

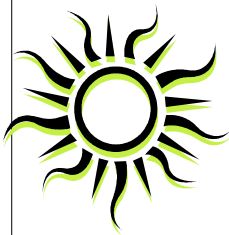
# KCSA Newsletter

Kentucky Crushed Stone Assn., P.O. Box 326, Frankfort, KY 40602

November / December 2004



*Happy  
Holidays!*



Mark your  
Calendars....  
KHI 2005  
Convention in  
Tucson, Arizona  
is February 26—  
March 5, 2005

## New Alliance Seeks To Improve Kentucky Highways, Economy

With Kentucky at a point where it can no longer adequately maintain or expand its highway system, and with the state's economy remaining stagnant, a new coalition has been formed to address these concerns across the state.

The Economic Transportation Alliance for Kentucky (ETA-KY) is a partnership of businesses, associations and concerned citizens committed to promoting the development and maintenance of safe, convenient and efficient transportation infrastructure. It seeks a highway system that will ensure motorists' safety, improve economic development opportunities and enhance the quality of life for all Kentuckians.

### What is ETA-KY?

- ETA-KY is committed to promoting the development and maintenance of a safe, convenient and efficient transportation infrastructure that serves the public, private and economic development needs of the Commonwealth.
- ETA-KY is committed to finding a stable source of funding for state and local projects and a fair allocation of those resources to all areas of the state.
- ETA-KY is committed to a transportation system that will ensure motorists' safety, improve economic development opportunities and enhance the quality of life for all Kentuckians.
- ETA-KY is committed to an education and communication program to raise the awareness of transportation-related issues among the media, public officials and all citizens of the Commonwealth.

"While the decision to spend down the Road Fund Cash reserve since 2000 has allowed for improvements to our transportation network, those dollars are gone, and the state now faces a

dire situation when it comes to funding our roads and bridges," ETA-KY spokesperson Jack Fish said. "Many roads remain unsafe, lack good pavement or are too congested to handle the growing amount of daily traffic. Without increased funding, this dilemma will worsen."

"Just as importantly, good roads are the lifeblood of our economy. They create jobs, allow goods to be shipped on time and help us get to work on time."

More people are using Kentucky's highways and parkways than ever before. In just the last decade, highway traffic has increased more than 50 percent. But motorists are traveling on roads that are less safe, do more damage to their vehicles, and cost the state money in terms of lost economic opportunities and lost lives. Kentucky's traffic fatality rate is 30 percent higher than the national average.

In addition, public transit needs are increasing in importance in various areas of the state. There is little the state can do to address these issues at current highway funding levels. State highway construction projects listed for 2005 and 2006 have only a 1-in-8 chance of being constructed, with only \$100 million annually available. Federal funding has been cut by 20 percent in the current budget, with the state using federal matching dollars to fund the state program.

ETA-KY wants the public to be aware of these issues, and to build understanding among drivers and legislators as to why an increased transportation investment in Kentucky must be addressed now.

"A sound transportation system is essential to getting people to work and home safely today while ensuring economic possibilities for the future," Fish said. "Without an increase in funding, Kentucky's highways will be roads that no one wants to travel."

## Highlights

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## 2005 KHI Winter Convention in Arizona!

The 2005 KHI convention will be held at Loews Ventana Canyon resort in Tucson, Arizona. Tucson is situated in the far northern reaches of the Sonoran Desert. The metropolitan area encompasses more than 500 square miles of one of the fastest growing areas of the southwest United States. The desert creates a backdrop for sightseeing throughout the southern part of Arizona all the way to the Mexican border. You will enjoy exploring the natural beauty, cultural attractions, and rich history of Southern Arizona since this will be the first KHI convention held in Tucson. The area is full of botanical gardens, museums, desert displays and areas such as Sabin Canyon for outdoor hiking or just relaxing while enjoying the beautiful views of the flowering desert. Nogales, Mexico, a great place for shopping and sightseeing, is only 70 miles from Ventana Canyon.

