Administrative Register of Kentucky

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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes 13.082.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

The **Administrative Register** is the monthly advance sheets service for the 1975 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

Public Hearings Scheduled

The Department for Natural Resources and Environmental Protection has scheduled public hearings on regulations issued by its Divisions of Plumbing and Air Pollution. The regulations are:

Division of Plumbing

401 KAR 1:130, relating to mobile home park waste systems and connections, published originally in the February Register [1 Ky.R. 488].

The public hearing on this regulation will be held at 1:30 p.m. EDT March 10, 1975 in the Auditorium of Capital Plaza Tower in Frankfort, Kentucky.

Persons having an interest in this regulation are invited to testify or submit comments to the agency for consideration.

Division of Air Pollution

401 KAR 3:010, General Provisions; 401 KAR 3:020, Ambient Air Quality Standards; 401 KAR 3:030, Emergency Episodes; 401 KAR 3:040, Emission Standards for Hazardous Air Pollutants; 401 KAR 3:050, Standards of Performance for New Services; 401 KAR 3:060, Standards of Performance for Existing Services; and 401 KAR 3:070, Indirect Services. All of these regulations are printed in this issue. (See Index, this page.)

A public hearing on these regulations is scheduled for 10 a.m. EDT on April 15, 1975 in the Auditorium of the Human Resources Building (formerly Health Department Building) 275 East Main Street, Frankfort, Kentucky.

Persons having an interest in these regulations are invited to testify or to submit comments to the agency for consideration.

Regulation Review Subcommittee To Meet March 12

The next regular scheduled meeting of the Administrative Regulation Review Subcommittee is at 10 a.m. EDT March 12, 1975 in Room 307 at the State Capitol.

DEADLINE FOR NEXT ISSUE

The deadline for submitting proposed regulations for publication in the April 1, 1975 issue of the Administrative Register is Friday, March 14, 1975.

In This Issue

Emergency Regulations in Effect Now:
Department of Revenue-Sales & Use Tax—Local governments . . . 583
Finance and Administration—Vehicle parking 584
Department of Justice—State Police—Promotions 584

Amended Regulations:
Department of Revenue—Income Tax—Withholding statements . 585
Board of Dentistry—Specialty application; exams 586
Department of Labor—Wages; hours; professionals 586
Drug Formulary—Ampicillin; Erthromycin; Penicillin 587

Proposed Regulations Received Through February 14:
Secretary of the Cabinet:
Teacher Retirement System—Reciprocity 590
Revenue Department—Sales & Use Tax—Local governments 590

Executive Department for Finance and Administration:
State-owned Grounds—Vehicle parking 591
Office for Local Government—District boards; bonds 591
Board of Dentistry—Examination requirements 592
Landscape Architects—Duties; hearing; ethics 592
Real Estate Commission—Licenses; fees; definitions 595
Hairdressers & Cosmetologists—Reciprocity 599

Cabinet for Development:
Fish & Wildlife Resources—Game; hunting; fishing 600

Natural Resources and Environmental Protection:
Air Pollution—Air quality standards 601

Department of Justice:
State Police—Promotion system 626

Department of Transportation:
Aeronautics—Air carriers; Airport boards 627
Bureau of Highways—KY 1543 truckway classification 632

Public Protection and Regulation Cabinet:
Alcoholic Beverage Control—Malt beverages 632
Mines and Minerals—Oil and Gas—Surety bonds 633

Department for Human Resources:
Administration & Operations—Controlled substances 634
—Vital statistics 635
Health Services—Drug Formulary; Generic equivalents 637
—Maternal & Child Health 640
—Hotel Code 641
—Sanitation; youth camps 642
—Food service code 645
Social Services—Child Welfare; foster parents; day care 651

Review Subcommittee Meeting—Minutes 581

Public Hearings Scheduled 581

Locator Tables:
KAR Codification System 662
KRS Sections Cited or Related to KAR 658
List of Regulations and Effective Dates 668

KRS Chapter 13—Administrative Regulations 687

Index 673

(Index and Locator Tables are Cumulative)

Subcommittee Approves 141 Regulations

The Administrative Regulation Review Subcommittee, at its February 5 meeting, approved for filing 141 regulations, all of which became effective on that date.

Fourteen other proposed regulations were returned to the issuing agencies.

(The effective dates of all regulations approved so far can be determined by checking the Locator Table headed, "List of Regulations and Effective Dates." See Index entry on this page.)

Tentative minutes of the Subcommittee meeting, subject to approval at the next meeting at 10 a.m. EDT March 12, follow:

Subcommittee Minutes

The Administrative Regulation Review Subcommittee held its eighth meeting on Wednesday, February 5, 1975, at 10 a.m. in room 307 of the State Capitol. Present were:

Members: Senator Michael R. Moloney, Chairman; Representatives James Davis and Richard H. Lewis.

Guests: Jasper K. Cornett, Blue Diamond Coal Company; Paul Hensley, Hazard, Kentucky River Mining Institute; Francis D. Burke, Robert Holcomb, Pikeville Coal Operators Association; John D. Hinkle, Mack J. Morgan, Jr., Ron Sheets, Kentucky Retail Federation; Senator Denver C. Knuckles; Charles Warren, Middlesboro, photographer; Cloyd McDowell, Harlan County Coal Operators Association; Earl Cornett, Charles E. McCoy, Jerry Reece, Department of Labor; Robert Hawkins, Higher Education Assistance Authority; Tom Duncan, J. H. Mosgrove, Kentucky Coal Association; John M. Stephens, Kentucky Coal Association and others; Frank McGuire, James L. Tenley, Pikeville Coal Company; Larry Stewart, Norman Yarborough, Eastover Mining Company; Don Wills, National Mines Corporation; W. K. Bodell, II, Elza F. Burch, Island Creek Coal Company; Earl M. Williams, Williams and Associates; W. F. Wright, Beth-Elkhorn Corporation; Charles B. Howard, Knott-Letcher-Perry Independent Coal Operators Association, Inc.; B. F. Reed, John Reed, Turner Elkhorn Mining Company; Marrs Allen May, Pikeville, attorney; Phil Fox, Division of Reclamation; Billy S. Lewis, Bureau of Land Resources; Perry R. White, General Counsel, Department for Natural Resources and Environmental Protection; Marvin Singleton, Shively, recreational vehicle dealer; Larry Pike, Pike Campers; Ben Cole, Cole Industries; Ralph C. Robke, Office of the State Fire Marshal; Lewis Howard, Truckers Coal Market; C. Bruce Hoskins, Windy Hill Mining, Inc.; John L. Bomers and James G. Murphy, Big "D" Mining Company.

LRC Staff: Phillip Patton, Mabel Robertson, Hugh Morris, Deborah Herd, Garnett Evins, and Martha Moloney.

Press: William Bradford, Associated

(Continued on Page 582)

Review Subcommittee Minutes

(Continued From Front Page)

Press; Howard Fineman, Courier-Journal, and Herb Sparrow, United Press International.

The meeting was called to order by the chairman. The minutes of the previous meeting of the subcommittee were approved.

The following regulations before the subcommittee were not approved:

With respect to 402 KAR 1:010, Natural Resources and Environmental Protection, surface effects of underground mines, the subcommittee heard testimony and received written statements from several representatives of the deep mine industry. It was argued that certain provisions of the proposed reclamation regulation, if unchanged, would prohibit some deep mining. John Stephens, representing several coal associations, contended that the proposed regulation violated legislative intent by going beyond reclamation to include safety, and water and air pollution.

Following the close of testimony, Representative Lewis moved that the subcommittee return the regulation for the reasons contained in the statements of the witnesses and that copies of the statements be attached to the regulation for affirmative consideration by the department, as defined in KRS Chapter 13. The motion was seconded by Representative Davis and carried 2 to 1, with Senator Moloney voting "no" on the ground that in the three-year history of the subcommittee no regulation had been rejected twice.

806 KAR 50:200, Office of the State Fire Marshal, Mobile Homes and Recreational Vehicles, was rejected after Marvin Singleton, Ben Cole, and Larry Pike, recreational vehicle dealers, testified that the proposed $400 fee discriminated against small dealers and manufacturers.

Motion was made by Representative Lewis to return the regulation for affirmative consideration of a plan to adjust fees on the basis of the size of the business and a justification of the need for the sum to be produced by the license fees. The motion was seconded by Representative Davis and carried 2 to 1, with Senator Maloney voting "no" because he opposed the subcommittee twice rejecting a regulation.

201 KAR 7:052, Board for licensing Hearing Aid Dealers, annual meeting of the board, was rejected for the reason that the proposed regulation should have been issued as an interdepartmental memorandum.

201 KAR 8:070, Board of Dentistry, annual meeting, was rejected for the reason that it is in conflict with KRS 313.210(1).

The following regulations of the Board of Dentistry were rejected for the reason that these proposed regulations were internal in nature and not proper subject for a regulation: 201 KAR 8:010, Oath; 201 KAR 8:020, Organization, officers; 201 KAR 8:030, Duties of the president; 201 KAR 8:035, Duties of vice-president; 201 KAR 8:040, Duties of secretary-treasurer; 201 KAR 8:050, Salaries, location of office; 201 KAR 8:060, Rules of order; 201 KAR 8:090, Order of business; 201 KAR 8:100, Interim administration; 201 KAR 8:110, Amendments to rules and regulations.

The following regulations were approved and ordered filed:

30 KAR 1:010, Department of State, Corporations, certificates of good standing.

30 KAR 1:020, Department of State, Corporations, Statement, reports and documents; filing requirements.

101 KAR 1:200, Secretary of the Cabinet, Department of Personnel, Unclassified service rules.

103 KAR 15:040, Secretary of the Cabinet, Department of Revenue, Income Tax, Statute of limitations; assessments and refunds.

103 KAR 15:050, Income Tax, Filing dates and extensions.

103 KAR 15:060, Income Tax, Estimated tax; amended declarations; short years.

103 KAR 17:010, Income Tax, Residence.

103 KAR 17:060, Income Tax, Income subject to taxation; portions.

103 KAR 18:010, Income Tax, Employers required to withhold.

103 KAR 18:040, Income Tax, Annual payment of income tax withholding.

103 KAR 18:050, Income Tax, Withholding statements; Form K-2; as amended.

103 KAR 18:060, Income Tax, Miscellaneous payroll period.

103 KAR 18:070, Income Tax, Supplemental wages.

103 KAR 18:080, Income Tax, Two or more employers.

103 KAR 18:090, Income Tax, Payroll records.

103 KAR 18:100, Income Tax, Exemption certificates.

103 KAR 18:110, Income Tax, Withholding methods.

103 KAR 18:120, Income Tax, Security for compliance; bonds.

103 KAR 19:010, Income Tax, Computation of income; estates and trusts.

103 KAR 19:030, Income Tax, Income tax information returns.

103 KAR 40:030, Excise Tax, Alcoholic Beverages, Malt beverage tax.

103 KAR 40:090, Excise Tax, Alcoholic Beverage, Consumer tax rate.

103 KAR 41:030, Excise Tax, Cigarettes, Wholesalers, resident and nonresident.

103 KAR 41:100, Excise Tax, Cigarettes, Segregation of cigarettes.

103 KAR 41:110, Excise Tax, Cigarettes, Sample of cigarettes.

103 KAR 41:120, Excise Tax, Cigarettes, Retention of records.

103 KAR 41:130, Excise Tax, Cigarettes, Elimination of cigarette tax indicia.

103 KAR 43:080, Excise Tax, Motor Fuels, Assignment.

103 KAR 43:090, Excise Tax, Motor Fuels, Tax refund.

103 KAR 43:200, Excise Tax, Motor Fuels, Display.

103 KAR 43:210, Excise Tax, Motor Fuels, Storage.

201 KAR 8:070, Board of Dentistry, Vacancies; how filled.

201 KAR 8:120, Board of Dentistry, Special licensure.

201 KAR 8:130, Board of Dentistry, X-rays by dental assistants.

201 KAR 8:135, Board of Dentistry, Auxiliary personnel.

201 KAR 8:140, Board of Dentistry, Continuing education compliance.

201 KAR 8:150, Board of Dentistry, Examination; application.

201 KAR 8:160, Board of Dentistry, Qualification for examination.

201 KAR 8:170, Board of Dentistry, Application prior to graduation.

201 KAR 8:180, Board of Dentistry, Applicant; requirements.

201 KAR 8:190, Board of Dentistry, Examination committee.

201 KAR 8:200, Board of Dentistry, Release of examination questions.

201 KAR 8:210, Board of Dentistry, Examination questions review; approval.

201 KAR 8:220, Board of Dentistry, Clinical examinations.

201 KAR 8:230, Board of Dentistry, Re-examination; when.

201 KAR 8:240, Board of Dentistry, Clinical demonstrations.

201 KAR 8:250, Board of Dentistry, Duplicate license certificate.

201 KAR 8:260, Board of Dentistry, Dental hygiene; application.

201 KAR 8:270, Board of Dentistry, Grade requirement; dental hygiene examination.

201 KAR 8:280, Board of Dentistry, Re-examination; dental hygienists.

210 KAR 8:290, Board of Dentistry, Hygienists' official register.

201 KAR 8:300, Board of Dentistry, County registration; hygienists.

201 KAR 8:310, Board of Dentistry, Duplicate license; hygienists.

201 KAR 8:320, Board of Dentistry, Notice of place of employment; hygienists.

201 KAR 8:330, Board of Dentistry, Hygienists' temporary retirement; reinstatement.

201 KAR 8:340, Board of Dentistry, Specialty application; examination; as amended.

201 KAR 8:345, Board of Dentistry, Education requirements; specialties.

201 KAR 8:350, Board of Dentistry, Specialty grade requirement.

201 KAR 8:355, Board of Dentistry, Register; dental specialist.

201 KAR 8:375, Board of Dentistry, Scholarship; administration.

201 KAR 8:380, Board of Dentistry, Repayment contract; scholarship.

201 KAR 8:385, Board of Dentistry, Scholarship contract form.

301 KAR 1:016, Fish and Wildlife, Private camps; boat docks, etc.

301 KAR 1:031, Fish and Wildlife, Land Between the Lakes provisions.

301 KAR 1:057, Fish and Wildlife, Trotlines; sport fishing.

301 KAR 1:122, Fish and Wildlife, Importation; possession; live fish.

301 KAR 1:125, Fish and Wildlife, Transportation of fish.

301 KAR 1:132, Fish and Wildlife, Sale of live bait.

301 KAR 2:025, Fish and Wildlife, Calling devices.

301 KAR 2:060, Fish and Wildlife, Sale of bobwhite quail for food purposes.

401 KAR 4:010, Natural Resources and Environmental Protection, Water withdrawal permits; as amended.

803 KAR 1:070, Department of Labor, Labor Standards, Executive, administrative, supervisory or professional employees; as amended.

803 KAR 50:010, Occupational Safety and Health Review Commission, Hearings, Procedures, disposition.

804 KAR 3:020, Alcoholic Beverage Control, Minimum resale prices, as amended.

804 KAR 4:010, Alcoholic Beverage Control, Licensing, Information required.

804 KAR 4:020, Alcoholic Beverage Control, Licensing, Non-resident, special agent or solicitor.

804 KAR 4:030, Alcoholic Beverage Control, Licensing, Transport permit, non-resident licensee.

804 KAR 4:040, Alcoholic Beverage Control, Licensing, Bottling house storage.

804 KAR 4:050, Alcoholic Beverage Control, Licensing, Rectifying plant, bottling permitted.

804 KAR 4:060, Alcoholic Beverage Control, Licensing, Special miniature vendor.

804 KAR 4:070, Alcoholic Beverage Control, Licensing, Special industrial alcohol.

804 KAR 4:080, Alcoholic Beverage Control, Licensing, Military reservations.

804 KAR 4:090, Alcoholic Beverage Control, Licensing, Transfer of stock.

804 KAR 4:100, Alcoholic Beverage Control, Licensing, Records to be retained.

804 KAR 4:110, Alcoholic Beverage Control, Licensing, Dormant license renewal.

804 KAR 4:120, Alcoholic Beverage Control, Licensing, Retail beer applications.

804 KAR 4:130, Alcoholic Beverage Control, Licensing, Beer storage.

804 KAR 4:140, Alcoholic Beverage Control, Licensing, Distributors' storage.

804 KAR 4:150, Alcoholic Beverage Control, Licensing, Request for citation.

804 KAR 4:160, Alcoholic Beverage Control, Licensing, Beer transporter.

804 KAR 4:170, Alcoholic Beverage Control, Licensing, Through transporter.

804 KAR 4:180, Alcoholic Beverage Control, Licensing, Freight forwarder.

804 KAR 4:190, Alcoholic Beverage Control, Licensing, Out-of-state brewers bond.

804 KAR 4:200, Alcoholic Beverage Control, Licensing, Warehouses.

806 KAR 50:151, Office of the Fire Marshal, Definitions; boiler safety.

806 KAR 50:155, Office of the Fire Marshal, Administrative procedures; requirements.

806 KAR 50:160, Office of the Fire Marshal, General requirements.

806 KAR 50:165, Office of the Fire Marshal, Power boiler requirements.

806 KAR 50:170, Office of the Fire Marshal, Heating boiler requirements.

806 KAR 50:175, Office of the Fire Marshal, Nuclear vessel requirements.

902 KAR 5:010, Department for Human Resources, Bureau for Health Services, Hospitals and Institutions, Patients' fees.

902 KAR 10:010, Bureau for Health Services, Sanitation, Public restrooms.

902 KAR 15:010, Bureau for Health Services, Mobile home parks.

902 KAR 15:020, Bureau for Health Services, Recreational vehicle parks.

(Continued on Next Page)

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Subcommittee Minutes

(Continued From Preceding Page)

902 KAR 20:050, Bureau for Health Services, Certificate of Need and Licensure Board, Intermediate care facilities.
902 KAR 100:001, Bureau for Health Services, Radiology, Repeals.
902 KAR 100:005, Bureau for Health Services, Radiology, General applicability.
902 KAR 100:010, Bureau for Health Services, Radiology, Definitions.
902 KAR 100:015, Bureau for Health Services, Radiology, General requirements.
902 KAR 100:020, Bureau for Health Services, Radiology, Standards.
902 KAR 100:025, Bureau for Health Services, Radiology, Concentrations above natural background for air and water.
902 KAR 100:030, Bureau for Health Services, Radiology, Posting and disposal requirements.
902 KAR 100:035, Bureau for Health Services, Radiology, Transport.
902 KAR 100:040, Bureau for Health Services, Radiology, General provisions for specific licenses.
902 KAR 100:045, Bureau for Health Services, Radiology, Exemptions.
902 KAR 100:050, Bureau for Health Services, Radiology, General licenses.
902 KAR 100:055, Bureau for Health Services, Radiology, Specific licenses.
902 KAR 100:060, Bureau for Health Services, Radiology, Leak testing.
902 KAR 100:065, Bureau for Health Services, Radiology, Reciprocal recognition.
902 KAR 100:070, Bureau for Health Services, Radiology, Intrastate transportation.

902 KAR 100:075, Bureau for Health Services, Radiology, Group classification.
902 KAR 100:080, Bureau for Health Services, Radiology, Exempt quantities.
902 KAR 100:085, Bureau for Health Services, Radiology, Exempt concentrations.
902 KAR 100:090, Bureau for Health Services, Radiology, Broad license limits.
902 KAR 100:095, Bureau for Health Services, Radiology, Sealed sources.
902 KAR 100:100, Bureau for Health Services, Radiology, Industrial radiography.
902 KAR 100:105, Bureau for Health Services, Radiology, X-ray; general.
902 KAR 100:110, Bureau for Health Services, Radiology, Registration of x-ray.
902 KAR 100:115, Bureau for Health Services, Radiology, Diagnostic x-ray.
902 KAR 100:120, Bureau for Health Services, Radiology, Special x-ray.
902 KAR 100:125, Bureau for Health Services, Radiology, Fluoroscopic.
902 KAR 100:130, Bureau for Health Services, Radiology, Dental.
902 KAR 100:135, Bureau for Health Services, Radiology, Therapy.
902 KAR 100:140, Bureau for Health Services, Radiology, Veterinarians.
902 KAR 100:145, Bureau for Health Services, Radiology, Cabinet systems.
902 KAR 100:150, Bureau for Health Services, Radiology, Microscopic analytic x-ray.
902 KAR 100:155, Bureau for Health Services, Radiology, Particle accelerator.
902 KAR 100:160, Bureau for Health Services, Radiology, Plan review.
902 KAR 100:165, Bureau for Health Services, Radiology, Notices, reports and instructions to employees.
902 KAR 100:170, Bureau for Health Services, Radiology, Proceedings.
904 KAR 2:010, Bureau for Social Insurance, Public Assistance, AFDC; standards for need and amount.

The meeting was adjourned at 1:15 p.m. The next regularly scheduled meeting of the subcommittee is Wednesday, March 12, 1975.

How To Cite

Cite all material in the Administrative Register of Kentucky by Volume number and page number. Example: Volume 1, Kentucky Register, page 318 (Short form: 1Ky.R. 318)

Cite portions of the 1975 KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE by Title, Chapter and Regulation number, as follows:

601 KAR 1:010

meaning Regulation 010 of Chapter 1 of Title 601. The 600-series of Titles indicates that the issuing authority is the Department of Transportation. Title 601 is the Bureau of Vehicle Regulation. Chapter 1 relates to Motor Carriers and Regulation 010 deals with the maximum length of such vehicles on specified highways.

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Emergency Regulations

JULIAN M. CARROLL, GOVERNOR
Executive Order 75-106
January 29, 1975

EMERGENCY REGULATION
Department of Revenue

WHEREAS, The Department of Revenue finds that an emergency exists with regard to certain Kentucky vendors who are placed at a serious competitive disadvantage with out-of-state vendors because of present procedure for administering the Kentucky sales tax on sales to local governments in Kentucky.

NOW, THEREFORE, pursuant to the authority vested in me by Section 13.085 of the Kentucky Revised Statutes as amended by Section 2 of Senate Bill 172 of the 1974 General Assembly, I, Julian M. Carroll, Governor of the Commonwealth of Kentucky, hereby acknowledge that the declaration of an emergency by the Department of Revenue exists and submit the attached regulation with the Legislative Research Commission. This is done with the intent that the Department shall process the regulation through the normal process for filing administrative regulations within 120 days if it desires that the regulation become permanent.

JULIAN M. CARROLL, Governor
THELMA L. STOVALL, Secretary of State

SECRETARY OF THE CABINET
Department of Revenue
103 KAR 30:220E

RELATES TO: KRS 139.470
PURSUANT TO: KRS 13.082
EFFECTIVE: January 30, 1975
EXPIRES: May 30, 1975

NECESSITY AND FUNCTION: KRS 139.470(1) exempts from sales and use tax those transactions which the state is prohibited from taxing under the Kentucky Constitution. (Section 170) During the first several years of its existence, the sales and use tax law was administered on the basis that the exemption for "public property used for public purposes" in Section 170 applied only to ad valorem property tax and not to sales-use tax. However, the Court of Appeals has ruled that to impose use tax on out-of-state purchases by a city violates Section 170 of the Kentucky Constitution. The sales tax, which applies to sales made by Kentucky vendors, was not an issue before the court and has continued to be levied on sales to local governments. This has resulted in placing Kentucky retailers at a serious competitive disadvantage where the sales transaction involves a relatively large amount. Thus, a significant volume of business is being lost to out-of-state competitors by Kentucky businesses who also pay income, property, and other taxes in Kentucky. This regulation is needed to reconcile administration of the sales-use tax law with the requirements of the Kentucky Constitution and in so doing limit the competitive advantage currently enjoyed by out-of-state business under present administrative procedure.

Section 1. On and after the effective date of this regulation, sales tax does not apply to receipts from sales of tangible personal property to units of local government in Kentucky provided the amount of the sale exceeds $500.

Section 2. The exemption will not be denied because of individual deliveries involving amounts of less than $500 provided such deliveries are made in accordance with the provisions of a sales contract of a fixed amount which exceeds $500. Where individual deliveries are the result of a contract to provide certain quantities at prices prevailing at the time of delivery, each delivery would be considered a separate sale and would be exempt only if it exceeds $500.

MAURICE P. CARPENTER, Commissioner
ADOPTED: January 29, 1975
APPROVED: WILLIAM E. SCENT, Secretary
RECEIVED BY LRC: January 30, 1975 at 10:54 a.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 75-87
January 22, 1975

EMERGENCY REGULATION
Executive Department for Finance and Administration: Traffic Control and Vehicular Parking on the Grounds of the State Capitol and Other State-owned Buildings in Franklin County.

WHEREAS, the Executive Department for Finance and Administration has determined that the parking situation on the State Capitol Grounds has deteriorated to a level to present a danger to the health, safety and welfare of employees working in, and visitors to the State Capitol and Capitol Annex Building; and

WHEREAS, the Executive Department for Finance and Administration, pursuant to the authority of KRS 56.850, has promulgated and adopted the regulation referenced hereinabove which will permit said department to take the appropriate measures as provided for in said regulation to alleviate the present dangerous situation now obtaining; and

WHEREAS, the Executive Department for Finance and Administration has found that prompt and immediate action should be taken to remedy said dangerous situation,

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me, do hereby order and direct that the attached subject regulation be effective immediately upon being filed in the Office of the Legislative Research Commission as provided in KRS Chapter 13.

Done at Frankfort, Kentucky, the 22nd day of January, 1975.

JULIAN M. CARROLL, Governor

THELMA L. STOVALL, Secretary of State

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
200 KAR 3:010E

RELATES TO: KRS Chapter 56
PURSUANT TO: KRS 56.850
SUPERSEDES: KFinR – Serv 1–1.
EFFECTIVE: January 24, 1975
EXPIRES: May 24, 1975
NECESSITY AND FUNCTION: The Department for Finance and Administration is authorized by KRS 56.850 to adopt regulations for the control of vehicular and pedestrian traffic and parking on the grounds of state owned buildings. This regulation establishes the rules for the operation and parking of motor vehicles on the grounds of the State Capitol and all other state owned buildings in Franklin County except those exclusively used by and in the custody of any state agency authorized by law to regulate and control vehicular traffic and parking upon the grounds of such building or buildings.

Section 1. Parking areas or spaces on the grounds of state owned buildings in Franklin County not specifically reserved or restricted as provided in this regulation shall be available for use by all state employees and visitors to such buildings. Employee and visitor parking in parking areas or spaces posted and designated as reserved or restricted parking areas, or spaces, is prohibited. Unauthorized vehicles parked in such areas or spaces are subject to removal from the grounds at the owner's expense. Privately owned vehicles left overnight are subject to removal from the grounds at the owner's expense unless authorization for overnight parking has been obtained from the Security Section, Bureau of Facilities Management, Executive Department for Finance and Administration.

Section 2. Specific parking area or spaces may be posted and designated as reserved for all elected officials and their principal assistants, members of the Judiciary, members of the Governor's and Lieutenant Governor's staffs, members of the Cabinet and their deputies, Heads of Bureaus or comparable grade and position, state owned vehicles and, upon application to the Property Section, Bureau of Facilities Management in the Executive Department for Finance and Administration, temporarily or permanently handicapped employees. All persons authorized to have a reserved parking space shall register their vehicles with the Property Section; a privately owned vehicle parked in a reserved parking area or space not registered shall be subject to removal from the grounds at the owner's expense.

Section 3. Sections or parts of the parking lots of each state owned building may be posted and designated as restricted areas for carpool parking. For purposes of determining eligibility for parking in a carpool parking area, a carpool shall be deemed to consist of three or more state employees who have associated, either casually or regularly, for the purpose of commuting between their homes and official work stations. The parking lot located at the west end of the State Capitol Building and known as the Senate Parking Lot shall be a restricted parking area at all times when the General Assembly is in session with parking restricted to members of the General Assembly. Individual parking spaces within this parking lot may be reserved or restricted from time to time between legislative sessions for parking by members of Interim Committees of the General Assembly and for meetings of the Legislative Research Commission of the General Assembly.

Section 4. So far as it may reasonably be done, all vehicles parked in the parking lots of state owned buildings shall be parked with the front of the vehicle headed into the parking space or lane, between the white lines on the pavement delineating the parking spaces. Vehicles parallel parked shall be parked within the white lines delineating the parking space with the front of the vehicle headed in the direction of the traffic flow. No vehicle shall be parked or left standing unattended next to any yellow painted curb, or on any yellow or white diagonally striped pavement area, in a fire lane, or in any area in which a "no parking" sign has been posted, nor double parked, provided that vehicles may be left standing in such areas, if it may be done without blocking or otherwise impeding the movement of traffic, for not more than five (5) minutes for the purpose of picking up or discharging passengers or cargo.

Section 5. Reserved, restricted and no parking areas shall be posted. Unauthorized vehicles parked in reserved or restricted parking areas or spaces, or in no parking areas shall be subject to tow away and removal from the grounds of such buildings at the owners' expense.

Section 6. Speed limits on roads on the grounds of state owned buildings shall be twenty five (25) miles per hour unless a lower speed limit is posted. All laws and regulations governing the movement and operation of motor vehicles on the public highways of this Commonwealth are hereby adopted and incorporated by reference in and as a part and parcel of this regulation as if copied at length herein and shall be enforced on the grounds of all state owned buildings subject hereto by the Division of Security pursuant to the authority of KRS 56.850 and this regulation. Any person apprehended by the Division of Security or the Kentucky State Police on the grounds of any state owned building for the commission of any moving traffic violation denounced under the laws of this Commonwealth shall be cited to appear and may be prosecuted in the County (Quarterly) Court. All accidents occurring on the grounds of state owned buildings shall be reported to the Division of Security or the State Police. Accident reports shall be compiled by the State Police.

WILLIAM E. SCENT, Commissioner

ADOPTED: January 16, 1975
RECEIVED BY LRC: January 24, 1975 at 3:58 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 75–111
January 31, 1975

EMERGENCY REGULATION
Department of Justice, Bureau of State Police
Promotional System for State Police Officers

WHEREAS, the Commonwealth of Kentucky has a substantial investment in the training of each member of the Kentucky State Police; and

WHEREAS, the Commonwealth cannot receive a fair return on that investment unless an adequate percentage of the members of the Kentucky State Police become career employees; and

WHEREAS, the Department of Justice, Bureau of State Police, has determined and finds that an emergency exists and that there is an immediate necessity to establish a promotional system for officers of the Kentucky State Police; and

WHEREAS, the Commissioner of the Bureau of State Police, in conjunction with the Secretary of Justice, pursuant to KRS 16.050, 16.080, 15A.140 and 15A.160, has promulgated the regulation hereinabove referenced;

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

JULIAN M. CARROLL, Governor

THELMA L. STOVALL, Secretary of State

DEPARTMENT OF JUSTICE
Bureau of State Police
502 KAR 5:010E

RELATES TO: KRS 16.050, 16.080
PURSUANT TO: KRS 15A.140, 15A.160, 16.080
EFFECTIVE: January 31, 1975
EXPIRES: May 31, 1975
NECESSITY AND FUNCTION: KRS 15A.140, 15A.160 and 16.080 empowers the Commissioner, Bureau of State Police in conjunction with the Secretary of Justice, to adopt regulations governing the promotion of State Police officers. This regulation establishes a promotional system for State Police officers.

Section 1. Promotions to sergeant within the Bureau of State Police shall be on the following terms and conditions:
(1) The applicant must be classified as senior trooper to

be eligible for promotion to sergeant.

(2) Promotions shall be based on the highest cumulative score computed from the following criteria:

(a) Thirty percent (30%) on personnel performance evaluation.
(b) Thirty percent (30%) on oral examination.
(c) Forty percent (40%) on a written examination.

(3) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. Upon the determination of a new numerical ranking following a new examination all previous rankings shall be null and void.

(4) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and text books will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken.

(5) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%).

(6) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the following members:

(a) The commissioner or his designated appointee not lower than rank of captain;
(b) An officer from another police agency of the rank equal to the position for which the applicant is competing;
(c) An instructor from an accredited law enforcement education program;
(d) A personnel director from private industry; and
(e) An officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing.

(7) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner.

(8) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the Commissioner of State Police.

Section 2. Promotions from sergeant to lieutenant within the State Police shall be on the same terms and conditions as promotions to sergeant, and in addition any applicant must have completed at least one (1) continuous year of service in grade as sergeant.

Section 3. Promotions from lieutenant to captain within the State Police shall be on the same terms and conditions as promotions to lieutenant, and in addition any applicant must have completed at least one (1) continuous year of service in grade as lieutenant.

Section 4. The Bureau of State Police will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever the vacancy exists.

Section 5. All ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

Section 6. The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

Section 7. No officer of the State Police, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as described by this promotional procedure.

Section 8. There shall be no discrimination on account of race, national origin, color, religion, creed, sex, or political affiliation with respect to the State Police promotional system. All personnel actions are to be based solely on the basis of merit.

TRUETT A. RICKS, Commissioner
ADOPTED: January 30, 1975
APPROVED: HENRI L. MANGEOT, Secretary
RECEIVED BY LRC: January 31, 1975 at 1:49 p.m.

Amended Regulations

In order to show the effect of amendments, original regulations are reprinted with the new matter underscored and deleted material enclosed within brackets.

(The following regulation, as amended to correct a typographical error, was approved by the Administrative Regulation Review Subcommittee on February 5, 1975 and became effective on that date.)

SECRETARY OF THE CABINET
Department of Revenue
103 KAR 18:050
(As Amended)

RELATES TO: KRS 141.330, 141.335
PURSUANT TO: KRS 13.082
AMENDS: 103 KAR 18:050
EFFECTIVE: February 5, 1975
NECESSITY AND FUNCTION: Under authority of KRS 141.335, this regulation specifies the information that is required on employer income tax withholding statements.

Section 1. General. Employers must furnish to each employee, by January 31 following the close of the calendar year, the designated copies of the Withholding Statement, Revenue Form K-2 (the state portions of the combined federal and state withholding statements are also acceptable) if:

(1) Tax has been withheld from wages, or
(2) Tax would have been withheld if the employee had claimed no more than one (1) withholding exemption.

Section 2. Contents. (1) Revenue Form K-2 (or the state portion of the combined withholding statements) must contain the following information:

(a) Employer's and employee's name and address,
(b) Employer withholding account number,
(c) Employee's social security number,
(d) Total wages paid to employee,
(e) Federal income tax withheld, and
(f) Kentucky tax withheld.

(2) Withholding statements prepared incorrectly or on unacceptable forms will be returned to the employer for reissuance. Commercially printed forms must contain a designated space for state name and for state form number. They must also be legible and conform substantially in content and size with the official form. An employer must submit commercially printed substitute forms to the department for written approval before they may be used.

Section 3. Interrupted and Terminated Employment. If employment ends before the close of the calendar year, the designated copy of the withholding statement must be furnished to the employee within thirty (30) days from the last [past] payment of wages. In the case of interrupted employment, where there is reasonable expectation on the part of both employer and employee of further employment during the calendar year, the furnishing of the statement may be deferred to the date when the expectation of further employment during the calendar year ceases to exist.

Section 4. Incorrect and Duplicate Statements. If it becomes necessary to correct a Revenue Form K-2 after it has been issued to an employee, the new statement must be clearly marked "Corrected by Employer." If the statement is lost or destroyed, the employer shall prepare and issue duplicate copies to the employee. The duplicate copies must be clearly marked "Duplicate."

Section 5. Department Copy. Designated copies of all withholding statements issued must be submitted to the department by each employer with Revenue Form K-3 or K-3B. A list totaling the tax withheld as shown on the statements must be submitted. A large number of statements may be grouped in separate units and a list may be submitted for each unit. In such case a summary must be submitted totaling all unit lists. The statements may be submitted to the department in packages of convenient size. The packages must be identified with the name of the employer and consecutively numbered. The number of packages must be indicated immediately following the employer's name on Revenue Form K-3 or K-3B. Revenue Form K-3 or K-3B and the remittance should be filed in the usual manner, accompanied with a statement that the withholding statements are in separate packages. The employer may request permission to submit the department copy in the form of a computer listing. Computer listing requirements will be furnished upon request.

Section 6. Extension. Upon application to the departmen, the Income Tax Division is authorized to grant employers an extension of time, not in excess of thirty (30) days, in which to furnish employees with the designated copy of withholding statements.

MAURICE CARPENTER, Commissioner
ADOPTED: November 26, 1974
APPROVED: JAMES O. KING, Secretary
RECEIVED BY LRC: February 5, 1975 at 2:00 p.m.

(The following regulation, as amended to correct a typographical error, was approved by the Administrative Regulation Review Subcommittee on February 5, 1975 and became effective on that date.)

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky Board of Dentistry
201 KAR 8:340
(As Amended)

RELATES TO: KRS 313.430 [313.340]
PURSUANT TO: KRS 313.220, 13.082
AMENDS: 201 KAR 8:340
EFFECTIVE: February 5, 1975
NECESSITY AND FUNCTION: Sets forth guidelines for establishing date and place of examinations for specialty licensure; incorporates application for specialty licensure in the rules and regulations of this board.

Section 1. (1) Qualifying examinations for licensure to practice a specialty in dentistry shall be held at the same time and place as and in conjunction with the regular dental licensure examination, and shall be conducted in the English language.

(2) Application form to practice a dental specialty, hereto attached, for those desiring to petition this board for the privilege of taking the qualifying examination for licensure is hereby incorporated as a rule of the board and shall have the same force and effect as other rules.

(3) Applicants for specialty licensure must hold a Kentucky license to practice general dentistry prior to being certified as a specialist in this state.

WILLIAM H. FIELDS, D.M.D., Secretary-Treasurer
ADOPTED: September 22, 1974
APPROVED: JAMES O. KING, Commissioner
RECEIVED BY LRC: February 5, 1975 at 2:00 p.m.

(Forms are printed on Page 343 of the January 1, 1975 issue)

(The following regulation was published originally in the December 1, 1974 issue [1 Ky.R. 255]. The issuing agency subsequently gave affirmative consideration to comments received and amended its regulation. The regulation as amended was approved for filing at the February 5, 1975 meeting of the Administrative Regulation Review Subcommittee and became effective on that date.)

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
803 KAR 1:070
(As Amended)

RELATES TO: KRS 337.275, 337.285
PURSUANT TO: KRS 337.295, 13.082
AMENDS: 803 KAR 1:070
EFFECTIVE: February 5, 1975
NECESSITY AND FUNCTION: KRS 337.010(2)(c)(ii) exempts any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner from both the minimum wage and overtime requirements set forth in KRS 337.275 and 337.285. The function of this regulation is to define what constitutes an individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of an outside salesman and outside collector.

Section 1. The term "individual employed in a bona fide executive capacity" shall mean any employe:

(1) whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof;

(2) who customarily and regularly directs the work of two (2) or more other employes therein;

(3) who has the authority to hire or fire other employes or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employes will be given particular weight;

(4) who customarily and regularly exercises discretionary powers;

(5) who does not devote more than twenty percent (20%)[, or, in the case of an employe of a retail or service establishment who does not devote as much as forty percent (40%),] of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in subsections (1) through (4) of this section; provided, that this subsection shall not apply in the case of an employe who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a twenty percent (20%) interest in the enterprise in which he is employed; and

(6) who is compensated for his services on a salary basis at a rate of not less than $155[$160] per week, exclusive of board, lodging, or other facilities; provided, that an employe who is compensated on a salary basis at a rate of not less than $250[$300] per week, exclusive of board, lodging, or other facilities, and whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two (2) or more other employes therein, shall be deemed to meet all of the requirements of this section.

