor into a railtrail. The commissioner shall cause a preliminary review to be completed within thirty (30) days of the publication of the request for federal authority in the Federal Register. The commissioner shall cause a final review to be completed ninety (90) days after the publication of the request for federal authority in the Federal Register. The commissioner shall timely transmit copies of these reviews to the Legislative Research Commission and to the Commonwealth's Railtrail Development Office in the Department for Local Government as they are completed. If either review indicates the possibility of converting the corridor into a railtrail, the commissioner may participate in the federal proceeding to request that the corridor be railbanked in accordance with federal law or to request the imposition of a public use condition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

(2) The Transportation Cabinet shall keep a record of railroad lines in the Commonwealth of Kentucky, including both lines that have been abandoned through the federal government's regulatory abandonment process and those where any railroad property interest in the railroad corridor itself has been abandoned under Kentucky law. The cabinet shall annually publish an updated map showing the location and as much information as to the status of these lines as practicable. The record shall include, in as much as possible;

(a) A description of the line and its location;

(b) The current or last railroad owner of the line;

(c) The operator of the line;

(d) The addresses and phone numbers for the owners and operators of the lines;

(e) Whether the owner of the line has received authority from the Federal Government to discontinue service over the line;

(f) Whether the owner of the line has received authority from the Federal Government to abandon the line;

(g) Whether the owner of the line has consummated any authority granted by the Federal Government to discontinue service over the line or to abandon the line;

(h) Whether the line has been railbanked under either federal or state law; and

(i) Any other information the cabinet deems pertinent and useful to the public.

SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 8. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects

and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the

provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for

publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;~~[and]~~

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan***; and***

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 276 IS CREATED TO READ AS FOLLOWS:

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an

ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's Railtrail Development Office in the Department for Local Government and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so.

SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The Public Service Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 12. KRS 411.190 is amended to read as follows:

(1) As used in this section:

(a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee***, reversionary, or easement*** interest, a tenant, lessee, occupant, or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping,

picnicking, hiking, ***bicycling, horseback riding,*** pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous

condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of the land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 13. KRS 511.090 is amended to read as follows:

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.

(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.

(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.

(5) Private land adjoining a railtrail that is neither fenced nor otherwise enclosed shall be presumed to be land where notice against trespassing has been given by the owner of the land, and a person utilizing the railtrail shall be presumed to lack privilege or license to enter upon that land unless the person has permission from an adjoining landowner to do so.

Section 14. The Department for Local Government shall inventory the Commonwealth's active and abandoned rail corridors and, for the abandoned corridors, analyze the suitability of each of those corridors for railtrail conversion. Corridors inventoried shall include both common carrier and private railroads, as well as railroads which may not have been attached to the interstate transportation system. Additionally, corridors over which service has been discontinued as well as corridors potentially subject to abandonment shall be analyzed as abandoned corridors. In conducting the inventory, the department shall, for each corridor, attempt to ascertain the legal ownership status of the corridor and the date rail service over the rail corridor ceased together with the dates of formal abandonment, and make an examination of the physical integrity of the corridor, including the presence or lack of tunnels, bridges, and culverts. The department shall make its report to the Legislative Research Commission no later than July 1, 2003. The department may divide the state into regions, and complete assessments for individual regions prior to July 1, 2003. The report shall be provided in both printed and electronic format. The department may, through a

request for proposals process, contract with a Kentucky public university for the performance of any of the responsibilities imposed upon the department by this section. The department may seek and utilize available state and federal grant money to fund the assessment.