Golfers will enjoy the selection of more than 20 public and resort courses as well as access to some private clubs. At Ventana Canyon, there are two 18 hole Tom Fazio courses to enjoy that are equal to the best in the area. Several other courses are within twenty minutes of the resort property. Two swimming pools, an excellent eight-court tennis facility and a 7,000 square foot, eight treatment room spa will give attendees many choices of ways to enjoy the wonderful desert weather. In addition to the above, there is an excellent hiking path from the hotel up into the surrounding canyon for a great view of the waterfall that runs through the property. The re-

sort offers ping pong, a croquet court, basketball, and bicycle rentals. The Chrysler Classic Golf Tournament, the Tucson Rodeo, and a Southwest Indian Art Fair will all be in Tucson over the opening weekend of the convention for the pleasure of early arrivals or guests' enjoyment on Sunday.

The convention package will be for travel Saturday to Saturday. Travel from the airport to the hotel will be provided as part of the convention package. The Tucson airport is approximately 18 miles from the hotel but requires an approximate 40 minute drive depending on the time of day. Driving in Tucson is typical of a large metropolitan area. Commonwealth Travel Agency will coordinate air travel and hotel reservation requests. If you have special travel needs outside of the convention package, they will be glad to assist you in your travel plans. During the convention, Commonwealth Travel personnel will be with us to help with your special needs and to arrange for optional tours and activities. The Convention Committee and Commonwealth Travel have planned a wonderful convention in a great resort area that KHI has never visited. Please contact the KCSA office or Commonwealth Travel in Lexington, KY at 859-277-7135 or 800-274-7135 for additional information. Get your boots and jeans ready and we'll see you in Tucson.



## 2004 Kentucky Blasting Conference

The 2004 Kentucky Blasting Conference will be held December 2-3, 2004 at Louisville's Galt House Hotel. The two day event will cover various topics including:

- Dealing with Mis-Direction as Blaster-in-Charge
- Creeping Toward Standardization– the Evolution of Blasting Standards in Tennessee
- Blasting at Crazy Horse Memorial
- Blasting By the Numbers
- Update on Security Initiative
- Universal Trends in Blast Designs
- And Much, Much More.

On Thursday Evening there will be a Bluegrass S.E.E. Chapter Meeting as well as a Tri-state S.E.E. Chapter Meeting.

This conference counts as a blaster training session and will contribute up to nine hours of the blaster re-training required by Kentucky State Law.

For More information contact Coleman England, Program Chairman at 502-573-0140.

# Member News

**KCSA has newly renovated website.** The KCSA website has a new look with more information and is more user friendly. The new site has a calendar of events, member listing, seminar and course registration information and much, much more. Please visit the newly renovated site at [www.kycsa.org](http://www.kycsa.org). Be sure to tell us what you think.

Along with the new website look the KCSA staff have new e-mail addresses. Don Walker's is [don@kycsa.org](mailto:don@kycsa.org) and Cara Stewart's is [cara@kycsa.org](mailto:cara@kycsa.org).

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**ARTBA Honors Mr. Buckner Hinkle, Sr.**

On Thursday, October 21, 2003, ARTBA held a dinner in Washington D.C. honoring America's Top 100 Private Sector Transportation Design and Construction Professionals of the 20th Century. The dinner was part of ARTBA's 100th year celebration of service to the highway industry. Mr. Buckner Hinkle, Sr. (1914-1999), the founder of Hinkle Contracting Company in Paris, KY was one of the only

23 construction company individuals recognized as leaders in the industry. Other individuals honored were from the design, equipment, technology, safety and media, education, and association categories.

Mr. Hinkle founded Hinkle Contracting in 1942, building it into a major paving contractor. He was active on state and national levels of the transportation construction industry, serving as founding member of The Road Information Program and chairman of the Kentucky Highway Contractors. In 1970 he was the Chairman of the Kentucky Crushed Stone Association.

In 1985, he received the "ARTBA Award" the association's highest honor, in recognition of his contributions to the betterment of transportation in America. In 1991, he was elected to the Kentucky Transportation Hall of Fame.

Mrs. Sally Hinkle accepted the

award on behalf of her husband. Members of the Hinkle family attended the dinner in recognition of Mr. Hinkle's award. Congratulations to the Hinkle family.

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**New Members**

KCSA would like to welcome these new members.

**ASSOCIATE MEMBERS:**

**Polydeck Screen Corporation** of Spartanburg, SC. Polydeck Screen Corporation provides Modular Polyurethane and Rubber Screens.

**Qore Property Sciences** of Lexington, KY, provides civil engineering, geotechnical engineering, drilling services and permitting.