Section 2. The term "individual employed in a bona fide administrative capacity" shall mean any employe:

(1) whose primary duty consists of either: (i) the performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers; or (ii) the performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein;

(2) who customarily and regularly exercises discretion and independent judgment;

(3) (a) who regularly and directly assists a proprietor, or an employe employed in a bona fide executive or administrative capacity, or

(b) who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(c) who executes under only general supervision special assignments and tasks; and

(4) who does not devote more than twenty percent (20%)[, or, in the case of an employe of a retail or service establishment who does not devote as much as forty percent (40%),] of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in subsections (1) through (3) of this section;

(5) (a) who is compensated for his services on a salary or fee basis at a rate of not less than $155[$160] per week, exclusive of board, lodging, or other facilities, or

(b) who, in the case of academic administrative personnel, is compensated for his services as required by subsection (5)(a) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which he is employed; provided, that an employe who is compensated on a salary or fee basis at a rate of not less than $250[$300] per week, exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance of work described in subsection (1) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all of the requirements of this section.

Section 3. The term "individual employed in a bona fide professional capacity" shall mean any employe:

(1) whose primary duty consists of the performance of:

(a) work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(b) work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employe, or

(c) teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher certified or recognized as such in the school system or educational establishment or institution by which he is employed;

(2) whose work requires the consistent exercise of discretion and judgment in its performance;

(3) whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;

(4) who does not devote more than twenty percent (20%) of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in subsections (1) through (3) of this section; and

(5) who is compensated for his services on a salary or fee basis at a rate of not less than $170[$185] per week, exclusive of board, lodging, or other facilities; provided, that this subsection shall not apply in the case of an employe who is engaged in the practice of a physician or a lawyer who is the holder of a valid license permitting such practice, nor in the case of an employe who is the holder of the requisite academic degree to practice as a physician and is engaged in an internship or resident program pursuant to the practice, nor in the case of an employe employed and engaged as a teacher as provided in subsection (1)(c) of this section; and provided further, that an employe who is compensated on a salary or fee basis at a rate of not less than $250[$300] per week, exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance either of work described in subsection (1)(a) or (c) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a

recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.

Section 4. The term "individual employed in a bona fide supervisory capacity" shall mean any employe:

(1) who customarily and regularly directs the work of two (2) or more other employes where he is employed;

(2) who does not devote more than twenty percent (20%)[, or, in the case of an employe of a retail or service establishment who does not devote as much as forty percent (40%),] of his hours of work in the workweek to activities of the same nature as the employes under his supervision; and

(3) who is compensated for his services on a salary basis at a rate of not less than $155[$160] per week, exclusive of board, lodging, or other facilities; provided, that an employe who is compensated on a salary basis at a rate of not less than $250[$300] per week, exclusive of board, lodging, or other facilities, and whose primary duty consists of customarily and regularly directing the work of two (2) or more other employes, shall be deemed to meet all of the requirements of this section.

Section 5. The term "individual employed in the capacity of outside salesman" shall mean any employe:

(1) who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in:

(a) making sales, which shall mean the transfer of title to both tangible and intangible property, or

(b) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer;

(2) whose hours of work of a nature other than those described in subsection (1) of this section do not exceed twenty percent (20%) of the hours worked in the workweek by nonexempt employes of the employer; provided, that work performed incidental to and in conjunction with the employe's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as nonexempt work.

Section 6. The term "individual employed as an outside collector" shall mean any employe:

(1) who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in:

(a) collecting money for goods or services previously or presently furnished by his employer, or

(b) collecting money for an account placed in the hands of his employer for collection; and

(2) whose hours of work of a nature other than those described in subsection (1) of this section do not exceed twenty percent (20%) of the hours worked in the workweek by nonexempt employes of the employer; provided, that work performed incidental to and in conjunction with the employe's own outside collections, shall not be regarded as nonexempt work.

Section 7. Salary basis. (1) An employe will be considered to be paid "on a salary basis" within the meaning of this regulation if under his employment agreement he regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of his compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided below, the employe must receive his full salary for any week in which he performs any work without regard to the number of days or hours worked. This policy is also subject to the general rule that an employe need not be paid for any workweek in which he performs no work.

(a) An employe will not be considered to be "on a salary basis" if deductions from his predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. Accordingly, if the employe is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Deductions may be made, however, when the employe absents himself from work for a day or more for personal reasons, other than sickness or accident. Thus, if an employe is absent for a day or longer to handle personal affairs, his salaried status will not be affected if deductions are made from his salary for such absences.

(c) Deductions may also be made for absences of a day or more occasioned by sickness or disability, if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by both sickness and disability. Thus, if the employer's particular plan, policy or practice provides compensation for such absences, deductions for absences of a day or longer because of sickness or disability may be made before an employe has qualified under such plan, policy, or practice, and after he has exhausted his leave allowance thereunder. It is not required that the employe be paid any portion of his salary for such day or days for which he receives compensation for leave under such plan, policy or practice. Similarly, if the employer operates under a state sickness and disability insurance law, or a private sickness and disability insurance plan, deductions may be made for absences of a working day or longer if benefits are provided in accordance with the particular law or plan. In the case of an industrial accident, the "salary basis" requirement will be met if the employe is compensated for loss of salary in accordance with the applicable compensation law or the plan adopted by the employer, provided the employer also has some plan, policy or practice of providing compensation for sickness and disability other than that relating to industrial accidents.

(d) Deductions may not be made for absences of an employe caused by jury duty, attendance as a witness, or temporary military leave. The employer may, however, offset any amounts received by an employe as jury or witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

(e) The effect of making a deduction which is not permitted under these interpretations will depend upon the facts in the particular case. Where deductions are generally made when there is no work available, it indicates that there was no intention to pay the employe on a salary basis. In such a case the exemption would not be applicable to him during the entire period when such deductions were being made. On the other hand, where a deduction not permitted by these interpretations is inadvertant, or is made for reasons other than lack of work, the exemption will not be considered to have been lost if the employer reimburses the employe for such deductions and promises to comply in the future.

(2) It should be noted that the salary may consist of a predetermined amount constituting all or part of the employe's compensation. In other words, additional compensation besides the salary is not inconsistent with the salary basis of payment.

(3) Failure to pay the full salary in the initial or terminal week of employment is not considered inconsistent with the salary basis of payment. In such weeks the payment of a proportionate part of the employe's salary for the time actually worked will meet the requirement. However, this should not be construed to mean that an employe is on a salary basis within the meaning of the regulation if he is employed occasionally for a few days and is paid a proportionate part of the weekly salary when so employed.

Section 8. Fee basis. (1) The requirements for exemption as a professional or administrative employe may be met by an employe who is compensated on a fee basis as well as by one who is paid on a salary basis.

(2) Little or no difficulty arises in determining whether a particular employment arrangement involves payment on a fee basis. Such arrangements are characterized by the payment of an agreed sum for a single job regardless of the time required for its completion. These payments in a sense resemble piecework payments with the important distinction that generally speaking a fee payment is made for the kind of job which is unique rather than for a series of jobs which are repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(3) The adequacy of a fee payment, whether it amounts to payment at a rate of not less than $170[$185] per week to a professional employe or at a rate of not less than $155[$160] per week to an administrative employe, can ordinarily be determined only after the time worked on the job has been determined. In determining whether payment is at the rate required in this regulation, the amount paid to the employe will be tested by reference to a standard workweek of forty (40) hours. Thus compliance will be tested in each case of a fee payment by determining whether the payment is at a rate which would amount to at least $170[$185] per week to a professional employe or at a rate of not less than $155[$160] per week to an administrative employe if forty (40) hours were worked.

JAMES R. YOCOM, Commissioner of Labor
ADOPTED: January 1, 1975
APPROVED: ELIJAH M. HOGGE, Secretary
RECEIVED BY LRC: January 20, 1975 at 10:34 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
902 KAR 1:020
(Proposed Amendment)

RELATES TO: KRS 217.814 to 217.826 and 217.990(9)(10)
PURSUANT TO: KRS 13.082
AMENDS: 902 KAR 1:020
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the Council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Ampicillin pharmaceutical products by their generic and brand names that have been determined by the Council to be therapeutically equivalent.

Section 1. Ampicillin Capsule Pharmaceutical Products. The following ampicillin capsule pharmaceutical products are

determined to be therapeutically equivalent, in each respective dosage:

(1) Ampicillin 250mg Capsule Form

Alpen	Lederle
Amcill	Parke-Davis
Amperil	Geneva Drugs, Ltd.
Ampicillin	Bocan Drug Company
Ampicillin	International Laboratories, Inc.
Ampicillin	Richie Pharmacal Company
Ampicillin Trihydrate	Bell Pharmacal Corporation
Ampicillin Trihydrate	Paramount Surgical Supply Corp.
Ampicillin Trihydrate	Purepac Pharmaceutical Co.
Ampicillin Trihydrate	Rondex Laboratories, Inc.
Ampicillin Trihydrate	Zenith Laboratories
Omnipen	Wyeth Laboratories
Pen A	Pfizer
Penbritin	Ayerst
Pensyn	Upjohn
Polycillin	Bristol
Principen	Squibb
QIDamp	Mallinckrodt Chemical Works
SK-Ampicillin	Smith, Kline & French
Supen	Reid-Provident Laboratories, Inc.
Totacillin	Beecham-Massengill
Vampen	Vangard Laboratories

(2) Ampicillin 500mg Capsule Form

Alpen	Lederle
Amcill	Parke-Davis
Amperil	Geneva Drugs, Ltd.
Ampicillin	Bocan Drug Company
Ampicillin	International Laboratories, Inc.
Ampicillin	Richie Pharmacal Company
Ampicillin Trihydrate	Bell Pharmacal Corporation
Ampicillin Trihydrate	Paramount Surgical Supply Corp.
Ampicillin Trihydrate	Purpac Pharmaceutical Co.
Ampicillin Trihydrate	Rondex Laboratories, Inc.
Ampicillin Trihydrate	Zenith Laboratories
Omnipen	Wyeth Laboratories
Pen A	Pfizer
Penbritin	Ayerst
Pensyn	Upjohn
Polycillin	Bristol
Principen	Squibb
QIDamp	Mallinckrodt Chemical Works
SK-Ampicillin	Smith, Kline & French
Supen	Reid-Provident Laboratories, Inc.
Totacillin	Beecham-Massengill
Vampen	Vangard Laboratories

Section 2. Ampicillin Oral Suspension Pharmaceutical Products. The following ampicillin oral suspension pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Ampicillin 125mg per 5ml Oral Suspension

Alpen	Lederle
Amcill	Parke-Davis
Ampicillin	Bocan Drug Company
Ampicillin	International Laboratories, Inc.
Ampicillin Trihydrate	Bell Pharmacal Corporation
Omnipen	Wyeth Laboratories
Pen A	Pfizer
Penbritin	Ayerst
Pensyn	Upjohn
Polycillin	Bristol
Principen	Squibb
QIDamp	Mallinckrodt Chemical Works
SK-Ampicillin	Smith, Kline & French
Supen	Reid-Provident Laboratories, Inc.
Totacillin	Beecham-Massengill
Vampen	Vangard Laboratories

(2) Ampicillin 250mg per 5ml Oral Suspension

Alpen	Lederle
Amcill	Parke-Davis
Ampicillin	Bocan Drug Company
Ampicillin	International Laboratories, Inc.
Ampicillin Trihydrate	Bell Pharmacal Corporation
Omnipen	Wyeth Laboratories
Pen A	Pfizer
Penbritin	Ayerst
Pensyn	Upjohn
Polycillin	Bristol
Principen	Squibb
QIDamp	Mallinckrodt Chemical Works
SK-Ampicillin	Smith, Kline & French
Supen	Reid-Provident Laboratories, Inc.
Totacillin	Beecham-Massengill
Vampen	Vangard Laboratories

E. C. SEELEY, M.D., Chairperson
APPROVED: C. LESLIE DAWSON, Secretary
ADOPTED: November 14, 1974
RECEIVED BY LRC: February 14, 1975 at 2:37 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
902 KAR 1:030
(Proposed Amendment)

RELATES TO: KRS 217.814 to 217.826 and 217.990 (9) (10)
PURSUANT TO: KRS 13.082
AMENDS: 902 KAR 1:030

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the Council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Erythromycin pharmaceutical products by their generic and brand names that have been determined by the Council to be therapeutically equivalent. This regulation relates to four (4) separate entities of erythromycins, viz: erythromycin base; erythromycin stearate; erythromycin ethyl succinate; and erythromycin estolate.

Section 1. Erythromycin Estolate Pharmaceutical Product. The following erythromycin estolate pharmaceutical product is not interchangeable with any other erythromycin product:

Ilosone	Eli Lilly & Company

Note: No other current product is considered therapeutically equivalent.

Section 2. Erythromycin Base Pharmaceutical Products. The following erythromycin base pharmaceutical products, 250mg. solid oral dosage form, are considered to be therapeutically equivalent:

E-Mycin	Upjohn Company
Erythromycin Base	Abbott Laboratories
Erythromycin Base	Bocan Drug Company
Erythromycin Base	I.L.I. Atlanta
Ilotycin	Eli Lilly & Company
Kesso-Mycin	McKesson Laboratories
Robimycin	A. H. Robins Co., Inc.
RP-mycin	Reid-Provident Laboratories, Inc.

Section 3. Erythromycin Stearate Pharmaceutical Products. The following erythromycin stearate pharmaceutical products; 125mg., 250mg., and 500mg. solid oral dosage form, are considered to be therapeutically equivalent in each respective dosage:

Erypar	Parke-Davis & Company
Erythrocin Stearate Filmtab	Abbott Laboratories
Erythromycin Stearate	Alliance Laboratories, Inc.
Erythromycin Stearate	Columbia Medical Company
Erythromycin Stearate	Bell Pharmacal Corporation
Erythromycin Stearate	Mylan Pharmaceuticals
Erythromycin Stearate	Paramount Surgical Supply Corp.
Erythromycin Stearate	Purepac Pharmaceutical Company
Erythromycin Stearate	Rexall Drug Company
Erythromycin Stearate	Richie Pharmacal Company
Erythromycin Stearate	Rondex Laboratories
Erythromycin Stearate	Wyeth Laboratories
Erythromycin Stearate	Zenith Laboratories
Pfizer-E	Pfizer Laboratories
QIDmycin	Mallinckrodt Chemical Works
Ronvet	Geneva Drugs, Ltd.
Sk-Erythromycin	Smith, Kline & French Laboratories
V-Mycin	Vangard Laboratories

Note: All manufacturers may not produce the products listed above in all dosage forms.

Section 4. Erythromycin Ethyl Succinate Pharmaceutical Products. The following erythromycin ethyl succinate pharmaceutical products: oral suspension; chewable tablets; drops 100mg. per 2.5ml.; and granules 200 mg. per 5ml. are considered to be therapeutically equivalent within the respective dosage form:

(1) Oral Suspension 200mg. per 5ml.

Erythrocin Liquid	Abbott Laboratories
Pediamycin	Ross Laboratories

(2) Chewable Tablets

Erythrocin	Abbott Laboratories
Pediamycin	Ross Laboratories

(3) Drops 100mg. per 2.5ml

Erythrocin	Abbott Laboratories
Pediamycin	Ross Laboratories

E. C. SEELEY, M.D., Chairperson
APPROVED: C. LESLIE DAWSON, Secretary
ADOPTED: November 14, 1974
RECEIVED BY LRC: February 14, 1975 at 2:41 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
902 KAR 1:040
(Proposed Amendment)

RELATES TO: KRS 217.814 to 217.826 and 217.990(9)(10)
PURSUANT TO: KRS 13.082
AMENDS: 902 KAR 1:040

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the Council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Penicillin-G pharmaceutical products

by their generic and brand names that have been determined by the Council to be therapeutically equivalent.

Section 1. Penicillin-G Tablet Pharmaceutical Products. The following Penicillin-G tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Penicillin-G Tablets 100,000 USP Units

Potassium Penicillin-G	Columbia Medical Company
Potassium Penicillin-G	Eli Lilly & Company
Vanpen-G	Vangard Laboratories

(2) Penicillin-G Tablets 200,000 USP Units

Kesso-Pen	McKesson Laboratories
Pen-Tabs	Rexall Drug Company
Potassium Penicillin-G	Alliance Laboratories, Inc.
Potassium Penicillin-G	Columbia Medical Company
Potassium Penicillin-G	Dow Pharmaceuticals
Potassium Penicillin-G	Mylan Laboratories
Potassium Penicillin-G	Wyeth Laboratories
Pentids	E. R. Squibb & Sons., Inc.
Pfizerpen G	Pfizer Laboratories
Vanpen G	Vangard Laboratories

(3) Penicillin-G Tablets 250,000 USP Units

Kesso-Pen	McKesson Laboratories
Pen-Tabs	Rexall Drug Company
Pfizerpen G	Pfizer Laboratories
Potassium Penicillin-G	Alliance Laboratories, Inc.
Potassium Penicillin-G	Columbia Medical Company
Potassium Penicillin-G	Eli Lilly & Company
Potassium Penicillin-G	Mylan Laboratories
Potassium Penicillin-G	Purepac Pharmaceutical Co.
Potassium Penicillin-G	Richie Pharmacal Co., Inc.
Potassium Penicillin-G	Rondex Laboratories
Potassium Penicillin-G	Wyeth Laboratories
Vanpen G	Vangard Laboratories

(4) Penicillin-G Tablets 400,000 USP Units

Kesso-Pen	McKesson Laboratories
Pen-Tabs	Rexall Drug Company
Pentids "400"	E. R. Squibb & Sons, Inc.
Pfizerpen G	Pfizer Laboratories
Potassium Penicillin-G	Alliance Laboratories, Inc.
Potassium Penicillin-G	Columbia Medical Company
Potassium Penicillin-G	Dow Pharmaceuticals
Potassium Penicillin-G	Mylan Laboratories
Potassium Penicillin-G	Parke-Davis & Company
Potassium Penicillin-G	Purepac Pharmaceutical Co.
Potassium Penicillin-G	Richie Pharmacal Co., Inc.
Potassium Penicillin-G	Rondex Laboratories
Potassium Penicillin-G	Wyeth Laboratories
QIDpen G	Mallinckrodt Chemical Works
Vanpen G	Vangard Laboratories

(5) Penicillin-G Tablets 500,000 USP Units

Pen-Tabs	Rexall Drug Company
Potassium Penicillin-G	Columbia Medical Company
Vanpen G	Vangard Laboratories

(6) Penicillin-G Tablets 800,000 USP Units

Pentids "800"	E. R. Squibb & Sons, Inc.
Pfizerpen G	Pfizer Laboratories

Section 2. Penicillin-G Oral Liquid Pharmaceutical Products. The following Penicillin-G pharmaceutical products for oral liquids are determined to be therapeutically equivalent, in each respective dosage:

(1) Penicillin-G Oral Liquids 200,000 Units

Kesso-Pen	McKesson Laboratories
Vanpen G	Vangard Laboratories

(2) Penicillin-G Oral Liquids 250,000 Units

Sugarcillin	Upjohn
Vanpen G	Vangard Laboratories

(3) Penicillin-G Oral Liquids 400,000 Units

Kesso-Pen	McKesson Laboratories
Pfizerpen G	Pfizer Laboratories
Vanpen G	Vangard Laboratories

E. C. SEELEY, M.D., Chairperson
C. LESLIE DAWSON, Secretary

APPROVED:
ADOPTED: November 14, 1974
RECEIVED BY LRC: February 14, 1975 at 2:38 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
902 KAR 1:050
(Proposed Amendment)

RELATES TO: KRS 217.814 to 217.826 and 217.990 (9) (10)
PURSUANT TO: KRS 13.082
AMENDS: 902 KAR 1:050

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Forumlary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the Council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Phenoxymethyl Penicillin (Penicillin V) pharmaceutical products by their generic and brand names that have been determined by the Council to be therapeutically equivalent.

Section 1. Phenoxymethyl Penicillin (Penicillin V) Tablet Pharmaceutical Products. The following Penicillin V tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Penicillin V Tablets 125mg

Compocillin VK	Abbott Laboratories
Paclin VK	Geneva Drugs, Ltd.
Pen Vee K	Wyeth Laboratories
Phenoxymethyl Penicillin	Paramount Surgical Supply Corp.
Phenoxymethyl Penicillin	Purepac Pharmaceutical Co.
Phenoxymethyl Penicillin	Rondex Laboratories
Phenoxymethyl Penicillin	Zenith Laboratories
Vanpen VK	Vangard Laboratories
V-Cillin-K	Eli Lilly & Company

(2) Penicillin V Tablets 250mg

Compocillin VK	Abbott Laboratories
Dowpen VK	Dow Pharmaceuticals
Kesso-Pen-VK	McKesson Laboratories
Paclin VK	Geneva Drugs, Ltd.
Penicillin V	Columbia Medical Company
Penicillin VK	Phillips-Roxane Labs., Inc.
Penicillin VK	Richie Pharmacal Co., Inc.
Pen Vee K	Wyeth Laboratories, Inc.
Pfizerpen VK	Pfizer Laboratories
Phenoxymethyl Penicillin	Mylan Laboratories
Phenoxymethyl Penicillin	Paramount Surgical Supply Corp.
Phenoxymethyl Penicillin	Purepac Pharmaceutical Co.
Phenoxymethyl Penicillin	Rexall Drug Company
Phenoxymethyl Penicillin	Rondex Laboratories
Phenoxymethyl Penicillin	Zenith Laboratories
QIDpen VK	Mallinckrodt Chemical Works
Robicillin VK	A. H. Robins Co.
SK-Penicillin-VK	Smith, Kline & French
Uticillin VK	Upjohn Company
Vanpen VK (oval or round)	Vangard Laboratories
V-Cillin-K	Eli Lilly & Company
Veetids	E. R. Squibb & Sons, Inc.

(3) Penicillin V Tablets 500mg

Compocillin VK	Abbott Laboratories
Dowpen VK	Dow Pharmaceuticals
Kesso-Pen-VK	McKesson Laboratories
Penapar VK	Parke-Davis & Company
Pencillin V	Columbia Medical Company
Pencillin VK	Phillips-Roxane Labs., Inc.
Pen Vee K	Wyeth Laboratories, Inc.
Pfizerpen VK	Pfizer Laboratories
Phenoxymethyl Penicillin	Mylan Laboratories
QIDpen VK	Mallinckrodt Chemical Works
Robicillin VK	A. H. Robins Co.
SK-Penicillin-VK	Smith, Kline & French
Uticillin VK	Upjohn Company
Vanpen VK	Vangard Laboratories
V-Cillin-K	Eli Lilly & Company
Veetids	E. R. Squibb & Sons, Inc.

Section 2. Phenoxymethyl Penicillin (Penicillin V) Oral Liquid Pharmaceutical Products. The following Penicillin V pharmaceutical products for oral liquids are considered to be therapeutically equivalent, in each respective dosage:

(1) Penicillin V Powders or Granules for Oral Liquid Dosage 125mg

Compocillin VK	Abbott Laboratories
Kesso-Pen-VK	McKesson Laboratories
Penapar VK	Parke-Davis & Company
Penicillin V	Columbia Medical Company
Penicillin VK	Richie Pharmacal Co., Inc.
Pen Vee K	Wyeth Laboratories, Inc.
Pfizerpen VK	Pfizer Laboratories
Phenoxymethyl Penicillin	Mylan Laboratories
Phenoxymethyl Penicillin	Rexall Drug Company
QIDpen VK	Mallinckrodt Chemical Works
Robicillin VK	A. H. Robins Co.
SK-Penicillin-VK	Smith, Kline & French
Uticillin VK	Upjohn Company
Vanpen VK	Vangard Laboratories
V-Cillin-K	Eli Lilly & Company
Veetids	E. R. Squibb & Sons, Inc.

(2) Penicillin V Powders or Granules for Oral Liquid Dosage 250mg

Compocillin VK	Abbott Laboratories
Kesso-Pen-VK	McKesson Laboratories
Penapar VK	Parke-Davis & Company
Penicillin V	Columbia Medical Company
Penicillin VK	Richie Pharmacal Co., Inc.
Pen Vee K	Wyeth Laboratories, Inc.
Pfizerpen VK	Pfizer Laboratories
Phenoxymethyl Penicillin	Mylan Laboratories
Phenoxymethyl Penicillin	Rexall Drug Company
QIDpen VK	Mallinckrodt Chemical Works
Robicillin VK	A. H. Robins Co.
SK-Penicillin-VK	Smith, Kline & French
Uticillin VK	Upjohn Company
Vanpen VK	Vangard Laboratories
V-Cillin-K	Eli Lilly & Company
Veetids	E. R. Squibb & Sons, Inc.

E. C. SEELEY, M.D., Chairperson
C. LESLIE DAWSON, Secretary

APPROVED:
ADOPTED: November 14, 1974
RECEIVED BY LRC: February 14, 1975 at 2:41 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

Proposed Regulations

SECRETARY OF THE CABINET
Kentucky Teachers' Retirement System
(102 KAR 1:185)

RELATES TO: KRS 61.552, 61.680, 161.706
PURSUANT TO: KRS 161.310, 13.082
NECESSITY AND FUNCTION: KRS 61.552, 61.680 and 161.706 set out a broad program of reciprocity among the various retirement systems administered under provisions of KRS Chapters 61 and 161. This regulation defines in detail the benefits to be provided and the administrative procedures to be followed in arriving at the appropriate payments to be made to eligible persons.

Section 1. Administrative procedures applying to members having creditable service in County Employes Retirement System, Kentucky Employes Retirement System, or State Police Retirement System, and Teachers' Retirement System. Upon death, disability or service retirement the following procedure shall be applicable to a member having an account in more than one (1) retirement system:

(1) Combine the member's service in all systems.

(2) Determine eligibility in each system based on combined service.

(3) If eligible in any system, determine benefits.

(4) Check for specific exceptions such as prior service, request for separate account or special death or disability exception.

Section 2. Service Retirement Benefits. (1) A member eligible to retire who elects service retirement from one (1) system, shall be paid from all systems in which he has an account unless he requests that his accounts be separated.

(2) The "final average salary" will be calculated by using the five (5) highest annual salaries regardless of the system under which the service was covered. Calculations will be based on the procedures in use by each system concerned.

(3) Each system will determine benefit payments on the basis of the final average salary and service credited in that system. Payments will be made by each system in accordance with its usual procedures, except where the normal age requirement has not been met, benefits shall be actuarially reduced.

(4) The member will not be required to elect the same retirement option in both systems. Each annuity option will apply only to the system for which it is elected.

(5) A member may elect to have each system treat his service credit in that system without regard to any other service credit, by requesting that his accounts be separated. In this case, "final average salary" would be based on the salaries earned under each system separately.

(6) The minimum annuity of fifty-five dollars ($55) per month provided in KRS 161.620 shall not apply to persons retiring with less than five (5) years service in the Teachers' REtirement System.

Section 3. Disability Retirement Benefits. (1) If a member qualifies for disability benefits based on the service in the system in which he is currently a contributing member, then he will receive disability benefits from that system based on the formula used by that system and other system(s) will pay:

(a) Benefits based on separate accounts should the member elect to maintain separate accounts, or

(b) An actuarial accrued benefit based on the member's age, service, and final compensation, if eligible for such benefit, or

(c) A refund if requested by the member.

(2) If the combined service in two (2) or more systems is used to qualify a member for benefits, all systems under which the combined service would meet service requirements would participate in benefit payments. Each system would calculate benefits using the formula in effect in that system. TRS would pay benefits during the eligibility period in proportion to the service in TRS as it relates to total combined service. After the expiration of the eligibility period, the benefit would be recalculated on the basis of TRS service without discount.

(3) If the combined service of a member meets service requirements in only one (1) system then that system only pays benefits under their disability formula and the other system pays as outlined under subsection (1)(a) to (c) above.

(4) The medical requirements for disability benefits will be those of the system to which the member is currently contributing, if combined service meets service requirements of that system. If service requirements are met in only one (1) system, the medical requirements of that system will prevail regardless of current employment in another system.

Section 4. Death and Survivor Benefits. (1) An active member with TRS service who has not qualified for TRS service retirement at time of death would have death and survivor benefit coverage as follows:

(a) A TRS member currently employed in a position covered by the TRS would have full coverage for benefits provided by KRS 161.520 and KRS 161.655 without regard to service in any other system.

(b) A TRS member currently employed in a position covered by CERS, KERS, or SPRS would qualify for coverage in proportion to the service in TRS as it relates to total combined service.

(c) Service in either of the four (4) systems concerned would serve to continue coverage under TRS if member was covered at the termination of employment under TRS and did not withdraw his account with TRS. Such coverage would continue until such time as the member became eligible for death and/or survivor benefits in the system under which he is currently employed.

(2) An active member with TRS service who has qualified for service retirement at time of death would have coverage for death and survivors benefits as follows:

(a) If the member had sufficient TRS service to qualify for retirement on that service only, full benefits would be payable to qualified survivors as provided in KRS 161.520, 161.525 and 161.655. The annuity portion would be calculated as provided in KRS 61.680 and actuarially adjusted for age and sex of the eligible survivor.

(b) If the member qualified for retirement only on the basis of combined service, the beneftis under KRS 161.520 and 161.655 would be paid in the same proportion as the TRS service was to total combined service. The annuity portion would be calculated as provided in subsection (2)(a) above.

Section 5. Reinstatement of Withdrawn Account. A former member of TRS who has withdrawn his account and last service credit may reinstate his account and service credit under TRS provided:

(1) He is a contributing member to either CERS, KERS, or SPRS;

(2) Has contributing service under any of the three (3) systems equal to two (2) years or the number of years subsequent to withdrawal of contributions, whichever is the lesser number, and obtains six (6) months additional service in either CERS, KERS, or SPRS after payment of recontribution; and

(3) If Prior Service is involved the member must have one (1) or more years contributing service in TRS subsequent to July 1, 1941.

Section 6. Military Service. A member having valid service credit in more than one (1) of the retirement systems may elect to purchase retirement credit for active duty time in one (1) system; or he may divide the service credit between two (2) systems. If service is to be divided the following additional requirements must be met:

(1) The total military service credit in all systems may not exceed six (6) years.

(2) The same years active duty may not be used in more than one (1) system.

(3) Each system will calculate the costs of such military retirement credit in keeping with the statutes and regulations of that system.

Section 7. Medical Insurance Coverage. TRS members qualifying for retirement on combined service, but having less than five (5) years service in TRS shall not be included for coverage under the TRS Hospital-Medical Insurance Program.

Section 8. Actuarial Factors to be Applied. Where a person is entitled to an actuarially reduced benefit due to failure to meet age requirements for normal retirement, the actuarial discount shall be three percent (3%) for each year the member is less than normal retirement age (KRS 161.620(1)).

TED L. CROSTHWAIT, Executive Secretary
ADOPTED: December 16, 1974
RECEIVED BY LRC: January 29, 1975 at 4:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Ted L. Crothwait, Executive Secretary, Teachers' Retirement System, 216 West Main Street, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET
Department of Revenue
(103 KAR 30:220)

RELATES TO: KRS 139.470
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 139.470(1) exempts from sales and use tax those transactions which the state is prohibited from taxing under the Kentucky Constitution. (Section 170) During the first several years of its existence, the sales and use tax law was administered on the basis that the exemption for "public property used for public purposes" in Section 170 applied only to ad valorem property tax and not to sales-use tax. However, the Court of Appeals has ruled that to impose use tax on out-of-state purchases by a city violates Section 170 of the Kentucky Constitution. The sales tax, which applies to sales made by Kentucky vendors, was not an issue before the court and has continued to be levied on sales to local governments. This has resulted in placing Kentucky retailers at a serious competitive disadvantage where the sales transaction involves a relatively large amount. Thus, a significant volume of business is being lost to out-of-state competitors by Kentucky businesses who also pay income, property, and other taxes in Kentucky. This regulation is needed to reconcile administration of the sales-use tax law with the requirements of the Kentucky Constitution and in so doing

limit the competitive advantage currently enjoyed by out-of-state business under present administrative procedure.

Section 1. On and after the effective date of this regulation, sales tax does not apply to receipts from sales of tangible personal property to units of local government in Kentucky provided the amount of the sale exceeds $500.

Section 2. The exemption will not be denied because of individual deliveries involving amounts of less than $500 provided such deliveries are made in accordance with the provisions of a sales contract of a fixed amount which exceeds $500. Where individual deliveries are the result of a contract to provide certain quantities at prices prevailing at the time of delivery, each delivery would be considered a separate sale and would be exempt only if it exceeds $500.

MAURICE P. CARPENTER, Commissioner
ADOPTED: January 29, 1975
APPROVED: WILLIAM E. SCENT, Secretary
RECEIVED BY LRC: January 30, 1975 at 10:54 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
(200 KAR 3:010)

RELATES TO: KRS Chapter 56
PURSUANT TO: KRS 56.850
SUPERSEDES: KFinR — Serv 1-1.
NECESSITY AND FUNCTION: The Department for Finance and Administration is authorized by KRS 56.850 to adopt regulations for the control of vehicular and pedestrian traffic and parking on the grounds of state owned buildings. This regulation establishes the rules for the operation and parking of motor vehicles on the grounds of the State Capitol and all other state owned buildings in Franklin County except those exclusively used by and in the custody of any state agency authorized by law to regulate and control vehicular traffic and parking upon the grounds of such building or buildings.

Section 1. Parking areas or spaces on the grounds of state owned buildings in Franklin County not specifically reserved or restricted as provided in this regulation shall be available for use by all state employees and visitors to such buildings. Employee and visitor parking in parking areas or spaces posted and designated as reserved or restricted parking areas, or spaces, is prohibited. Unauthorized vehicles parked in such areas or spaces are subject to removal from the grounds at the owner's expense. Privately owned vehicles left overnight are subject to removal from the grounds at the owner's expense unless authorization for overnight parking has been obtained from the Security Section, Bureau of Facilities Management, Executive Department for Finance and Administration.

Section 2. Specific parking area or spaces may be posted and designated as reserved for all elected officials and their principal assistants, members of the Judiciary, members of the Governor's and Lieutenant Governor's staffs, members of the Cabinet and their deputies, Heads of Bureaus or comparable grade and position, state owned vehicles and, upon application to the Property Section, Bureau of Facilities Management in the Executive Department for Finance and Administration, temporarily or permanently handicapped employees. All persons authorized to have a reserved parking space shall register their vehicles with the Property Section; a privately owned vehicle parked in a reserved parking area or space not registered shall be subject to removal from the grounds at the owner's expense.

Section 3. Sections or parts of the parking lots of each state owned building may be posted and designated as restricted areas for carpool parking. For purposes of determining eligibility for parking in a carpool parking area, a carpool shall be deemed to consist of three or more state employees who have associated, either casually or regularly, for the purpose of commuting between their homes and official work stations. The parking lot located at the west end of the State Capitol Building and known as the Senate Parking Lot shall be a restricted parking area at all times when the General Assembly is in session with parking restricted to members of the General Assembly. Individual parking spaces within this parking lot may be reserved or restricted from time to time between legislative sessions for parking by members of Interim Committees of the General Assembly and for meetings of the Legislative Research Commission of the General Assembly.

Section 4. So far as it may reasonably be done, all vehicles parked in the parking lots of state owned buildings shall be parked with the front of the vehicle headed into the parking space or lane, between the white lines on the pavement delineating the parking spaces. Vehicles parallel parked shall be parked within the white lines delineating the parking space with the front of the vehicle headed in the direction of the traffic flow. No vehicle shall be parked or left standing unattended next to any yellow painted curb, or on any yellow or white diagonally striped pavement area, in a fire lane, or in any area in which a "no parking" sign has been posted, nor double parked, provided that vehicles may be left standing in such areas, if it may be done without blocking or otherwise impeding the movement of traffic, for not more than five (5) minutes for the purpose of picking up or discharging passengers or cargo.

Section 5. Reserved, restricted and no parking areas shall be posted. Unauthorized vehicles parked in reserved or restricted parking areas or spaces, or in no parking areas shall be subject to tow away and removal from the grounds of such buildings at the owners' expense.

Section 6. Speed limits on roads on the grounds of state owned buildings shall be twenty five (25) miles per hour unless a lower speed limit is posted. All laws and regulations governing the movement and operation of motor vehicles on the public highways of this Commonwealth are hereby adopted and incorporated by reference in and as a part and parcel of this regulation as if copied at length herein and shall be enforced on the grounds of all state owned buildings subject hereto by the Division of Security pursuant to the authority of KRS 56.850 and this regulation. Any person apprehended by the Division of Security or the Kentucky State Police on the grounds of any state owned building for the commission of any moving traffic violation denounced under the laws of this Commonwealth shall be cited to appear and may be prosecuted in the County (Quarterly) Court. All accidents occurring on the grounds of state owned buildings shall be reported to the Division of Security or the State Police. Accident reports shall be compiled by the State Police.

WILLIAM E. SCENT, Commissioner
ADOPTED: January 16, 1975
RECEIVED BY LRC: January 17, 1975 at 3:28 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Executive Department for Finance and Administration, 301 Capitol Annex, Frankfort, Kentucky 40601.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Office for Local Government
(200 KAR 10:010)

RELATES TO: KRS Chapter 147A
PURSUANT TO: KRS 147A.060
SUPERSEDES: OLG-Rg-1
NECESSITY AND FUNCTION: KRS 147A.060 requires that the composition of the Board of Directors and the terms of its members in each district shall be specified by administrative regulation issued by the Executive Department for Finance and Administration.

Section 1. Definitions: (1) "Area Development Districts" means the fifteen (15) Area Development Districts as set out in KRS 147A.050.
(2) "Board of Directors" means the Boards of Directors established in each Area Development District as set out in KRS 147A.060 to 147A.090.

Section 2. Composition: The Board of Directors of each Area Development District shall consist of the categories and memberships as hereinafter enumerated, and the composition characteristics hereinafter specified, including geography and interest groups. It shall incorporate sufficient flexibility to conform to federal requirements.

Section 3. Ex Officio Members: A simple majority of the Board of Directors of each Area Development District shall be composed of elected officials.
(1) The county judge of each county located within the Area Development District shall be a member of the Board of Directors.
(2) A mayor of at least one (1) incorporated city in each county located within the Area Development District shall be a member of the Board of Directors.
(a) The mayor of each city of the first, second or third class located in the Area Development District shall be a member of the Board of Directors.
(b) If more than one (1) incorporated city below the third class is located within a county of the Area Development District, the Board of Directors shall establish the procedure in which a mayor will be selected.
(3) The Board of Directors may make provision for ex officio membership of additional elected officials. In this regard, membership for State Legislators should be encouraged.
(4) Elected officials, as noted above, may authorize by written proxy alternates to represent their interests on the Board of Directors. A person so designated shall serve at the pleasure of the elected official who designated him or her, and any action taken or vote cast by a designated alternate shall be considered the action or vote of the designating elected official. Designated alternates who are not elected officials must meet the requirements of citizen members as set out hereinafter.

Section 4. Citizen Members: (1) A citizen member must reside within the Area Development District.
(2) The elected public officials serving on the Board of Directors shall elect citizen members in accordance with the procedure hereinafter set out:
(a) Each Board of Directors shall make provision for the

inclusion of reasonable representation relative to population in the district of major minority groups. Provision should also be made for adequate representation of women on the Board.

(b) Each Board of Directors shall make provisions for representation of low-income groups.

Section 5. Advisory Committee Chairmen: The chairmen of functional advisory committees of the Board of Directors may serve as members of the Board of Directors.

Section 6. Elections; Tenure: (1) Elected public officials shall serve on the Board of Directors of each Area Development District during the tenure of their public office.

(2) Citizen members shall be individually elected to the Board of Directors for terms not to exceed three (3) years.

(3) The Board of Directors of each Area Development District shall provide for staggered terms to assure continuity of involvement by citizen members.

(4) Each Board of Directors shall provide for rotation of citizen members to insure broad participation of the citizens of the District.

Section 7. Termination of Membership: (1) Citizen Board membership shall terminate on expiration of a term, board acceptance of a resignation, or change of residence to locality outside the Area Development District.