Section 15. The Legislative Research Commission shall establish a Rails to Trails Program Task Force. The task force shall be composed of fifteen members, nine of whom shall be members of the Kentucky General Assembly with Senate and House co-chairs appointed by the Legislative Research Commission. The task force shall include among the nine legislative members the Chair of the Senate Economic Development and Labor Committee, and the Chairs of both the House Economic Development Committee and the House Tourism Development and Energy Committee. The remaining six members of the task force shall be:

1. The Governor of the Commonwealth of Kentucky, or his designee;

2. The Commissioner of the Department of Parks, or his designee;

3. The Secretary of the Tourism Cabinet, or his designee;

4. The commissioiner of the Department for Local Government, or his designee;

5. A representative of the Kentucky Rails to Trails Council, to be designated by that organization; and

6. A representative of the Kentucky Farm Bureau, to be designated by that organization.

The task force shall continue to study railtrail issues, with particular emphasis on establishing actual trails within the Commonwealth. The Department for Local Government or the university to whom the assessment contract is awarded under Section 14 of this Act shall, upon request of the task force, update the task force on the progress of the work and allow task force members and staff access to records and meetings connected with the assessment. The task force shall report its findings and recommendations to the Legislative Research Commission by September 15, 2001.

277.400 Entities eligible to file declaration of state railbanking -- Use of property subject to declaration -- Claims of aggrieved persons.

(1) Any organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, agency of state government, or political subdivision or city of this state holding or acquiring a railroad corridor may preserve the corridor for future railroad use while utilizing the right-of-way in the interim for nonmotorized public recreational use by filing with the Secretary of State a "Declaration of State Railbanking," concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall contain the name and address of the filing entity, a textual description and map of the railroad corridor being railbanked, a statement that the entity accepts full responsibility for managing the corridor, for any legal liability arising out of the use of the corridor or, if the entity is immune from suit, that the entity agrees to indemnify the railroad for any liability arising out of the use of the corridor, and for the payment of all taxes which may validly be assessed against the corridor, and a declaration that the property is being railbanked in accordance with the provisions of Kentucky law in that the corridor is held open for future restoration of rail service and that this section only grants authority for the corridor to be utilized for nonmotorized public recreational use during the interim.

(2) Any property that is the subject of a declaration of state railbanking, including property held by easement, shall, during the period a declaration of state railbanking remains in force, be deemed to be held for a railroad use and shall not revert to any other form of ownership. Until rail service is restored over the corridor, the declaration of state railbanking shall only authorize the use of the corridor for public, nonmotorized recreational use, with associated infrastructure. However, a declaration of state railbanking shall not preclude any public utility usage of the corridor if that usage is otherwise permitted under other applicable law. For the specific purpose of allowing railbanking under this section, an easement for railroad use shall not be deemed abandoned until the person holding the easement conveys the easement to another person for a nonrailroad use, title to the easement and the underlying estate comes into the hands of the same owner by conveyance, the easement owner files a disclaimer in the office of the county clerk of the county where the property is situated disclaiming all interest in the corridor, or the easement is declared abandoned by judicial decree.

(3) After property is railbanked under this section, the property shall be held available for purchase by any bona fide purchaser for the restoration of rail service over the property. The following requirements shall apply to any transfer of property in contemplation of the restoration of railroad service:

(a) The entity that acquired the right to use the railroad corridor for a railtrail under this section or to whom that right had been subsequently transferred shall be compensated for the fair market value of the corridor together with any improvements erected thereon. Funds received by the entity under this paragraph shall be held in trust for the benefit of the public;

(b) All required federal and state permits and authority to reactivate and operate a railroad over the corridor shall be obtained prior to the transfer of the property for the contemplated railroad service restoration;

(c) Adequate bond with good surety shall be posted ensuring that the railroad will be constructed, with the bond being used to cover the cost of restoring the corridor to its physical condition prior to transfer of the railbanked corridor for the contemplated railroad service restoration; and

(d) The physical infrastructure necessary to operate the railroad, including tracks, ties, frogs, signaling equipment, grade crossings, and the like, shall be in place one (1) year from the date of the transfer. Train service shall be in place and operating two (2) years from the date of the transfer. If these timelines are not met, the corridor and all associate physical improvements thereon shall automatically forfeit to the ownership of the entity responsible for railbanking the corridor under this section.