## K.A.T.P Looking for Record Number of Participants

The 2004-2005 Kentucky Aggregate Technician Courses are filling up fast. This year KATP is looking to have a record number of participants in the courses. There are ten (10) total Qualified Aggregate Courses scheduled from November 2004 thru February 2005 and six (6) Aggregate Sampling Courses over that same time period. Of those, two are already full with several more getting close to capacity.

The following are the class registration numbers as of November 19, 2004. To check on a specific class availability please contact Cara at the KCSA Office at 888-234-5272 or via e-mail ([cara@kycsa.org](mailto:cara@kycsa.org))

**QUALIFIED AGGREGATE TECH COURSES**

**Scotty's Tech. Ctr. Bowling Green, KY**

Date	#
Jan. 11-13, 2005	- FULL
Jan. 25-27, 2005	- FULL
Feb. 1-3, 2005	- 7
Feb. 15-17, 2005	- 12

**Construction & Materials Sellersburg, IN**

Date	#
Dec. 7-9, 2004	- 17
Jan. 11-14, 2005	- 6
Feb. 1-3, 2005	- 9

**Hinkle Training Center Bowen, KY**

Date	#
Nov. 30- Dec.2, 2004	-FULL
Dec. 7-9, 2004	- 12
Jan. 11-14, 2005	- FULL

**AGGREGATE SAMPLING COURSES**

**MSU Clay Community Center Mt. Sterling, KY**

Date	#
December 3, 2004	- 35
January 14, 2005	- 33

**Construction & Materials Sellersburg, IN**

Date	#
January 14, 2005	-26
February 4, 2005	-7

**WKU Carroll-Knicely Center Bowling Green, KY**

Date	#
January 14, 2005	-16
February 4, 2005	- 6

# REGULATORY UPDATE AFFECTING THE STONE, SAND AND GRAVEL INDUSTRIES

By: Marc McGraw  
Greenebaum Doll & McDonald PLLC  
Lexington, Ky.

The following are some of the regulatory and/or court-related developments which may be of interest to the members of the KCSA, either because of direct application to members or because of events occurring elsewhere that might be instructive or of general interest.

**\* Personnel Matters at the EPPC.**

On November 1, 2004, Aaron Keatley became the Director of the Division of Compliance Assistance, a newly-created office under the Fletcher Administration in the Environmental and Public Protection Cabinet (EPPC). Aaron has worked in the Division of Waste Management's Underground Storage Branch, DWM's Program Planning Branch, the DEP Commissioner's Office, the Division of Water's Enforcement Branch and most recently as acting director for the new Division of Enforcement in the Department of Environmental Protection. He will continue that role as well as his new position for the time-being. It is still unclear just exactly what function the new Division of Compliance Assistance will play, but at least it is now staffed. It is hoped that this office will do as the name implies, assist companies in meeting regulatory requirements in the environmental area.

**\* Suit Against MSHA Inspector for Assault Reinstated.**

A federal appeals court while agreeing to the dismissal of part of a suit by a stone quarry safety director based on his assault by an MSHA inspector during a meeting at MSHA's offices, reinstated the safety director's claim that other MSHA employees were negligent in failing to stop the assault. The injured safety director is suing the federal government and the MSHA individuals after sustaining

neck injuries. The Third Circuit Court of Appeals held that the government could be held liable for any negligence by the individual MSHA inspector's supervisors and co-workers in failing to prevent the injuries.

**\* Citizens Request Board of Health to Determine if Sand Pit is a Nuisance.**

The Board of Health in Holden, Massachusetts is considering whether a sand pit is a public nuisance after neighbors of the owner of the sand pit and gravel operation complained of persistent blowing sand from the gravel pit operation which the neighbors alleged was a health hazard and forced them to remain in their homes. The gravel operation was ordered to cease operations when negotiations broke down.