(2) The Board of Directors may declare a membership vacant when a member has failed, without reason, to attend three successive regular or special meetings of the board.

Section 8. Officers: (1) The Board of Directors of each Area Development District shall elect the following officers: a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such other officers as the board may deem necessary. The office of Secretary and Treasurer may be combined. Each officer shall be elected for a term of one (1) year. No member shall be eligible to hold more than one office at a time, and no officer shall be eligible to serve more than two (2) full terms consecutively in the same office. Officers shall perform such duties as may be prescribed by the Board of Directors.

(2) Annual election of officers shall be held at a designated regular board meeting in each calendar year.

WILLIAM E. SCENT, Commissioner

ADOPTED: February 1, 1975
RECEIVED BY LRC: February 4, 1975 at 2:49 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Allan D. Spader, Executive Director, Office for Local Government, Capitol Annex, Frankfort, Kentucky 40601.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Office for Local Government
(200 KAR 10:030)

RELATES TO: KRS Chapter 66
PURSUANT TO: KRS Chapters 42, 66
SUPERSEDES: FIN-LFO-1
NECESSITY AND FUNCTION: KRS Chapter 66.045 requires the State-Local Finance Officer to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest rate and to require such reports from local governments as will enable him adequately to provide technical and advisory assistance and maintain the necessary information for a complete file on local government debt.

Section 1. (1) Prior to delivery of any bonds, the issuer, fiscal agent, or bond attorney shall give notification to the State-Local Finance Officer in accordance with KRS 66.045 of all bonds to be issued by or on behalf of any local government, except those bond issues specified in Section 2.

(2) Such notification shall include:

(a) The official statement of the terms and conditions of the issue offered for sale.

(b) A certified copy of the resolution of the governing body of the issuing agency which recites the bids received and accepts the successful bid.

(c) The following information, if not contained in the documents specified in paragraphs (a) and (b) of this subsection or if either of those documents are not available:

1. Maturity schedule.
2. Tabulation of all bids received indicating successful bidder.
3. Date of issue.
4. Purpose.
5. Paying agent or agents.
6. Name of successful bidder.

Section 2. The State-Local Finance Officer need not be given notification of the following bond issues:

(1) All bond issues:

(a) By school districts, or

(b) On behalf of school districts such as, for example, school revenue bonds issued by counties or cities acting on behalf of school districts.

(2) All bond issues of the following state agencies:

(a) State Property and Buildings Commission;

(b) State Universities and Colleges;

(c) Kentucky Turnpike Authority.

WILLIAM E. SCENT, Commissioner

ADOPTED: February 1, 1975
RECEIVED BY LRC: February 4, 1975 at 2:48 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Allan D. Spader, Executive Director, Office for Local Government, Capitol Annex, Frankfort, Kentucky 40601.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky Board of Dentistry
(201 KAR 8:185)

RELATES TO: KRS 313.050
PURSUANT TO: KRS 313.220
SUPERSEDES: Den:G:E5
NECESSITY AND FUNCTION: Sets forth requirements and qualifications for the written examination prior to the candidates' participation in the clinical examination.

Section 1. (1) Written examination: To successfully complete the written portion of the Kentucky Board of Dentistry's licensure examination, all applicants must have achieved an overall average of at least seventy-five percent (75%) on the examination conducted by the Council of National Board of Dental Examiners.

(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Dentistry's licensure examination.

WILLIAM H. FIELDS, D.M.D., Secretary-Treasurer

ADOPTED: January 19, 1975
RECEIVED BY LRC: February 4, 1975 at 2:48 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Treasurer, Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky Board of Dentistry
(201 KAR 8:277)

RELATES TO: KRS 313.270
PURSUANT TO: KRS 313.270
SUPERSEDES: Den:H:E1-1
NECESSITY AND FUNCTION: Sets forth requirements and qualifications for the written examination prior to the candidates' participation in the clinical examination.

Section 1. The provisions of 201 KAR 8:180, 201 KAR 8:190 and 201 KAR 8:185 shall be applicable to dental hygienists for the purpose of establishing the time of examination, and the grading of the examinations of all applicants for a license to practice dental hygiene, and such other provisions of these rules as pertain to the procedures and conducting of examinations.

Section 2. (1) Written examination: To successfully complete the written portion of the Kentucky Board of Dentistry's licensure examination, all applicants must have achieved an overall average of at least seventy-five percent (75%) on the examination conducted by the Council of National Board of Dental Examiners.

(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Dentistry's licensure examination.

Section 3. Clinical examination: An overall average of at least seventy-five percent (75%) is required for successful completion of the clinical section of the Kentucky Board of Dentistry's licensure examination. No license may be issued unless this requirement is met.

WILLIAM H. FIELDS, D.M.D., Secretary-Treasurer

ADOPTED: January 19, 1975
RECEIVED BY LRC: February 4, 1975 at 2:48 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Treasurer, Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:010)

RELATES TO: KRS 323A.210
PURSUANT TO: KRS 323A.210, 13.082
NECESSITY AND FUNCTION: KRS 323A.210 requires the board to keep complete and accurate records and this regulation is fashioned to require the board secretary to be responsible for accurate and complete records of all board transactions, with a board appointed executive director to be responsible for administrative functioning of the board.

Section 1. Duties of the board. (1) The board secretary

will be responsible for accurate and complete records of all transactions of the board.

(2) The board will appoint an executive director who will be responsible for the administrative functioning of the board.

(3) The executive director shall forward a copy of the rules and regulations and a copy of the act along with all applications to the applicants.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:020)

RELATES TO: KRS 323A.110, 323A.120, 323A.130, 323A.140
PURSUANT TO: KRS 323A.120, 13.082, 323A.210
NECESSITY AND FUNCTION: KRS 323A.120 requires board hearings prior to the revocation or suspension of a license and this regulation sets forth certain procedural requirements in connection with such board hearings.

Section 1. Hearings. (1) Hearings shall be granted by the board in accordance with KRS 323A.120 provided that:

(a) Any such written request shall state the matters to be decided by such hearing, shall state whether the person requesting the hearing will represent himself or will be represented by an attorney at law, and shall identify such attorney; and

(b) The date, place and time of such hearing shall be established by the board.

(2) Evidence shall be received at any hearing in accordance with the provisions of KRS 323A.130.

(3) Documentary evidence may be received in the form of copies or excerpts if submitted as certified copies.

(4) The decision of the board shall be final unless reversed, vacated, or modified upon judicial review thereof in accordance with the provisions of KRS 323A.140.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:030)

RELATES TO: KRS 323A.010, 323A.020, 323A.040, 323A.080, 323A.100, 323A.110, 323A.120, 323A.210
PURSUANT TO: KRS 323A.210, 13.082
NECESSITY AND FUNCTION: KRS 323A.210 authorizes the board to adopt reasonable regulations not inconsistent with the act but which are necessary to carry into effect the purposes of the act. This code of ethics is intended to establish guidelines for the landscape architects practicing in the state and for the protection of the public they will be serving.

Section 1. Code of Ethics. (1) This code of professional ethics is hereby promulgated by the board as guidelines for the profession of landscape architecture in Kentucky. A violation of the duties and obligations herein set out shall be considered unprofessional conduct.

(2) The landscape architect shall conduct his practice in order to protect the life, health, property and welfare of the public and shall at all times recognize that his primary obligation is to protect the life, health, property and welfare of the public in the performance of his professional duties. If his landscape architectural judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, he shall inform his employer of the possible consequences and notify such other proper authority of the situation, as may be appropriate.

(3) The landscape architect shall perform his services only in areas of his competence.

(a) The landscape architect shall undertake to perform landscape architectural assignments only when qualified by education or experience in the specific technical field of professional landscape architecture involved.

(b) The landscape architect may accept an assignment requiring education or experience outside of his own field of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.

(c) The landscape architect shall not affix his signature and/or seal to any landscape architectural plan or document dealing with subject matter to which he lacks competence by virtue of education or experience, nor to any such plan or document not prepared under his direct supervisory control.

(d) In the event a question arises as to the competence of a landscape architect to perform a landscape architectural assignment in specific technical field of landscape architecture which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the landscape architect or by its own volition, may require him to submit to an appropriate examination as determined by the board.

(4) The landscape architect shall issue public statements only in an objective and truthful manner.

(a) The landscape architect shall be completely objective and truthful in all professional reports, statements or testimony. He shall include all relevant and pertinent information in such reports, statements, or testimony.

(b) The landscape architect, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony.

(c) The landscape architect will issue no statements, criticisms, or arguments on landscape architectural matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party or parties on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the instant matters.

(5) The landscape architect shall avoid conflicts of interest.

(a) The landscape architect shall avoid all conflicts of interest with his employer or client and shall promptly inform his employer or client of any business association, interests, or circumstances which could influence his judgment or the quality of his services.

(b) The landscape architect shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(c) The landscape architect shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

(d) The landscape architect shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his client or employer in connection with work for which he is responsible.

(e) When in public service as a member, advisor, or employee of a governmental body or department, the landscape architect shall not participate in considerations or actions with respect to services provided by him or his organization in private landscape architectural practices.

(f) The landscape architect shall not solicit or accept a landscape architectural contract from a governmental body on which a principal or officer of his organization serves as a member.

(g) The landscape architect shall not attempt to supplant another landscape architect after definite steps have been taken by a client toward the latter's employment; nor shall he undertake a commission for which another landscape architect has been employed without first conclusively determining that the latter's employment has been terminated.

(6) The landscape architect shall solicit or accept work only on the basis of his qualifications.

(a) The landscape architect shall not engage in commercial advertising.

(b) The landscape architect shall not offer to pay, either directly or indirectly, any commission, political contribution, or a gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.

(c) The landscape architect shall seek professional employment on the basis of qualification and competence for proper accomplishment of the work.

(d) The landscape architect shall not falsify or permit misrepresentation of his, or his associates', academic or professional qualifications. He shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or his or their past accomplishments with the intent and pur-

pose of enhancing his qualifications and his work.
(7) The landscape architect shall associate only with reputable persons or organizations.
(a) The landscape architect shall not knowingly associate with or permit the use of his name or firm in a business venture by any person or firm which he knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature, or in violation of these rules and regulations.
(b) If the landscape architect has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or KRS Chapter 323A, he shall present such information to the board in writing and shall cooperate with the board in furnishing such further information or assistance as may be required by the board.
(8) Conviction of a felony involving moral turpitude, a finding of mental incompetency by a court of competent jurisdiction, or the revocation or suspension of a professional landscape architect's license by another jurisdiction if for a cause which in the Commonwealth of Kentucky would constitute a violation of the law or of these rules, shall be grounds for a charge of violation of these rules.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: October 15, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:040)

RELATES TO: KRS 323A.040, 323A.050, 323A.060, 323A.070
PURSUANT TO: KRS 323A.210, 13.082
NECESSITY AND FUNCTION: KRS 323A.210 authorizes the board to adopt all reasonable regulations and this regulation is intended to establish procedures for the filing and processing of applications for registration as landscape architects in this state.

Section 1. Applications. (1) Applications for registration as a landscape architect will be received at any time during regular business hours at the office of the board. But applications for written examinations shall be filed with the prescribed fee in such office at least six (6) weeks prior to the opening date of the examinations.
(2) All fees payable by applicants shall accompany the applications.
(3) The board reserves the right to request additional information, including a personal appearance, from each applicant together with any necessary documentary evidence in cases where questions concerning qualifications may arise. Personal appearances before the board shall be at a time and place designated by the board.
(4) The board reserves the right to retain any and all documents submitted as evidence of qualifications for registration. Photostatic copies of original documents may be submitted if notarized as true copies.
(5) Failure to comply with a written request from the board for additional evidence or information or to appear before the board when deemed necessary within sixty (60) days of such notice may be sufficient and just cause for the disapproval of the application.
(6) Members of the board may not serve as personal references; however, they may be listed as persons who have supervised the work of the applicant.
(7) The board reserves the right to exercise the discretion provided in the act by requiring the applicants to qualify by either:
(a) Passing the regular written or written and oral examinations; or
(b) Having a satisfactory examination record from another state, providing it is deemed equal in all respects to that given in Kentucky.
(8) All applicants who seek registration under KRS 323A.050(1) shall submit satisfactory proof of registration in good standing in any state or states of present registration and shall indicate whether registration was obtained under a grandfather clause or by examination or other means in the particular state in which registration was granted.
(9) All applicants shall be considered individually by the board and passed or rejected by a roll call vote. The action taken by the board shall be recorded in the minutes. Approval of an applicant will require a majority vote of the board.
(10) All applications for registration under KRS 323A.050(2) must have been received by the board no later than 1 February 1974.
(11) An outline of the action taken by the board shall be placed with each application.
(12) The board reserves the right to establish or change the classification under which the applicant is claiming eligibility.
(13) Military experience shall be acceptable to the board provided it has been spent in landscape architecture as defined in the act.
(14) The sales and installation of products such as landscape materials (plants and construction) cannot be considered professional services. Any plans or sketches drawn by the same person solely for the promotion and sale of his own products cannot be considered professional services.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:050)

RELATES TO: KRS 323A.060, 323A.100
PURSUANT TO: KRS 323A.060, 13.082, 323A.210
NECESSITY AND FUNCTION: The board is authorized by KRS 323A.060 to fix by rules the fees for services and this regulation is intended to establish such fees.

Section 1. Fees. (1) Renewal fees: Thirty-five dollars ($35). The secretary shall notify all license holders of the renewal dates on 1 May of each year.
(2) Duplicate certificate: Ten dollars ($10).
(3) License: Thirty-five dollars ($35).
(4) Reinstatement: Reinstatement of an expired or revoked license due to non-renewal shall require the payment of the fee specified by KRS 323A.060(1)(c).
(5) No fee is refundable.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:060)

RELATES TO: KRS 323A.020, 323A.060, 323A.100
PURSUANT TO: KRS 323A.100, 13.082, 323A.210
NECESSITY AND FUNCTION: KRS 323A.100 requires all landscape architects desiring to continue practice to secure a renewal certificate each year and this regulation is designed to set forth the procedure and fix the fees as allowed under KRS 323A.060.

Section 1. Administration. (1) A renewal notice shall be sent to all license holders on May 1 of each year. The application for renewal shall be due on or before June 30 of each year.
(2) Failure to renew within the sixty (60) day grace period as stipulated in the law will automatically cause the license to expire.
(3) Before issuing any license or renewal, the board shall collect from the person licensed the full amount of all fees due in accordance with KRS 323A.060 or 323A.100.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Examiners and
Registration of Landscape Architects
(201 KAR 10:070)

RELATES TO: KRS 323A.080, 323A.110
PURSUANT TO: KRS 323A.080, 13.082, 323A.210
NECESSITY AND FUNCTION: This regulation sets forth the requirement (KRS 323A.080) for obtaining and the use of a standard landscape architect seal for use in the practice of landscape architecture in the state.

Section 1. Licensees' Seal. (1) Each licensee shall obtain a rubber stamp or embossed seal following the wording and format adopted by the board provided minor modifications as to size and marginal lines may be approved by the board as long as the seal is easily legible.

(2) An impression of the seal shall be affixed over the licensee's signature on all documents prepared by him or under his immediate and responsible supervision for use in the Commonwealth of Kentucky.
(3) The use of one's seal on any plans, drawings, specifications, reports or other instruments of service which were not prepared by him or under his immediate and responsible supervision, or permitting one's name to be used for the purpose of assisting any person to evade the provisions of KRS Chapter 323A shall subject such person to suspension or revocation of license.

JOHN DUDLEY SCRUGGS, Secretary Treasurer
ADOPTED: November 10, 1974
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 21, 1975 at 1:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky State Board of Examiners and Registration of Landscape Architects, University Station, Lexington, Kentucky 40506.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:005)

RELATES TO: KRS 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 21)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Each applicant for a real estate broker's or salesman's license shall file his application, license fee, examination fee and real estate education, research and recovery fund fee with the commission at least forty-five (45) days prior to the date of the next scheduled written examination.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:33 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:010)

RELATES TO: KRS 324.040
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 42)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. The required thirty (30) clock hours of classroom instruction begins with the date of issuance of initial license and must be completed within two (2) years after that date, and not from date of renewal.
Section 2. The individual who fails to complete same shall have his license cancelled effective next renewal date and then must retake the regular examination.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:015)

RELATES TO: KRS 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 37)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No applicant who takes an examination and fails same shall be eligible to sit at the next regularly scheduled examination, but shall be eligible to retake said examination at the second regularly scheduled examination.

Section 2. In no event, however, shall an applicant be permitted to take the examination more than two (2) additional times within a year from the date he first fails the examination.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:020)

RELATES TO: KRS 324.050
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 22)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Each applicant for a real estate broker's license who is a nonresident of Kentucky and licensed in another state shall pay the prescribed examination fee regardless of whether the written examination is waived because of a reciprocal agreement with his resident state.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:34 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:025)

RELATES TO: KRS 324.090
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 24)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Any real estate broker or salesman whose real estate license expires while he is on active military duty with any branch of the United States Armed Forces may renew his license following his release from active military duty without taking the written examination, provided that he files his renewal application, real estate education, research and recovery fund fee and his renewal fee as required by law within sixty (60) days following his separation from military service.

Section 2. There is a condition of this rule that the thirty (30) clock hours of classroom instruction shall be completed within six (6) months after reissuance of license if he has not already completed same.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:34 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:030)

RELATES TO: KRS 324.330
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 19)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A license is automatically cancelled if the holder thereof fails to promptly notify the commission of any of the following changes: broker's business address, a change of firm name, salesman's or broker-salesman's transfer from one broker to another, or a change of surname.

Section 2. The fee for all the above-listed changes is two dollars ($2) per license.

Section 3. The commission should also be notified of a change of a residence address. (There is no charge for this.)

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:33 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:035)

RELATES TO: KRS 324.170
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 17)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. All complaints against licensees must be submitted to the commission, in triplicate, on forms furnished on request by the commission offices. The complaint must state facts which, if true, would make out a prima facie case against the licensee, and complaint must also refer to the statute, rule and/or regulation violated, and be properly notarized.

Section 2. Copy of the complaint, exhibits attached thereto, and any subsequent pleadings, must be served on licensee defendant, by the complainant, at his last known address and must show certification that there has been service by writing to the last known address.

Section 3. The defendant licensee must file with the commission answer to complaint, in triplicate, and properly notarized, on forms secured from commission offices. Answer must be returned to the commission within twenty (20) days and copy of answer, exhibits attached thereto, as well as any subsequent pleadings, must be served on complainant and must show certification that there has been service by writing to the last known address. Any and all further pleadings in the matter filed with the commission by either party must show that a copy has been furnished to the opposing party or parties.

Section 4. Notice of all formal hearings will be given at least twenty (20) days prior to hearing date and witnesses may be subpoenaed by either party to the complaint by securing subpoena forms from the commission and having them served.

Section 5. The parties requesting a subpoena must pay the cost thereof.

Section 6. A court stenographer will be present at all formal hearings to take the proof and any party may obtain a copy of the proceedings by paying the stenographer therefor.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:32 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:040)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 15)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. All contracts providing for the purchase of property shall specifically set forth the exact manner in which the purchase shall be financed.

Section 2. The exact amount of any encumbrance and whether same is to be underwritten by the seller or a commercial institution or otherwise shall be set forth precisely in the written instrument.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:32 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:045)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 31)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Each licensee shall, without undue delay, submit all written offers to lease or purchase real estate for which said licensee is agent to his principal or owner-client for the decision of said owner-client for his acceptance or rejection.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:37 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:050)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 26)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. The practice of obtaining, negotiating, or attempting to obtain or negotiate "net listings" shall be considered improper dealing. A "net listing" shall be defined as one where the listing agreement provides for a stipulated net price to the owner and the excess over said stipulated net price shall be received by the real estate agent as his commission.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:055)

RELATES TO: KRS 324.115
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 30)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. When a real estate broker's office is located in an office building, the broker must display his sign at his office door and also be listed as a real estate broker on the office directory. Where such office is located in a building that is also used as a dwelling, the required sign must be located so that it may be seen from the street or road that is designated as the office address. This rule does not apply to a licensed real estate broker who is working for another broker in the capacity of a salesman.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:36 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:060)

RELATES TO: KRS 324.115
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rules 25 and 33)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Unless otherwise prohibited by law, the employing broker's name and the fact that he is a real estate broker shall appear in all advertising of any nature whatsoever, including newspaper ads, all signs, stationery, cards, etc., in order that the general public be advised of the licensed broker. Firm name only is required on newspaper classified ads. This regulation shall apply only to those brokers who are doing business under a firm name or assumed name other than their own.

Section 2. The name of the employing broker on all posted signs shall not be less than one (1) inch in height.

Section 3. The deceased broker's name may remain a part of the firm name.

Section 4. Only brokers may have their name in the firm name. (No salesman's name may be a part of the firm name.)

Section 5. Any salesman or broker employed as a salesman must advertise in the name of his employing broker, even when selling his own property.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:37 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:065)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 1)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A real estate broker shall maintain a trust or agency bank account, separate and apart from his individual or office account, in which all contract deposits and rental funds that belong or may belong to others are deposited.

Section 2. No checks shall be drawn against uncollected deposits in the trust or agency account.

Section 3. None of the contract deposits shall be withdrawn until the contract has been terminated by performance or by agreement between all parties, in writing.

Section 4. Each year the broker shall sign the original and renewal application giving the Commission the permission to audit the trust or agency account.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:27 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:070)

RELATES TO: KRS 324.115, 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rules 35 and 36)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No broker shall maintain a branch office outside a fifty (50) mile radius of his main office without having a broker-salesman managing the branch office.

Section 2. The licenses of all brokers, broker-salesmen, and salesmen shall be displayed in the office in which they are actively engaged and employed.

Section 3. In the absence of a showing of special circumstances satisfactory to the commission, no broker shall sponsor or employ a salesman whose residence is located outside a fifty (50) mile radius of the broker's main or branch office.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:38 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:075)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rules 4, 5, and 6)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A real estate broker shall not directly or indirectly buy for himself property listed with him; nor shall he acquire any interest therein without first making his true position clearly known to the listing owner.

Section 2. Before a real estate broker buys, sells or receives compensation for property in which he owns an interest, he shall disclose his interest to all parties to the transaction.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:29 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:080)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 29)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No property shall be listed for sale by a broker not regularly engaged in the real estate business without first making the true facts known to the listing owner.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:36 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:085)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 3)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. When acting as an agent in the management of property a real estate broker shall not accept any commission, rebate or profit on expenditures made for his client without his full knowledge and consent.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:28 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:090)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 12)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A real estate broker shall immediately (at the time of signing any and all instruments) deliver a duplicate orginal of all instruments to all parties executing the same, where such instrument has been prepared by such broker or under his supervision.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:095)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 2)

NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A real estate broker shall furnish a debit and credit type closing statement to a buyer and seller upon closing a real estate transaction.

Section 2. When acting as a property manager, he shall render an accounting and remit all monies to his client strictly in accordance with the contract of employment.

Section 3. All rental management agreements shall be in writing in order to avoid controversies.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:28 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:100)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 14)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No real estate broker shall be a party to an exclusive listing contract which shall contain an automatic continuation of the period of such listing beyond the fixed termination date set forth therein.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:31 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:105)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rules 10 and 11)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A real estate broker shall never offer a property for sale or lease without the authorization of the owner or owners, but when publicly promoting or advertising a property, it shall be listed in writing.

Section 2. No sign shall ever be placed on any property by a real estate broker without the consent of the owner.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:110)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rules 8 and 9)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No real estate broker shall negotiate the sale, exchange or lease of any property directly with an owner or lessor if he knows that such owner or lessor has an existing written contract granting exclusive authority in connection with such property with another broker.

Section 2. No real estate broker shall induce any party to a contract or sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract with another principal.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:29 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:115)

RELATES TO: KRS 324.160
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 34)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Any real estate broker who advertises real property at absolute auction is obligated to the public to sell said property to the highest bona fide bidder on the day of the auction.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:120)

RELATES TO: KRS 324.040
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 41)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A broker-salesman is an individual who meets all the legal requirements of a broker, but elects to operate as a salesman and is subject to all the rules and regulations applying to salesmen, while in the employ of an employing broker.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:125)

RELATES TO: KRS 324.040
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No salesman shall be permitted to submit an application for the broker's examination until after he has completed and passed his thirty (30) clock hours of classroom instruction in real estate practices, and certificate or transcript is on file at the offices of the commission.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:130)

RELATES TO: KRS 324.160, 324.045
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. No salesman may apply to take the broker's

examination if a formal complaint has been filed against him and has not been resolved.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:135)

RELATES TO: KRS 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 39)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A salesman who desires to obtain a broker's license is a person who has participated in the selling of real estate averaging at least twenty (20) hours per week during the preceding two (2) years.

Section 2. If the applicant can meet the educational requirements, then the two (2) year requirement is reduced to one (1) year. Proof of said activities will take the form of a notarized sworn affidavit signed by both the applicant and his employing broker.

Section 3. Any affiant found to have misrepresented facts in their sworn statement shall be subject to disciplinary proceedings by the commission and criminal penalties for perjury.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:41 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:140)

RELATES TO: KRS 324.110
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 27)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. In case of death of a broker who has a licensed salesman or salesmen in his employ at the time of his death, the commission reserves the right in its discretion, based upon the merits of each case, to permit one (1) of said salesmen to operate as a broker for a temporary period, not to exceed six (6) months, for the purpose of continuing the deceased broker's business.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:145)

RELATES TO: KRS 324.310
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 13)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Unless there is a written contract stipulating otherwise, a real estate salesman shall, upon termination of his employment with a real estate broker, forthwith turn over to such broker any and all listing information obtained during his employment whether such information was originally given to him by his employer or copied from the records of such employing broker or acquired by the salesman during his employment.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:31 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:150)

RELATES TO: KRS 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 38)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. The definition of builder is "any person who has participated in the building and construction business for three (3) years immediately prior to the date of said application to the extent of having built and offered for sale, or sold, five (5) major structures per year, or their monetary equivalent, which this commission sets at $100,000 in retail structure value, per year."

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:155)

RELATES TO: KRS 324.045
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Rule 40)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. A licensed broker or salesman who is an owner or a builder-developer must comply with the rules and regulations applying to brokers and salesmen.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:41 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Real Estate Commission
(201 KAR 11:160)

RELATES TO: KRS 324.281
PURSUANT TO: KRS 13.082
SUPERSEDES: KSREC-15 (Paragraph 1)
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. Any broker or salesman who fails or neglects to abide by the rules and regulations adopted by the commission shall be presumed to be guilty of improper, fraudulent or dishonest dealing and shall be subject to action by the commission through the means of a formal hearing for the purpose of suspending or revoking the real estate license of the licensee in question.

GEORGE L. CAVE, Chairman
ADOPTED: January 23, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 28, 1975 at 2:27 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary-Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
Kentucky State Board of Hairdressers and Cosmetologists
(201 KAR 12:050)

RELATES TO: KRS 317A.100
PURSUANT TO: KRS 13.082, 317A.060
SUPERSEDES: KBHC: Rec-1
NECESSITY AND FUNCTION: KRS Chapter 317A authorizes the Kentucky State Board of Hairdressers and Cosmetologists to

prescribe rules and regulations governing health and safety of the public; governing the training and supervision of cosmetologists; and governing the examinations for applicants for licenses. This proposed regulation is to allow applicants from other states with less than 1,800 hours to qualify for examination in order to obtain licenses.

Section 1. Any applicant from out of state who holds a valid license and who can show proof of two (2) years current experience, can come before the state board for examination (practical only) by paying a fee of fifty dollars ($50) plus ten dollars ($10) for first license.

Section 2. Applicants must provide a certification from state board granting original license and proof of two (2) years high school education or its equivalent.

CARROLL ROBERTS, Administrator

ADOPTED: January 6, 1975
APPROVED: WILLIAM E. SCENT, Commissioner
RECEIVED BY LRC: January 29, 1975 at 9:37 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 304 West Liberty, Suite 300, Louisville, Kentucky 40202.

DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(301 KAR 2:055)

RELATES TO: KRS 150.025, 150.600
PURSUANT TO: KRS 13.082
SUPERSEDES: KFWR-G-112
NECESSITY AND FUNCTION: This regulation pertains to the establishment of pits or blinds on Ballard Wildlife Management Area, Peal Wildlife Management Area, commercial, leased and private waterfowl shooting areas in a portion of Ballard County. This regulation is necessary for the continued protection and conservation of migratory waterfowl and to insure a permanent and continued supply of this wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory waterfowl within reasonable limits based upon an adequate supply and to insure some uniformity of commercial, leased and private waterfowl shooting area operating and reporting procedures.

Section 1. It is unlawful for any person to establish or use any blind or pit for the taking of waterfowl within the area prescribed herein, unless they conform with this regulation, except for the exemptions listed.

Section 2. Designated Area Covered By This Regulation. This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

Section 3. Required Permit. A commercial waterfowl permit issued by the Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601, must be obtained by all persons operating a commercial waterfowl shooting area, as defined by KRS 150.600. Any person operating more than one (1) commercial waterfowl shooting area must obtain a permit for each individual area. A land holding split by a public road may be operated as a commercial waterfowl shooting area under one (1) permit. Whenever a farm unit is split by land owned by others, a separate permit is required for each unit of land operated as a commercial waterfowl shooting area. An annual fee of twenty-five dollars ($25) will be charged for each commercial waterfowl permit. If operation is non-commercial, no permit is needed.

Section 4. Record Keeping, Reporting and Violations. The holder of a commercial waterfowl permit shall:
(1) Keep an accurate daily register showing the license number and the name and address of hunters and the number and kind of migratory waterfowl taken by each person, including officers and employes, hunting on such land and water, or land or water (such daily register shall be exhibited to, and shall be open to inspection by the officers and employes of the Department of Fish and Wildlife Resources);
(2) Be responsible for any violation pertaining to his permit, or any other type of violation being committed on his premises that is under the permit, unless he reports immediately the violation to a conservation officer;
(3) Forward, at the end of each month for the taking of migratory waterfowl, a report upon blanks furnished by the Department of Fish and Wildlife Resources of the number of each kind of waterfowl taken upon such land and water, or land or water.

Section 5. Rules For Compliance. (1) It is unlawful for any person to shoot, take, or attempt to take, any wild ducks or geese except from a blind or pit (see Section 10 for exemptions).
(2) It is unlawful for any person to establish or use any blind or pit for the taking of wild ducks or geese within 100 yards of any other blind or pit.
(3) It is unlawful for any person to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within 100 yards of any state owned public shooting area. Blinds or pits on state property shall conform to boundary regulations.
(4) It is unlawful for more than four (4) persons, plus one (1) caller who cannot shoot, to occupy a single blind or pit at the same time.
(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1 1/2) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2.
(6) No person shall hunt, in any manner, or carry a gun on any licensed commercial waterfowl shooting area without first registering and checking in with the owner, operator or keeper of the shooting area.
(7) No shot larger than No. 2 (#2) will be allowed for hunting waterfowl. This rule applies statewide, including all of the department's wildlife management areas.

Section 6. Marking of Harvested Waterfowl. All persons engaged in any type of commercial enterprise where waterfowl, or other game must be harbored, or stored for a period of time, or temporarily, must identify each bird with a tag, giving the name and address of the owner and his license number.

Section 7. Revocation of Permit. Failure to comply with this regulation shall constitute a violation by the holder of a commercial waterfowl permit, and shall constitute grounds for the revocation of his or her permit.

Section 8. Rules Applying Only to the Ballard Wildlife Management Area Located in Ballard County: (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.
(2) Only geese may be taken by hunters occupying a blind or pit in areas designated for goose hunting. Shooting, taking or attempting to take ducks from a pit or blind in designated goose hunting areas, will constitute a violation of this regulation.
(3) Only ducks may be taken by hunters occupying a blind or pit in areas designated for duck hunting. Shooting, taking, or attempting to take geese from a pit or blind in designated duck hunting areas, will constitute a violation of this regulation.
(4) No shot larger than No. 2 (#2) will be allowed for waterfowl hunting.

Section 9. Rules Applying Only to the Peal Wildlife Management Area Located near Wickliffe in Ballard County: (1) Not more than three (3) persons are allowed to occupy a single blind or pit at the same time.
(2) Both ducks and geese may be taken by hunters occupying a pit or blind.
(3) Hunters may erect only temporary pits or blinds as long as they comply with the set back provisions and distances between blinds as provided in Section 5, Subsection (2), of this regulation.
(4) Any hunter may occupy a privately erected temporary, or state erected permanent blind or pit on a first come first serve basis.
(5) No shot larger than No. 2 (#2) will be allowed for hunting waterfowl.

Section 10. Conditions and Locations Where Boat Is Considered A Blind. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered as a blind on those portions of the Ohio and Mississippi Rivers described in Section 2, except for the area closed to waterfowl hunting as described in Section 5, Subsection (5).

DR. ROBERT C. WEBB, Chairman
Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: February 12, 1975
APPROVED: DEE ASHLEY AKERS, Secretary
RECEIVED BY LRC: February 13, 1975 at 3:48 p.m.

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

DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(301 KAR 3:030)

RELATES TO: KRS 150.025, 150.330
PURSUANT TO: KRS 13.082
SUPERSEDES: KFWR-G-94
NECESSITY AND FUNCTION: This regulation pertains to the open season for unprotected species of wild birds and wild

animals. Since all wildlife is protected unless declared unprotected, this regulation is necessary to inform the public of the species that can be hunted year around. The function of this regulation is to furnish sport and recreation utilizing wildlife species that sometimes create a nuisance or a health hazard. Past year around hunting for most of these species has had little effect upon their abundance.

Section 1. The following species of wild birds and wild animals may be taken, pursued, possessed or transported all year, except as stated in Section 3, by any person possessing a valid hunting license: Gray fox, Woodchuck, Crow, English sparrow, and Starling.

Section 2. Unprotected wild animals. Some species of moles, mice, rats and shrews are unprotected and may be taken without possessing a hunting license. (Refer to 301 KAR 3:060, rare and endangered wildlife, for species of rodents that are protected.) All other wild birds and wild animals are protected except during open season and as specified by other regulations.

Section 3. Closed season. There shall be a closed season on all species of wild birds and wild animals, protected or unprotected, except deer, waterfowl, woodcock, snipe and raccoon from November 1 to midnight on Wednesday preceding the third Thursday in November. This does not prohibit landowners from killing any species of wildlife on his land which are causing damage to persons or property.

DR. ROBERT C. WEBB, Chairman
Department of Fish and Wildlife Resources Commission

ARNOLD L. MITCHELL, Commissioner

ADOPTED: February 12, 1975
APPROVED: DEE ASHLEY AKERS, Secretary
RECEIVED BY LRC: February 13, 1975 at 3:47 p.m.

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

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:010)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(17)
SUPERSEDES: AP-1
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to provide for defining general provisions, permit and compliance schedule issuance, monitoring and reporting requirements.

Section 1. General Application of Regulations and Standards. Regulations of the department shall be construed and applied in light of the considerations set forth hereinafter which shall guide the department in the issuance, modification and revocation of permits.

(1) All other provisions to the contrary notwithstanding, all air contaminant sources shall as a minimum apply such control procedures as are reasonable, available and practical.

(2) Nothing in these regulations is intended to permit any practice which is in violation of any statute, ordinance, or regulation.

(3) These regulations shall be construed as complementary to each other, and to such other regulations as have been adopted or shall be adopted by the department. If any provision of these regulations or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations, and to this end each provision of these regulations, and the various applications thereof are declared to be severable.

Section 2. Definitions. All terms not defined herein shall have the meaning given them in KRS 224.005 or by commonly accepted usage. As used in these regulations, unless the content clearly indicates otherwise, the following words shall have the following meaning:

(1) "Affected facility" means an apparatus to which an emission standard is applicable;

(2) "Air contaminant or air pollutant" includes smoke, dust, soot, grime, carbon or any other particulate matter, radio-active matter, noxious acid, fumes, gases, odor, vapor or any combination thereof;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interfere with the comfortable enjoyment of life or property;

(4) "Ambient air quality standard" means a numerical expression of a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures. It consists of two (2) parts; a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured;

(5) "Commence" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification;

(6) "Compliance schedule" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;

(7) "Construction" means fabrication, erection or installation of an air contaminant source;

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

(9) "Director" means director of the Division of Air Pollution of the Department for Natural Resources and Environmental Protection;

(10) "District" means an air pollution control district as provided for in KRS Chapter 77;

(11) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere (open air) from any affected facility or from air pollution control equipment installed in any affected facility;

(12) "Existing source" except as otherwise specified under applicable regulations means any source which is in being or under construction on the effective date of these regulations;

(13) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat;

(14) "Incineration" means the process of igniting and burning solid, semi-solid, liquid or gaseous combustible wastes;

(15) "Malfunction" means any sudden unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation or any other preventable upset condition or equipment breakdown shall not be considered malfunctions;

(16) "Modification" means any physical change in, or change in the method of operation of an affected facility which increases the amount of any air pollutant (to which a standard applies) emitted by such facility or which results in the emission of any air pollutant (to which a standard applies) not previously emitted, except that:

(a) Routine maintenance, repair, and replacement shall not be considered physical changes, and

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility;
2. An increase in hours of operation;
3. Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to such facility, as provided by subsection (1) of this section, the affected facility is designed to accommodate such alternative use.

(17) "New source" means any source, the construction or modification of which is commenced on or after the effective date of these regulations. Any source moved to another premises involving a change of address, shall be considered a new source. Any source commencing operation after a shutdown for one (1) year or more shall be considered a new source;

(18) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background;

(19) "Particulate matter" means any material, except uncombined water which exists in a finely divided form as a liquid or a solid at normal operating conditions;

(20) "Person or persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or other entity whatsoever;

(21) "Source" means one or more affected facilities, which emits or may emit any air contaminant, contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way.

(22) "Stack or chimney" means any flue, conduit, or duct arranged to conduct emissions to the atmosphere;

(23) "Standard conditions:"

(a) For source measurements 20 degrees Centigrade (68 degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg).

(b) For the purpose of air quality determinations means 25 degrees Centigrade and a reference pressure of 760 mm Hg.

Section 3. Abbreviations. The abbreviations used in these regulations have the following meanings:

ASTM - American Society for Testing and Materials
BTU - British Thermal Unit
° C - Degree Celsius (Centigrade)
Cal - calorie
cfm - cubic feet per minute
CH4 - methane
CO - Carbon Monoxide
CO2 - Carbon Dioxide
COH - Coefficient of haze
dscf - Dry cubic feet at standard conditions
dscm - Dry cubic meter at standard conditions
° F - Degree Fahrenheit
ft - feet
g - gram(s)
gal - gallon(s)
gr - grain(s)

hr – hour(s)
HCl – Hydrochloric acid
Hg – mercury
H2O – water
H2S – Hydrogen sulfide
H2SO4 – Sulfuric acid
in – inch(es)
k – 1,000
kg – kilogram(s)
l – liter(s)
LF – linear feet
lb – pound(s)
m – meter(s)
min – minute(s)
mg – milligram(s)
MM – million
mm – millimeter(s)
mo – month
N2 – Nitrogen
NO – Nitric oxide
NO2 – Nitrogen dioxide
NOx – Nitrogen oxides
oz – ounce
O2 – oxygen
O3 – ozone
ppb – parts per billion
ppm – parts per million
ppm (w/w) – parts per million (weight by weight)
ug – microgram
psia – pounds per square inch absolute
S – at standard conditions
sec – second
SO2 – sulfur dioxide
sq – square
yd – yard

Section 4. Air Quality Control Regions. Air quality control regions designated by the Administrator of the United States Environmental Protection Agency pursuant to Section 107 of the Clean Air Act as amended are listed in this section. The air quality control regions consist of the territorial area encompassed by the boundaries of the designated jurisdictions herein geographically located within the outer-most boundaries of the area so delimited.