(4) Any person aggrieved by the act of railbanking a railroad corridor under the provisions of this section shall bring their claims within one (1) year after the declaration of state railbanking has been filed with the Kentucky Secretary of State. Any entity against whom a claim is asserted may utilize as an offset or setoff to the amount of any recovery those amounts in state or local taxes, together with interest and penalties, that have not been paid on the value of the property through which the claimant asserts title.

(5) Any entity which caused a declaration of state railbanking to be filed shall cause the declaration to be vacated on the files of the Secretary of State upon the cessation of use of the corridor as a nonmotorized public use trail or the reactivation of railroad service over the corridor.

Effective: July 14, 2000
History: Created 2000 Ky. Acts ch. 338, sec. 2, effective July 14, 2000.

277.402 Preservation of railroad corridors -- Public policy – Preliminary declaration of state railbanking.

(1) It is the public policy of this state to preserve railroad corridors for future railroad use. Toward this end, the Commonwealth recognizes that the salvage of tracks, ties, signaling equipment, ballast, and other items may indicate an intent to maximize return on present investment and not an intent to abandon any underlying easement for railroad or other use and that the obtaining of federal authority to discontinue service over or abandon a corridor does not necessarily indicate an intent to relinquish any property interests under state law. In any civil action to determine the status of a railroad use easement, ambiguity as to intent shall be resolved in favor of continued preservation of the corridor.

(2) Any holder of a railroad corridor held by easement or otherwise may preserve that corridor by filing with the Secretary of State a "Preliminary Declaration of State Railbanking," concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall state the name of the entity holding the corridor, a textual description and map of the land area encompassed by the corridor, and a statement that the entity does not intend to abandon the corridor described in the declaration. The entity filing the declaration may at any later time cause that declaration to be withdrawn from the Secretary of State's files. While a preliminary declaration of state railbanking is on file with the Secretary of State, the corridor set out in the declaration shall not, regardless of the status or conclusion of any federal regulatory proceeding or the salvage of track and other material from the corridor,

be deemed abandoned and shall continue to exist under Kentucky law and the property encompassed by the corridor shall not revert to any other form of ownership.

Effective: July 14, 2000
History: Created 2000 Ky. Acts ch. 338, sec. 3, effective July 14, 2000.