**\* Report to Congress Finds that MSHA Fails to Comply with Freedom of Information Act Requirements.**

According to a scathing report by the Special Investigations Unit of the House Minority Committee on Government Reforms, MSHA has been withholding requested information, or excessively delaying producing information requested by the public, including mining companies that request such things as inspectors' notes which were made as part of an inspection. In many cases, documents that are provided are so heavily redacted that it is impossible to ascertain what the document says, who wrote it or when it was written. Legislation has been introduced in Congress to address such abuses. **Practice Pointer: If a mining company wants to see such things as inspectors' notes, photographs, and related material in connection with an inspection or the assessment of a penalty, such documents can generally be obtained by a document request or similar discovery request once a hearing is requested by the mine op-**

**erator. So if a mine operator is upset or suspicious about the reasons for certain enforcement actions being taken or why a civil penalty assessment is so high, one common strategy is to request a hearing and have your counsel request the information through the discovery process. MSHA has to respond because the administrative law judge assigned to the case is there to make them.**

**\* Judge Rules Oldham County Quarry Expansion Legal.**

Nine residents of Orchard Grass Hills in Oldham County, Kentucky have lost their initial legal battle to block the expansion of Liter's Quarry into a farm near the city. The County Board of Adjustments and Appeals had decided to issue a permit to allow the quarry to extend its underground limestone mining to a 183-acre section of Rock Springs Farm, prompting opponents to go into Oldham Circuit Court. In mid-July, the Oldham Circuit Court upheld the issuance of the permit and upheld the constitutionality of the conditional-use permit regulations. Some residents of the local community oppose the expansion because of alleged concern regarding blasting damage to their homes.

**\* Silica Manufacturer/Supplier and So-Called Legal Quicksand.**

As previously reported in the KCSA newsletter, silica-related litigation is the latest "rage" around the country (similar to asbestos-related lawsuits), and one case has already reached Kentucky courts. Persons who file class-action lawsuits for alleged silica-related disease in the workplace usually target three categories of potential defendants: (i) sand suppliers; (ii) abrasive blasting equipment manufacturers; and (iii) respiratory equipment manufacturers. In determining whether a sand manufacturer/supplier has a duty to warn a worker of

*(Continued on page 5)*

## REGULATORY UPDATE ...

continued from page 5

the potential risks, courts look at a variety of factors. One factor is the so-called “sophisticated user/purchaser” defense which means that if a company supplies a “dangerous” product to an end user through an intermediary, the liability for harm shifts from the supplier to the intermediary or end user. Other factors are OSHA and NIOSH’s Permissible Silica Exposure Limits (PELs) which, thus far, MSHA has not adopted. These class action lawsuits are sprouting up all over the country, and companies who might be caught up in such litigation should be aware of the potential issues and defenses.

\* **Non-coal Mining and Sec. 404 of the Clean Water Act.** The aggregate industry was historically regu-

lated under the Corps of Engineers Nationwide Permit #26 (NWP 26) for impacts to streams and wetlands. NWP 26 was replaced several years ago by NWP 44 which is devoted specifically to non-coal mining operations. The allowable impacted acreage limits for NWP 44 was reduced from 10 acres to ½ acre of impact, making this general permit virtually useless for aggregate producers, being so restrictive and unusable. The only alternative (unless other nationwide permits are applicable) is to apply for an individual Sec. 404 permit from the Corps, a process which is expensive, very time consuming and labor-intensive for the applicant. Failure to obtain the requisite permit for disturbing a stream, wetland or other water body

can lead to civil or criminal penalties. **The solution:** Plan sufficiently in advance by checking all of the legal options, including the potential for an exemption by arguing that the water body is not “jurisdictional” because it is “isolated” under various court rulings. **Don’t wait until the last minute to deal with this issue. The average time it takes to obtain an individual permit from the Corps is one year.**



## KCSA Technical Committee meets with KYTC Representatives

By Technical Committee Members  
Larry Epley, Jay Gabrielson and Vic Malone

The Technical Committee met on October 28 in Frankfort. Fifteen KCSA and KyTC representatives attended. A major portion of the meeting addressed a proposed change by the Department to go to a finer hotmix surface – change from a ½ inch top-size to a 3/8 inch. This change was proposed to address water permeability issues that the state was experiencing in some locations – primarily Eastern Kentucky. In these locations, the finer mix had already been used by change order and the proposed warrants would make the change statewide. The impact on aggregate suppliers would be that these surface mixes would require #8 or #9M whereas #67 or #78 had been previously used.

It was KCSA’s belief that this blanket change would increase costs in most areas of the state that had not stated a need for a finer mix. It was also noted that in some situations mix design adjustments could be made to the ½ inch mix to make it less permeable. In other cases there were drainage issues in the roadway that needed to be corrected. Subsequent discussion was persuasive and the Department agreed to put these changes on hold for 2005, keeping the same guidelines as were used in 2004 which permitted using the finer mix when desired. The KCSA, PAIKY and the KyTC will continue to work toward a satisfactory solution to this issue.