(1) Appalachian Intrastate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Bell, Breathitt, Clay, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike, Rockcastle, Whitley, Wolfe.

(2) Bluegrass Intrastate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Anderson, Bourbon, Boyle, Clark, Estill, Fayette, Franklin, Garrard, Harrison, Jessamine, Lincoln, Madison, Mercer, Nicholas, Powell, Scott, Woodford.

(3) Evansville (Indiana) – Owensboro – Henderson (Kentucky) Interstate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Daviess, Hancock, Henderson, McLean, Ohio, Union, Webster.

(4) Huntington (West Virginia) – Ashland (Kentucky) – Portsmouth – Ironton (Ohio) Interstate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Bath, Boyd, Bracken, Carter, Elliott, Fleming, Greenup, Lawrence, Lewis, Mason, Menifee, Montgomery, Morgan, Robertson, Rowan.

(5) Louisville Intrastate Air Quality Control Region. In the Commonwealth of Kentucky the following county: Jefferson.

(6) Metropolitan Cincinnati (Ohio) Interstate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Boone, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, Pendleton.

(7) North Central Kentucky Intrastate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Breckinridge, Bullitt, Grayson, Hardin, Henry, Larue, Marion, Meade, Nelson, Oldham, Shelby, Spencer, Trimble, Washington.

(8) Paducah (Kentucky) – Cairo (Illinois) Interstate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, Muhlenberg, Todd, Trigg.

(9) South Central Kentucky Intrastate Air Quality Control Region. In the Commonwealth of Kentucky the following counties: Adair, Allen, Barren, Butler, Casey, Clinton, Cumberland, Edmonson, Green, Hart, Logan, McCreary, Metcalfe, Monroe, Pulaski, Russell, Simpson, Taylor, Warren, Wayne.

Section 5. Classification of Air Quality Control Regions.
(1) Classification Criteria:
(a) Classification of regions shall be based upon measured air quality where known or, where not known, estimated air quality in the area of maximum pollutant concentration. Each region shall be classified separately with respect to sulfur oxides, particulate matter, carbon monoxide, nitrogen oxides, photochemical oxidants and such other pollutants as may have standards and priority levels.
(b) For sulfur oxides and particulate matter, each region shall be classified into one (1) of three (3) categories, defined as Priority I, Priority II or Priority III.
(c) For carbon monoxide, nitrogen oxides and photochemical oxidants, each region shall be classified into one (1) of two (2) categories, defined as Priority I or Priority III.
(d) Classifications with respect to hydrocarbons shall be the same as the classifications with respect to photochemical oxidants.
(e) Ambient concentration limits which define the classification systems for the said pollutants are specified in Table 1.
(f) The more restrictive classification will be chosen where there is a difference between the described values e.g., if a region is Priority I with respect to an annual average and Priority II with respect to a twenty-four (24) hour maximum value, the classification will be Priority I.

TABLE 1. AMBIENT CONCENTRATIONS LIMITS EXPRESSED IN MICROGRAMS PER CUBIC METER (CARBON MONOXIDE LIMITS ARE EXPRESSED IN MILLIGRAMS PER CUBIC METER) AND PARTS PER MILLION (IN PARENTHESIS) WHICH DEFINE THE CLASSIFICATION SYSTEM.

Pollutant	Priority I	Priority II	Priority III
	Greater Than	From - To	Less Than
Sulfur Oxides			
Annual Arithmetic Mean	100(0.04)	60-100(0.02-0.04)	60(0.02)
24-hour maximum	455(0.17)	260-455(0.10-0.17)	260(0.10)
Particulate Matter			
Annual Geometric Mean	95	60-95	60
24-hour maximum	325	150-325	150
Carbon Monoxide			
8-hour maximum	14(12)*		14(12)
1-hour maximum	55(48)*		55(48)
Nitrogen Dioxide			
Annual mean	110(0.06)*		110(0.06)
Photochemical Oxidants			
1-hour maximum	195(0.10)*		195(0.10)

* Greater than or equal to

(2) Classification. The classification of air quality control regions under the provision of this regulation shall be as in Table 2.

TABLE 2. PRIORITY CLASSIFICATION OF AIR QUALITY CONTROL REGIONS WITH RESPECT TO PARTICULATES, SULFUR OXIDES, CARBON MONOXIDE, NITROGEN DIOXIDE AND PHOTOCHEMICAL OXIDANTS (AND HYDROCARBON).

REGION	PARTICULATE MATTER	SULFUR OXIDES	CARBON MONOXIDE	NITROGEN DIOXIDE	PHOTOCHEMICAL OXIDANTS (HYDROCARBON)
Louisville	I	I	III	III	I
Cincinnati	I	II	III	III	I
Paducah-Cairo	I	II	III	III	III
Huntington-Ashland	I	III	III	III	III
Evansville-Henderson	I	II	III	III	III
Bluegrass	II	III	III	III	III
Appalachian	II	III	III	III	III
North Central	II	III	III	III	III
South Central	III	III	III	III	III

Section 6. Registration of Air Contaminant Sources.
(1) Persons engaged in the operation of air contaminant sources shall register such sources or discharges which may result from their operation in accordance with the provisions of this regulation.
(2) The department may require from such persons reports containing information relating to said sources and air contaminants emitted by each into the atmosphere.
(3) Registration and reporting of air contaminants sources and their related discharges shall be upon forms provided by the department.
(4) This section shall not apply to the following:
(a) Those air contaminant sources set forth in Section 15 of 401 KAR 3:060.
(b) Indirect heat exchangers with a capacity of one (1) million BTU per hour heat input or less which burn solid fuel or residual oil, and indirect heat exchangers using natural gas, liquid petroleum gas, or distillate fuel oil as a main fuel or combinations of these as main or standby fuel, with a capacity of less than fifty (50) million BTU per hour heat input.
(c) Internal combustion engines whether fixed or mobile, and vehicles used for transport of passenger or freight except as may be provided for in subsequent regulations.

Section 7. Issuance of Permits and Compliance Schedules.
(1) (a) No person shall construct or modify a source unless a permit to construct, therefor, has been issued by

the department.

(b) No person shall use, operate, or maintain source resulting in the presence of air contaminants in the atmosphere in contravention of all standards and limitations unless an approved compliance schedule has been issued by the department and is currently in effect.

(c) No person shall use, operate, or maintain a source, which is in compliance with all emission limiting regulations unless a permit to operate, therefor, has been issued by the department and is currently in effect.

(2) (a) Applications for permits or compliance schedules required under subsection (1) of this section shall be made on forms prepared by the department for such purpose and shall contain such information as the department shall deem necessary to determine whether the permit or compliance schedule should be issued.

(b) Applications for permits or compliance schedules shall be signed by the corporate president or his authorized agent; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator; or, in the case of political subdivisions, by the highest elected official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(c) The information requested in the application shall, when specifically requested by the department, include an analysis of the characteristics, properties and volume of the air contaminants based upon source or stack samples of the air contaminants taken under normal operating conditions. Failure to supply information required or deemed necessary by the department to enable it to act upon the permit or compliance schedule application shall result in denial of the permit or shall result in disapproval of the compliance schedule.

(d) An application for a permit or compliance schedule may include one or more affected facilities provided that all are contained within one (1) source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.

(e) Each application shall bear the seal and signature of a registered professional engineer qualified by training and/or experience in the field of air pollution control. Such signature shall constitute personal affirmation as to the completeness and technical accuracy of the information contained therein.

(3) (a) In considering permit or compliance schedule applications, the department shall determine if emission standards and ambient standards are met or will be met upon completion of the compliance schedule. In no case shall a permit be issued or compliance schedule approved where it can be shown either through diffusion calculations or actual ambient air quality monitoring, performed according to methods prescribed by the department, that the source will prevent or interfere with the attainment or maintenance of state or federal air quality standards. In cases where no emission standards have been prescribed by regulation, the department shall require the use of all available, practical and reasonable methods to prevent and control air pollution.

(b) In the event any person or persons alleges themselves under oath to be adversely affected by a proposed or existing source or other physical conditions, the department shall afford such persons a hearing to determine whether the permit to construct or to operate should be issued or denied.

(c) Compliance schedules herein shall be subject to approval of the department. If for any reason, the department and the facility are unable to negotiate a mutually acceptable schedule, the department will propose a compliance schedule which will be subjected to a hearing pursuant to KRS 224.083. After considering the hearing report, the department shall issue an appropriate compliance schedule. Once approved and/or issued, compliance schedules, including all increments of progress, shall be legally enforceable.

(4) Permits and compliance schedules issued hereunder shall be subject to such terms and conditions set forth and embodied in the permit or compliance schedule as the department shall deem necessary to insure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic source or stack sampling of the affected facilities.

(5) Permits issued hereunder shall be subject to revocation or modification by the department for the following causes:

(a) Failure to comply with the terms and conditions of the permit;

(b) Failure to comply with emission standards applicable to an affected facility;

(c) Failure to comply with the ambient air quality standards for the area in which the source is located.

(d) Failure to report process or equipment changes which result in an emission increase.

(6) This section shall not apply to those sources listed in subsection (4) of Section 6 of this regulation.

(7) Permits and compliance schedules issued under this regulation are not transferable.

Section 8. Monitoring Records and Reporting. The department may require the owner or operator of any affected facility to install, use, and maintain stack gas and ambient air monitoring equipment in accordance with such methods as the department shall prescribe, establish and maintain records of same and make periodic emission reports at intervals prescribed by the department. Requirements for specific affected facilities are contained in applicable regulation.

Section 9. Sampling and Testing Methods. (1) The department may require the owner or operator of any affected facility to sample emissions in accordance with such methods as the department shall prescribe. All tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution control.

(2) The department may conduct tests of emissions of air contaminants from any source. Upon request of the department the person responsible for the source to be tested shall provide necessary openings in stacks or ducts and such safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emission of air contaminants.

Section 10. Emissions During Shutdown and Malfunction of Control Equipment. (1) Emissions which due to shutdown or malfunction of air pollution control equipment, temporarily exceed the standard set forth by the department shall be deemed in violation of such standards unless the requirements of this section are satisfied and the determinations specified in subsection (4) of this section are made.

(2) When emissions during any planned shutdown and ensuing startup of air pollution control equipment or part thereof exceed the standards, the owner or operator of the source shall notify the director no later than three (3) days before the planned shutdown. However, if the shutdown is necessitated by events which the owner or operator could not reasonably have foreseen three (3) days before the shutdown, then such notification shall be given immediately following the determination to shutdown. The notice shall be in writing and shall specify the name of the air contaminant source, its location, the address and telephone number of the person responsible for the source, the reasons for and duration of the proposed shutdown, the nature of the action to be taken during shutdown, the date and time for the action, the physical and chemical composition, rate and concentration of the emissions during such shutdown and ensuing startup, the basis for the determination that such shutdown is necessary, and the measures which will be taken to minimize the extent and duration of the emissions during such shutdown and ensuing startup.

(3) When emissions due to sudden and unforeseen malfunction (or to unforeseen shutdown associated with malfunction) of air pollution control equipment are or may be in excess of the standards, the owner or operator shall notify the director by telephone as promptly as possible, and in no event later than twelve (12) hours following the start of such malfunction, and shall cause written notice to be sent to the director no later than twenty-four (24) hours following the start of such malfunction. Such notice shall specify the name of the source, its location, the address and telephone number of the person responsible for the source, the nature and cause of the malfunction, the date and time when such malfunction was first observed, the expected duration, the nature of the action to be taken to correct the malfunction, and an estimate of the physical and chemical composition, rate and concentration of the emission.

(4) Nothing in this section shall relieve a source from compliance with the standards set forth by the department unless the director determines that:

(a) The occurrence in question did not result from the failure by the owner or operator of the source to operate and maintain properly the air pollution control equipment;

(b) All reasonable steps were taken to correct, as expeditiously as practicable, the conditions causing the emissions to exceed the standards, including the use of off-shift labor and overtime if necessary; and,

(c) All reasonable steps were taken to minimize the emissions resulting from the occurrence.

(5) The director shall notify the owner or operator of the source of the determination required by this section no later than sixty (60) days after the date that all information required by this section has been submitted. Failure of the director to give such notification within sixty (60) day period shall have the same effect as a determination that the occurrence is deemed not to be a violation of the standards.

(6) Nothing in this section shall be construed to restrict the secretary's discretion to take, at any time, appropriate enforcement action under KRS 224.071, if upon information supplied to him pursuant to this section, or otherwise available to him, he determines that such action is necessary to protect the public health or welfare.

Section 11. Prohibition of Air Pollution. No person shall permit or cause air pollution as defined in Section 2 of this regulation.

Section 12. Circumvention. No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air

contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate these regulations.

JOHN S. HOFFMAN, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:38 p.m.

PUBLIC HEARING: A public hearing on this proposed regulation is scheduled for April 15, 1975 at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:020)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 224.082, 224.033(17)
SUPERSEDES: AP-9
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in the Commonwealth.

Section 1. Purpose of Standards and Expression of Non-Degradation Intention.
(1) (a) Primary ambient air quality standards mean those levels of air quality which the department judges are necessary, with an adequate margin of safety, to protect the public health.
(b) Secondary ambient air quality standards mean those levels of air quality which the department judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
(2) In the establishment of these standards, it is the intention of the department to prohibit further significant and avoidable deterioration of air quality in areas where air quality presently exists which is numerically equal to or less than the standards expressed herein.
(3) No person shall violate, or interfere with the attainment or maintenance of, ambient air quality standards as specified in Section 4 of this regulation.

Section 2. Applicability. The primary and secondary ambient air quality standards stated in Section 4 shall apply at any single point location.

Section 3. Definitions. As used in this regulation; all terms not defined herein shall have the meaning given them in 401 KAR 3:010.
(1) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
(2) "Reference method" means a method of sampling and analyzing for an air pollutant as specified by the department.
(3) "Equivalent method" means any method of sampling and analyzing of an air pollutant which can be demonstrated to the department's satisfaction to have a consistent relationship to the reference method.
(4) "Ambient air quality standard" means the numerical expression of a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures. It consists of two (2) parts:
(a) A specified concentration level for a particular air contaminant, and
(b) The time averaging interval over which that concentration level is measured.
(5) "Annual mean" means an average determined on the basis of any consecutive twelve (12) month interval.
(6) "Three (3) month average" means an average determined on the basis of any consecutive three (3) month interval.
(7) "Eight (8) hour average" means an average determined on the basis of any consecutive eight (8) hour interval.
(8) "Twelve (12) hour average" means an average determined on the basis of any consecutive twelve (12) hour interval.
(9) "One (1) week average" means an average determined on the basis of any consecutive seven (7) day interval.
(10) "Maximum" means an ambient air quality standard which shall not be exceeded more than once per year providing that the averages exceeding the standard do not contain any common hourly data points.
(11) "Odor" means the property of an air contaminant that affects the sense of smell.
(12) "Soiling Index" means a measure of the soiling property of suspended particles in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter for a measured period of time, expressed as OCH/1000 linear feet.
(13) "Standard condition" means a reference temperature of 25 degrees Centigrade and a reference pressure of 760 millimeters of mercury.
(14) "Year" means a calendar year.
(15) "Dilution" means the number of volumes of odorless air that must be added to a like volume of odor-bearing air to reduce the odor of the resulting mixture to just below the odor threshold level.

Section 4. Ambient Air Quality Standards. The primary and secondary ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, total nonmethane hydrocarbons, nitrogen dioxide, hydrogen sulfide, hydrogen fluoride, total fluorides and odors measured by reference methods specified by the department, or by equivalent methods, are:
(1) Sulfur Oxides (sulfur dioxide):
(a) Primary standards:
1. 80 micrograms per cubic meter (0.03 ppm) - annual arithmetic mean.
2. 365 micrograms per cubic meter (0.14 ppm) - maximum 24-hour average not to be exceeded more than once per year.
(b) Secondary standards: 1300 micrograms per cubic meter (0.50 ppm) - maximum 3-hour average not to be exceeded more than once per year.
(2) Particulate Matter:
(a) Primary standards:
1. 75 micrograms per cubic meter - annual geometric mean.
2. 260 micrograms per cubic meter - maximum 24-hour average not to be exceeded more than once per year.
3. 6.0 COH/1000 LF - maximum 24-hour average of soiling index not to be exceeded more than once per year.
(b) Secondary standards:
1. 60 micrograms per cubic meter - annual geometric mean, to be used as a guide in assessing implementation plans to achieve the 24-hour standard.
2. 150 micrograms per cubic meter - maximum 24-hour average not to be exceeded more than once per year.
3. 0.4 COH/1000 LF - annual arithmetic mean of soiling index.
4. 0.5 COH/1000 LF - maximum three-month average of soiling index not be exceeded more than once per year.
5. 15 tons per square mile per month (5.25 g/sq.m/mo) - maximum three-month average of settleable particulates (total water solubles and insolubles) not to be exceeded more than once per year.
(3) Carbon Monoxide: Primary and secondard standards:
(a) 10 milligrams per cubic meter (9 ppm) - maximum 8-hour average not to be exceeded more than once per year.
(b) 40 milligrams per cubic meter (35 ppm) - maximum 1-hour average not to be exceeded more than once per year.
(4) Photochemical Oxidants: Measured as ozone and corrected for interferences due to nitrogen oxides and sulfur dioxide. Primary and secondary standards: 160 micrograms per cubic meter (0.08 ppm) - maximum 1-hour average not to be exceeded more than once per year.
(5) Hydrocarbons: Measured as methane and corrected for methane, to be used as a guide in devising implementation plans to achieve photochemical oxidants standards. Primary and secondary standards: 160 micrograms per cubic meter (0.24 ppm) - maximum 3-hour average (6 to 9 a.m.) not to be exceeded more than once per year.
(6) Nitrogen Dioxide: Primary and secondary standards: 100 micrograms per cubic meter (0.5 ppm) - annual arithmetic mean.
(7) Hydrogen Sulfide: Secondary standards: 14 micrograms per cubic meter (0.01 ppm) - maximum 1-hour average not to be exceeded more than once per year.
(8) Hydrogen Fluoride: Primary standards:
(a) 0.82 micrograms per cubic meter (1 ppb) - maximum 1-month average not to be exceeded more than once per year.
(b) 1.64 micrograms per cubic meter (2 ppb) - maximum 1-week average not to be exceeded more than once per year.
(c) 2.86 micrograms per cubic meter (3.5 ppb) - maximum 24-hour average not to be exceeded more than once per year.
(d) 3.68 micrograms per cubic meter (4.5 ppb) - maximum 12-hour average not to be exceeded more than once per year.
(9) Total Fluorides: Dry weight basis (as fluoride ion) in and on forage for consumption by grazing ruminants. Primary standards:
(a) Not to exceed 40 ppm (w/w) - average concentration of monthly samples over growing season (not to exceed 6 consecutive months).
(b) Not to exceed 60 ppm (w/w) - 2-month average.
(c) Not to exceed 80 ppm (w/w) - 1-month average.
(10) Odors: Secondary standard: At any time not to equal or exceed 7 dilutions.

Section 5. Time Schedule for Achieving Air Quality Standards. (1) Primary air quality standards shall be achieved no later than April 9, 1975; except for sulfur dioxide which shall be achieved no later than July 1, 1977.
(2) Secondary air quality standards shall be achieved within a reasonable period of time but in no case later than April 9, 1978; except for sulfur dioxide which shall be achieved no later than July 1, 1980.

Section 6. Methods of Measurement. Air contaminants shall be measured by the reference method (or methods) and frequency specified by the department or by an equivalent method.

JOHN S. HOFFMAN, Secretary

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PUBLIC HEARING: A public hearing on this proposed regulation is scheduled for April 15, 1975 at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:030)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(17)
SUPERSEDES: AP-1 (Section 9)
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to provide for the prevention of the excessive build up of air contaminants during air pollution episodes thereby preventing the occurrence of an emergency due to the effects of those contaminants on the public health.

Section 1. Purpose. Notwithstanding any other provision of the air pollution control regulations, this episode regulation is designed to prevent ambient pollutant concentrations at any location from reaching the following levels which could cause significant harm to the health of persons.

(1) SO2: 2,620 ug/cubic meter (1.0 ppm), 24-hour average.
(2) Particulate: 1,000 ug/cubic meter or 8 COHs/1000 linear feet, 24-hour average.
(3) SO2 and Particulate combined: product of SO2 ppm (24-hour average) and COHs/1000 linear feet (24-hour average) equal to 1.5; or product of SO2 ug/cubic meter (24-hour average) and particulate ug/cubic meter (24-hour average) equal to 490 X 10 cubed.
(4) CO: 57.5 mg/cubic meter (50 ppm), 8-hour average. 86.3 mg/cubic meter (75 ppm), 4-hour average. 144 mg/cubic meter (125 ppm), 1-hour average.
(5) Photochemical Oxidants: 1,200 ug/cubic meter (0.6 ppm), 1-hour average.
(6) NO2: 3,750 ug/cubic meter (2.0 ppm), 1-hour average. 938 ug/cubic meter (0.5 ppm), 24-hour average.

Section 2. Episode Criteria. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the department determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, present a threat to the health of the public. In making this determination, the department shall be guided by the following criteria:

(1) Air pollution forecast: An internal watch by the department shall be actuated by a National Weather Service Advisory that an Atmospheric Stagnation Advisory is in effect.
(2) Alert: An alert level is that concentration of pollutants at which first stage control actions are to begin. An alert will be declared when any one of the following levels is reached at any monitoring site and meteorological conditions are such that the pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of oxidants the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.
(a) SO2: 800 ug/cubic meter (0.3 ppm), 24-hour average.
(b) Particulate: 3.0 COHs/1000 linear feet or 375 ug/cubic meter, 24-hour average.
(c) SO2 and particulate combined: product of SO2 ppm, (24-hour average) and COHs/1000 linear feet (24-hour average) equal to 0.2; or product of SO2 ug/cubic meter (24-hour average) and particulate ug/cubic meter (24-hour average) equal to 65 X 10 cubed.
(d) CO: 17 mg/cubic meter (15 ppm), 8-hour average.
(e) Oxidants (03): 200 ug/cubic meter (0.1 ppm), 1-hour average.
(f) NO2: 1130 ug/cubic meter (0.6 ppm), 1-hour average; 282 ug/cubic meter (0.15 ppm), 24-hour average.

(3) Warning: A warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of oxidants the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.
(a) SO2: 1600 ug/cubic meter (0.6 ppm), 24-hour average.
(b) Particulate: 5.0 COHs/1000 linear feet or 625 ug/cubic meter, 24-hour average.
(c) SO2 and particulate combined - product of SO2 ppm, (24-hour average) and COHs/1000 linear feet (24-hour average) equal to 0.8; or product of SO2 ug/cubic meter (24-hour average) and particulate ug/cubic meter (24-hour average) equal to 261 X 10 cubed.
(d) CO: 34 mg/cubic meter (30 ppm), 8-hour average.
(e) Oxidants (03): 800 ug/cubic meter (0.4 ppm), 1-hour average.
(f) NO2: 2,260 ug/cubic meter (1.2 ppm), 1-hour average; 565 ug/cubic meter (0.3 ppm), 24-hour average.

(4) Emergency: An emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours or increase, or in the case of oxidants the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.
(a) SO2: 2,100 ug/cubic meter (0.8 ppm), 24-hour average.
(b) Particulate: 7.0 COHs/1000 linear feet or 875 ug/cubic meter, 24-hour average.
(c) SO2 and Particulates combined: product of SO2 ppm (24-hour average) and COHs/1000 linear feet (24-hour average) equal to 1.2; or product of SO2 ug/cubic meter (24-hour average) and particulate ug/cubic meter (24-hour average) equal to 393 X 10 cubed.
(d) CO: 46 mg/cubic meter (40 ppm), 8-hour average.
(e) Oxidants (03): 1200 ug/cubic meter (0.6 ppm), 1-hour average.
(f) NO2: 3,000 ug/cubic meter (1.6 ppm), 1-hour average; 750 ug/cubic meter (0.4 ppm), 24-hour average.

(5) Termination: Any status declared by the application of these criteria will remain in effect until the criteria for that level are not longer met. At such time the next lower appropriate status will be assumed.
(6) An episode status based on the deterioration of air quality alone may be declared. An air stagnation advisory need not be in effect.
(7) An appropriate episode status shall be declared when any monitoring site records ambient air quality levels as designated in the episode criteria herein. The criteria shall be applied to individual monitoring sites and not to area wide air quality.

Section 3. Emission Reduction Plans. (1) Air Pollution Alert. When the director declares an air pollution alert, any person responsible for the operation of a source of air contaminants as set forth in Section 5 shall take all air pollution alert actions required for such sources of air contaminants and shall put into effect the preplanned strategy for an air pollution alert.
(2) Air Pollution Warning. When the director declares an air pollution warning, any person responsible for the operation of a source of air contaminants as set forth in Section 6 shall take all air pollution warning actions required for such sources of air contaminants and shall put into effect the preplanned strategy for an air pollution warning.
(3) Air Pollution Emergency. When the director declares an air pollution emergency, any person responsible for the operation of a source of air contaminants described in Section 7 shall take all air pollution emergency actions required for such sources of air contaminants and shall put into effect the preplanned strategy for an air pollution emergency.

Section 4. Preplanned Abatement Strategies. (1) Any person responsible for the operation of a source of air pollutants as set forth in Sections 5 to 7 shall prepare standby plans for reducing the emission of air pollutants during episode periods (air pollution alert, warning and emergency). Standby plans shall be designed to reduce or eliminate emission of air pollutants in accordance with the objectives set forth in Sections 5 to 7 of this regulation.
(2) Any person responsible for the operation of a source of air pollutants not set forth under subsection (1) of this section shall, when requested by the director in writing, prepare standby plans for reducing the emission of air pollutants during episode periods. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth in Sections 5 to 7.
(3) Standby plans as required under subsections (1) and (2) of this section shall be in writing and identify the sources of air pollutants, the approximate amount of reduction of pollutants, and a brief description of the manner in which the reduction will be achieved during episode periods.
(4) During episode periods, standby plans required by this section shall be made available on the premises to any person authorized to enforce the provisions of the standby plan.
(5) Standby plans required by this section shall be submitted to the department upon request within thirty (30) days of the receipt of such request; such plans shall be subject to review and approval by the department. If in the opinion of the department, a plan does not effectively carry out the objectives as set forth in Sections 5 to 7, the department may disapprove it, state its reasons for disapproval and order the preparation of an amended plan within the time period specified in the order.

Section 5. Abatement Strategies Emission Reduction Plans: Alert Level. (1) General:
(a) There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.
(b) The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12 noon and 4 p.m., local time.
(c) Persons operating fuel-burning equipment which

requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m., local time.

(d) Persons operating motor vehicles should eliminate all unnecessary operations.

(2) Source curtailment. Any person responsible for the operation of a source of air contaminant listed below shall take all required control actions for this alert level.

(a) When the source of air contaminant is coal or oil fired electric power generating facilities:

1. Substantial reduction by utilization of fuels having low ash and sulfur content.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Substantial reduction by diverting electric power generation to facilities outside of alert area.

(b) When the source of air contaminant is coal and oil fired process steam generating facilities:

1. Substantial reduction by utilization of fuels having low ash and sulfur content.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Substantial reduction of steam load demands consistent with continuing plant operations.

(c) When the source of air contaminant is manufacturing industries of the following classifications: primary metals industry, petroleum refining operations, chemical industries, mineral processing industries, paper and allied products and grain industry:

1. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and all operations.
2. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gas vapors or malodorous substances.
3. Maximum reduction of heat load demands for processing.
4. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

Section 6. Emission Reduction Plans: Warning Level. (1) General.

(a) There shall be no open burning by any person of tree waste, vegetation, refuse or debris in any form.

(b) The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

(c) Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m. local time.

(d) Persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and the elimination of unnecessary operation.

(2) Source curtailment. Any person responsible for the operation of a source of air contaminant listed below shall take all required control actions for this warning level.

(a) When the source of air contaminant is coal or oil fired electric power generating facilities:

1. Maximum reduction by utilization of fuels having lowest ash and sulfur content.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Maximum reduction by diverting electric power generation to facilities outside of warning area.

(b) When the source of air contaminant is coal and oil fired process steam generating facilities:

1. Maximum reduction by utilization of fuels having the lowest available ash and sulfur content.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Making ready for use a plan of action to be taken if an emergency develops.

(c) When the source of air contaminant is manufacturing industries which may require considerable lead time for shut-down including the following classifications: petroleum refining, chemical industries, primary metals industries, glass industries, paper and allied products:

1. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operation.
2. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances.
3. Maximum reduction of heat load demands for processing.
4. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

(d) When the source of air contaminant is manufacturing industries which may require relatively short lead times for shut-down including the following classifications: primary metals industries, chemical industries, mineral processing industries and grain industry:

1. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
2. Elimination of air contaminants from the trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.
3. Maximum reduction of heat load demands for processing.
4. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

Section 7. Emission Reduction Plans: Emergency Level. (1) General.

(a) There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.

(b) The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.

(c) All places of employment described below shall immediately cease operations:

1. Mining and quarrying of nonmetallic minerals.
2. All construction work except that which must proceed to avoid emergent physical harm.
3. All manufacturing establishments except those required to have inforce an air pollution emergency plan.
4. Wholesale trade establishments: i.e., places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies.
5. All offices of local, county, and state government including authorities, joint meetings and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or state government, authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order.
6. All retail trade establishments except pharmacies and stores primarily engaged in the sale of food.
7. Banks; credit agencies other than banks; securities and commodities brokers, dealers, and exchanges and services; offices of insurance carriers, agents and brokers; real estate offices.
8. Wholesale and retail laundries, laundry services; photographic studios; beauty shops, barbershops; shoe repair shops.
9. Advertising offices; consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing list and stenographic services; equipment rental services, commercial testing laboratories.
10. Automobile repair, automobile services, garages.
11. Establishments rendering amusement and recreation services including motion picture theaters.
12. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.

(d) All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of air contaminants from their operations by ceasing, curtailing, or postponing operations which emit air contaminants, to the extent possible without causing injury to persons or damage to equipment.

(e) The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.

(2) Source curtailment. Any person responsible for the operation of a source of air contaminant listed below shall take all required control actions for this emergency level.

(a) When the source of air contaminant is coal or oil fired electric power generating facilities:

1. Maximum reduction by utilization of fuels having lowest ash and sulfur content.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Maximum reduction by diverting electric power generation to facilities outside of emergency area.

(b) When the source of air contaminant is coal and oil fired process steam generating facilities:

1. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
2. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Taking the action called for in the emergency plan.

(c) When the source of air contaminant is manufacturing industries of the following classifications: primary metal industries, petroleum refining, chemical industries, mineral processing industries, grain industry, paper and allied products:

1. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
2. Elimination of air contaminants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.

3. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

JOHN S. HOFFMAN, Secretary

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DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:040)

RELATES TO: KRS 224.033, 224.330
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 224.033 and 224.330 require the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to provide for the control of emission of hazardous air pollutants to protect the public health.

Section 1. Applicability. The provisions of this regulation apply to the owner or operator of any stationary source for which a standard is prescribed under this regulation. New or modified sources must comply with all standards upon commencing operation. Existing sources shall comply within ninety (90) days after the effective date of this regulation.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 3:010.

(1) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference method or an equivalent method but which has been demonstrated to the department's satisfaction to produce, in specific cases, results adequate for its determination of compliance.

(2) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(3) "Construction" means fabrication, erection, or installation of a stationary source.

(4) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(5) "Existing source" means any stationary source which is not a new source.

(6) "Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any hazardous air pollutant emitted by such source or which results in the emission of any hazardous air pollutant not previously emitted, except that:

(a) Routine maintenance, repair, and replacement shall not be considered physical changes, and

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the stationary source;

2. An increase in hours of operation.

(7) "New source" means any stationary source, the construction or modification of which is commenced after the effective date of this regulation.

(8) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(9) "Reference method" means any method of sampling and analyzing for an air pollutant, as specified by the department.

(10) "Startup" means the setting in operation of a stationary source for any purpose.

(11) "Standard" means an emission standard for a hazardous air pollutant adopted under this regulation.

(12) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant which has been designated as hazardous by the department.

Section 3. Potential Hazardous Emissions. Persons responsible for a source from which hazardous matter may be emitted including but not limited to, antimony, arsenic, asbestos, beryllium, bismuth, lead, mercury, silica, tin, and compounds of such materials, and other toxic materials shall give the utmost care and consideration to the potential harmful effects of the emissions resulting from such activities. Evaluation of such facilities as to adequacy, and emission potential will be made on an individual basis by the department.

Section 4. Emission Standard for Asbestos.

(1) Applicability. The provisions of this section are applicable to those sources specified in subsection (3) of this section.

(2) Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 3:010 and in Section 2 of this regulation:

(a) "Asbestos" means actinolite, amosite, anthophylite, chrysotile, crocidolite, tremolite.

(b) "Asbestos material" means asbestos or any material containing asbestos.

(c) "Particulate asbestos material" means finely divided particles of asbestos material.

(d) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

(e) "Outside air" means the air outside buildings and structures.

(f) "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate asbestos material.

(g) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of such facility.

(h) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(i) "Manufacturing" means the combining of commercial asbestos, or in the case of woven friction products the combining of textiles containing commercial asbestos, with any other material(s), including commercial asbestos, and the processing of this combination into a product as specified in subsection (3)(c) of this section.

(j) "Demolition" means the wrecking or removal of any load-supporting structural member.

(3) Emission Standard:

(a) Asbestos mills: There shall be no visible emissions to the outside air from any asbestos mill except as provided in paragraph (f) of this subsection.

(b) Roadways: The surfacing of roadways with asbestos tailings is prohibited, except for temporary roadways on an area of asbestos ore deposits. The deposition of asbestos tailings on roadways covered with snow or ice is considered "surfacing."

(c) Manufacturing: There shall be no visible emissions to the outside air, except as provided in paragraph (f) of this subsection, from any building or structure in which the following operations are conducted:

1. The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap or other textile materials.
2. The manufacture of cement products.
3. The manufacture of fireproofing and insulating materials.
4. The manufacture of friction products.
5. The manufacture of paper, millboard, and felt.
6. The manufacture of floor tile.
7. The manufacture of paints, coatings, caulks, adhesives, sealants.
8. The manufacture of plastics and rubber materials.
9. The manufacture of chlorine.

(d) Demolition: Any owner or operator of a demolition operation who intends to demolish any institutional, commercial, or industrial building (including apartment buildings having more than four (4) dwelling units), structure, facility, installation, or portion thereof which contains any boiler, pipe, or load-supporting structural member that is insulated or fireproofed with friable asbestos material shall comply with the requirements set forth in this subsection.

1. Notice of intention to demolish shall be provided to the department by the owner or operator of the demoliton operation. Such notice shall be postmarked at least ten (10) days prior to commencement of demolition or anytime prior to commencement of demolition subject to paragraph (d)4. of this subsection.

2. Such notice shall include the following information:

a. Name of owner or operator.

b. Address of owner or operator.

c. Description of the building, structure, facility, or installation to be demolished.

d. Address or location of the building, structure, facility or installation.

e. Scheduled starting and completion dates of demolition.

f. Method of demolition to be employed.

g. Procedures to be employed to meet the requirements of this section.

3. The following procedures shall be used to prevent emissions of particulate asbestos material to outside air:

a. Friable asbestos materials, used to insulate or fireproof any boiler, pipe, or load-supporting structural member, shall be wetted and removed from any building, structure, facility, or installation subject to this subsection before wrecking of load-supporting structural members is commenced. Boilers, pipe, or load-supporting structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in

sections without stripping or wetting, except that where the boiler, pipe or load-supporting structural member is cut or disjointed, the exposed friable asbestos materials shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

b. No pipe or load-supporting structural member that is covered with friable asbestos insulating or fireproofing material shall be dropped or thrown to the ground from any building, structure, facility, or installation subject to this subsection, but shall be carefully lowered or taken to ground level.

c. No friable asbestos debris shall be dropped or thrown to the ground from any building, structure, facility, or installation subject to this paragraph or from any floor to any floor below. For buildings, structures, facilities, or installations, fifty (50) feet or greater in height, friable asbestos debris shall be transported to the ground via dust-tight chutes or containers.

4. Any owner or operator of a demolition operation who intends to demolish a building, structure, facility, or installation to which the provisions of this subsection would be applicable but which has been declared by proper state or local authority to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this section other than the reporting requirements specified by paragraph (d)1. of this subsection and the wetting of friable asbestos debris as specified by paragraph (d)3.a. of this subsection.

(e) Spraying: There shall be no visible emissions to the outside air from the spray-on application of materials containing more than one (1) percent asbestos, on a dry weight basis, used to insulate or fireproof equipment and machinery, except as provided in paragraph (f) of this subsection. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall contain less than 1 percent asbestos on a dry weight basis. Any owner or operator who intends to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, and machinery shall report such intention to the department at least twenty (20) days prior to the commencement of the spraying operation. Such report shall include the following information:

1. Name of owner or operator.
2. Address of owner or operator.
3. Location of spraying operation.
4. Procedures to be followed to meet the requirements of this paragraph.

(f) Rather than meet the no-visible-emission requirements of paragraphs (a), (c) and (e) of this subsection an owner or operator may elect to use the methods specified by subsection (4) of this section to clean emissions containing particulate asbestos material before such emissions escape to, or are vented to, the outside air.

(g) Where the presence of uncombined water is the sole reason for failure to meet the no-visible-emission requirement of paragraphs (a), (c) or (e) of this subsection, such failure shall not be a violation of such emission requirements.

(4) Air Cleaning. If air-cleaning is elected, as provided by subsection (3)(f) of this section, the requirements of this subsection shall be met.

(a) Fabric filter collection devices shall be used, except as noted in paragraphs (b) and (c) of this subsection. Such devices shall be operated at a pressure drop of no more than 4 inches water gauge, as measured across the filter fabric. The airflow permeability, as determined by a method specified by the department, must not exceed 30 cubic feet/min/square foot for woven fabrics or 35 cubic feet/min/square foot for felted fabrics, except that 40 cubic feet/min/square foot for woven and 45 cubic feet/min/square foot for felted fabrics is allowed for filtering air from asbestos ore dryers. Each square yard of felted fabric shall weigh at least fourteen (14) ounces and be at least one-sixteenth (1/16) inch thick throughout. Synthetic fabrics shall not contain fill yarn other than that which is spun.

(b) If the use of fabric filters creates a fire or explosion hazard, the department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches water gauge pressure.

(c) The department may authorize the use of filtering equipment other than that described in paragraphs (a) and (b) of this subsection if the owner or operator demonstrates to the satisfaction of the department that the filtering of particulate asbestos material is equivalent to that of the described equipment.

(d) All air-cleaning equipment authorized by this subsection shall be properly installed, used, operated, and maintained. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

(5) Reporting. The owner or operator of any existing source to which this section is applicable shall, within ninety (90) days after the effective date of this regulation provide the following information to the Department:

(a) A description of the emission control equipment used for each process;

(b) If a fabric filter device is used to control emissions, the pressure drop across the fabric filter in inches water gauge.

1. If the fabric filter device utilizes a woven fabric, the airflow permeability in cubic feet/min/square foot; and, if the fabric is synthetic, indicate whether the fill yarn is apun or not spun.

2. If the fabric filter device utilizes a felted fabric, the density in ounces/square yard the minimum thickness in inches, and the airflow permeability in cubic feet/min/square foot.

Section 5. Emission Standard for Beryllium. (1) Applicability. The provisions of this section are applicable to the following stationary sources:

(a) Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste.

(b) Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than five (5) percent beryllium by weight.

(2) Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 3:010 and in Section 2 of this regulation.

(a) "Beryllium" means the element beryllium. Where weights or concentrations are specified, such weights or concentrations apply to beryllium only, excluding the weight or concentration of any associated elements.