277.404 Conservation easement under KRS 382.800 to 382.860 over land adjoining or traversed by a railtrail.

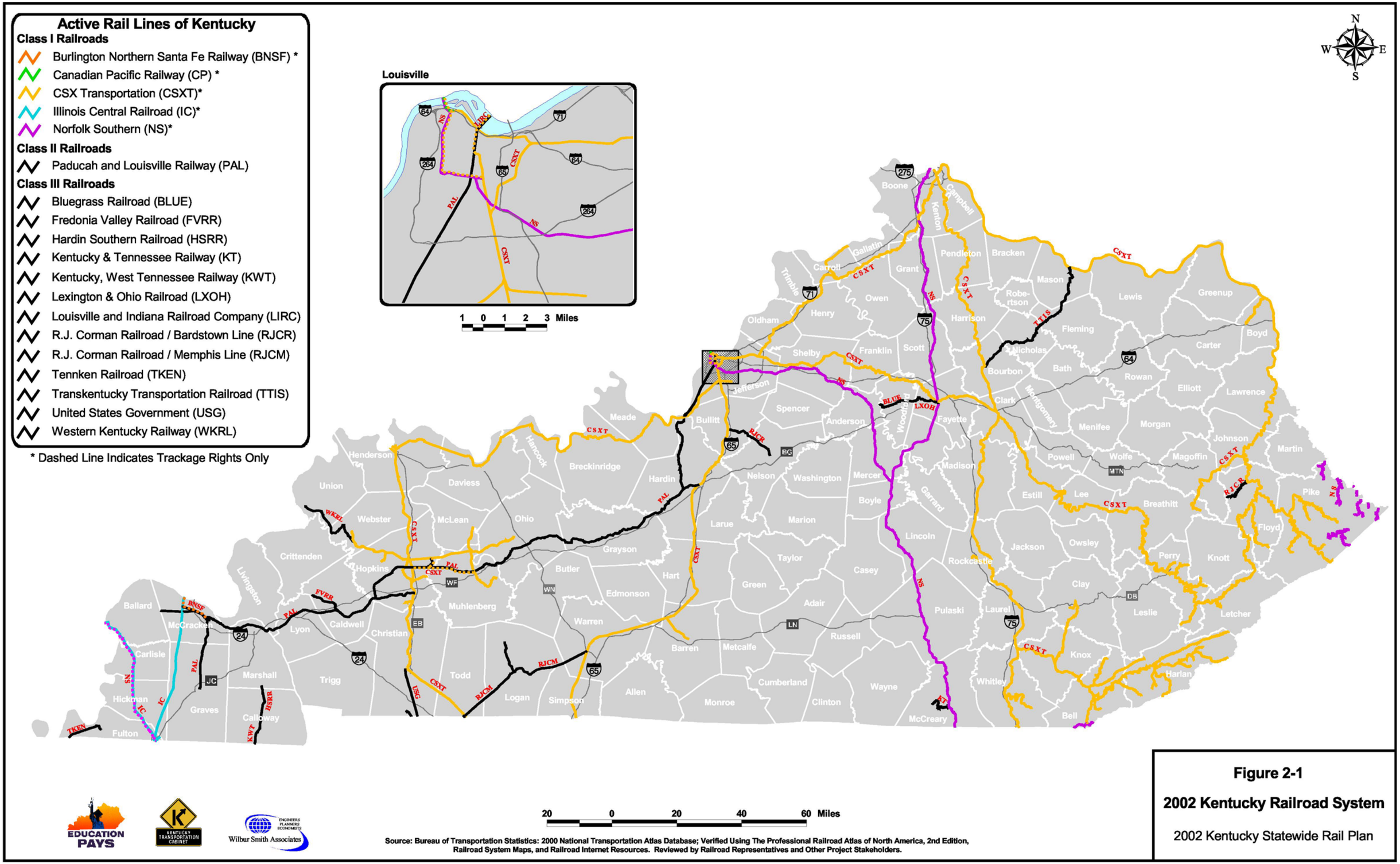
In addition to any other legal right, any person having a legal interest in land adjoining a railtrail or in the land traversed by the railtrail itself may grant to the entity holding the right to maintain a railtrail over the property a conservation easement over all or a portion of the property in accordance with KRS 382.800 to 382.860. The entity holding the right to maintain a railtrail over the corridor may, if it finds the easement's terms acceptable, yearly designate for the tax purposes of the party conveying the easement that the entity is holding the corridor pursuant to the authority granted to that entity in the easement as opposed to authority granted in KRS 277.400 or any similar law allowing railbanking under federal law. This designation shall not, however, affect in any way the legal right of that entity to hold the corridor pursuant to a federal or state railbanking law or the operation of those laws, and the right to maintain the railtrail on the land shall not lapse as the result of the extinguishment or modification of the easement. The easement, by its terms, may be limited in duration from year to year or for a set period of years, may extinguish itself upon the happening of a defined contingent future event, or may last in perpetuity.

Effective: July 14, 2000
History: Created 2000 Ky. Acts ch. 338, sec. 4, effective July 14, 2000.

277.406 Duty of railroad proposing to discontinue service or to abandon railroad corridor to notify the Railtrail Development Office and the Department of Parks.

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's Railtrail Development Office in the Department for Local Government and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so.

Effective: July 14, 2000
History: Created 2000 Ky. Acts ch. 338, sec. 10, effective July 14, 2000.



Source: Bureau of Transportation Statistics: 2000 National Transportation Atlas Database; Verified Using The Professional Railroad Atlas of North America, 2nd Edition, Railroad System Maps, and Railroad Internet Resources. Reviewed by Railroad Representatives and Other Project Stakeholders.