On other items of discussion, KCSA requested that discussions

commence to change the gradation on DGA by allowing more minus no. 200 material. It was believed this could be done without a negative effect on the performance quality of the base.

The need for periodic seminars for dialog and training on “hot topics” was discussed. One suggested topic was specific gravity of aggregate – testing, variability, effect on mix design properties, etc. A task force was appointed to make specific recommendations for further action.

A status report on the Kentucky Aggregate Technician Program (KATP) was presented, and more details are included in this newsletter.

# INDUSTRY NEWS



## NIOSH To Hold 9th Annual Safety Seminar for Underground Stone Mines.

The seminar provides a forum for some of the leading experts to address issues relevant to mine workers and industry officials in this sector of mining. This year's seminar will feature presentations from the new Director of NIOSH's Pittsburgh Research Laboratory and the U.S. Geological Survey's Commodity Specialist for Crushed Stone. The ground control issue of horizontal stress will be discussed as well as an update on DPM controls by MSHA. Also, we have an Earlybird Underground Electrical Safety Workshop (December 7, starting at 4:00 p.m.).

Brief Schedule of Events:  
December 8, 2004

7:00 a.m. REGISTRATION

7:45 a.m. WELCOME

8:00 a.m. MORNING SESSION

- Demand and Availability of Aggregate Resources
- Belt Versus Truck Haulage for Underground Stone Mines-Case

- Influence of Horizontal Stress on Pillar Design.
- Monitoring to Detect Roof Falls
- Importance of Underground Mine Safety

10:00 a.m. BREAK

10:15 a.m. MORNING SESSION (Continued)

- Mining Health and Safety Research at NIOSH
- Controls Being Used to Reduce Diesel Particulate Exposure
- Noise Controls for Air Arcing.
- Hearing Loss Simulator: Utilizing New Technologies for Training Miners
- A Novel Proximity Warning System for Underground Stone Mining

12:15 p.m. LUNCH

1:30 p.m. AFTERNOON SESSION

Two Concurrent Workshops

### WORKSHOP 1

*Target audience: Engineers, and those involved with ground control and mine planning*  
**Practices and Principles Related to Safe Mine Development Workshop.**

### WORKSHOP 2

*Target audience: Mine workers, safety officials, and coordinators*  
**Root Cause & Part 50 Workshop**

4:45 p.m. ADJOURN

For more information or registration form contact: Lou Prosser, NIOSH @ 412-386-4423 or visit the website @ [www.cdc.gov/niosh/](http://www.cdc.gov/niosh/)

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**2005 Mining Blasting Safety and Application Seminar** to be held January 19-21, 2005 at the National Mine Health and Safety Academy in Beaver, West Virginia.

The seminar is for mining company managers, blasting engineers, blasters, and others involved with the planning, design, and use of explosives in the mining industry.

The most recent innovations in drilling and blasting design technology will be addresses, along with specific blasting applications, up-to-date blasting regulations, and blasting related information from recognized experts.

Note: The states of West Virginia, Kentucky, Colorado, Wyoming, and Pennsylvania will accept this seminar as part of the blasting recertification CEU requirements.

For more information on the seminar please contact Wayne Lively at 304-256-3301 or by e-mail at [lively.wayne@dol.gov](mailto:lively.wayne@dol.gov). Or you may go to the MSHA website at [www.msha.gov](http://www.msha.gov).

## Student Competition Encourages Energy Conservation and Environmental Awareness in Classrooms

**SALT LAKE CITY - (November 1, 2004) -** The fourth Igniting Creative Energy Challenge (ICE) is underway with continuing sponsorship provided by Johnson Controls and National Energy Foundation (NEF). The Challenge is an educational competition designed to encourage students to learn more about energy and the environment.

Students submit entries reflecting the competition theme, Igniting Creative Energy. They may express their ideas on energy conservation and the environment in the form of science projects, essays, stories, artwork, photographs, music, video or web site projects. Recent NEF Energy Action Patrol activities are also acceptable submissions.