(b) "Extraction plant" means a facility chemically processing beryllium ore to beryllium metal alloy, or oxide, or performing any of the intermediate steps in these processes.

(c) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.

(d) "Machine shop" means a facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.

(e) "Ceramic plant" means a manuafacturing plant producing ceramic items.

(f) "Foundry" means a facility engaged in the melting or casting of beryllium metal or alloy.

(g) "Berryllium-containing waste" means material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to this section.

(h) "Incinerator" means any furnace used in the process of burning waste for the eprimary purpose of reducing the volume of the waste by removing combustible matter.

(i) "Propellant" means a fuel and oxidizer physically or chemically combined which undergoes combustion to provide rocket propulsion.

(j) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content and which contains more than 0.1 percent beryllium by weight.

(k) "Propellant plant" means any facility engaged in the mixing, casting or machining of propellants.

(3) Emission standard:

(a) Emissions to the atmosphere from stationary sources subject to the provisions of this section shall not exceed ten (10) grams of beryllium over a twenty-four (24) hour period, except as provided in paragraph (b) of this subsection.

(b) Rather than meet the requirements of paragraph (a) of this subsection, an owner or operator may request approval from the department to meet an ambient concentration limit on beryllium in the vicinity of the stationary source of 0.01 ug/cubic meter averaged over a thirty (30) day period.

1. Approval of such requests may be granted by the department provided that:

a. At least three (3) years of data is available which in the judgment of the department demonstrates that the future ambient concentrations of beryllium in the vicinity of the stationary source will not exceed 0.01 ug/cubic meter, averaged over a thirty (30) day period. Such three (3) year period shall be the three (3) years ending thirty (30) days before the effective date of this regulation.

b. The owner or operator requests such approval in writing within thirty (30) days after the effective date of this regulation.

c. The owner or operator submits a report to the department within forty-five (45) days after the effective date of this regulation which includes the following information:

(i) Description of sampling method including the method and frequency of calibration.

(ii) Method of sample analysis.

(iii) Averaging technique for determining thirty (30) day average concentrations.

(iv) Number, identity, and location (address, coordinates, or distance and heading from plant) of sampling sites.

(v) Ground elevations and height above ground of

and in Section 2 of this regulation:

(a) "Mercury" means the element mercury, excluding any associated elements, and includes mercury in particulates, vapors, aerosols, and compounds.

(b) "Mercury ore" means a mineral mined specifically for its mercury content.

(c) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

(d) "Condenser stack gases" means the gaseous effluent evolved from the stack of processes utilizing heat to extract mercury metal from mercury ore.

(e) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section and utilizes mercury to produce chlorine gas, hydrogen gas and alkali metal hydroxide.

(f) "Mercury chlor-alkali electrolyzer" means an electrolytic device which is part of a mercury chlor-alkali cell and utilizes a flowing mercury cathode to produce chlorine gas and alkali metal amalgam.

(g) "Denuder" means a horizontal or vertical container which is part of a mercury chlor-alkali cell and in which water and alkali metal amalgam are converted to alkali metal hydroxide, mercury, and hydrogen gas in a short-circuited, electrolytic reaction.

(h) "Hydrogen gas stream" means a hydrogen stream formed in the chlor-alkali cell denuder.

(i) "End box" means a container(s) located on one or both ends of a mercury chlor-alkali electrolyzer which serves as a connection between the electrolyzer and denuder for rich and stripped amalgam.

(j) "End box ventilation system" means a ventilation system which collects mercury emissions from the end-boxes, the mercury pump sumps, and their water collection systems.

(k) "Cell room" means a structure(s) housing one or more mercury electrolytic chlor-alkali cells.

(3) Emission standard. Emissions to the atmosphere from stationary sources subject to the provisions of this section shall not exceed 3,200 grams of mercury per twenty-four (24) hour period.

(4) Stack sampling:

(a) Mercury ore processing facility.

1. Each owner or operator processing mercury ore shall test emissions from his source as follows:

a. Within ninety (90) days of the effective date of this regulation in the case of an existing source or a new source which has an initial startup date preceding the effective date of this regulation; or

b. Within ninety (90) days of startup in the case of a new source which did not have an initial startup date preceding the effective date of this regulation.

2. The department shall be notified at least thirty (30) days prior to an emission test, so that it may observe the test.

3. Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in a twenty-four (24) hour period. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until the new emission level has been estimated by calculation and the results reported to the department.

4. All samples shall be analyzed, and mercury emissions shall be determined within thirty (30) days after the source test. Each determination will be reported to the department.

5. Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department for a minimum of two (2) years.

(b) Mercury chlor-alkali plants; hydrogen and end-box ventilation gas streams.

1. Each owner or operator employing mercury chlor-alkali cell(s) shall test emissions from his source as follows:

a. Within ninety (90) days of the effective date of this regulation in the case of an existing source or a new source which has an initial startup date preceding the effective date of this regulation; or

b. Within ninety (90) days of startup in the case of a new source which did not have an initial startup date preceding the effective date of this regulation.

2. The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.

3. Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in a twenty-four (24) hour period. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until the new emission has been estimated by calculation and the results reported to the department.

4. All samples shall be analyzed and mercury emissions shall be determined within thirty (30) days after the source test. All the determinations will be sampling inlets.

(vi) Plant and sampling area plots showing emission points and sampling sites. Topographic features significantly affecting dispersion including plant building heights and locations shall be included.

(vii) Information necessary for estimating dispersion including stack height, inside diameter, exit gas temperature, exit velocity or flow rate and beryllium concentrations.

(viii) A description of data and procedures (methods or models) used to design the air sampling network (i.e. number and location of sampling sites).

(ix) Air sampling data indicating beryllium concentrations in the vicinity of the stationary source for the three (3) year period specified in subsection (3)(b)1. of this section. This data shall be presented chronologically and include the beryllium concentration and location of each individual sample taken by the network and the corresponding thirty (30) day average beryllium concentrations.

2. Within sixty (60) days after receiving such report, the department shall notify the owner or operator in writing whether approval is granted or denied. Prior to denying approval to comply with the provisions of paragraph (b)1. of this subsection, the department will consult with representatives of the air contaminant source for which the demonstration report was submitted.

(c) The burning of beryllium and/or beryllium-containing waste, except propellants, is prohibited except in incinerators, emissions from which must comply with the standards.

(4) Stack sampling:

(a) Each owner or operator required to comply with subsection (3)(a) of this section shall test emissions from his source as follows:

1. Within ninety (90) days of the effective date of this regulation in the case of an existing source or a new source which has initial startup date preceding the effective date of this regulation; or

2. Within ninety (90) days of startup in the case of a new source which does not have an initial startup date preceding the effective date of this regulation.

(b) The department shall be notified at least thirty (30) days prior to an emission test so that it may observe the tests.

(c) Samples shall be taken over such period or periods as are necessary to accurately determine the maximum emissions which will occur in any twenty-four (24) hour period. Where emissions depend upon the relative frequency of operation of different types of processes, operating hours, operating capacities, or other factors, the calculation of maximum twenty-four (24) hour period emissions will be based on that combination of factors which are likely to occur during the subject period and which result in the maximum emissions. No changes in the operation shall be made, which would potentially increase emissions above that determined by the most recent source test, until a new emission level has been estimated by calculation and the results reported to the department.

(d) All samples shall be analyzed and beryllium emissions shall be determined within thirty (30) days after the source test. All determinations shall be reported to the department.

(e) Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(5) Air sampling:

(a) Stationary sources subject to subsection (3)(b) of this section shall locate air sampling sites in accordance with a plan approved by the department. Such sites shall be located in such a manner calculated to detect maximum concentrations of beryllium in the ambient air.

(b) All monitoring sites shall be operated continuously except for a reasonable time allowance for instrument maintenance and calibration, for changing filters, or for replacement of equipment needing major repair.

(c) Filters shall be analyzed and concentrations calculated within thirty (30) days after filters are collected. Records of concentrations at all sampling sites and other data needed to determine such concentrations shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.

(d) Concentrations measured at all sampling sites shall be reported to the department every thirty (30) days.

(e) The department may at any time require changes in, or expansion of, the sampling network.

Section 6. Emission Standard for Mercury. (1) Applicability. The provisions of this section are applicable to those stationary sources which process mercury ore to recover mercury, or use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide.

(2) Definitions. Terms used in this section not defined herein shall have the meaning given to them in 401 KAR 3:010

reported to the department.
5. Records of emission test results and other data needed to determine total emissions shall be retained at the source and made available, for inspection by the department, for a minimum of two (2) years.
(c) Mercury chlor-alkali plants; cell room ventilation system.
1. Stationary sources using mercury chlor-alkali cells may test cell room emissions in accordance with paragraph (c)2. of this subsection or demonstrate compliance with paragraph (c)4. of this subsection and assume ventilation emissions of 1,300 g/day of mercury.
2. Each owner or operator shall pass all cell room air in forced gas streams through stacks suitable for testing as follows:
a. Within ninety (90) days of the effective date of this regulation in the case of an existing source or a new source which has an initial startup date preceding the effective date of this regulation; or
b. Within ninety (90) days of startup in the case of a new source which did not have an initial startup date preceding the effective date of this regulation.
3. The department shall be notified at least thirty (30) days prior to an emission test, so that it may at its option observe the test.
4. An owner or operator may carry out approved design, maintenance and housekeeping practices.

JOHN S. HOFFMAN, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:40 p.m.

PUBLIC HEARING: A public hearing on this proposed regulation is scheduled for April 15, 1975 at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact: John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:050)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(17)
SUPERSEDES: AP-3, AP-4, AP-5, AP-6 and AP-7
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to provide standards of performance for new sources of air pollution.

Section 1. General Provisions. (1) Applicability. Unless specifically defined in subsequent sections, the provisions of this regulation shall apply to the owner or operator of any source which contains any new or modified affected facility the construction of which commenced after the effective date of this regulation.

(2) Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 3:010.

(a) "Standard" means a standard of performance proposed or promulgated under this regulation.
(b) "Source" means one or more affected facilities, which emits or may emit any air contaminant, contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way.
(c) "Affected facility" means, with respect to a source, any apparatus to which a standard is applicable.
(d) "Owner or Operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a source of which an affected facility is a part.
(e) "Construction" means fabrication, erection, or installation of an affected facility.
(f) "Modification" means any physical change in, or change in the method of operation of an affected facility which increases the amount of any air pollutant (to which a standard applies) emitted by such facility or which results in the emission of any air pollutant (to which a standard applies) not previously emitted, except that:
1. Routine maintenance, repair, and replacement shall not be considered physical changes; and
2. The following shall not be considered a change in the method of operation:
a. An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility;
b. An increase in hours of operation;
c. Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to such facility, as provided by subsection (1) of this section, the affected facility is designed to accommodate such alternative use.
(g) "Commenced" means, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time, a continuous program of construction or modification.
(h) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the department.
(i) "Startup" means the setting in operation of an affected facility for any purpose.
(j) "Reference method" means any method of sampling and analyzing for an air pollutant as specified by the department.
(k) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
(l) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the department's satisfaction to, in specific cases, produce results adequate for its determination of compliance.
(m) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the reference method or an equivalent or alternative method.
(n) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(3) Performance test:
(a) 1. Within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the department the owner or operator of the affected facilities specified below shall conduct performance test(s) and furnish the department a written report of the results of such performance test(s).
a. Process operation with a process weight rate of 100 tons per hour or more.
b. Indirect heat exchanger of more than 250 million BTU per hour.
c. Incinerator with a charging rate of more than 45 metric tons per day (50 tons/day).
d. Portland cement plants.
e. Nitric acid plants.
f. Sulfuric acid plants.
g. Asphalt concrete plants.
h. Petroleum refineries.
i. Affected facilities specified in Sections 11(1), 12(1) and 13(1) of this regulation.
j. Sewage treatment plants.
2. The department may require the owner or operator of an affected facility not specified in paragraph (a) 1. of this subsection to conduct performance test and furnish a written report of the results of such performance test(s), as required by this subsection.
(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable section unless the department:
1. Specifies or approves, the use of a reference method with minor changes in methodology,
2. Approves the use of an equivalent method,
3. Approves the use of an alternative method the results of which it has determined to be adequate for indicating whether a specific source is in compliance, or
4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated to the department's satisfaction that the affected facility is in compliance with the standard. Nothing in this paragraph shall be construed to abrogate the department's authority to require testing under 401 KAR 3:010.
(c) The owner or operator shall permit the department to conduct performance tests at any reasonable time, shall cause the affected facility to be operated for purposes of such tests under such conditions as the department may specify based on representative performance of the affected facility, and shall make available to the department such records as may be necessary to determine such performance.
(d) The owner or operator of an affected facility shall provide the department ten (10) days prior notice of the performance test to afford the department the opportunity to have an observer present.
(e) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
1. Sampling ports adequate for test methods applicable to such facility.
2. Safe sampling platform(s).
3. Safe access to sampling platform(s).
4. Utilities for sampling and testing equipment.
(f) Each performance test shall consist of three (3)

separate runs using the applicable test method. Each run shall be conducted for such time and under such conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three (3) runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one (1) of the three (3) runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the department's approval, be determined using the arithmetic mean of the results of the two (2) other runs.

(4) Ambient air monitoring. Persons owning or operating any new affected facility for which a standard is prescribed in this regulation when required by the department shall install, use, and maintain ambient air monitoring equipment in accordance with reference methods or alternate methods and in such number and frequency prescribed by the department, and shall make periodic ambient air monitoring reports at intervals prescribed by the department.

(5) Compliance with standards and maintenance requirements:

(a) Compliance with standards in this regulation, other than opacity standards, shall be determined only by performance tests established by subsection (3) of this section.

(b) Compliance with opacity standards in this regulation shall be determined by conducting observations in accordance with reference method specified by the department. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuance monitoring by transmissometers which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation), performance specification as required by the department, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

(c) The opacity standards set forth in this regulation shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(e) 1. An owner or operator of an affected facility may request the department to determine opacity of emissions from the affected facility during the initial performance tests required by subsection (3) of this section.

2. Upon receipt from such owner or operator of the written report of the results of the performance tests required by subsection (3) of this section, the department will make a finding concerning compliance with opacity and other applicable standards. If the department finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with subsection (3) of this section, but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the department shall notify the owner or operator and advise it that it may petition the department within ten (10) days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

3. The department will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the department; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

4. The department will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard.

(6) Circumvention. No owner or operator subject to the provisions of this regulation shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

Section 2. New Stationery Sources; Process Operations. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to each new process operation not otherwise regulated by other sections of this regulation.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in section 1(2) of this regulation.

(a) "Process operation" means any method, form, action, operation or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing;

(b) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(c) "Process weight rate" means a rate established as follows:

1. For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;

2. For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

3. Where the nature of any process operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation which results in the minimum value for allowable emission shall apply.

(d) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

1. In the separation of the air contaminant from the process materials, or

2. In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

(3) Standard for particulate matter:

(a) No person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any affected facility, or from all air pollution control equipment installed on any affected facility which:

1. Is equal to or greater than twenty (20) percent opacity; or,

2. Is in excess of the quantity specified in Table 1 of this regulation.

(b) An affected facility may elect to substitute the following standards in lieu of the value given in Table 1.

1. A maximum exit particulate emission concentration of 0.02 grains per standard cubic foot, and

2. Air pollution control equipment of at least ninety-seven (97) percent actual efficiency.

3. Addition of dilution air shall not constitute compliance.

TABLE 1
ALLOWABLE RATE OF PARTICULATE EMISSION
BASED ON PROCESS WEIGHT

Process Weight Rate		Maximum Allowable Emission Rate
Lb./Hr.	Tons/Hr.	Lb./Hr.
100 or less	0.05 or less	0.56
200	0.10	0.86
400	0.20	1.32
600	0.30	1.70
800	0.40	2.03
1000	0.50	2.34
1500	0.75	3.00
2000	1.00	3.59
2500	1.25	4.12
3000	1.50	4.62
3500	1.75	5.08
4000	2.00	5.52
5000	2.50	6.34
6000	3.00	7.09
7000	3.50	7.81
8000	4.00	8.48
9000	4.50	9.12
10000	5.00	9.74
12000	6.00	10.90
16000	8.00	13.03
18000	9.00	14.02

20000	10.00	14.97
30000	15.00	19.24
40000	20.00	23.00
50000	25.00	26.41
60000	30.00	29.57
70000	35.00	30.57
80000	40.00	31.23
90000	45.00	31.83
100000	50.00	32.37
120000	60.00	33.33
140000	70.00	34.16
160000	80.00	34.90
200000	100.00	36.17
1000000	500.00	46.79
2000000	1000.00	52.28
6000000	3000.00	62.32

Interpolation of the data for process weight rates up 60,000 lb./hr. shall be accomplished by use of the equation E = 3.59 P(0).(62), and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation E = 17.31 P(0).(16), where E = rate of emission in lb./hr. and P = process weight rate in tons/hr.

Section 3. Standards of Performance for Indirect Heat Exchangers. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to each indirect heat exchanger, which is the affected facility. This section shall not apply to the following: Indirect heat exchangers with a capacity of one (1) million BTU per hour input or less if solid fuel or residual oil is burned, and indirect heat exchangers using natural gas, liquid petroleum gas, or distillate fuel oil as a main fuel or combination of these as main or standby fuel, with a capacity of less than fifty (50) million BTU per hour input.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Indirect heat exchanger" means any piece of equipment, apparatus or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(b) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

(c) "Particulate matter" means any finely divided liquid or solid material, other than uncombined water, as measured by a method specified by the department.

(3) Standard for particulate matter. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any affected facility any gases which:

(a) Contain particulate matter in excess of the weights for each million BTU per hour heat input derived from fuel at any specified capacity rating (expressed in millions of BTU per hour heat input) as listed in the table below:

Mm. BTU/Hr. Heat Input	Maximum Particulate Emission Rate, Pounds Per Million BTU Input
10 or less	0.56
50	0.38
100	0.33
150	0.30
200	0.28
250 or more	0.10

Interpolation of allowable emissions for intermediate heat input values not specified in the table above any be accomplished by the use of the following equation.

$$Y = 0.9634\ X\ (-0.2356)$$

Where Y is the allowable particulate emission in pounds per million BTU heat input, and

X is the millions of BTU per hour heat input capacity rating.

(b) Exhibit greater than twenty (20) percent opacity except that a maximum of forty (40) percent opacity shall be permissible for not more than two (2) minutes in any hour. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure will not be a violation of this section.

(4) Standard for sulfur dioxide:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed no owner or operator, subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of the weights for each million BTU per hour heat input derived from fuel at any specified capacity rating (expressed in millions of BTU per hour heat input) as listed in table below:

Mm. BTU/Hr. Heat Input	Pounds SO(2) Per Million BTU Heat Input	
	Liquid Fuel	Solid Fuel
10 or less	2.50	4.0
50	1.41	2.19
100	1.11	1.69
150	0.96	1.45
200	0.87	1.30
250 or more	0.80	1.20

Interpolation of allowable emissions for intermediate heat input values not specified in the table above may be accomplished by use of the equations below for appropriate fuel and heat input specified:

Liquid fuel: $Y = 5.6484\ X\ (-0.3540)$

Solid fuel: $Y = 9.4644\ X\ (-0.3740)$

Where Y = allowable sulfur dioxide emissions in pounds per million BTU per hour test input, and

X = millions of BTU per hour heat input capacity rating.

(b) When different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

$$\frac{y(a)+z(b)}{y+z}$$

Where:

y is the percent of total heat input derived from liquid fuel,

z is the percent of total heat input derived from solid fuel,

a is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from liquid fuel, and

b is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from solid fuel.

(c) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(5) Standard for nitrogen oxides:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides expressed as NO2 in excess of:

1. 0.20 lb. per million BTU heat input (0.36 g. per million cal.) derived from gaseous fuel.
2. 0.30 lb. per million BTU heat input (0.54 g. per million cal.) derived from liquid fuel.
3. 0.70 lb. per million BTU heat input (1.26 g. per million cal.) derived from solid fuel (except lignite).

(b) When different fuels are burned simultaneously in any combination the applicable standard shall be determined by proration. Compliance shall be determined by using the following formula:

$$\frac{x(0.20)+y(0.30)+z(0.70)}{x+y+z}$$

Where:

x is the percent of total heat input derived from gas-fuel and,

y is the percent of total heat input derived from liquid fuel and,

Z is the percent of total heat input derived from solid fuel (except lignite).

(6) Emission and fuel monitoring:

(a) There shall be installed, calibrated, maintained, and operated, in any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this section, emission monitoring instruments as follows:

1. A photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned.
2. An instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel is the only fuel burned, or where compliance is achieved through low sulfur fuels and representative sulfur analysis of fuels are conducted daily in accordance with paragraphs (c) or (d) of this subsection.

3. An instrument for continuously monitoring and recording emissions of nitrogen oxides.

(b) Instruments and sampling systems installed and used pursuant to this section shall be capable of monitoring emission levels within ±20 percent with a confidence level of ninety-five percent and shall be calibrated in accordance with the method(s) prescribed by the manufacturer(s) of such instruments; instruments shall be subjected to manufacturers recommended zero adjustment and calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer(s) specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. The applicable method specified by the department shall be the reference method.

(c) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(d) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(e) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. Where the indirect heat exchanger is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(f) The owner or operator of indirect heat exchanger subject to the provisions of this section shall maintain a file of all measurements required by this regulation. Appropriate measurements shall be reduced to the units of the applicable standard daily, and summarized monthly. The record of any such measurement(s) and summary shall be retained for at least two (2) years following the date of such measurements and summaries.

(g) The department may require for any indirect heat exchanger unit of less then 250 million BTU per hour heat input any or all the emission and fuel monitoring required by this subsection.

(7) Test methods and procedures:

(a) The reference methods used to determine compliance with the standards prescribed in this regulation are specified by the department.

(b) For determining particulates the sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the department.

(c) For determining sulfur dioxide and nitrogen oxides, the sampling site shall be the same as that for determining volumetric flow rate. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft.).

(d) For determining sulfur dioxide, the minimum sampling time shall be twenty (20) minutes and the minimum sample volume shall be 0.02 dscm (0.71 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the department. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The arithmetic average of two (2) samples shall constitute one run. Samples shall be taken at approximately thirty (30) minute intervals.

(e) For determining nitrogen oxides, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run values.

(f) Heat input, expressed in cal per hr (BTU/hr), shall be determined during each testing period by multiplying the heating value of the fuel by the rate of fuel burned. Heating value shall be determined in accordance with methods specified by the department. The rate of fuel burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the affected facility.

(g) For each run, emissions expressed in g/million cal shall be determined by dividing the emission rate in g/hr by the heat input. The emission rate shall be determined by the equation g/hr = Qs x C where Qs = volumetric flow rate of the total effluent in dscm/hr as determined for each run.

1. For particulate matter, C = particulate concentration in g/dscm.
2. For SO2, C = SO2 concentration in g/dscm.
3. For NOx, C = NOx concentration in g/dscm.

Section 4. Standards of performance for incinerators. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to each incinerator, which is the affected facility.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume of the waste by removing combustible matter.

(b) "Solid waste" means refuse, more than fifty (50) percent of which is municipal type waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles, and noncombustible materials such as glass and rock.

(c) "Day" means twenty-four (24) hours.

(d) "Auxiliary fuel" means a substance burned in an incinerator to supply additional heat to attain temperature sufficiently high to dry and ignite waste material and to maintain ignition of the waste material but which is never in contact with the waste material.

(3) Standard for particulate matter:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator of an incinerator of more than forty-five (45) metric tons per day charging rate (50 tons/day) shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of 0.18 g/dsc (0.08 gr/dscf) corrected to twelve (12) percent CO2 excluding the contribution of carbon dioxide from auxiliary fuel.

(b) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator of an incinerator of forty-five (45) metric tons per day charging rate (50 tons/day) or less shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of 0.45 g/dscm (0.2 gr/dscf) corrected to twelve (12) percent CO2 excluding the contribution of carbon dioxide from auxiliary fuel.

(4) Monitoring of operations. The owner or operator of any incinerator of more than forty-five (45) metric tons per day charging rate (50 tons per day) subject to the provisions of this regulation shall record the daily charging rates and hours of operation.

(5) Nameplate. All new incinerators shall have a nameplate installed in a conspicuous place on the unit giving the manufacturer's name, model number, rated capacity, and the types of waste material for which he unit is designed.

(6) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standard prescribed in subsection (3) of this section.

(b) The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the department.

(c) If a wet scrubber is used, the gas analysis sample shall reflect flue gas conditions after the scrubber, allowing for carbon dioxide absorption by sampling the gas on the scrubber inlet and outlet sides according to either the procedure under paragraphs (c)1. through (c)5. of this subsection or the procedure under paragraphs (c)1., (c)2. and (c)6. of this subsection as follows:

1. The outlet sampling site shall be the same as for the particulate matter measurement.
2. Randomly select nine (9) sampling points within the cross-section at both the inlet and outlet sampling sites. Use the first set of three (3) for the first run, the second set for the second run, and the third set for the third run.
3. Simultaneously with each particulate matter run, extract and analyze for CO2, and integrated gas sample traversing the three (3) sample points and sampling at each point for equal increments of time. Conduct the runs at both inlet and outlet sampling sites.
4. Measure the volumetric flow rate at the inlet during each particulate matter run using the full number of traverse points. For the inlet make two (2) full velocity traverses approximately one (1) hour apart during each run and average the results. The outlet volumetric flow rate may be determined from the particulate matter run.
5. Calculate the adjusted CO2 percentage using the following equation:

$$(\%\ CO2)adj = (\%\ CO2)di\ (Qdi/Qdo)$$

Where:

(% CO2)adj is the adjusted CO2 percentage which removes the effect of CO2 absorption and dilution air.

(% CO2)di is the percentage of CO2 measured before the scrubber, dry basis.

Qdi is the volumetric flow rate before the scrubber, average of two (2) runs, dscf/min, and

Qdo is the volumetric flow rate after the scrubber, dscf/min.

(7) Alternatively, the following procedures may be substituted for the procedures under paragraphs (c)3. 4. and 5. of subsection (6):

(a) Simultaneously with each particulate matter run, extract and analyze for CO2, O2, and N2 and integrated gas sample traversing the three (3) sample points and sampling for equal increments of time at each point. Conduct the runs at both the inlet and outlet sampling sites.

(b) After completing the analysis of the gas sample, calcuate the percentage of excess air (% EA) for both the inlet and outlet sampling sites.

(c) Calculate the adjusted CO2 percentage using the following equation:

$$(\%\ CO2)adj = (\%\ CO2)di \frac{100 + (\%\ EA)i}{100 + (\%\ EA)o}$$

Where:

(% CO2)adj is the adjusted outlet CO2 percentage,

(% CO2)di is the percentage of CO2 measured before the scrubber, dry basis,

(% EA)i is the percentage of excess air at the inlet, and

(% EA)o is the percentage of excess air at the outlet.

(d) Particulate matter emissions, expressed in g/dscm, shall be corrected to twelve (12) percent CO2 by using the following formula:

$$c12 = \frac{12c}{\%\ CO2}$$

Where:

c12 is the concentration of particulate matter corrected to twelve (12) percent CO2,

c is the concentration of particulate matter, and,

% CO2 is the percentage of measured CO2 or when applicable, the adjusted outlet CO2 percentage as determined by paragraph (c) of this subsection.

Section 5. Standards of Performance for Portland Cement Plants. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to the following affected facilities in portland cement plants: kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation. "Portland Cement Plant" means any facility manufacturing portland cement by either the wet or dry process.

(3) Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any kiln any gases which:

1. Contain particulate matter in excess of 0.15 kg per metric ton of feed (dry basis) to the kiln (0.30 lb. per ton).
2. Exhibit greater than twenty (20) percent opacity.

(b) On and after the date on which the performance test required to be conducted by Section 1(3) is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any clinker cooler any gases which:

1. Contain particulate matter in excess of 0.050 kg per metric ton of feed (dry basis) to the kiln (0.10 lb. per ton).
2. Exhibit ten (10) percent opacity, or greater.

(c) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any affected facility other than the kiln and clinker cooler any gases which exhibit ten (10) percent opacity, or greater.

(4) Monitoring of operations. The owner or operator of any portland cement plant subject to the provisions of this regulation shall record the daily production rates and kiln feed rates.

(5) Test methods and procedures:

(a) The reference methods specified by the department except as provided for in Section 1(3)(b) of this regulation shall be used to determine compliance with the standards prescribed in subsection (3) of this section.

(b) For determination of particulates, the minimum sampling time and minimum sample volume for each run, except when process variables or other factors justify otherwise to the satisfaction of the department shall be as follows:

1. Sixty (60) minutes and 0.85 dscm (30.0 dscf) for the kiln.
2. Sixty (60) minutes and 1.15 dscm (40.6 dscf) for the clinker cooler.

(c) Total kiln feed rate (except fuels), expressed in metric tons per hour on a dry basis, shall be determined during each testing period by suitable methods; and shall be confirmed by a material balance over the production system.

(d) For each run, particulate matter emissions, expressed in g/metric ton of kiln feed, shall be determined by dividing the emission rate in g/hr by the kiln feed rate. The emission rate shall be determined by the equation, g/hr = Qs X c, where Qs = volumetric flow rate of the total effluent in dscm/hr, and c = particulate concentration in g/dscm.

Section 6. Standards of Performance for Nitric Acid Plants. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to each nitric acid production unit, which is the affected facility.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Nitric acid production unit" means any facility producing weak nitric acid by either the pressure or atmospheric pressure process.

(b) "Weak acid production unit" means acid which is thirty (30) to seventy (70) percent in strength.

(3) Standard for nitrogen oxides. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any affected facility any gases which:

(a) Contain nitrogen oxides, expressed as NO2, in excess of 1.5 kg per metric ton of acid produced (3.0 lb. per ton), the production being expressed as 100 percent nitric acid.

(b) Exhibit ten (10) percent opacity, or greater. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure will not be a violation of this section.

(4) Emission monitoring:

(a) There shall be installed, calibrated, maintained, and operated, in any nitric acid production unit subject to the provisions of this section, an instrument for continuously monitoring and recording emissions of nitrogen oxides.

(b) The instrument and sampling system installed and used pursuant to this subsection shall be capable of monitoring emission levels within ±20 percent with a confidence level of ninety-five percent and shall be calibrated in accordance with the method(s) prescribed by the manufacturer(s) of such instrument, the instrument shall be subjected to manufacturers recommended zero adjustment and calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer(s) specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. The applicable method specified by the department shall be the reference method.

(c) Production rate and hours of operation shall be recorded daily.

(5) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standard prescribed in subsection (3) of this section.

(b) The sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than 1 m (3.28 ft). Each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.

(c) Acid production rate, expressed in metric tons per hour of 100 percent nitric acid, shall be determined during each testing period by suitable methods and shall be confirmed by a material balance over the production system.

(d) For each run, nitrogen oxides, expressed in g/metric ton of 100 percent nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation,

$$g/hr = Qs \times c$$

Where:

Qs = volumetric flow rate of the effluent in dscm/hr, and c = NOx concentration in g/dscm.

Section 7. Standards of Performance and Sulfuric Acid Plants. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972 to each sulfuric acid production unit, which is the affected facility.

(2) Definitions. As used in this section, all terms not

defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Sulfuric acid production unit" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(b) "Acid mist" means sulfuric acid mist, as measured by test methods specified by this department or an equivalent or alternative method.

(3) Standard for sulfur dioxide. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of 2 kg per metric ton of acid produced (1/2 lb per ton), the production being expressed at 100 percent H_2SO_4.

(4) Standard for acid mist. On and after the date on which the performance test required to be conducted by Section 1(3) is completed, no owner or operator subject to the provisions of this section shall cause to be discharged into the atmosphere from any affected facility any gases which:

(a) Contain acid mist, expressed as H_2SO_4, in excess of 0.075 kg per metric ton of acid produced (0.15 lb per ton), the production being expressed as 100 percent H_2SO_4.

(b) Exhibit ten (10) percent opacity, or greater. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure will not be a violation of this subsection.

(5) Emission monitoring:

(a) There shall be installed, calibrated, maintained, and operated, in any sulfuric acid production unit subject to the provisions of this section, an instrument for continuously monitoring and recording emissions of sulfur dioxide.

(b) The instrument and sampling system installed and used pursuant to this subsection shall be capable of monitoring emission levels within ± 20 percent with a confidence level of 95 percent and shall be calibrated in accordance with the method(s) prescribed by the manufacturer(s) of such instrument, the instrument shall be subject to manufacturer recommended zero adjustment calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer(s) specified or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. The applicable method specified by the department shall be the reference method.

(c) Production rate and hours of operation shall be recorded daily.

(6) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsections (3) and (4) of this section.

(b) The moisture content can be considered to be zero. For determination of sulfur dioxide and acid mist the sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the department.

(c) Acid production rate, expressed in metric tons per hour of 100 percent H_2SO_4, shall be determined during each testing period by suitable methods and shall be confirmed by a material balance over the production system.

(d) Acid mist and sulfur dioxide emissions, expressed in g/metric ton of 100 percent H_2SO_4 shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, g/hr = Qs X c, where Qs = volumetric flow rate of the effluent in dscm/hr, and c = acid mist and SO_2 concentrations in g/dscm.

Section 8. Standards of Performance for Asphalt Concrete Plants. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to each asphalt concrete plant which is the affected facility. For the purpose of this section, an asphalt concrete plant is comprised only of any combination of the following: dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems.

(2) Definitions:

(a) As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(b) "Asphalt concrete plant" means any facility, as described in subsection (1) of this section used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements.

(3) Standard for particulate matter. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from any affected facility any gases which:

(a) Contain particulate matter in excess of 90 mg/dscm (0.04 gr/dscf).

(b) Exhibit twenty (20) percent opacity, or greater. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure shall not be a violation of this subsection.

(4) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsection (3) of this section as follows.

(b) For determination of concentration of particulate matter, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the department.

Section 9. Standards of Performance for Petroleum Refineries. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers, and fuel gas combustion devices.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or reforming of unfinished petroleum derivatives.

(b) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(c) "process gas" means any gas generated by a petroleum refinery process unit, except fuel gas and process upset gas as defined in this subsection.

(d) "Fuel gas" means any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas which is combusted.

(e) "Process upset gas" means any gas generated by a petroleum refinery process unit as a result of start-up, shut-down, upset or malfunction.

(f) "Refinery process unit" means any segment of the petroleum refinery in which a specific processing operation is conducted.

(g) "Fuel gas combustion device" means any equipment, such as process heaters, boilers and flares used to combust fuel gas, but does not include fluid coking unit and fluid catalytic cracking unit incinerator-waste heat boilers or facilities in which gases are combusted to produce sulfur or sulfuric acid.

(h) "Coke burn-off" means the coke removed from the surface of the fluid catalytic cracking unit catalyst by combustion in the catalyst regenerator. The rate of coke burn-off is calculated by a formula specified by the department.

(3) Standard for particulate matter:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from any fluid catalytic cracking unit catalyst regenerator or from any fluid catalytic cracking unit incinerator-waste heat boiler:

1. Particulate matter in excess of 1.0 kg/1000 kg (1.0 lb/1000 lb) of coke burn-off in the catalyst regenerator.

2. Gases exhibiting thirty (30) percent opacity or greater, except for three (3) minutes in any one (1) hour. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure shall not be a violation of this subsection.

(b) In those instances in which auxiliary liquid or solid fossil fuels are burned in the fluid catalytic cracking unit incinerator-waste heat boiler, particulate matter in excess of that permitted by paragraph (a)1. of this subsection may be emitted to the atmosphere, except that the incremental rate of particulate emissions shall not exceed 0.18 g/million cal (0.10 lb/million BTU) of heat input attributable to such liquid or solid fuel.

(4) Standard for carbon monoxide. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from the fluid catalytic cracking unit catalyst regenerator any gases which contain carbon monoxide in excess of 0.050 percent by volume.

(5) Standard for sulfur dioxide:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall burn in any fuel gas combustion device any fuel gas which contains H2S in excess of 230 mg/dscm (0.10 gr/dscf), except as provided in paragraph (b) of this subsection. The combustion of process upset gas in a flare, or the combustion in a flare of process gas or fuel gas which is released to the flare as a result of relief valve leakage, is exempt from this paragraph.

(b) The owner or operator may elect to treat the gases resulting from the combustion of fuel gas in a manner which limits the release of SO2 to the atmosphere if it is shown to the satisfaction of the department that this prevents SO2 emissions as effectively as compliance with the requirements of paragraph (a) of this subsection.

(6) Emission monitoring:

(a) The owner or operator of any petroleum refinery subject to the provisions of this section shall install, calibrate, maintain, and operate monitoring instruments as follows:

1. A photoelectric or other type smoke detector and recorder to continuously monitor and record the opacity of gases discharged into the atmosphere from fluid catalytic cracking unit catalyst regenerator.
2. An instrument for continuously monitoring and recording the concentration of CO in gases discharged into the atmosphere from fluid catalytic cracking unit catalyst regenerators, except where the requirements of paragraph (a)3. of this subsection are met.
3. Instruments for continuously monitoring and recording firebox temperature and O2 concentration in the exhaust gases from any incinerator-waste heat boiler which combusts the exhaust gases from a fluid catalytic cracking unit catalyst regenerator except where the requirements of paragraph (a)2. of this subsection are met.
4. An instrument for continuously monitoring and recording concentrations of H2S in fuel gases burned in any fuel gas combustion device, except where the requirements of subsection (5)(b) of this section are met. Fuel gas combustion devices have a common source of fuel gas may be monitored at one location if sampling at this location produces results representative of the H2S concentration in the fuel gas burned.
5. An instrument for continuously monitoring and recording concentrations of SO2 in the gases discharged into the atmosphere from the combustion of fuel gases except where the requirements of subsection (5)(a) of this section are met.

(b) Instruments and sampling systems installed and used pursuant to this subsection shall meet specifications prescribed by the department and each instrument shall be calibrated in accordance with the method prescribed by the manufacturer of such instrument. The instruments shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specification or recommendations shall be followed.

(c) The average coke burn-off rate (thousands of kilogram/hr) and hours of operation for any fluid catalytic cracking unit catalyst regenerator subject to subsections (3) or (4) of this section shall be recorded daily.

(d) For any fluid catalytic cracking unit catalyst regenerator which is subject to subsection (3) of this section and which utilizes an incinerator-waste heat boiler to combust the exhaust gases from the catalyst regenerator, the owner or operator, shall record daily the rate of combustion of liquid or solid fossil fuels (liters/hr or kilograms/hr) and the hours of operation during which liquid or solid fossil fuels are combusted in the incinerator-waste heat boiler.

(e) For the purpose of reports pursuant to Section 8 of 401 KAR 3:010, periods of excess emissions that shall be reported are defined as follows:

1. Opacity. All hourly periods in which there are four (4) or more one (1) minute periods during which the average opacity of the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to subsection (3) of this section exceeds thirty (30) percent.
2. Carbon monoxide. All hourly periods during which the average carbon monoxide concentration in the gases discharged into the atmosphere from any fluid catalytic cracking unit catalyst regenerator subject to subsection (4) of this section exceeds 0.050 percent by volume; or any hourly period in which O2 concentration and firebox temperature measurements indicate that the average concentration of CO in the gases discharged into the atmosphere exceeds 0.050 percent by volume for sources which combust the exhaust gases from any fluid catalytic cracking unit catalyst regenerator subject to subsection (4) of this section in an incinerator-waste heat boiler and for which the owner or operator elects to monitor in accordance with subsection (6)(a)3. of this section.
3. Hydrogen sulfide. All hourly periods during which the average hydrogen sulfide content of any fuel gas combusted in any fuel gas combustion device subject to subsection (5) of this section exceeds 230 mg/dscm (0.10 gr/dscf) except where the requirements of subsection (5)(b) of this section are met.
4. Sulfur dioxide. All hourly periods during which the average sulfur dioxide emissions discharged into the atmosphere from any fuel gas combustion device subject to subsection (5) of this section exceed the level specified in subsection (5)(b) of this section, except where the requirements of subsection (5)(a) of this section are met.