Figure 2-1

2002 Kentucky Railroad System

2002 Kentucky Statewide Rail Plan

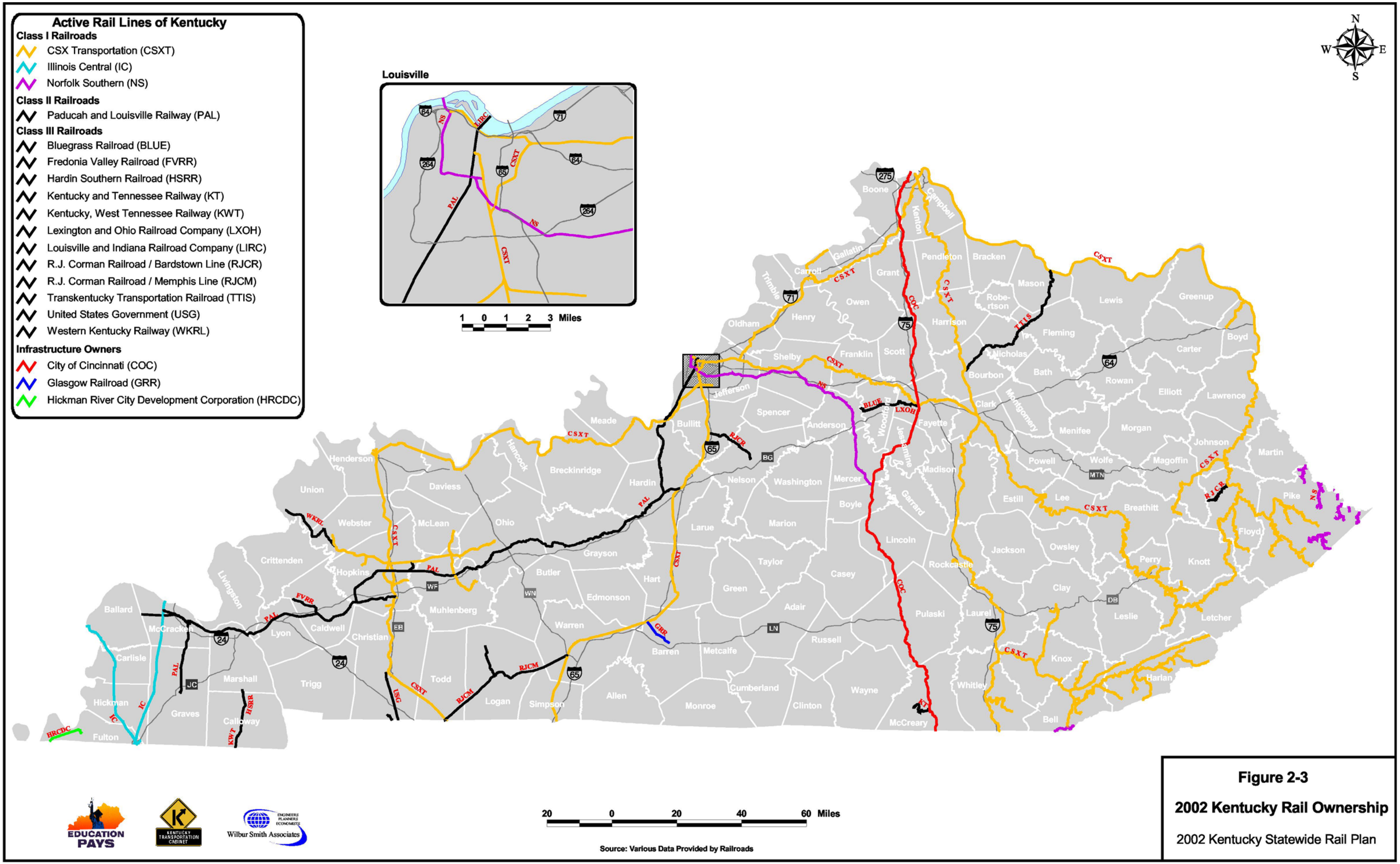


Figure 2-3

2002 Kentucky Rail Ownership

2002 Kentucky Statewide Rail Plan