The Challenge is open to students in grades K-12 in the U.S. and Canada, excluding Quebec. Entries are due by February 19, 2005, and winners will be announced on or about March 21, 2005. Official contest rules and a printable entry form are found at the official Challenge web site [www.ignitingcreativeenergy.org](http://www.ignitingcreativeenergy.org).

"We are continually impressed by the excitement and creativity students and

teachers exhibit in showing ways to preserve the environment and conserve energy." said Jeff Crenshaw, director, public sector sales for the Controls Group of Johnson Controls.

A total of four grand prizes will be awarded to three students and one teacher. The three students, one in each grade cluster, will receive a hosted trip to Hawaii April 26-30, 2005, for themselves and a parent or legal guardian. In addition, one teacher with the highest average score of student work from 15 or more qualifying entries will be chosen for the same trip for two. The journey of "fire & ICE" will include visits to a volcano, tropical forests, and Hawaii's famous beaches.

In addition, winners will participate in the National Energy Efficiency Forum in Washington, D.C., June 14-15, 2005, where they will share their Challenge entries and ideas with government and energy leaders.

Everyone entering the Igniting Creative Energy Challenge will receive an award certificate, with the first 1,000 entries also receiving a commemorative 2005 Challenge pin. Exemplary projects will be selected for national publication.

Winning projects for the 2004 Igniting Creative Energy Challenge were diverse and creative, and included an original song about saving energy, an energy magazine, and an essay about an environmental club devoted to recycling.

The Challenge is sponsored and funded through an educational grant by Johnson Controls, Inc. with additional support from the United States Energy Association (USEA), and is administered by the National Energy Foundation.

The National Energy Foundation is a unique 501(c) (3) nonprofit organization dedicated to the development, dissemination, and implementation of supplementary educational materials, programs and courses that relate primarily to energy, water, natural resources, science and math, technology, conservation and the environment.

USEA is composed of approximately 150 public and private energy-related organizations, corporations and government agencies. It represents the United States in the World Energy Council.

Agg Tech

Agg Tech

Agg Tech

Agg Tech

2005 letting schedule



Kentucky Crushed  
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Frankfort, KY 40602

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*Kevin Westray*  
Vice-Chairperson  
*Roy Beard*  
Treasurer  
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### MARK YOUR CALENDARS FOR THESE UPCOMING EVENTS

November 30 - Dec. 2	KATP Qualified Aggregate Course	Hinkle Training Center, Bowen, KY
December 3	KATP Aggregate Sampling Course	Clay Community Ctr., Mt. Sterling, KY
December 7-9	KATP Qualified Aggregate Course	Hinkle Training Center, Bowen, KY
December 7-9	KATP Qualified Aggregate Course	C & M Labs, Sellersburg, IN
December 7&8	NIOSH 9th Annual Safety Seminar for Underground Mines	Louisville, Kentucky
December 15	KATP Early Bird Deadline for 2005 Courses	
December 16	KCSA Board Meeting	Lexington, Kentucky
December 17	KYTC Letting	Frankfort, Kentucky
December 24 & 27	Christmas Holiday (State Holidays)	KCSA Office Closed
December 31 & Jan 3	New Years Holiday (State Holidays)	KCSA Office Closed
January 11-13	KATP Qualified Aggregate Course	Hinkle Training Center, Bowen, KY
January 11-13	KATP Qualified Aggregate Course	C & M Labs, Sellersburg, IN
January 11-13	KATP Qualified Aggregate Course	Scotty's Tech. Ctr., Bowling Green, KY
January 14	KATP Aggregate Sampling Course	Clay Community Ctr., Mt. Sterling, KY
January 14	KATP Aggregate Sampling Course	WKU Knicely Center, Bowling Green, KY
January 14	KATP Aggregate Sampling Course	C & M Labs, Sellersburg, IN
January 14	KATP Aggregate Sampling Course	Frankfort, Kentucky
January 25-27	KATP Qualified Aggregate Course	Scotty's Tech. Ctr., Bowling Green, KY
February 1-3	KATP Qualified Aggregate Course	Scotty's Tech. Ctr., Bowling Green, KY
February 1-3	KATP Qualified Aggregate Course	C & M Labs, Sellersburg, IN
February 4	KATP Aggregate Sampling Course	C & M Labs, Sellersburg, IN
February 4	KATP Aggregate Sampling Course	WKU Knicely Center, Bowling Green, KY