(6) Test methods and procedures:

(a) For the purpose of determining compliance with subsection (3)(a) of this section, the reference methods and calculation procedures specified by the department shall be used.

(b) For determining concentration of particulate matter release to the atmosphere from the fluid catalytic cracking unit catalyst regenerator, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times may be approved by the department when process variables or other factors preclude sampling for at least sixty (60) minutes.

(c) For exhaust gases from the fluid catalytic cracking unit catalyst regenerator prior to the emission control system: the integrated sample techniques for gas analysis and moisture content determination, respretively;

(d) For each run, emissions expressed in kg/1000 kg (English units; lb/1000 lb) of coke burn-off in the catalyst regenerator shall be determined.

(e) In those instances in which auxiliary liquid or solid fuels are burned in an incinerator-waste heat boiler, the rate of particulate matter emissions permitted under subsection (3)(b) of this section must be determined. Auxiliary fuel heat input, expressed in millions of cal/hr (English units: Millions of BTU/hr) shall be calculated for each run by fuel flow rate measurement and analysis of the liquid or solid auxiliary fuels. For each run, the rate of particulate emissions permitted under subsection (3)(b) of this section shall be calculated from an equation specified by the department.

(f) For the purpose of determining compliance with subsection (4) of this section, the integrated sample technique shall be used. The sample shall be extracted at a rate proportional to the gas velocity at a sampling point near the centroid of the duct. The sampling time shall not be less than sixty (60) minutes.

(g) For the purpose of determining compliance with subsection (5)(a) of this section, the methods specified by the department shall be used. When refinery fuel gas lines are operating as pressures substantially above atmospheric, the gases sampled must be introduced into the sampling train at approximately atmospheric pressure. This may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals. For the most fuel gases, sample times exceeding twenty (20) minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.

(h) The method specified by the department shall be used for determining concentration of SO2 in determining compliance with subsection (5)(b) of this section, except that H2S concentration of the fuel gas may be determined instead. The sampling site for determining SO2 concentration shall be the same as for determining volumetric flow rate. The sampling point in the duct for determining SO2 concentration shall be at the centroid of the cross section if the cross sectional area is less than 5 m(2) (54 square feet) or at a point no closer to the walls than 1 m (39 inches) if the cross sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

Section 10. Standards of Performance for Storage Vessels for Petroleum Liquids. (1) Applicability:

(a) The provisions of this section shall apply on or after the effective date of this regulation to each

storage vessel for petroleum liquids which has a storage capacity greater than 151,412 liters (40,000 gallons), except as provided in paragraph (b) of this subsection.

(b) This section does not apply to storage vessels for the crude petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 2 of this regulation.

(a) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:

1. Pressure vessels which are designed to operate in excess of fifteen (15) pounds per square inch gauge without emissions to the atmosphere except under emergency conditions.
2. Subsurface caverns or porous rock reservoirs, or
3. Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.

(b) "Petroleum liquids" means crude petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oil Number 26T through 4-GT, or diesel fuel oils Number 2-D and 4-D as specified by the department.

(c) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

(d) "Crude petroleum" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(e) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(f) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(g) "Custody transfer" means the transfer of produced crude petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(h) "Drilling and production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation related equipment used in the production of crude petroleum but does not include natural gas plants.

(i) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods specified by the department.

(j) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(k) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(l) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by method specified by the department.

(3) Standard for hydrocarbons. The owner or operator of any storage vessel to which this section applies shall store petroleum liquids as follows:

(a) If the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a floating roof, a vapor recovery system, or their equivalents.

(b) If the true vapor pressure of the petroleum liquid as stored is greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

(4) Monitoring of operations:

(a) The owner or operator of any storage vessel to which this section applies shall, for each such storage vessel, maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored, and of the dates of storage. Dates on which the storage vessel is empty shall be shown.

(b) The owner or operator of any storage vessel to which this section applies shall, for each such storage vessel, determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if:

1. The petroleum liquid has a true vapor pressure, as stored, greater than 26 mm Hg (0.5 psia) but less than 78 mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with a floating roof, a vapor recovery system or their equivalents; or
2. The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.

(c) The average monthly storage temperature is an arithmetic average calculated for each calendar month, or portion thereof if storage is for less than a month, from bulk liquid storage temperatures determined at least once every seven (7) days.

(d) The true vapor pressure shall be determined by the procedures specified by the department. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the department requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, the Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available on request to the department when typical Reid vapor pressure is used.

Section 11. Standards of Performance for Secondary Lead Smelters. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to the following affected facilities in secondary lead smelters: pot furnaces or more than 250 kg (550 lb) charging capacity, blast (cupola) furnaces, and reverberatory furnaces.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Reverberatory furnace" includes the following types of reverberatory furnaces: stationary, rotating, rocking and tilting.

(b) "Secondary lead smelter" means any facility producing lead from a lead-bearing scrap material by smelting to the metallic form.

(c) "Lead" means elemental lead or alloys in which the predominant component is lead.

(3) Standard for particulate matter:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from a blast (cupola) or reverberatory furnace any gases which:

1. Contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).
2. Exhibit twenty (20) percent opacity or greater.

(b) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from any pot furnace any gases which exhibit ten (10) percent opacity or greater.

(c) Where the presence of uncombined water is the only reason for failure to meet the requirements of paragraphs (a)2. or (b) of this subsection, such failure shall not be a violation of this subsection.

(4) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsection (3) of this section.

(b) For determining of the concentration of particulate matter and associated moisture content, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the department. Particulate sampling shall be conducted during representative periods of furnace operation, including charging and tapping.

Section 12. Standards of Performance for Secondary Brass and Bronze Ingot Production Plants. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to the following affected facilities in secondary brass or bronze ingot production plants: reverberatory and electric furnaces of 1,000 kg (2,205 lb) or greater production capacity and blast (cupola) furnaces of 250 kg/hr (550 lb/hr) or greater production capacity.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Brass or bronze" means any metal alloy containing copper as its predominant constituent, and lesser amounts of zinc, tin, lead, or other metals.

(b) "Reverberatory furnace" includes the following types pf reverberatory furnaces: stationary, rotating, rocking, and tilting.

(c) "Electric furnace" means any furnace which uses electricity to produce over fifty (50) percent of the heat required in the production of refined brass

or bronze.

(d) "Blast furnace" means any furnace used to recover metal from slag.

(3) Standard for particulate matter:

(a) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from a reverberatory furnace any gases which:

1. Contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).
2. Exhibit twenty (20) percent opacity or greater.

(b) On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from any blast (cupola) or electric furnace any gases which exhibit ten (10) percent opacity or greater.

(c) Where the presence of uncombined water is the only reason for failing to meet the requirements of paragraphs (a)2. or (b) of this subsection, such failure shall not be a violation of this subsection.

(4) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsection (3) of this section.

(b) For determining the concentration of particulate matter and the associated moisture content, the sampling time for each run shall be at least 120 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the department. Particulate matter sampling shall be conducted during representative periods of charging and refining, but not during pouring of the heat.

Section 13. Standards of Performance for Iron and Steel Plants. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to each basic oxygen process furnace.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Basic oxygen process furnace" (BOPF) means any furnace producing steel by charging scrap steel, hot metal, and flux materials into a vessel and introducing a high volume of oxygen-rich gas.

(b) "Steel production cycle" means the operations required to produce each batch of steel and includes the following major functions: scrap charging, preheating (when used); hot metal charging, primary oxygen blowing, additional oxygen blowing (when used), and tapping.

(3) Standard for particulate matter. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere from any affected facility any gases which: Contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).

(4) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsection (3) of this section.

(b) For determining the concentration of particulate matter and the associated moisture content, the sampling for each run shall continue for an integral number of cycles with total duration of at least sixty (60) minutes. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the department. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.

Section 14. Standards of Performance for Sewage Treatment Plants. (1) Applicability. The provisions of this section shall apply on or after the effective date of this regulation to each incinerator which burns the sludge produced by municipal sewage treatment facilities.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(3) Standard for particulate matter. On and after the date on which the performance test required to be conducted by Section 1(3) of this regulation is completed, no owner or operator of any sewage sludge incinerator subject to the provisions of this section shall discharge or cause the discharge into the atmosphere of:

(a) Particulate matter at a rate in excess of 0.65 g/kg dry sludge input (1.30 lb/ton dry sludge input).

(b) Any gases which exhibit twenty (20) percent opacity or greater. Where the presence of uncombined water is the only reason for failure to meet the requirements of this paragraph, such failure shall not be a violation of this subsection.

(4) Monitoring of operations. The owner or operator of any sludge incinerator subject to the provisions of this section shall:

(a) Install, calibrate, maintain, and operate a flow measuring device which can be used to determine either the mass or volume of sludge charged to the incinerator. The flow measuring device shall have an accuracy of ±5 percent over its operating range.

(b) Provide access to the sludge charged so that a well-mixed representative grab sample of the sludge can be obtained.

(5) Test methods and procedures:

(a) The reference methods specified by the department, except as provided for in Section 1(3)(b) of this regulation, shall be used to determine compliance with the standards prescribed in subsection (3) of this section.

(b) For determining the concentration of particulate matter and associated moisture content, the sampling time for each run shall be at least sixty (60) minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors may be approved by the department.

(c) Dry sludge charging rate shall be determined as follows:

1. Determine the mass (Sm) or volume (Sv) of sludge charged to the incinerator during each run using a flow measuring device meeting the requirements of subsection (4)(a)1. of this section. If total input during a run is measured by a flow measuring device, such readings shall be used. Otherwise, record the flow measuring device readings at five (5) minute intervals during a run. Determine the quantity charged during each interval by averaging the flow rates at the beginning and end of the interval and then multiplying the average for each interval by the time for each interval. Then add the quantity for each interval to determine the total quantity charged during the entire run, (Sm) or (Sv).
2. Collect samples of the sludge charged to the incinerator in non-porous collecting jars at the beginning of each run and at approximately one (1) hour intervals thereafter until the test ends, and determine for each sample the dry sludge content (total solids residue) in accordance with the method specified by the department.
3. Determine the quantity of dry sludge per unit sludge charged in terms of either average quantity of dry sludge per unit volume of sludge charged to the incinerator, or average ratio of quantity of dry sludge to quantity of sludge charged to the incinerator.

(d) Particulate emission rate shall be determined by a formula specified by the department.

(e) Compliance with subsection (3)(a) of this section shall be determined according to a formula specified by the department.

Section 15. Standards of Performance for Sources Using Organic Solvents. (1) Applicability:

(a) The provisions of this section shall apply to any affected facility using any organic solvents which were in being or under construction on or before April 9, 1972, and which are located in a region classified Priority I with respect to photochemical oxidants (hydrocarbons).

(b) The provisions of this section shall not apply to:

1. The manufacture of organic solvents or the transport, loading, or storage of organic solvents or materials containing organic solvents;
2. The spraying or employment of insecticides, pesticides, or herbicides;
3. The employment, application, evaporation or drying of saturated halogenated hydrocarbons or perchlorethylene;
4. The use of any material, in any operation described in subsection (1)(a) above if:

a. The material contains no more than thirty (30) percent by volume of volatile organic materials; and

b. The volatile content is not photochemically reactive as defined in subsection (2)(d) of this section.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Affected facility" means any apparatus that uses, processes, or otherwise employs an organic solvent.

(b) "Hydrocarbon" means a compound which consists predominantly of the elements carbon and hydrogen;

(c) "Organic solvents" means organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, cleaning agents, diluents, or thinners, except that such meterials which exhibit a boiling point higher than 220 degrees Fahrenheit at 0.5 millimeters mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220 degrees Fahrenheit;

(d) "Photochemically reactive solvent" means any solvent with an aggregate of more than twenty (20) percent of its total volume composed of the chemical com-

pounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent;

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having on olefinic or cyclo-olefinic type of unsaturation, five (5) percent;
2. A combination of aromatic compounds with eight (8) or more carbon atoms to the molecule except ethylbenzene; eight (8) percent;
3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene; twenty (20) percent;

(3) Standard for hydrocarbon:

(a) No person shall cause, suffer, allow, or permit the emission of hydrocarbons into the open air, from any affected facility using organic solvents, in excess of forty (40) pounds per day nor eight (8) pounds per hour unless said emissions have been reduced by at least eighty-five (85) percent by weight.

(b) No person shall cause, suffer, allow or permit the emission of hydrocarbons into the open air, from any affected facility using non-photochemically reactive solvents that are not baked, heat cured, or heat polymerized in the presence of oxygen, in access of 3000 pounds per day or 450 pounds per hour unless said emissions have been reduced by at least eighty-five (85) percent by weight.

(c) Those portions of any series of affected facilities designed for porcessing a continuous web, strip or wire which emit hydrocarbons shall be taken collectively to determine compliance with this section. Emissions of hydrocarbons resulting from air or heated drying of products for the first twelve (12) hours after their removal from an affected facility shall be included in determining compliance with this section. Further, emissions of hydrocarbons from the cleanup of an operation with organic solvent shall be included in determining compliance with this section.

Section 16. Standards of Performance for Kraft (Sulfate) Pulp Mills. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972, to recovery furnaces, lime kilns, and dissolving smelt tanks which are the affected facilities.

(2) Definitions:

(a) As used in this section, all terms not defined herein shall have the meaning given to them in 401 KAR 3:010 and Section 1(2) of this regulation.

(b) "Total reduced sulfur (TRS)" means all reduced sulfur compounds including but not limited to hydrogen sulfide (H2S), methyl mercaptan, dimethyl sulfide and dimethyl disulfide expressed in terms of hydrogen sulfide (H2S).

(3) Standard for particulate matter. No person shall cause, suffer, allow, or permit particulate emissions from any affected facility in excess of the following:

(a) Recovery furnace: 3.5 pounds per ton of equivalent unbleached air dried pulp produced per hour.

(b) Lime kilns: 1.0 pounds per ton of equivalent unbleached air dried pulp produced per hour.

(c) Dissolving smelt tanks: 0.5 pounds per ton of equivalent unbleached air dried pulp produced per hour.

(4) Standard for total reduced sulfur (TRS):

(a) No person shall cause, suffer, allow, or permit total reduced sulfur emissions from the recovery furnace of any affected facility in excess of an exit stack gas concentration of 15 parts per million by volume as a daily arithmetic average.

(b) No person shall cause, allow, or permit total reduced sulfur emissions from the recovery furnace of any affected facility in excess of an exit stack gas concentration of forty (40) parts per million by volume for more than sixty (60) total minutes in any twenty-four (24) hour period.

(c) No person shall cause, suffer, allow, or permit the emission of various noncondensable gas streams from digester relief, blow tank relief evaporator hot wells, or multiple effect evaporators containing total reduced sulfur in any affected facility unless treated by thermal oxidation or an equivalent method.

(d) Control of other points of emission of total reduced sulfur, shall be considered on an individual basis as determined by the department.

Section 17. Standards of Performance for Sulfite Pulp Mills. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972, to the total sulfite pulp mill which is the affected facility.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(3) Standards for sulfur oxide emissions. No person shall cause or permit sulfur oxide emissions from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 lb. per air dried ton of pulp produced.

Section 18. Standards of Performance for Ethylene Producing Plants. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972, to the waste gas streams of any ethylene producing plant which are the affected facility.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(3) Standard for hydrocarbons. No person shall emit into the atmosphere a waste gas stream from any ethylene producing plant unless the waste gas stream is subjected to 1,300 degrees Fahrenheit for 0.3 seconds or greater in a direct-flame afterburner or equally effective catalytic vapor incinerator. Either device must be equipped with an indicating pyrometer which is positioned in the working area at the operators eye level.

Section 19. Standards of Performance for Oil-Effluent Water Separators. (1) Applicability. The provisions of this section shall apply on or after April 9, 1972, to any compartment of any vessel or device operated for the recovery of oil from effluent water which recovers 200 gallons a day or more of any petroleum products from any equipment which processes, refines, stores, or handles hydrocarbons with a Reid vapor pressure of 0.5 pounds or greater which is the affected facility. The provisions of this section shall not apply to any oil-effluent water separator used exclusively in conjunction with the production of crude oil, if the water fraction of the oil-water effluent entering the separator contains less than five (5) parts per million hydrogen sulfide, organic sulfides, or a combination thereof.

(2) Definitions:

(a) As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(b) "Oil-effluent water separator" means any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

(3) Standard for hydrocarbons. The emissions of all hydrocarbon vapors and gases shall be reduced by at least ninety (90) percent by weight, except when gauging and sampling is taking place.

JOHN S. HOFFMAN, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:41 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for April 15, 1975, at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact: John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:060)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(17)
SUPERSEDES: AP-2, AP-3, AP-4, AP-5, AP-6, and AP-7
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation is to provide standards of performance for existing sources of air pollution.

Section 1. General Provisions. (1) Applicability. Unless specifically defined in subsequent sections, the provisions of this regulation shall apply to the owner or operator of any source which contains any affected facility which was in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 3:010.

(a) "Standard" means a standard of performance promulgated under this regulation.

(b) "Source" means one or more affected facilities, which emits or may emit any air contaminant, contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way,

(c) "Affected facility" means, with respect to a source, any apparatus to which a standard is applicable.

(d) "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a source of which an affected facility is a part.

(e) "Construction" means fabrication, erection, or installation of an affected facility.

(f) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(g) "Reference method" means any method of sampling and analyzing for an air pollutant as specified by the department.

(h) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the department's satisfaction to have a

consistent and quantitatively known relationship to the reference method, under specified conditions.

(i) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the department's satisfaction to, in specific cases, produce results adequate for its determination of compliance.

(j) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the method specified by the department or an equivalent or alternative method.

(k) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified a run may be either intermittent or continuous within the limits of good engineering practice.

(3) Performance test:

(a) 1. Within 120 days after completion a control plan at an affected facility and at such other times as may be required by the department, the owner or operator of the affected facilities specified below shall conduct performance test(s) and furnish the department a written report of the results of such performance test(s):

a. Process operation with a process weight rate of 100 tons per hour or more;
b. Indirect heat exchangers of more than 250 million BTU per hour heat input;
c. Incinerator with a charging rate of more than forty-five (45) metric tons per day (50 tons/day);
d. Portland cement plants;
e. Nitric acid plants;
f. Sulfuric acid plants;
g. Asphalt concrete plants;
h. Petroleum refineries.

2. The department may require the owner or operator of an affected facility not specified in paragraph (a) 1. of this subsection to conduct performance test and furnish a written report of the results of such performance test(s), as required by this subsection.

(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable section unless the department:

1. Specifies or approves, the use of a reference method with minor changes in methodology;
2. Approves the use of an equivalent method;
3. Approves the use of an alternative method the results of which it has determined to be adequate for indicating whether a specific source is in compliance; or,
4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated to the department's satisfaction that the affected facility is in compliance with the standard. Nothing in this paragraph shall be construed to abrogate the department's authority to require testing under 401 KAR 3:010.

(c) The owner or operator shall permit the department to conduct performance tests at any reasonable time, shall cause the affected facility to be operated for purposes of such tests under such conditions as the department may specify based on representative performance of the affected facility, and shall make available to the department such records as may be necessary to determine such performance.

(d) The owner or operator of an affected facility shall provide the department ten (10) days prior notice of the performance test to afford the department the opportunity to have an observer present.

(e) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

1. Sampling ports adequate for test methods applicable to such facility;
2. Safe sampling platform(s);
3. Safe access to sampling platform(s);
4. Utilities for sampling and testing equipment.

(f) Each performance test shall consist of three (3) separate runs using the applicable test method. Each run shall be conducted for such time and under such conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three (3) runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one (1) of the three (3) runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the department's approval, be determined using the arithmetic mean of the results of the two (2) other runs.

Section 2. Standards of Performance for Incinerators. (1) Applicability. The provisions of this section are applicable to each incinerator with a capacity of 2.5 cubic feet or greater, which is the affected facility, and which was in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Incinerator" means any furnace and appurtenances thereto used in the process of burning solid waste for the primary purpose of removing the combustible matter from the waste;

(b) "Teepee burner" means a truncated, conical shaped metal structure designed to burn efficiently wood dust, shavings, chips and/or bark to an incombustible residue at a specified rate;

(c) "Classification of wastes" means the numerical type designation given to waste depending on its composition as follows:

1. Type 0: trash, a mixture of highly combustible waste such as paper, cardboard, cartons, wood boxes, and combustible floor sweepings, from commercial and industrial activities. The mixtures contains up to ten (10) percent by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags and plastic or rubber scraps. This type of waste contain ten(10) percent moisture, five (5) percent incombustible solids and has a heating value of 8500 BTU per pound as fired.
2. Type 1: rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage and combustible floor sweepings, from domestic, commercial and industrial activities. The mixture contains up to twenty (20) percent by weight of restaurant or cafeteria waste, but contains little or no treated papers, plastic or rubber wastes. This type of waste contains twenty-five (25) percent moisture, ten (10) percent incombustible solids and has a heating value of 6500 BTU per pound as fired.
3. Type 2: refuse consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy, consisting of up to fifty (50) percent moisture, seven (7) percent incombustible solids and has a heating value of 4300 BTU per pound as fired.
4. Type 3: garbage, consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, laboratories, markets and like installations. This type of waste contains up to seventy (70) percent moisture, up to five (5) percent incombustible solids, and has a heating value of 2500 BTU per pound as fired.
5. Type 4: human and animal remains, consisting of carcasses, organs and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds, and similar sources, consisting of up to eighty-five (85) percent moisture, five (5) percent incombustible solids, and having a heating value of 1000 BTU per pound as fired.
6. Type 5: by-product waste, gaseous liquid or semi-liquid, such as tar, paints, solvents, sludge, fumes, etc., from industrial operations. BTU values must be determined by the individual materials to be destroyed.
7. Type 6: solid by-product waste, such as rubber, plastics, wood waste, etc., from industrial operations. BTU values must be determined by the individual materials to be destroyed.

(d) "Auxiliary fuel" means a substance burned in an incinerator to supply additional heat to attain temperature sufficiently high to dry and ignite waste material and to maintain ignition of the waste material but which is never in contact with the waste material.

(3) Standard for particulate matter:

(a) No person shall cause, suffer, allow, or permit the emission produced by the incineration of any substance other than sawdust, wood chips, or bark which:

1. Is greater than twenty (20) percent opacity; or,
2. Exceeds 0.20 grains of particulate matter per standard cubic foot of dry flue gas corrected to twelve (12) percent carbon dioxide excluding the contribution of carbon dioxide from auxiliary fuel.

(b) No person shall cause, suffer, allow or permit the emission produced by the incineration of sawdust, wood chips, or bark which:

1. Is equal to or greater than forty (40) percent opacity, except that an emission equal to or greater than forty (40) percent opacity shall be permissible for not more than one (1) hour in any eight (8) hour period; or,
2. Exceeds 0.21 grains of particulate matter per standards cubic foot of dry flue gas corrected to twelve (12) percent carbon dioxide excluding the contribution of carbon dioxide from auxiliary fuel.

(3) Monitoring of operations. The owner or operator of any incinerator of more than forty-five (45) metric tons per day charging rate (50 tons per day) subject to the provisions of this regulation shall record the daily charging rates and hours of operation.

Section 3. Standards of Performance for Indirect Heat Exchangers. (1) Applicability. The provisions of this section are applicable to each indirect heat exchanger of more than one (1) million BTU per hour heat input if solid fuel or residual fuel oil is burned or of more than fifty (50) million BTU per hour heat input if natural gas, liquid petroleum gas, distillate fuel oil or combination of these as a main or standby fuel, is burned which was in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not

defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating heat.

(b) "Indirect heat exchanger" means any piece of equipment, apparatus or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3) Standard for particulate matter:

(a) No person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any indirect heat exchanger in a region classified as Priority I with respect to particulate matter which is greater than twenty (20) percent opacity.

(b) No person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any indirect heat exchanger in a region classified as Priority II or Priority III with respect to particulate matter which is greater than forty (40) percent opacity.

(c) The provisions of subsections (1) and (2) shall not apply to:

1. Emissions into the open air of particulate matter from any indirect heat exchanger during building a new fire, cleaning the fire box, or blowing soot, for a period or periods aggregating not more than:

a. Two (2) minutes in any sixty (60) minutes which is less than or equal to forty (40) percent opacity for indirect heat exchangers described in paragraph (a);

b. Six (6) minutes in any sixty (60) minutes which is less than or equal to sixty (60) percent opacity for indirect heat exchangers described in paragraph (b).

2. During emergency conditions caused by an unavoidable breakdown, for a period of time, as determined by the staff, provided the department is notified promptly.

3. Emissions from each waterwall indirect heat exchanger during startup operations.

(d) No person shall cause, suffer, allow or permit the emission of particulate matter from indirect heat exchangers if the particulate matter emitted exceeded the quantity specified in Table 1 which is incorporated as part of this regulation.

(e) Exceptions. The emission limitations contained in other subsections of this section shall not apply to those indirect heat exchangers which have valid permits to operate within the provisions of the previous Kentucky Air Pollution Control Commission Regulation No. 7 entitled "Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers." These sources shall comply with the emission limitations contained in that regulation.

TABLE 1

MAXIMUM PARTICULATE EMISSION RATES
POUNDS PER MILLION BTU INPUT

MM BTU/HOUR Heat Input	AIR QUALITY CONTROL REGION Priority I	Priority II	Priority III
10 or less	0.56	0.75	0.80
50	0.38	0.52	0.57
100	0.33	0.44	0.49
250	0.26	0.35	0.40
500	0.22	0.30	0.34
1000	0.19	0.26	0.30
2500	0.15	0.21	0.24
5000	0.13	0.18	0.21
7500	0.12	0.16	0.19
10000 or more	0.11	0.15	0.18

Interpolation of allowable emissions for intermediate heat input values not specified in the table above may be accomplished by use of the equations shown below for the appropriate fuel and heat input range specified. In all equations X = millions of BUT per hour heat input and Y = allowable particulate emissions in pounds per million BTU heat input.

FACILITY & PARTICULATE CLASSIFICATION	RANGE (MM BTU/Hour)	ALLOWABLE (Pounds/MM BTU)
Priority I	10 to 10,000	$Y = 0.9634\ X^{-0.2356}$
Priority II	10 to 10,000	$Y = 1.2825\ X^{-0.2330}$
Priority III	10 to 10,000	$Y = 1.3152\ X^{-0.2159}$

(4) Standard for sulfur dioxide:

(a) The maximum allowable emission of sulfur dioxide from indirect heat exchangers shall be in accordance with a system of priorities as specified in paragraph (b) of this subsection. The classifications shall be delineated on a county basis. The maximum allowable emission for the various classes is specified in paragraph (e) of this subsection.

(b) The class into which a given county falls has been determined by mathematical atmospheric diffusion models and other methods which evaluate those factors which necessitate limits on sulfur dioxide emissions. These factors include but were not limited to:

1. Total sulfur dioxide emissions;
2. Spatial distribution of sulfur dioxide sources;
3. Effects of single large sources;
4. Existing measured air quality;
5. Topographical features of the county;
6. Contribution to background levels.

(c) The assigned classification will be reviewed periodically at intervals not to exceed three (3) years, and changes will be made as required after a public hearing. When a county is assigned to a more restrictive class, individual compliance schedules will be established in such a way that reasonable time will be allowed for the sources to make necessary changes in equipment and/or fuel contracts.

(d) The following classifications will be effective upon the effective date of this regulation, and will remain in effect until changed by the procedure described herein:

1. Class I: Bell County, Clark County, Jefferson County, McCracken County, Pulaski County, Woodford County;
2. Class II: Henderson County, Muhlenberg County;
3. Class III: All other counties.

(e) No person shall cause, suffer, allow or permit the emission of sulfur dioxide into the open air from any existing indirect hear exchanger, in various counties if the sulfur dioxide emitted exceeds the quantity specified in Table 3 which is incorporated as part of this regulation.

TABLE 3

ALLOWABLE SULFUR DIOXIDE EMISSIONS BASED ON
HEAT INPUT CAPACITY

MM BTU/HOUR HEAT INPUT (Fuel:)	ALLOWABLE EMISSION POUND/MM BTU COUNTIES CLASS I LIQUID	SOLID	COUNTIES CLASS II LIQUID	SOLID	COUNTIES CLASS III LIQUID	SOLID
10 or less	2.5	4.0	3.7	5.5	4.4	6.5
50	1.4	2.2	2.8	4.2	3.8	5.6
100	1.1	1.7	2.5	3.7	3.5	5.2
150	1.0	1.5	2.3	3.5	3.4	5.0
200	0.9	1.3	2.2	3.3	3.3	4.9
250 or greater	0.8	1.2	2.1	3.2	3.2	4.8

Interpolation of allowable emissions for rated capacity values between 10 and 250 million BTU heat input may be accomplished by use of the equations shown below for the appropriate fuel specified. In all equations Y = allowable sulfur dioxide emission in pounds per million BTU heat input and X = millions of BTU per hour heat input capacity rating.

COUNTY CLASS	FUEL	ALLOWABLE (Pounds/MM BTU)
I	Liquid	$Y = 5.6484\ X^{-0.354}$
	Solid	$Y = 9.4644\ X^{-0.374}$
II	Liquid	$Y = 5.5483\ X^{-0.176}$
	Solid	$Y = 8.1025\ X^{-0.1683}$
III	Liquid	$Y = 5.5257\ X^{-0.0989}$
	Solid	$Y = 8.0743\ X^{-0.0942}$

(f) When different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

$$\frac{Y(a)+X(b)}{Y+Z}$$

Where:

y is the percent of total heat input derived from liquid fuel,

z is the percent of total heat input derived from solid fuel,

a is the allowable sulfur dioxide emission in pounds

per million BTU heat input derived from liquid fuel, and

b is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from solid fuel.

(g) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(4) Emission and fuel monitoring:

(a) There shall be installed, calibrated, maintained, and operated, in any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this section, emission monitoring instruments as follows:

1. A photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned.
2. An instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel is the only fuel burned, or where compliance is achieved through low sulfur fuels and representative sulfur analysis of fuels are conducted daily in accordance with paragraphs (c) or (d) of this subsection.
3. An instrument for continously monitoring and recording emissions of nitrogen oxides.

(b) Instruments and sampling systems installed and used pursuant to this section shall be capable of monitoring emission levels within ± 20 percent with a confidence level of 95 percent and shall be calibrated in accordance with the method(s) prescribed by the manufacturer(s) of such instruments; instruments shall be subjected to manufacturers recommended zero adjustment and calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer(s) specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. The applicable method specified by the department shall be the reference method.

(c) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(d) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(e) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. Where the steam generating unit is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(f) The owner or operator of any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this section shall maintain a file of all measurements required by this regulation. Appropriate measurements shall be reduced to the units of the applicable standard daily, and summarized monthly. The record of any such measurement(s) and summary shall be retained for at least two (2) years following the date of such measurements and summaries.

(g) The department may require for any indirect heat exchanger of less than 250 million BTU per hour heat input any or all the emission and fuel monitoring required by this subsection.

Section 4. Standards of Performance for Process Operations. (1) Applicability. The provisions of this section shall apply to each process operation not otherwise regulated by other sections of this regulation and which was in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Process operation" means any method, form, action, operation or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing;

(b) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(c) "Process weight rate" means a rate established as follows:

1. For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;
2. For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.
3. Where the nature of any process operation or the design of any equipment is such as to permit more than one (1) interpretation of this definiton, the interpretation which results in the minimum value for allowable emission shall apply.

(d) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

1. In the separations of the air contaminant from the process materials or;
2. In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

(3) Standard for particulate matter:

(a) No person shall cause, suffer, allow or permit the emission into the open air of particulate matter from affected facility, or from all air pollution control equipment installed on any affected facility which:

1. Is equal to or greater than twenty (20) percent opacity; or,
2. Is in excess of the quantity specified in Table 4 of this regulation.

(b) An affected facility may elect to substitute the following standards in lieu of the value given in Table 4.

1. A maximum exit particulate emission concentration of 0.02 grains per standard cubic foot, and
2. Air pollution control equipment of at least ninety-seven (97) percent actual efficiency.
3. Addition of dilution air shall not constitute compliance.

TABLE 4

ALLOWABLE RATE OF PARTICULATE EMISSION
BASED ON PROCESS WEIGHT

Process Weight Rate		Maximum Allowable Emission Rate
Lb./Hr.	Tons/Hr.	Lb./Hr.
100 or less	0.05 or less	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1000	0.50	2.58
1500	0.75	3.38
2000	1.00	4.10
2500	1.25	4.76
3000	1.50	5.38
3500	1.75	5.96
4000	2.00	6.52
5000	2.50	7.58
6000	3.00	8.56
7000	3.50	9.49
8000	4.00	10.4
9000	4.50	11.2
10000	5.00	12.0
12000	6.00	13.6
16000	8.00	16.5
18000	9.00	17.9
20000	10.00	19.2
30000	15.00	25.2
40000	20.00	30.5
50000	25.00	35.4
60000	30.00	40.0
70000	35.00	41.3
80000	40.00	42.5
90000	45.00	43.6
100000	50.00	44.6
120000	60.00	46.3
140000	70.00	47.8
160000	80.00	49.1
200000	100.00	51.3
1000000	500.00	69.0
2000000	1000.00	77.6
6000000	3000.00	92.7

Interpolation of the date for process weight rates up to 60,000 lb./hr. shall be accomplished by use of the equation E = 4.10 P(0.67), and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation E = 55.0 P(0.11) – 40, where E = rate of emission in lb./hr. and P = process weight rate in tons/hr.

Section 5. Standards of Performance for Kraft (Sulfate) Pulp Mills. (1) Applicability. The provisions of this section shall apply to recovery furnances, lime kilns, and dissolving smelt tanks which were in being or under construction on or before April 9, 1972.

(2) Definitions:

(a) As used in this section, all terms not defined herein shall have the meaning given to them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(b) "Total reduced sulfur (TRS)" means all reduced sulfur compounds including but not limited to hydrogen sulfide (H2S), methyl mercaptan, dimethyl sulfide and dimethyl disulfide expressed in terms of hydrogen sulfide (H2S).

(3) Standard for particulate matter. No person shall cause, suffer, allow, or permit particulate emissions from existing equipment of any kraft pulp mill in excess of the following:

(a) Recovery Furnace: 3.5 pounds per ton of equivalent unbleached air dried pulp produced per hour;

(b) Lime Kilns: 1.0 pounds per ton of equivalent unbleached air dried pulp produced per hour;
(c) Dissolving smelt tanks: 0.5 pounds per ton of equivalent unbleached air dried pulp produced per hour.

(4) Standard for total reduced sulfur (TRS):
(a) No person shall cause, suffer, allow, or permit total reduced sulfur emissions from the recovery furnance of any kraft pulp mill in excess of an exit stack gas concentration of fifteen (15) parts per million by volume as a daily arithmethic average.
(b) No person shall cause, allow, or permit total reduced sulfur emissions from the recovery furnace of any kraft pulp mill in excess of an exit stack gas concentration of forty (40) parts per million by volume for more than sixty (60) total minutes in any twenty-four (24) hour period.
(c) No person shall cause, suffer, allow, or permit the emission of various noncondensable gas streams from digester relief, blow tank relief evaporator hot wells, or multiple effect evaporators containing total reduced sulfur in a kraft pulp mill unless treated by thermal oxidation or an equivalent method.
(d) Control of other points of emission of total reduced sulfur, shall be considered on an individual basis as determined by the department.

Section 6. Standards of Performance for Sulfite Pulp Mills. (1) Applicability. The provisions of this section shall apply to the total sulfite pulp mill which was in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(3) Standard for sulfur oxide emissions. No person shall cause or permit sulfur oxide emissions from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 lb. per air dried ton of pulp produced.

Section 7. Standards of Performance for Sulfuric Acid Plants. (1) Applicability. The provisions of this section shall apply to existing installations of dry gas operation sulfuric acid plants which were in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(3) Standard for particulate matter. No person shall cause, suffer, allow, or permit the following emission into the open air:
(a) Sulfuric acid mist in the effluent in excess of 0.90 pound per ton of acid (100%) produced;
(b) A visible emission which is greater than twenty (20) percent opacity.

(4) Standard for sulfur dioxide. No person shall cause, suffer, allow or permit the following emission into the open air: sulfur dioxide in the effluent in excess of twenty-seven (27) pounds per ton of acid (100%) produced.

(5) Emission monitoring:
(a) There shall be installed, calibrated, maintained, and operated, in any sulfuric acid production unit subject to the provisions of this section, an instrument for continuously monitoring and recording emissions of sulfur dioxide.
(b) The instrument and sampling system installed and used pursuant to this subsection shall be capable of monitoring emission levels within ± 20 percent with a confidence level of 95 percent and shall be calibrated in accordance with the method(s) perscribed by the manufacturer(s) of such instrument, the instrument shall be subject to manufacturers recommended zero adjustment calibration procedures at least once per twenty-four (24) hour operating period unless the manufacturer(s) specified or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. The applicable method specified by the department shall be the reference method.
(c) Production rate and hours of operation shall be recorded daily.

Section 8. Standards of Performance for Process Gas Streams. (1) Applicability. The provisions of this section shall apply to petroleum refineries, by-product coke plants, and any other process, located in a region classified as Priority I with respect to sulfur dioxide and which were in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaing given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(3) Standard for hydrogen sulfide. No person shall cause, suffer, allow or permit the emission of H_2S in a process gas stream to exceed ten (10) grains per 100 cubic feet of gas.

(4) Standard for sulfur dioxide. No person shall cause, suffer, allow, or permit the emission of sulfur dioxide in a process gas stream to exceed 2,000 parts per million by volume.

Section 9. Standards of Performance for Ethylene Producing Plants. (1) Applicability. The provisions of this section shall apply to the waste gas streams of ethylene producing plants which were in being or under construction on or before April 9, 1972, and which are located in a region classified as Priority I with respect to photochemical oxidants (and hydrocarbons).

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(3) Standard for Hydrocarbons. No person shall emit into the atmosphere a waste gas stream from any ethylene producing plant unless the waste gas stream is subjected to 1,300 degrees Fahrenheit for 0.3 seconds or greater in a direct flame afterburner or equally effective catalytic vapor incinerator. Either device must be equipped with an indicating pyrometer which is positioned in the working area at the operators eye level.

Section 10. Standards of Performance for Oil-Effluent Water Separators. (1) Applicability. The provisions of this section shall apply to any compartment of any vessel or device operated for the recovery of oil from effluent water which recovers 200 gallons a day or more of any petroleum products from any equipment which processes, refines, stores, or handles hydrocarbons with a Reid vapor pressure of 0.5 pounds or greater which is located in a region classified as Priority I with respect to photochemical oxidants (and hydrocarbons) and which was in being or under construction on or before April 9, 1972. The provisions of this section shall not apply to any oil-effluent water separator used exclusively in conjunction with the production of crude oil, if the water fraction of the oil-water effluent entering the separator contains less than five (5) parts per million hydrogen sulfide, organic sulfides, or a combination thereof.

(2) Definitions:
(a) As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.
(b) "Oil-effluent water separator" means any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

(3) Standard for hydrocarbons. The emissions of all hydrocarbon vapors and gases shall be reduced by at least ninety (90) percent by weight, except when gauging and sampling is taking place.

Section 11. Standards of Performance for Storage Vessels for Petroleum Liquids. (1) Applicability:
(a) Except as provided in paragraph (b) of this subsection, the affected facility to which this section applies is each storage vessel for petroleum liquids which has a storage capacity greater than 40,000 gallons located in a region classified Priority I with respect to photochemical oxidants (hydrocarbons) and which was in being or under construction on or before April 9, 1972.
(b) This section does not apply to storage vessels for the crude petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer.
(c) Those storage vessels for petroleum liquids with a storage capacity greater than 500 gallons but less than 40,000 gallons shall be equipped with a permanent submerged fill pipe or vapor recovery system.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.
(a) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:
1. Pressure vessels which are designed to operate in excess of fifteen (15) pounds per square inch gauge without emissions to the atmosphere except under emergency conditons.
2. Subsurface caverns or porous rock reservoirs, or
3. Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.
(b) "Petroleum liquids" means crude petroleum, condensate, and any finished or intermediate product manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oils, or diesel fuel oils.
(c) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.
(d) "Crude petroleum" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.
(e) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.
(f) "Custody Transfer" means the transfer of produced crude petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.
(g) "Drilling and production facility" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxil-

iary non-transportation-related equipment used in the production of crude petroleum but does not include natural gas plants.

(h) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described by the department.

(i) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(j) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(k) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by methods specified by the department.

(l) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge opening of which is entirely submerged when the liquid level is two times the fill pipe diameter above the bottom of the tank.

(3) Standard for hydrocarbons. The owner or operator of any storage vessel to which this section applies shall store petroleum liquids as follows:

(a) If the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than 78 mm (1.5 psia) but not greater than 570 mm (11.1 psia), the storage vessel shall be equipped with a floating roof, a vapor recovery system, or their equivalents.

(b) If the true vapor pressure of the petroleum liquid as stored is greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

Section 12. Standards of Performance for Petroleum Liquids Loading Facilities. (1) Applicability. The provisions of this section shall apply to loading facilities which load more than 20,000 gallons per day of petroleum liquids into tank trucks, trailers, or railroad tank cars and are located in a region classified as Priority I with respect to photochemical oxidants (hydrocarbons) and which were in being or under construction on or before April 9, 1972.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and in Section 1(2) of this regulation.

(a) "Petroleum liquids" means crude petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oils, or diesel fuel oils.

(b) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

(3) Standard for hydrocarbons:

(a) No owner or operator of any loading facility shall load petroleum liquids unless such facility is equipped with a device which reduces the emissions of all hydrocarbon vapors and gases by at least ninety (90) percent by weight, properly installed, in good working order and in operation.

(b) Loading shall be accomplished in such a manner that all displaced vapor and air will be vented only to the vapor collection system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected.

Section 13. Standards of Performance for Sources Using Organic Solvents. (1) Applicability:

(a) The provisions of this section shall apply to any affected facility using any organic solvents which were in being or under construction on or before April 9, 1972, and which are located in a region classified Priority I with respect to photochemical oxidants (hydrocarbons).

(b) The provisions of this section shall not apply to:

1. The manufacture of organic solvents or the transport, loading, or storage of organic solvents or materials containing organic solvents;
2. The spraying or employment of insecticides, pesticides, or herbicides;
3. The employment, application, evaporation or drying of saturated halogenated hydrocarbons or perchlorethylene;
4. The use of any material, in any operation described in subsection (1)(a) above if:

a. The material contains no more than thirty (30) percent by volume of volatile organic materials; and

b. The volatile content is not photochemically reactive as defined in subsection (2)(d) of this section.

5. The use of non-photochemically reactive solvents that are not baked, heat cured, or heat polymerized in the presence of oxygen.

(2) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Affected facility" means any apparatus that uses, processes, or otherwise employs an organic solvent.

(b) "Organic solvents" means organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, cleaning agents, diluents, or thinners, except that such materials which exhibit a boiling point higher than 220 degrees Fahrenheit at 0.5 millimeters mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220 degrees Fahrenheit;

(c) "Photochemically reactive solvent" means any solvent with an aggregate of more than twenty (20) percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation; five (5) percent;
2. A combination of aromatic compounds with eight (8) or more carbon atoms to the molecule except; ethylbenzene; eight (8) percent
3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene; twenty (20) percent;

(3) Standard for hydrocarbons:

(a) No person shall cause, suffer, allow, or permit the emission of hydrocarbons into the open air, from any affected facility using organic solvents, in excess of forty (40) pounds per day nor eight (8) pounds per hour unless said emissions have been reduced by at least eighty-five (85) percent by weight.

(b) Those portions of any series of affected facilities designed for processing a continuous web, strip or wire which emit hydrocarbons shall be taken collectively to determine compliance with this section. Emissions of hydrocarbons resulting from air or heated drying of products for the first twelve (12) hours after their removal from an affected facility shall be included in determining compliance with this section. Further, emissions of hydrocarbons from the clean-up of an operation with organic solvent shall be included in determining compliance with this section.

(c) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to this section shall provide, properly install and maintain in calibration, in good working order and in operation, devices as specified in the permit to construct or the permit to operate, or as specified by the department, for indicating temperatures, pressures, rates of flow or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(d) Any person using organic solvents or any material containing organic solvents shall supply the department, upon request and in the manner and form prescribed, written evidence of the chemical composition, physical properties and amount consumed for each organic solvent used.

Section 14. Control of Fugitive Dust: (1) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Fugitive particulate matter" means any particulate matter which is emitted into the open air from points other than a stack outlet.

(b) "Open air" means the air outside buildings, structures, and equipment.

(2) Standard for particulate matter:

(a) On and after the effective date of this regulation, no person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, where applicable, but not be limited to the following:

1. Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
2. Application and maintenance of asphalt, oil, water, or suitable chemicals on roads, materials stockpiles, and other surfaces which can create airborne dusts;
3. Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials, or the use of water sprays or other measures to suppress the dust emissions during handling. Adequate containment methods shall be employed

during sandblasting or other similar operations;
4. Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;
5. Conduct of agricultural practices such as tilling of land, application of fertilizers, etc., in such manner as to not create a nuisance to others residing in the area;
6. The maintenance of paved roadways in a clean condition;
7. The prompt removal of earth or other material from a paved street which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water.

(b) No person shall cause or permit the discharge of visible fugitive dust emissions beyond the lot line of the property on which the emissions originate.

(c) When dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the secretary may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

Section 15. Control of Open Burning. (1) Definitions. As used in this section, all terms not defined herein shall have the meaning given them in 401 KAR 3:010 and Section 1(2) of this regulation.

(a) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack or chimney;

(b) "Garbage" means putrescible animal and vegetable matter accumulated by a family in residence in the course of ordinary day to day living;

(c) "Household rubbish" means waste material and trash, not to include garbage, normally accumulated by a family in a residence in the course of ordinary day to day living.

(2) Prohibition of open burning:

(a) On and after the effective date of this regulation, no person shall cause, suffer, allow or maintain any open fire except as follows:

1. Fires for the cooking of food for human consumption on other than commercial premises;
2. Fires for recreational or ceremonial purposes;
3. Small fires set by construction and other workers for comfort heating purposes providing objectionable smoke is not created;
4. Fires set for the purpose of weed abatement, disease, and pest prevention;
5. Fires set for prevention of a fire hazard, including the disposal of dangerous materials where no safe alternate is available;
6. Fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires;
7. Fires set for recognized agricultural, silvicultural, range, and wildlife management practices;
8. Fires set by individual home owners for burning of leaves except in cities greater than 8,000 population located in a Priority I Region;
9. Fires for disposal of household rubbish, not to include garbage, originating at dwelling of five family units or less, which fires are maintained by an occupant of the dwelling at the dwelling, except in cities greater than 8,000 population located in a Priority I Region;
10. Flare stacks for the combustion of waste gases provided that where used in petroleum refineries such stacks be equipped with smokeless tips;
11. Fires set for the purpose of disposing of accidental spills or leaks of crude oil, petroleum products or other organic materials, and disposal of absorbent material used in their removal, where no other economically feasible means of disposal is available and practical and provided permission is obtained from the department prior to burning;
12. Fires set for disposal of natural growth for land clearing and trees and tree limbs felled by storms, provided that no extraneous material such as tires or heavy oil which tend to produce dense smoke are used to cause ignition or aid combustion and that burning is done on sunny days with mild winds. In regions, classified Priority I with respect to particulate matter, the emissions from such fires shall not be equal to or greater than forty percent (40%) opacity.

(b) The open burning specified in paragraph (a) of this subsection is permitted only if it does not conflict with local ordinance. Where necessary, permission shall be obtained from the fire departments and fire district having jurisdiction at the place of burning.

JOHN S. HOFFMAN, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:42 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for April 15, 1975 at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Quality
Division of Air Pollution
(401 KAR 3:070)

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(17)
SUPERSEDES: AP-11
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the review of new or modified indirect sources of air pollution.

Section 1. Definitions. All terms used in this regulation but not specifically defined below shall have the meaning given them in 401 KAR 3:010:

(1) "Indirect source" means a facility, road building structure, or installation, or combination thereof, which causes or may cause mobile source activity that results in emissions of a pollutant for which there is a state ambient air quality standard.

(2) "Modification" means any physical change to an indirect source other than maintenance which increases or may increase the mobile source activity associated with such indirect source.

(3) "Commence" means that an owner or operator has undertaken a continuous program of construction or modification or that a binding general construction contract has been entered into which obligates one party to such contract to perform the physical work involved in such program of construction or modification or that actual acquisition of right-of-way has begun.

(4) "Vehicle Trip" means a single movement by a motor vehicle which originates or terminates at an indirect source.

(5) "Operation" means a landing or takeoff of an aircraft.

Section 2. Applicability. The requirements of this regulation are applicable to the following indirect sources, the construction or modification of which is commenced after January 11, 1974.

(1) Any new indirect source which:

(a) Is a new unenclosed parking lot with a parking capacity of 1,500 or more motor vehicles, or has a new associated unenclosed single level parking area with a capacity of 1,500 or more motor vehicles; or

(b) Is a new partially or completely enclosed parking area with a parking capacity of 750 or more motor vehicles, or has a new associated partially or completely enclosed parking area with a capacity of 750 or more motor vehicles; or

(c) Induces an additional 2,000 or more vehicle trips per hour in an existing roadway.

(2) Any modified indirect source which:

(a) Increases existing parking capacity in an unenclosed single level parking area from less than 1,500 motor vehicles to 1,500 or more motor vehicles, or has an associated unenclosed parking area being modified to increase parking capacity by more than 1,500 motor vehicles, or

(b) Increases existing parking capacity in a partially or completely enclosed parking area from less than 750 motor vehicles to 750 or more motor vehicles, or has an associated partially or completely enclosed parking area being modified to increase parking capacity by more than 750 motor vehicles.

(c) Is an existing unenclosed single level parking area which is in excess of 1,500 motor vehicles being modified to increase parking capacity by more than twenty-five (25) percent, or by 1,500 or more motor vehicles, whichever is less, or, has an existing associated unenclosed single level parking area which is in excess of 1,500 motor vehicles being modified to increase parking capacity by more than twenty-five (25) percent, or by 1,500 or more motor vehicles, whichever is less, or

(d) Is an existing partially or completely enclosed parking area which is in excess of 750 motor vehicles being modified to increase parking capacity by more than twenty-five (25) percent, or by 750 or more motor vehicles, whichever is less, or, has an existing associated partially or completely enclosed parking area which is in excess of 750 motor vehicles being modified to increase parking capacity by more than twenty-five (25) percent, or by 750 or more motor vehicles, whichever is less, or

(e) Induces an additional 2,000 or more vehicle trips per hour in an existing roadway.

(3) Any airport, the construction or general modification program of which is expected to result in the following activity within ten (10) years of construction or modification.

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.
(b) Modified airport: Increase to 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase to 1,600,000 or more passengers per year.

(4) New or modified roads in standard metropolitan statistical areas as defined by Bureau of Census, U.S. Department of Commerce or in counties containing a city with a population of 20,000 or more, with a forecasted design hourly volume within ten (10) years of completion of:
(a) 2,000 or more motor vehicles per hour for a new road, or
(b) Existing road with traffic volume of less than 2,000 motor vehicles being modified to increase traffic volume to 2,000 or more motor vehicles, or
(c) Existing road with traffic volume of more than 2,000 motor vehicles being modified to increase traffic by twenty-five (25) percent, or by 2,000 or more motor vehicles, whichever is less.

(5) Where an indirect source is constructed or modified in increments which individually are not subject to review under this section, all such increments occurring since the effective date of this regulation shall be added together for determining the applicability of this section.

Section 3. No owner or operator of an indirect source subject to this regulation shall commence construction or modification of such source after the effective date of this regulation without first obtaining approval from the department. (1) Application for approval to construct or modify shall be made on forms furnished by the department and shall include as a minimum the following information:
(a) The name and address of owner and/or operator.
(b) The description of the location and design of such source, including its relation to surrounding roadways.
(c) The total motor vehicle parking capacity before and after the construction or modification of the indirect source.
(d) The normal hours of operation of the facility and the enterprises and activities which it serves.
(e) The number of people using or engaging in any enterprises or activities which the facility will serve.
(f) The estimated average and maximum number of vehicle trips generated by the indirect source for one (1) hour and eight (8) hour time period.
(g) Estimates of the effect of the construction or modification of the indirect source on traffic patterns and flow in the vicinity.
(h) Measured ambient air quality data at the site of the indirect source prior to construction or modification. Estimated ambient air quality data may be accepted by the department where the applicant can show that such estimates were made in accordance with techniques established by the department.
(i) An estimate of the effect of the construction or modification of the indirect source on total vehicle mile of travel and additional residential, commercial and industrial development which may occur as a result of such construction or modification.

(2) A separate application is required for each indirect source.

(3) Each application shall be signed by the owner or operator, which signature shall constitute an agreement that the applicant will assume responsibility for the construction, modification or operation of the source in accordance with applicable rules and regulations, and the design submitted in the application.

(4) Any additional information, plans, specifications, evidence or documentation that the department may require shall be furnished upon request.

(5) Each application shall bear the seal and signature of a registered professional engineer qualified by training and/or experience in the field of air pollution control. Such signature shall constitute personal affirmation as to the completeness and technical accuracy of the information contained therein.

Section 4. No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the department that: (1) The source will be operated without causing a violation of the control strategy which is part of the applicable plan, and

(2) The emissions resulting from the mobile source activity associated with the facility will not prevent or interfere with the attainment or maintenance of the ambient air quality standards.

Section 5. The department shall notify the applicant and the public by prominent advertisement in the region affected of the opportunity for public comment on the information submitted by the owner or operator.

(1) Such information, including the department's analysis of the effect of the indirect source on air quality as related to expected ambient concentrations of carbon monoxide, photochemical oxidants, and nitrogen oxides following construction or modification, and the department's proposed approval or disapproval, will be available in at least one (1) location in the region affected.

(2) Public comments submitted within thirty (30) days of the date such information is made available will be considered by the department in making a final decision on the application.

(3) The department will take final action on an application within thirty (30) days after the close of the public comment period. The department will notify the applicant in writing of its approval, or denial of the application, and will set forth its reasons for denial.

Section 6. The department may impose any reasonable conditions on an approval, including conditions requiring the source owner or operator to conduct ambient air quality monitoring in the vicinity of the source for a reasonable period prior to commencement of construction or modification, and/or for any specified period after the facility has commenced operation.

Section 7. Approval to construct or modify any source, shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, state, and federal regulations which are part of the applicable Kentucky Implementation Plan.

JOHN S. HOFFMAN, Secretary
ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:43 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for April 15, 1975 at 10 a.m. EDT in the Auditorium of the Human Resources Building, 275 East Main Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact John T. Smither, Director, Division of Air Pollution, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky, 40601.

DEPARTMENT OF JUSTICE
Bureau of State Police
(502 KAR 5:010)

RELATES TO: KRS 16.050, KRS 16.080
PURSUANT TO: KRS 15A.140, 15A.160, 16.080
NECESSITY AND FUNCTION: KRS 15A.140, 15A.160 and 16.080 empowers the Commissioner, Bureau of State Police in conjunction with the Secretary of Justice, to adopt regulations governing the promotion of State Police officers. This regulation establishes a promotional system for State Police officers.

Section 1. Promotions to sergeant within the Bureau of State Police shall be on the following terms and conditions:
(1) The applicant must be classified as senior trooper to be eligible for promotion to sergeant.
(2) Promotions shall be based on the highest cumulative score computed from the following criteria:
(a) Thirty percent (30%) on personnel performance evaluation.
(b) Thirty percent (30%) on oral examination.
(c) Forty percent (40%) on a written examination.
(3) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. Upon the determination of a new numerical ranking following a new examination all previous rankings shall be null and void.
(4) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and text books will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken.
(5) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%).
(6) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the following members:
(a) The commissioner or his designated appointee not lower than rank of captain;
(b) An officer from another police agency of the rank equal to the position for which the applicant is competing;
(c) An instructor from an accredited law enforcement education program;
(d) A personnel director from private industry; and
(e) An officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing.
(7) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner.
(8) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the Commissioner of State Police.

Section 2. Promotions from sergeant to lieutenant within the State Police shall be on the same terms and conditions as promotions to sergeant, and in addition any applicant must have completed at least one (1) continuous year of service in grade as sergeant.

Section 3. Promotions from lieutenant to captain within the State Police shall be on the same terms and conditions as pro-

motions to lieutenant, and in addition any applicant must have completed at least one (1) continuous year of service in grade as lieutenant.

Section 4. The Bureau of State Police will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever the vacancy exists.

Section 5. All ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

Section 6. The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

Section 7. No officer of the State Police, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as described by this promotional procedure.

Section 8. There shall be no discrimination on account of race, national origin, color, religion, creed, sex, or political affiliation with respect to the State Police promotional system. All personnel actions are to be based solely on the basis of merit.

TRUETT A. RICKS, Commissioner

ADOPTED: January 30, 1975
APPROVED: HENRI L. MANGEOT, Secretary
RECEIVED BY LRC: January 31, 1975 at 1:49 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Truett A. Ricks, Commissioner, Bureau of State Police, Department of Justice, State Office Building, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 1:025)

RELATES TO: KRS 183.530 to 183.620
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation is vested with the authority to supervise, regulate, and fix, alter and determine, just, fair, reasonable and sufficient rates, fares, charges, and classifications of intrastate air carriers, therefore the department finds it necessary to establish special rules applicable to proceedings with respect to such rates, fares, charges and classifications.

Section 1. Applicability of this regulation. This regulation sets forth the special rules applicable to proceedings with respect to rates, fare, charges and classifications. Other rules applicable to the conduct of hearings are found in 602 KAR 1:020, Sections 2 to 26. Reference should be made to the substantive rules, regulations and orders of the Department of Transportation that relate to intrastate air carriers.

Section 2. Institution of proceedings. A proceeding to determine rates, fares, or charges for the transportation of persons or property by aircraft, or the lawful classification, rule, regulation, or practice affecting such rates, fares or charges, may be instituted by the filing of a petition or complaint by any person, or by the issuance of an order by the Secretary of the Department of Transportation.

Section 3. Contents and service of petition or complaint. (1) If a petition or complaint is filed, it shall state the reasons why the rates, fares, or charges or the classification, rule, regulation or practice complained of are unlawful and shall support such reasons with a full factual analysis.

(2) A petition of complaint shall be served by the petitioner or complainant upon the carrier against whose tariff provision the petition or complaint is filed.

Section 4. Dismissal of petition of complaint. If the Secretary of the Department of Transportation is of the opinion that a petition or complaint does not state facts which warrant an investigation or action on its part, he may dismiss such petition or complaint without hearing.

Section 5. Order of Investigation. The Secretary of the Department of Transportation on his own initiative, or if it is of the opinion that the facts stated in a petition or complaint warrant it, may issue an order instituting an investigation of the lawfulness of any present or proposed rates, fares or charges for the transportation of persons or property by aircraft, or the unlawfulness of any classification, rule, regulation, or practice affecting such rates, fares, or charges and assigning the proceeding for hearing before an examiner. (Reference should be made to 602 KAR 1:020 for rules applicable to hearings.)

Section 6. Complaints requesting suspension of tariffs; answers to such complaints. (1) Formal complaints seeking suspension of tariffs filed pursuant to KRS 183.580 and regulations of the department shall fully identify the tariff and include reference to the name of the publishing carrier or agent, to the K.D.T. number, and to specific items or particular provisions protested or complainted against. The complaint should indicate in what respect the tariff is considered to be unlawful, and state what complainant suggests by way of substitution.

(2) A complaint requesting suspension, pursuant to KRS 183.580 and regulation of Department of Transportation, of a tariff for intrastate air transportation ordinarily will not be considered unless made in conformity with this section and filed at least eighteen (18) days before the effective date of the tariff.

(3) In an emergency satisfactorily shown by complainant, and within the time limits herein provided, a telegraphic complaint may be sent to the Secretary, Department of Transportation, and to the carrier against whose tariff provision the complaint is made. Such a telegraphic complaint shall state the grounds relied upon, and must immediately be confirmed by complaint filed and served in accordance with this regulation.

(4) Answers to complaints shall be filed within six (6) days after the complaint is filed.

Section 7. Burden of going forward with the evidence. At any hearing involving a change in a rate, fare or charge for the transportation of persons or property by aircraft, or the lawful classification, rule, regulation, or practice affecting such rate, fare or charge, the burden of going forward with the evidence shall be upon the person proposing such change to show that the proposed changed rate, fare, charge, classification, rule, regulation or practice is just, fair, and reasonable, and not otherwise unlawful.

Section 8. Computing time for filing complaints. In computing the time for filing formal complaints pursuant to Section 6 with respect to tariffs, the first day preceding the effective date of the tariff shall be the first day counted, and the last day so counted shall be the last day for filing unless such day is a Saturday, Sunday, or legal holiday for the Department of Transportation in which event the period for filing shall be extended to the next successive day which is neither a Saturday, Sunday, nor holiday.

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:27 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 1:050)

RELATES TO: KRS 183.530 to 183.620
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation has a duty to supervise and regulate the transportation of persons and property for hire by aircraft operating in intrastate commerce, therefore, the department deems it in the public interest to establish terms, conditions, and limitations of certificates of public convenience and necessity of intrastate air carriers.

Section 1. Applicability. Unless a certificate or the order authorizing the issuance of such certificate shall otherwise provide, there shall be attached to the exercise of the privileges granted by each certificate authorizing an air carrier to engage in intrastate transportation pursuant to KRS 183.530 to 183.620 such terms, conditions, and limitations as are set forth in this regulation and as may from time to time be prescribed by the Secretary of the Department of Transportation.

Section 2. Nonstop authorization. Subject to the provisions of KRS 183.530 to 183.620, the holder of a certificate may inaugurate scheduled nonstop service between any two (2) points not consecutively named in its certificate (if such certificate authorizes service between such points and does not prohibit nonstop service between them) upon the effective date of a schedule page, showing such nonstop service, filed with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, in accordance with its regulation regarding schedules.

Section 3. Service pattern change. (1) Applicability. This section shall be applicable only to certificates which contain a condition requiring that each trip operated by the holder of the certificate between points named in the route or a segment thereof shall (subject to exceptions set forth in such certificate) serve each terminal and intermediate point.

(2) Application for Change in Service Pattern. If at any time the holder of such a certificate desires to establish a service pattern omitting one or more of the points served or required to be served pursuant to such condition of the certificate, the holder shall make written application to the Department of Transportation for approval thereof. Such application shall be conspicuously entitled "Application for Change in Service Pattern," and shall set forth the facts relied upon to establish that the proposed service pattern is in the public interest and consistent with the holder's performance of a local air transportation service. Such application shall contain a statement of atters which the applicant desires the Department of Transportation to officially notice, and a detailed analysis of the anticipated effect of such authorization on the operating results of the holder. This

application shall also contain a notice to the persons served that they may, within twenty (20) days of the date the application was filed, file and serve memoranda in support of, or in opposition to, the application. The Secretary of the Department of Transportation will grant such application to such extent, for such periods of time, and subject to such conditions as the secretary deems proper and adequate, if it finds that such conditions and the proposed service pattern are in the public interest and consistent with the holder's performance of a local air transportation service.

(3) Service of application. A copy of each application for change in service pattern shall be served upon such persons as the Department of Transportation may designate in a particular case, and shall be served upon the following persons in all cases:

(a) Each scheduled air carrier which regularly renders service to or from any point named on the route segment the service pattern of which the holder proposes to change;

(b) The board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport being used to serve each such point.

Section 4. Filing and service of documents; procedure thereon; petitions for reconsideration. (1) Number of copies and certificate of service. An original and three (3) copies of each application for change in service pattern shall be filed with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, each setting forth the names and addresses of the persons required to be served and stating that service has been made on all such persons by personal service or by registered or certified mail, and the date of such service. In the case of service by mail, the date of mailing shall be considered the date of service. Each copy of a notice of application served pursuant to this regulation shall state that such service is made pursuant to this regulation.

(2) Pleadings by interested persons. Any interested person may file and serve upon the air carrier, and those persons required by Section 3 to be served with a notice of application for change in service pattern, a memorandum in opposition to, or in support of, such notice of application within twenty (20) days of the filing of an application for change of service pattern. Such memoranda shall set forth in detail the reasons for the position therein taken, with a statement of economic data and other matters which it is desired that the department shall officially notice. An executed original and three (3) copies in the case of application for change of service pattern, shall be filed with the Director, Division of Aeronautics and Airport Zoning, Department of Transportion.

(3) Petitions for reconsideration. A petition for reconsideration of the secretary's determination on an application for permission to use an airport of change in service pattern may be filed by any interested persons within ten (10) days after the date thereof. Except for the date of filing, such petitions shall conform to the provisions of subsection (4) of this section. Any interested person may file a memorandum in opposition to, or in support of, the petition within ten (10) days after it is filed. An executed original and three (3) copies of such petition for reconsideration or memorandum shall be filed with the Department of Transportation, Division of Aeronautics and Airport Zoning and copies thereof shall be served upon the persons described in Section 3 of this regulation, as the case may be. Unless ordered by the Secretary of the Department of Transportation upon application or upon its own motion, further pleadings will not be entertained.

(4) Content of Petition. A petition for reconsideration, rehearing, or reargument shall state, briefly and specifically, the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought. If the petition is based, in whole or in part, on allegations as to the consequences which would result from the secretary's order, the basis of such allegations shall be set forth. If the petition is based, in whole or in part, on new matter, such new matter shall be set forth, accompanied by a statement to the effect that petitioner, with due diligence, could not have known or discovered such new matter prior to the date the case was submitted for decision. Unless otherwise directed by the secretary upon a showing of unusual or exceptional circumstances, petitions for reconsideration, rehearing or reargument or answers thereto which exceed twenty-five (25) pages (including appendices) in length shall not be accepted for filing by the Director, Division of Aeronautics and Airport Zoning, Department of Transportation. A successive petition for rehearing, reargument, or reconsideration filed by the same party or parties, and upon substantially the same ground as a former petition which has been considered or denied by the secretary will not be entertained.

Section 5. Provisions as to scheduled stops. (1) With respect to a flight carrying any passengers in addition to the crew members, a scheduled stop at a point within the Commonwealth of Kentucky shall not be scheduled to exceed forty-five (45) minutes on any flight if the origination or termination of such flight at such point is prohibited by any restriction in the certificate; provided, that where the scheduled stop is at a point which is specified as "home" of the certificate holder.

(2) With respect to a flight carrying only property or mail in addition to the crew members, a scheduled stop at a point within the Commonwealth of Kentucky shall not be scheduled to exceed two (2) hours on any flight if the origination or termination of such flight at such point is prohibited by any restriction in the certificate.

(3) A certificate containing a condition or restriction which has the effect of permitting the origination of a flight only at a certain point or points shall not be deemed to permit an increase in passenger or property-carrying capacity (by change of gauge, substitution of equipment, addition of extra sections, or otherwise) on any such flight at any point other than a point at which the origination of such flight is authorized. A certificate containing a condition or restriction which has the effect of permitting the termination of a flight only at a certain point or points shall not be deemed to permit a decrease in passenger or property-carrying capacity on any such flight at any point other than a point at which the termination of such flight is authorized. With respect to a particular flight, a point shall not be deemed to be beyond another specified point within the meaning of such condition or restriction unless the holder serves such other specified point on such flight or omits service thereto pursuant to regulation or other specific authorization (such as authority to render nonstop service, or to suspend service to such point) of the Department of Transportation.

Section 6. Failure to comply. It shall be a condition upon the holding of the certificate that any intentional contravention in fact by the holder of a certificate of the provisions of KRS 183.530 to 183.620 or of the orders, rules, or regulations issued thereunder, or of the terms, conditions, and limitations attached to the exercise of the privileges granted by the certificate, shall be a failure to comply with the terms, conditions, and limitations of the certificate within the meaning of KRS 183.570.

Section 7. Name of air carrier. It shall be an express condition upon the operating authority granted by each certificate issued pursuant to KRS 183.530 to 183.620 authorizing an air carrier to engage in intrastate air transportation, that the air carrier concerned, in holding out to the public and in performing air transportation services, shall do so only in a name the use of which is authorized under the provisions of its certificate and statutes of Kentucky.

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:33 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 1:060)

RELATES TO: KRS 183.530 to 183.620
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation finds it necessary to require a certificated intrastate air carrier to inaugurate service to a point within a reasonable time and that service of the certificated carrier should not be suspended without cause, therefore the function of this regulation is to set forth requirements for inauguration and temporary suspension of air carrier service pursuant to a certificate of convenience and necessity and procedures related thereto.

Section 1. Applicability. (1) This regulation shall apply to all air carriers holding currently effective certificates of public convenience and necessity authorizing scheduled route service between designated points (hereinafter referred to as certificates) issued by the Department of Transportation pursuant to KRS 183.530 to 183.620 with respect to:

(a) Inauguration of new service pursuant to certificate awards;

(b) Applications to the department for authority to temporarily suspend service to or from any point named in a certificate or included in an approved service plan designating points which may be served in a general area named in such certificates;

(c) Notice to the department when all service to or from a point, pursuant to a certificate, shall have been interrupted or inauguration delayed because of circumstances or events beyond the carrier's control as provided in Section 8 of this regulation; and

(d) Termination of suspension of service.

(2) This regulation does not relieve any carriers from the obligation to file schedules pursuant to the requirements of the regulations of the Department of Transportation, Division of Aeronautics and Airport Zoning.

Section 2. Department authorization required for delayed inauguration or temporary suspensions of service. (1) Inauguration of service. Any service authorized by a certificate shall be inaugurated within 120 days after the effective date of the new or amended certificate unless the secretary has fixed a longer period. If the recipient of a certificate award authorizing scheduled route service between designated points desires to postpone inauguration of service to any such point or points beyond the 120 day period of such other period as the secretary may have fixed, he shall, not later than forty-five (45) days prior to expiration of such period, file an application for postponement of the date of required inauguration of service.

(2) Temporary suspension of service. Service to or from any point, authorized in a certificate or included in an approved service plan, shall not be suspended by an air carrier except in accordance with the provisions of this regulation.

Section 3. Applications pursuant to Section 2. (1) The application shall contain a specific statement of the relief requested and of the facts relied upon to establish that there is good cause for the postponement of inauguration of service or that the temporary suspension of service is in the public interest, with a statement of economic data or other matters which it is desired that the Department of Transportation officially notice.

(2) When temporary suspension of service in intrastate transportation is sought on economic grounds, the application shall contain at least the following specific economic data:

(a) History of service, particularly schedules and equipment offered by the applicant for the past two (2) years to and from the point;

(b) Applicant's most recent yearly traffic data for the point: total number of passengers originating and deplaning: and on-line or, if the applicant does not compile on-line data, on-flight origin and destination of such passengers for four (4) representative months;

(c) Anticipated financial benefit to the applicant, with an explanation of the factors considered in reaching such conclusion;

(d) Services offered by other scheduled carriers to the point;

(e) When the applicant is the only carrier regularly serving the point, the nearest alternative air service, and available surface transportation, schedules and fares to alternative airports;

(f) Surface transportation to major markets from the point; and

(g) A factual statement of applicant's efforts to stimulate traffic through schedule experimentation, promotion and advertising, new equipment, or other means during past two (2) years.

(3) The application shall also contain a list of the persons upon whom copies were served in accordance with Section 5 of this regulation, and a statement that any interested person may file an answer in opposition to or in support of the application within twenty (20) days after the filing of the application. An executed original and three (3) copies of such application shall be filed with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, Frankfort, Kentucky 40601. Applications which are incomplete or which fail to comply with the requirements of this regulation will be dismissed.

Section 4. Answers by interested persons and replies thereto. (1) Any interested person may file with the Department of Transportation and serve upon the applicant a written answer in opposition to or in support of an application made pursuant to Section 3 of this regulation, within twenty (20) days of the filing thereof. Such answer shall set forth in detail the reasons why the postponement of inauguration of service or temporary suspension of service should be denied or authorized with a statement of economic data and other matters which it is desired that the department shall officially notice. An executed original and three (3) copies of such answer shall be filed with the Director, Division of Aeronautics and Airport Zoning.

(2) Within seven (7) days from the date of service of an answer, the applicant may file a reply thereto and shall serve it upon any person who has filed an answer. An executed original and three (3) copies of such reply shall be filed with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation.

Section 5. Service. A copy of each application made and each answer addressed thereto pursuant to Sections 3 and 4 shall be served personally or by registered or certified mail upon such persons as the Secretary of the Department of Transportation may designate in a particular case, and shall be served upon the following persons in all cases:

(1) Each certificated route air carrier which serves any point for which postponement of inauguration or suspension of service is sought, or its designated agent;

(2) The chief executive of the city or county judge that has jurisdiction over any such point located in this state;

(3) The manager or other individual having direct supervision over and responsibility for the management of the airport being used to serve such point at the time the application is filed; and

(4) Nothing in this section relieves a certificate holder from serving any person or agency that is required by the laws of the United States to be served.

Section 6. Disposition. An order may be issued authorizing such postponement or temporary suspension for such term and upon such conditions as the secretary may find to be in the public interest. Where the public interest so requires, the secretary may act on applications without waiting for answers thereto.

Section 7. Petition for reconsideration. (1) A petition for reconsideration of the secretary's determination under Section 6 may be filed by any interested person within twenty (20) days after the date of service thereof. Such petitions shall conform to the provisions of subsection (2) of this section. Any interested person may file an answer in opposition to, or in support of, the petition within ten (10) days after it is filed. An executed original and three (3) copies of such petition for reconsideration or an answer shall be filed with the Director, Division of Aeronautics and Airport Zoning, and copies thereof shall be served upon the persons described in Section 5, the applicant and any person who filed an answer in opposition to the original application.

(2) Contents of petition. A petition for reconsideration, rehearing, or reargument shall state, briefly and specifically, the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought. If the petition is based, in whole or in part, on new matter, such new matter shall be set forth, accompanied by a statement to the effect that petitioner, with due diligence, could not have known or discovered such new matter prior to the date the case was submitted for decision. Unless otherwise directed by the Department of Transportation upon a showing of unusual or exceptional circumstances, petitions for reconsideration, rehearing, or reargument or answers thereto which exceed twenty-five (25) pages (including appendices) in length shall not be accepted for filing by the Director, Division of Aeronautics and Airport Zoning.

(3) Successive petitions. A successive petition for rehearing, reargument, or reconsideration filed by the same party or parties, and upon substantially the same ground as a former petition which has been considered or denied by the secretary, will not be entertained.

Section 8. Automatic suspension authority for involuntary postponement of inauguration or involuntary interruption of service. (1) The holder of a certificate shall not be required to file an application under Section 2 of this regulation, if the postponement of inauguration of service to or from a point named in a certificate, or included in the holder's approved service plan is caused by conditions or events which the holder cannot reasonably be expected to foresee or control, such as rules, standards or other action or inaction of the Administrator of the Federal Aviation Agency emergency measures, strikes, weather conditions, construction work on airports, or disasters; provided, that the provisions of this section shall apply to interruptions due to airport inadequacies only if the holder is unable to serve the certificated point through any airport convenient thereto with the type of equipment last regularly used to serve such point.

(2) In the case of delayed inauguration or an interruption of service caused by a strike, the holder shall give immediate notice of such interruption to the Department of Transportation (marked for the attention of the Director, Division of Aeronautics and Airport Zoning).

(3) If service at a point is interrupted or inauguration delayed for more than seven (7) consecutive days for reasons beyond the certificate holder's control other than a strike, the holder shall give notice to the Department of Transportation (marked for the attention of the Director, Division of Aeronautics and Airport Zoning) within seven (7) days following the date of required inauguration of service or suspension, setting forth the date of suspension, the actual or estimated duration of delay of service or suspension, and a full and complete statement of the reasons therefor.

Section 9. Re-examination of suspension authority. Authority to postpone inauguration or to suspend service, granted pursuant to Sections 6 and 8 may be modified, conditioned or terminated by the secretary at any time upon notice but without hearing where the public interest so requires.

Section 10. Effect of failure to provide service. In the absence of circumstances excusing involuntary postponement or suspension of service (Section 8) if for a period of ninety (90) days (or such longer specific period as may have been designated by the Secretary of the Department of Transportation) any service authorized by a certificate has not been inaugurated, or if for a period of ninety (90) days such a service has not been operated, the secretary may direct the carrier to inaugurate or resume service or may by order entered after notice and hearing, direct that the holder's certificate shall cease to be effective to the extent of such service.

Section 11. Institution of service after suspension or postponement of inauguration; notice to the Department. When service is inaugurated following postponement of inauguration, or resumed following suspension under either express or automatic authority, immediate notice thereof shall be give to the Department of Transportation (marked for the attention of the Director, Division of Aeronautics and Airport Zoning), stating the time when service was inaugurated or resumed.

Section 12. Strikes; report to be filed. Within fifteen (15) days following resumption of service after a strike an air carrier shall file a report with the Department of Transportation (marked for the attention of the Director, Division of Aeronautics and Airport Zoning) containing a list of all flights that were canceled, the date they were canceled, and the date service was restored.

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:33 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 1:070)

RELATES TO: KRS 183.530 to 183.620
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation finds it necessary to its function to regulate commuter air carriers in intrastate commerce to require them to file a monthly report of their operations with the department.

Section 1. The filing of a monthly report described in Section 2 of this regulation with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, shall be a condition of operation as an intrastate air carrier in this state pursuant to a certificate of public convenience and necessity under KRS 183.530 to KRS 183.620 and the regulations relating thereto.

Section 2. The monthly report shall be filed on forms provided by the department and be entitled "Report of Scheduled Operations of Commuter Air Carriers," Department of Transportation form TD 56-1, and following schedules entitled: "Report of Aircraft Operated and Flight and Traffic Statistics in Scheduled Operations by Commuter Air Carriers", form TD 56-1A; "Report of On-Line Origin and Destination of Traffic", form TD 56-1B; "Report of Flights Operated", form TD 56-1C; and "Summary of Financial Data", form TD 56-1D. A copy of the aforementioned forms are incorporated by reference into this regulation.

Section 3. The report shall be filed for a calendar month and shall be due in the office of the Director, Division of Aeronautics and Airport Zoning by the tenth day following the end of preceding calendar month.

Section 4. The secretary may revoke a certificate of public convenience and necessity of an intrastate air carrier after notice and a hearing for cause if an air carrier fails to file the report in accordance with this regulation.

Section 5. A certificated interstate air carrier that is a holder of a certificate of public convenience and necessity issued by the Civil Aeronautics Board to whom the department is directed to issue an intrastate certificate of public convenience and necessity pursuant to KRS 183.540(2) shall not be required to file the report required by this regulation.

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 1:080)

RELATES TO: KRS 183.530 to 183.620
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation finds it in the public interest for certificated intrastate air carriers to operate on a regular basis in accordance with their certificates of public convenience and necessity, therefore the department finds it necessary to require these air carriers to file published schedules with the department and perform services according to such published and filed schedules, and to provide for a revocation or certificates for failure to perform according to the published and filed schedule.

Section 1. Filing of general schedules. Each air carrier authorized to engage in air transportation shall file with the Department of Transportation, Division of Aeronautics and Airport Zoning a statement, to be known as a "general schedule," showing the points between which the air carrier is authorized to engage in air transportation, all schedules of aircraft which will be operated by the air carrier between such points on the date the general schedule is to become effective, the time of arrival and departure at each point, and the frequency of each schedule. Prior to the date it engages in any scheduled air transportation each such air carrier shall file a general schedule with the Department of Transportation, Division of Aeronautics and Airport Zoning.

Section 2. Form of schedules. All general schedules and revised pages thereof shall be in loose-leaf form, with sheets 8 1/2 x 11 inches in size, and shall be printed, typewritten, planographed, stereotyped, mimeographed, or prepared by other similar durable process, in a clearly legible manner on durable paper in not less than 6-point type. One side of each sheet shall have a left margin at least one (1) inch wide, and the reverse side of each sheet shall be left blank.

Section 3. Title page. The first page of a general schedule shall be designated as a title page and include the following:

(1) Name of carrier,
(2) The general schedule number,
(3) A brief description of the contents,
(4) The date of issue,
(5) An effective date, and
(6) The issuing officer's name and address.

Section 4. Schedule pages. (1) All pages following the title page shall be consecutively numbered and known as schedule pages. The name of the air carrier shall appear at the top of each schedule page, the page number in the upper right-hand corner, and the general schedule number in the upper left-hand corner. At the bottom of each schedule page shall appear its date of issue and effective date.
(2) Each schedule page shall indicate the route number, if any, and the terminal and intermediate points served by the schedules appearing on the page, shall show the time of arrival and departure of each schedule at such points, and the types of equipment operated on each schedule. Each schedule shall be assigned a trip or flight number. Each schedule shall contain an explanation of all symbols used thereon.

Section 5. Additions and changes. (1) An additional schedule may be added to a general schedule either by filing a new schedule page or by revising an existing schedule page. A change in a schedule page to show the addition of a new schedule or to show a change in an existing schedule shall be effected by reproducing the entire page. Such changed schedule page shall be designated a revised page and shall cancel the former page; for example: 1st revised page 1, cancels original page 1.
(2) Each filing made pursuant to this section shall be accompanied by a summary sheet of all additions and changes, furnishing under appropriate reference to schedule pages and flight numbers, all pertinent data concerning time, equipment, and service changes. The term "service changes" means such changes as inauguration of new service, stops added or deleted, nonstop service between points not previously receiving such service, new airports, service suspensions and frequency changes. Carriers may summarize time changes of one (1) hour or less by stating, in applicable situations, in the summary sheet that, "the only time changes involved in flights Nos. * * * are minor time changes of one (1) hour or less." It shall not be necessary to show in the summary sheet any time changes which are occasioned by the beginning and ending of daylight saving time. Where any schedule addition or change of any kind involves interchange services and is subject to prior Department of Transportation approval, the summary sheet shall plainly state that fact. Such statement shall not in any way relieve the carrier of its obligation to apply for and obtain prior department approval for such schedule addition or change.

Section 6. Number of copies; filing address. Each air carrier shall transmit to the Department of Transportation, Division of Aeronautics and Airport Zoning, three (3) copies of each general schedule or revised page thereof, and three (3) copies of the summary of additions and changes required by Section 5, accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing the general schedule or revised pages and summary that are transmitted for filing. The letter of transmittal and listed enclosures shall be included in one (1) package addressed to: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, Frankfort, Kentucky 40601.

Section 7. Effect of filing. The filing of a schedule, or a new or revised schedule page, with the Department of Transportation, Division of Aeronautics and Airport Zoning, shall not relieve an air carrier of requirements made by any other governmental instrumentality, as to filing or reporting.

Section 8. Definitions. For the purpose of Sections 8 to 15 of this regulation:
(1) "Schedule" means any part of the "general schedule" on file with the Department of Transportation, Division of Aeronautics and Airport Zoning pursuant to Sections 1 to 7 of this regulation.
(2) "Scheduled flight" means any trip periodically operated between terminal points which is separately designated (by flight number of otherwise) in the schedules of the air carrier.
(3) "All-cargo flight" means any scheduled flight which carries property and does not carry revenue passengers or United States mail.
(4) "Scheduled time flight" means a scheduled flight which is completed within the block-to-block time allowed in the schedule, plus fifteen (15) minutes, excluding from consideration the on-the-ground time provided in the schedule or actually experienced at the intermediate points, if any, of such scheduled flight.

Section 9. Applicability. Sections 8 to 15 of this regulation applies to all route air carriers certificated pursuant to KRS 183.530 to 183.620.

Section 10. Prohibition of unrealistic scheduling and requirement of elapsed time performance. All flight schedules filed with the Department of Transportation, Division of Aeronautics and Airport Zoning or published for the guidance of the traveling public shall be designed so as to enable each air carrier subject to this regulation to safely perform as scheduled time flights (in accordance with all applicable legal requirements of the Federal Government), a minimum of

seventy-five (75) percent of all trips actually flown pursuant to each scheduled flight during any three (3) month period.

Section 11. Violation of this regulation. Where it is shown that an air carrier subject to this regulation failed to perform as scheduled time flights a minimum of seventy-five (75) percent of the trips actually flown pursuant to each scheduled flight in any three (3) calendar months, such failure shall constitute a violation of this regulation, unless such carrier shows that its performance during such period was due to conditions which are not subject to its control and also could not have been anticipated in the exercise of reasonable prudence.

Section 12. Requirements that published schedules conform to filed schedules. No air carrier subject to this regulation shall publish any statement of aircraft regularly operated between points duly authorized to be served which sets forth the time of arrival and departure at each point or any other information concerning such service unless such information is identical in all regards, with that contained in the schedules filed pursuant to Sections 1 to 7 of this regulation. This prohibition shall apply to statements included in a system time table, the "Official Airline Guide" or any other document available to the general public.

Section 13. Rule of construction. This regulation shall not be construed as authorizing schedules so slow as to constitute inadequate service of uneconomical or inefficient management, or to discourage the filing of shorter schedules which are reasonably expected to be realistic.

Section 14. Separability. If any provision of this regulation the application thereof to any air transportation, person, class of person, or circumstance is held invalid, the remainder of the part and the application of such provisions to other air transportation, persons, classes of persons or circumstances shall not be affected thereby.

Section 15. Reporting of schedule arrival performance. (1) Each certificated air carrier shall file in duplicate with the Department of Transportation, Division of Aeronautics and Airport Zoning a "Monthly Report of Schedule Arrival Performance on All Passenger Flights," on a form furnished by the Department of Transportation. Provided, during any period that an air carrier's obligation to provide service between a pair of points is suspended by the secretary, the report need not be filed for such pair of points. The report shall be filed within forty-five (45) days of the end of the month which it covers and shall be certified to be correct by a responsible officer of the reporting carrier.

(2) The pairs of points on which reports are to be filed shall be the same as listed in the air carrier's certificate.

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Division of Aeronautics and Airport Zoning
(602 KAR 10:010)

RELATES TO: KRS 183.140 to 183.160
PURSUANT TO: KRS 183.024, 13.082
NECESSITY AND FUNCTION: The Department of Transportation has been authorized to establish, in cooperation with airport boards, a pilot demonstration air carrier service project for the purpose of developing regularly scheduled commuter air carrier service for the movement of passengers, mail, and cargo in the Commonwealth of Kentucky. The function of this regulation is to set forth the manner in which that policy is to be implemented pursuant to the statutes.

Section 1. Definitions: (1) "Route" means air carrier service to two (2) or more points in one (1) direction from a point of origin to a point of destination. An air carrier's operating system may have an indefinite number of routes.

(2) "Route segment" means air carrier service between two (2) consecutive points on a route.

(3) "Mileage on a route segment" means the distance between two (2) points on a route computed on the basis of the nautical miles between the points.

(4) "Mileage on a route" is equal to the sum of the route segments.

(5) "Air Carrier Operator's System Costs" shall include all expenses reasonably related to the operation of the air carrier's system over all routes without regard to the fact that a point on a route may be outside the territorial limits of this state.

(6) "Point" means a city or an airport operated by an airport board and may be interpreted as the context may require.

(7) "Kentucky Commuter Air Carrier Subsidy Program" refers to the provisions of KRS 183.140 to 183.160 and the regulations relating thereto.

Section 2. (1) An airport board created pursuant to KRS 183.132 to 183.139 which operates an airport served by a commuter air carrier may file an original and three (3) copies of an application for authorization to participate in the Kentucky Air Carrier Subsidy Program on forms provided by the department with the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, Frankfort, Kentucky 40601.

(2) The airport board shall annex to the application a copy of the contract with the commuter air carrier which shall state:

(a) Whether the payments to the commuter air carrier will be in the form of direct financial aid.
(b) The total amount of direct financial aid or services and benefits shall be stated in money value along with the period of contract.
(c) That the commuter air carrier will file sufficient financial information on forms provided by the Department of Transportation that will establish the total operating costs and revenues as a basis for determining the reimbursement to the airport board pursuant to Section 6 of this regulation.

Section 3. (1) The Secretary of the Department of Transportation shall review the application and shall make a determination whether the application should be granted or denied and shall issue an order based on his decision.

(2) In making a determination whether to grant or deny the application the secretary shall consider the following factors as may be set forth in the application and the records of the Department of Transportation or in the records and publications of the Civil Aeronautics Board and the following:

(a) The amount of revenue that a commuter air carrier will receive as a result of service to that point.
(b) The limits of the appropriation of the Department of Transportation for the Kentucky Commuter Air Carrier Subsidy Program and any federal grant received pursuant to KRS 183.160.
(c) Whether air carrier service to the airport board's airport is provided by an air carrier certified by the Civil Aeronautics Board.
(d) Whether the commuter air carrier provides regularly scheduled passenger, mail, and cargo service between five (5) or more termini in this state.
(e) Whether the commuter air carrier's schedule includes two (2) round trips daily from the applicant's airport and another point in Kentucky, the failure to provide this level of service shall be grounds for an order of denial of the application.
(f) Whether the approval of the application will effectuate the purpose of developing regularly scheduled air service in the public interest, convenience and necessity for air transportation in the state.

Section 4. (1) Order Granting Application. If the Secretary grants the airport board's application, he shall issue an order which shall set forth the limits to which the department will reimburse the airport board. The order shall provide the terms and conditions of the agreement in accordance with Section 5 of this regulation, and any other terms and conditions that the secretary deems proper to implement the Kentucky Commuter Air Carrier Subsidy Program.

(2) Order denying Application. If the Secretary denies the application, then he shall issue an order stating the reasons therefor.

Section 5. Content of Agreement. The department and the airport board shall enter into an agreement which shall provide for the reimbursement of the airport board for the direct financial aid or services and benefits provided to the commuter air carrier such reimbursement shall be within the limits of Section 6 of this regulation and shall include the following provisions that:

(1) The receipt of financial data by the department from the commuter air carrier concerned shall be a condition precedent to any reimbursement pursuant to the agreement.

(2) The agreement shall be for a period not to exceed twenty-four (24) months.

(3) No payments shall be made to an airport board for a period of less than three (3) calendar months.

(4) The agreement may include any other terms and conditions that the secretary may set forth in his order.

Section 6. This section shall be used by the department as a basis for determining the limit of reimbursement that shall be allocated to any airport board under this regulation:

(1) The cost per mile on an air carrier operator's system costs shall be computed in accordance with the formulas set forth in Appendix A, "Computation of the Operator's System Costs," which is attached to and incorporated by reference into this regulation.

(2) The cost to operate a commuter air carrier on each route is equal to the cost per mile (as computed in subsection (1) of this section) times the total route mileage.

(3) The cost of service to a single point on a single route is equal to the total cost to operate on the route divided by the number of points on that route.

(4) Allocation of revenue to each point. The revenue received by a commuter air carrier from fares, rates, and charges for passengers, mail, and cargo shall be determined on the basis of the total revenue received by the commuter air carrier that is generated from air carrier service from the point of origin to the point of destination. One-half (1/2) of the total revenue shall be allocated to the point of origin and one-half (1/2) to the point of destination. The point of origin and the point of destination are not necessarily consecutive points on a route.

(5) Basis for determining maximum subsidy. The reimbursement to a single airport board shall be equal to the total cost of serving that point less the amount of revenue allocated to that point on each route on the operator's system.
(6) Should the revenue allocated to a point exceed the allocation of the cost of serving that point, then the amount of the reimbursement to each airport board which has costs that exceed revenue shall be reduced by the amount that the revenue exceeds the allocated costs divided by the number of points on the route that have allocated costs that exceed allocated revenue.
(7) The secretary in his order approving an application may provide that no reimbursements shall be made to an airport board for commuter air carrier service that exceeds the level of service defined in this regulation, and he may further order that the cost allocations and revenue allocations shall be based on the level of service that indicates the smallest amount by which cost allocations exceed revenue.
(8) The time period of computing and allocating cost and revenue shall be the same.

Section 7. A commuter air carrier that contracts with an airport board to participate in the Kentucky Commuter Air Carrier Subsidy Program shall not allow any person or entity to use the service of the commuter air carrier without receiving the full amount of the published fare, rate, or charge; provided that this prohibition shall not apply to the owner, directors, and employees of the commuter air carrier; further provided, that this prohibition shall not apply as to any person that the commuter air carrier is required by law to transport free of charge because of that person's performance of his duties related to aviation regulations as an agent of the federal or state government.

Section 8. (1) The "Kentucky Air Commuter System Study" published by the Department of Transportation is hereby attached to and incorporated by reference into this regulation.
(2) A copy of the aforementioned material may be obtained from the Director, Division of Aeronautics and Airport Zoning, Department of Transportation, Frankfort, Kentucky 40601.
(3) The secretary may officially notice the recommendations and conclusions in the material named in subsection (1) of this section as the basis for granting or denying an application filed under Section 2.

APPENDIX A

COMPUTATION OF THE OPERATOR'S SYSTEM COSTS

n = # of routes in operator's system

i = index denoting route number; $i = 1, n$

j = index denoting segment number; $j = 1, 3$

m_{ij} = mileage on segment j of route i

c_{ij} = cost of flying segment j of route i, computed according to cost formulae given

F_i = number of times route i was operated

M_i = total mileage on route; $M_i = F_i \sum_{j=1}^{3} m_{ij}$

C_i = total cost of route; $C_i = F_i \sum_{j=1}^{3} c_{ij}$

MTOT = total miles flown on operator's system; $MTOT = \sum_{i=1}^{n} M_i$

CTOT = total cost of operator's system; $CTOT = \sum_{i=1}^{n} C_i$

CPM = cost per mile on operator's system computed as CTOT/MTOT

BILLY PAXTON, Secretary

ADOPTED: February 14, 1975
RECEIVED BY LRC: February 14, 1975 at 4:24 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Aeronautics and Airport Zoning, Department of Transportation, 421 Ann Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(603 KAR 6:027)

RELATES TO: KRS 189.222
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 189.222 authorizes the Bureau of Highways to establish reasonable weight classifications of highways and fix a different maximum for each classification.

Section 1. The classifications for KY 1543 are as follows:

KY 1543	AAA	From:	Jct New KY 69, extending
		To:	1.0 mile southeast
	B		All other portions not herein classified.

JOHN C. ROBERTS, Commissioner

ADOPTED: January 8, 1975
APPROVED: BILLY PAXTON, Secretary
RECEIVED BY LRC: January 20, 1975 at 10:56 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Director, Division of Maintenance, Bureau of Highways, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(804 KAR 2:005)

RELATES TO: KRS 244.130, 244.140, 244.530
PURSUANT TO: KRS 13.082, 241.060
SUPERSEDES: ABC 11:21
NECESSITY AND FUNCTION: KRS 244.130 permits the ABC Board to establish regulations for advertising of alcoholic beverages. This regulation establishes the conditions under which retail malt beverage licensees in cities of the first and second class may use signs, etc. in advertising brand names. The licensees covered by this regulation are limited in their advertising to the type and size sign set out in the regulation. The regulation further contains a grandfather clause relative to free standing signs in existence at the effective date of the regulation which was April 1, 1967. The primary intent of the regulation is to prohibit the erection of new free standing signs and restrict such advertising to signs attached to a wall of the licensed premises. Section (5) has been deleted since there is a list of said signs on file in the office of the ABC Board.

Section 1. (1) Illuminated and like signs, posters, placards, decorations or graphic displays, which bear only a trademark, trade name, trade slogan or facsimile of a product, container, or display, associated with a particular brand, are permitted upon the outside wall, or to overhang the outside of the licensed premises, if such overhanging signs are affixed to the outside wall of the licensed premises. In addition to the foregoing, the sign may also contain only the trade name of the licensed premises, provided the letter size designating such trade name shall not exceed twelve (12) inches in height.
(2) Such outside signs as described in subsection (1) may be given, rented, loaned or sold to a retailer by an industry member engaged in the business as a brewer or distributor of malt beverages, if they have no value to the retailer except as advertising. Provided, that the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for the expense incidental to their operation.
(3) Any signs erected hereunder shall contain no more than 5,000 square inches.
(4) Any freestanding sign or sign not attached to a licensed premises advertising malt beverages in existence on April 1, 1967 may be maintained at its present location for the duration of its useful existence but shall not be relocated, replaced or renovated. The brand name now being used shall not be changed to the brand name of any other company. Not more than $100 shall be expended by the owner of the sign at any one time in repairing or maintaining these signs when they are damaged or broken by storms, accidents, acts of vandalism or become depreciated to the extent that they may need painting. Such expenditures will be made only when one of the above described conditions exist. As provided in KRS 244.150, the owner of the freestanding sign that is repaired or renovated must keep a record for inspection by any member of the Alcoholic Beverage Control Board or any agent of the department, showing the details of such transactions including the location of the sign and a description of the work performed.
(5) This regulation applies to outside signs on retail premises in cities of the first and second class only.

JULIAN W. KNIPPENBERG, Chairman

ADOPTED: July 1, 1974
APPROVED: ELIJAH M. HOGGE, Secretary
RECEIVED BY LRC: January 28, 1975 at 1:52 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 8th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(804 KAR 2:015)

RELATES TO: KRS 244.130
PURSUANT TO: KRS 13.082, 241.060
SUPERSEDES: ABC 11:30
NECESSITY AND FUNCTION: Under the general authority of KRS 244.130, permitting this department to regulate advertising of alcoholic beverages, this regulation is intended to regulate the type of advertising appearing in newspapers, magazines or periodicals. This is our department's version of a "truth in advertising" regulation, and has been in effect since December 1956.

Section 1. Any advertisement of malt beverages shall not contain:

(1) Any statement that is disparaging of a competitor's product.
(2) Any statement, device or representation that is obscene or indecent.
(3) Any statement concerning or illustrations of family scenes pertaining to the home.
(4) Any statement that is false or misleading in any manner.
(5) Any statement concerning the brand of malt beverages that is inconsistent with any statement on the labeling thereof.
(6) Any statement that may intimate or state that drinking of the advertised product produces good health, affects weight, builds muscles or like statements.
(7) Any statement which shall mention the place at which malt beverages are sold at retail. This does not apply to advertising by retailers in newspapers, magazines or periodicals.

JULIAN W. KNIPPENBERG, Chairman
ADOPTED: July 1, 1974
APPROVED: ELIJAH M. HOGGE, Secretary
RECEIVED BY LRC: January 28, 1975 at 1:53 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 8th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(804 KAR 2:025)

RELATES TO: KRS 244.130
PURSUANT TO: KRS 13.082, 241.060
SUPERSEDES: ABC 11:40
NECESSITY AND FUNCTION: Under the general authority of KRS 244.130, permitting this department to regulate the advertising of alcoholic beverages, this regulation is intended to prohibit brewers and distributors of malt beverages from providing retailers with any novelty or specialty advertising of their particular brands of malt beverages. This prohibition is necessary to prevent brewers and distributors from competing with each other by means of giving away bigger and better novelties and specialties to their particular retailers. Without the prohibition there would be a constant escalation of competition between the brewers and distributors to see who could provide their retailers with novelties and specialties more expensive than their competitors. That type of competition is neither needed nor desired.

Section 1. Advertising novelties and specialties are hereby prohibited. Brewers and distributors are permitted to furnish with the distribution of their product not more than one can opener or bottle opener for each twelve bottles or cans distributed to the retail licensee. Returnable export bottles shall be packed only in returnable cases upon which the container charge provided in KRS 244.040(2) and Regulation ABC 12:20 is collected. No such case shall be divided into smaller prepacked containers and/or cartons. Brewers may prepack nonreturnable cans or bottles in disposable cases and/or cartons. No other containers, bags, cases, or cartons of any kind shall be supplied to any distributor or retailer.

Section 2. Brewers and distributors are permitted to advertise brands in printed form on materials such as: calendars, athletic schedules, recipes, pamphlets, etc., which conform to the provisions of this chapter.

JULIAN W. KNIPPENBERG, Chairman
ADOPTED: July 1, 1974
APPROVED: ELIJAH M. HOGGE, Secretary
RECEIVED BY LRC: January 28, 1975 at 1:53 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 8th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Oil and Gas
(805 KAR 1:040)

RELATES TO: KRS 353.560
PURSUANT TO: KRS 13.082, 353.560
SUPERSEDES: OAG-Rg-3
NECESSITY AND FUNCTION: KRS 353.560 requires the Department of Mines and Minerals to regulate the use of vacuums. This regulation is to require identification of vacuum uses to protect correlative rights.

Section 1. The unauthorized use of vacuum pumps or other devices for the purpose of putting a vacuum on any oil bearing stratum is prohibited; however, the department shall, upon application and for good cause shown, permit the use of vacuum pumps subject to such restrictions or limitations as the department may prescribe.

Section 2. On or before the date of filing written application for the use of vacuum on any property, the applicant shall notify, by registered mail, all operators of producing oil wells on premises within 1,000 feet of the well or wells where the use of vacuum is proposed, and shall set out in the notice the proposed strata or formation to which a vacuum is to be applied and the location of the well or wells on which vacuum pumps are to be installed. The appplicant shall submit proof of such notice with the application, giving the names and addresses of all operators of oil interests.

Section 3. On receipt of the application and proof of notice the department shall hold the same for ten (10) days pending the filing of objections, and if none is received at the end of such period, the application may be approved by the department. In event objection is made and the department deems a hearing shall be had, notice shall be given to each objector and the applicant, of the time and place designated by the department for such hearing.

Section 4. The department shall have authority after notice and hearing as specified in Section 3 of this regulation to prohibit vacuum or to deny or revoke permission for the use of vacuum when, in its judgment, there is danger of underground waste or infringement on correlative rights. The department shall have authority to grant permission when it finds a further recovery of oil can be obtained by use of vacuum without danger of underground waste and without substantial injury to correlative rights.

HENRY M. MORGAN, Director
ADOPTED: January 24, 1975
APPROVED: H. N. KIRKPATRICK, Commissioner
APPROVED: ELIJAH M. HOGGE, Secretary
RECEIVED BY LRC: January 28, 1975 at 1:53 p.m.

SUBMIT COMMENT OR REQUEST OR HEARING TO: The Director, Division of Oil and Gas, Department of Mines and Minerals, P.O. Box 680, Lexington, Kentucky 40501; Telephone: (606) 254-0367 or (606) 254-0368.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Oil and Gas
(805 KAR 1:050)

RELATES TO: KRS 353.590
PURSUANT TO: KRS 13.082, 353.540, 353.550
SUPERSEDES: OAG-Rg-6
NECESSITY AND FUNCTION: Provide for methods of giving notice to operators and sureties of non-compliance. Establish requirements of release, cancellation and forfeiture of bonds.

Section 1. At any time the department causes a notice of non-compliance to be served upon an operator (principal) pursuant to KRS 353.590(7) copies of such notice shall be mailed by registered or certified mail to the resident agent writing such bond (where the address is known) and to the surety company at the address provided to the Kentucky Department of Insurance for receipt of notices. The surety shall be afforded the opportunity to act in behalf of the operator (principal) within the time set forth in KRS 353.590(7) in regard to the proper plugging of the well or wells and submission of required driller's logs, electric logs, if run, and plugging affidavits. Should the operator (principal) and surety fail to comply within the time provided for in KRS 353.590(7) then and in that event only the bond shall be forfeited as provided in that section.

Section 2. An individual well bond in the amount of $1,000 shall be released upon the proper plugging of the well and the filing with the department of a plugging affidavit, driller's log and electric log, if run. A blanket bond in the amount of $5,000 shall be released upon the proper plugging of all wells of the operator (principal) covered by the bond, and the filing with the department of plugging affidavits, driller's logs and electric logs, if run, for such wells.

Section 3. A blanket surety bond in the amount of $5,000 filed pursuant to KRS 353.590(5) may be cancelled by the surety by a communication in writing delivered personally or by registered or certified mail to the office of the Division of Oil and Gas, Department of Mines and Minerals. Provided such cancellation shall be effective only to relieve the surety from liability under the bond for wells which have not been commenced or for which permits have not been issued at the time of the receipt of the notice by the department. Liability under the bond for wells which have been commenced or for which permits have been issued prior to the receipt by the department of the notice shall not be effected by the cancellation.

HENRY M. MORGAN, Director
ADOPTED: February 14, 1975
APPROVED: H. N. KIRKPATRICK, Commissioner
APPROVED: Elijah M. Hogge, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:54 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Director, Division of Oil and Gas, Department of Mines and Minerals, P. O. Box 680, Lexington, Kentucky 40501 Telephone: 606-254-0367 or 606-254-0368.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:010)

RELATES TO: Chapter KRS 218A
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: CS-2
NECESSITY AND FUNCTION: KRS 218A.150, 218A.160 and 218A.170 authorizes the Department for Human Resources to license manufacturers and wholesalers of controlled substances. It is the purpose of this regulation to establish uniform requirements for such licenses.

Section 1. State License Required of Manufacturers and Wholesalers. No person shall manufacture, wholesale, distribute, or repack any controlled substance in this state without having first obtained a license to do so from the Department for Human Resources.

Section 2. Out-of-State Exemptions. Manufacturers, wholesalers, distributors, and repackers not located within the Commonwealth of Kentucky but who are registered with the appropriate federal agency pursuant to the provisions of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (PL91-513: 84 Stat. 1236) and the regulations promulgated thereunder are hereby exempted from the licensure requirements of this regulation and are authorized to operate as such in this state by virtue of their federal registration.

Section 3. Joint Venture Exemptions. Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this regulation provided proper records of the transaction are maintained.

Section 4. Qualifications for Licensing. (1) No license shall be issued pursuant to this regulation unless and until the applicant has furnished proof satisfactory to the Department for Human Resources: (a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character; and (b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.
(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.
(3) A license issued pursuant to this regulation may be suspended or revoked for cause.

Section 5. License Fees; Renewals. All applications for a license under the provisions of this regulation shall be submitted to the Department for Human Resources on forms furnished by the department and shall be accompanied by a license fee of $25. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee of $25 and shall be nontransferable.

Section 6. Codeine Registry. All wholesalers, manufacturers, (including distributors and repackers) shall keep a separate codeine registry showing the following: date; registration number of recipient; name of recipient; address; name of preparation; and quantity.

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:22 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:020)

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: CS-5
NECESSITY AND FUNCTION: KRS 218A.020 authorizes the Department for Human Resources to add substances to or delete or reschedule substances enumerated in KRS Chapter 218A. After considering the criteria set forth in KRS 218A.020 and 218A.060 and applicable federal regulations the Department for Human Resources designates the substances set forth in this regulation as Schedule II controlled substances.

Section 1. Depressants. The Department for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: Methaqualone (2-methyl-3-o-tolyl-4(3H)-quinazolinone).

Section 2. Reschedule of Certain Barbiturate Acid Derivatives to "Schedule II" Controlled Substances; Exceptions. The Department for Human Resources hereby reschedules the following barbituric acid derivatives from Schedule III to Schedule II controlled substances, viz:
(1) Amobarbital;
(2) Secobarbital;
(3) Pentobarbital;
(4) Provided; however, that any compound, mixture or preparation containing amobarbital, secobarbital and pentobarbital or any salt thereof and one or more other active medicinal ingredient(s) which is not a controlled substance shall be in "Schedule III."
(5) Provided; further, that any suppository dosage form containing amobarbital, secobarbital and pentobarbital or any salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository shall be in "Schedule III."

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:24 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:025)

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 13.082, 194.050, 211.990(1)(c)
SUPERSEDES: CS-3
NECESSITY AND FUNCTION: KRS 218A.080 provides that the Department for Human Resources shall place a substance in Schedule III under the Kentucky Controlled Substances Act if: (1) the substance has a potential for abuse less than the substances listed in Schedules I and II; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence. The Department for Human Resources hereby finds that the substances in this regulation meets this criteria.

Section 1. Amphetamine and Methamphetamine Combination Products. The Department for Human Resources hereby designates the following amphetamine and methamphetamine combination products as "Schedule III Controlled Substances" and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled substances, to wit:
(1) Edrisal; Tablet: Amphetamine sulfate 2.5 mg.; aspirin, 162 mg.; phenacetin 162 mg.
(2) Genegesic Capsules; Capsule: Methamphetamine hydrochloride, 1.2 mg.; chlorpheniramine maleate, 3.8 mg.; phenacetin, 120.0 mg.; salicylamide, 180.0 mg.; caffeine, 30.0 mg.; ascorbic acid, 50.0 mg.
(3) Hovizyme; Tablet: Methamphetamine hydrochloride, 0.5 mg.; conjugated estrogens-equine, 0.125 mg.; methyl testosterone, 1.25 mg.; amylase, 10.0 mg.; protease, 5.0 mg.; cellulase, 2.0 mg.; nicotinyl alcohol tartrate, 7.5 mg.; dehydrocholic acid, 50.0 mg.; ferrous fumarate, 6.0 mg.
(4) Mediatric; Tablet or capsule: Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.
(5) Mediatric Liquid; Solution (15 cc.): Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.
(6) Special Formula 711; Tablet: d-Amphetamine sulfate, 2.5 mg.; mephenesin, 500 mg.; salicylamine, 300 mg.
(7) Thora-Dex No. 1; Tablet: Dextroamphetamine sulfate, 2 mg.; chlorpromaxine hydrochloride, 10 mg.
(8) Thora-Dex No. 2; Tablet: Dextroamphetamine sulfate, 5 mg.; chlorpromazine hydrochloride, 25 mg.

Section 2. Certain Narcotic Drug Products Containing Non-Narcotic Active Medicinal Ingredients. The Department for Human Resources hereby designates the following narcotic drug products containing non-narcotic active medicinal ingredients as "Schedule III Controlled Substances," and any other drug of the quantitative composition shown in the list below or which is the same except that it contains a lesser quantity of controlled substances, to wit: Lomotil tablet/liquid: Not more than 2.5 milligrams of diphenoxylate hydrochloride and not less than 25 micrograms of atropine sulfate per dosage unit.

Section 3. Certain Amobarbital, Secobarbital and Pentobarbital Preparations In Combination with a Non-Controlled Substance. The Department for Human Resources hereby designates as "Schedule III" controlled substances the following: Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which is not a controlled substance.

Section 4. Suppository Dosage Forms Containing Amobarbital, Secobarbital and Pentobarbital. The Department for Human Resources hereby designates as "Schedule III" controlled substances the following: Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or salt thereof

which has been approved by the United States Food and Drug Administration for marketing only as a suppository.

Section 5. Stimulants: New Anorectic Drugs. The Department for Human Resources hereby designates as "Schedule III" controlled substances any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;
(2) Chlorphentermine;
(3) Clortermine;
(4) Mazindol; and
(5) Phendimetrazine.

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: FEBRUARY 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:23 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:030)

RELATES TO: KRS 218A
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
NECESSITY AND FUNCTION: KRS 218A.100 authorizes the Department for Human Resources to place a substance in Schedule IV if it finds that: (1) the substance has a low potential for abuse relative to substances in Schedule III; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance many lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. The Department for Human Resources after considering such criteria hereby designates the substances set forth in this regulation as Schedule IV controlled substances.

Section 1. Stimulants: New Anorectic Drugs. The Department for Human Resources hereby designates as "Schedule IV" controlled substances, in addition to those specified by KRS 218A.110, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers (whether optical position or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine;
(2) Diethylpropion; and
(3) Phentermine.

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:22 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:040)

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: CS-4
NECESSITY AND FUNCTION: KRS 218A.020(4) and 218A.090(4)(i) authorizes the Department for Human Resources to exclude certain preparations that may be lawfully sold over the counter without prescriptions from the provisions relating to controlled substances of KRS Chapter 218A. The purpose of this regulation is to exclude certain over the counter preparations from the provisions of the Kentucky Controlled Substances Act.

Section 1. Exempt Over The Counter Barbiturate Combination Preparations. (1) Properly labeled over the counter preparations containing not more than one-eighth (1/8) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with Theophylline 2 grains and/or Ephedrine three-eighths (3/8) grain or their salts are exempt from the provisions of KRS Chapter 218A, the "Kentucky Controlled Substances Act of 1972."

(2) Properly labeled over the counter suppository preparations containing not more than one-fourth (1/4) grain of barbituric acid or derivatives of barbituric acid, or salts of barbituric acid or salts of derivatives of barbituric acid, in combination with Theophylline two (2) grains and/or Ephedrine three-eighths (3/8) grain or their salts are exempt from the provisions of KRS Chapter 218A, the "Kentucky Controlled Substances Act of 1972."

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:23 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:050)

RELATES TO: KRS 217.005 to 217.215, 217.992
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: FDC-13-1
NECESSITY AND FUNCTION: The Kentucky Food, Drug and Cosmetic Act, KRS 217.005 to 217.215 and 217.992, authorizes the Department for Human Resources to regulate drugs. The function of this regulation is to define the respective responsibilities of practitioners and pharmacists in relation to prescription drug refills in order to protect the public health. This regulation does not relate to prescription drugs that are classified as controlled substances pursuant to KRS 218A.

Section 1. Refill of Prescription Drugs that are not Controlled Substances. (1) No pharmacist shall refill a prescription for a drug bearing a "Federal Caution Legend" unless authorized by the prescribing practitioner. The pharmacist shall record all such refills by writing the date of the refill together with his name or initials on the back of the original prescription. The date of the refill may be stamped on the prescription if the pharmacist so desires.

(2) The use of the terms "p.r.n." (prn) and "ad. lib." in relation to authorization for refilling prescriptions shall not be used. Practitioners shall be specific in their refill authorization instructions. In no event shall any prescription be refilled beyond six (6) months from date of issue unless otherwise specified by the practitioner.

(3) This regulation does not relate to prescription drugs that are classified as controlled substances. The refill of controlled substances is governed by KRS 218A.180.

DANIEL B. HOWARD, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:24 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 1:060)

RELATES TO: KRS 217.005 to 217.215, 217.992
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: FDC-8
NECESSITY AND FUNCTION: The Kentucky Food, Drug and Cosmetic Act, KRS 217.005 to 217.215 and 217.992, authorizes the Department for Human Resources to regulate the misbranding and adulteration of drugs in Kentucky. The purpose of this regulation is to prevent the adulteration and misbranding of prescription drugs that have been dispensed.

Section 1. Return of Prescription Drugs Prohibited; Exceptions. No apothecary, pharmacy, pharmacist, or agent thereof shall accept for reuse or resale a prescription drug if the original package has been broken or if the drug requires refrigeration or if the package has been retained by the buyer for a period of fourteen (14) days or more from the date of the sale. Provided, however, that this regulation shall not apply to hospital pharmacies where drugs are not issued directly to the patient.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:24 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:010)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to regulate the registration of births, deaths, marriages, divorces and other vital records in Kentucky. The purpose of this regulation is to provide for the designation of a State Registrar of Vital Statistics whose signature shall appear on all certified copies of vital records in Kentucky.

Section 1. State Registrar of Vital Statistics. The Secretary for Human Resources shall designate a State Registrar of Vital Statistics for the Commonwealth of Kentucky whose signature shall appear upon all certified copies of birth, death,

marriage, divorce and other vital records issued by the Department for Human Resources. The Registrar of Vital Statistics shall be the Director of the Vital Statistics program of the department. A copy of the appointment of the State Registrar together with a copy of his signature shall be on file with the office of the Secretary of State.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:18 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:020)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: VS-1-1
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics directs the Department for Human Resources to register all births that occur in Kentucky. The purpose of this regulation is to provide a uniform procedure for registering births which were not reported by the attending physician or midwife at the time of birth.

Section 1. Definitions. As used in this regulation: "delayed birth registration" means the registration of a child's non-recorded birth after the time prescribed by KRS 213.050.

Section 2. Delayed Birth Registration. (1) A delayed birth certificate bearing the bona fide signature of the attending physician or midwife shall be accepted by the Director of Vital Statistics for registration if filed before the child is seven (7) years old. In the event the attending physician or midwife is deceased or otherwise not available, or if there was no professional attendant at the birth, the birth certificate shall be accepted for registration if filled out by a parent or nearest living relative and the facts stated therein are supported by the affidavit of the parent or nearest living relative and by the affidavit of a non-relative of legal age.

(2) No birth certificate shall be accepted for registration if presented for registration more than seven (7) years after birth occurred unless the certificate is prepared on a special delayed form. Facts stated therein shall be supported by:

(a) The affidavit of a parent or nearest living relative of legal age at least ten (10) years older than the applicant;
(b) The affidavit of a non-relative of legal age at least ten (10) years older then the applicant; and
(c) One (1) item of documentary evidence at least ten (10) years old showing the date of birth, place of birth and names of parents. Provided, however, that if the person, whose birth is to be recorded is between the ages of seven (7) and seventeen (17) the documentary evidence in support thereof need be only three (3) years old and provided further that if the affidavits required in paragraphs (a) and (b) above are not obtainable an acceptable document may be substituted for each affidavit.
(d) Items of documentary evidence may be: insurance policy, school record, Baptismal certificate, marriage application form, military record, or other documents deemed acceptable by the Director of Vital Statistics.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:17 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:030)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: VS-5
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to regulate the registration of all births and deaths in Kentucky. The purpose of this regulation is to insure the uniform reporting of all stillbirths (or fetal deaths) in Kentucky. This regulation does not relate to abortions as defined by KRS 311.720(1).

Section 1. Definition. As used in this regulation the term "stillbirth" means the involuntary expulsion of a fetus that shows no signs of life by breathing, heart beat, or movement of voluntary muscles. This does not include "abortion" as defined by KRS 311.720(1).

Section 2. Registration. If the fetus is born dead and is of less than twenty (20) weeks gestation, registration is not required. If the fetus is born dead and is of twenty (20) weeks gestation or more, registration is required on a special combination birth and death certificate form. If the fetus shows signs of life by breathing, heart beat or movement of voluntary muscles, both a birth and death certificate shall be filed irrespective of the size, weight or period of gestation of the baby.

Section 3. Burial-Transit Permit. If the remains of any fetal death or dead body of a newborn infant born alive is cremated by the hospital with the approval of the parents and at their request, no burial-transit permit shall be required but disposition of the body shall be entered on the certificate if registration is required.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:20 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:040)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: VS-4
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to regulate the registration of births and deaths in Kentucky. This regulation authorizes the verification of certain items or facts appearing on birth and death certificates to governmental agencies without charge where certified copies are not required.

Section 1. Verification of Certain Facts Appearing on Birth and Death Certificates. The Director of Vital Statistics of the Department for Human Resources may issue a card or statement verifying certain items or facts appearing on birth and death certificates to governmental agencies without charge where certified copies are not required.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:21 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:050)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: VS-7
NECESSITY AND FUNCTION: KRS 213.190 directs the Department for Human Resources to set a reasonable fee by regulation not to exceed two dollars ($2) for a certified copy of a birth, death or other certificate issued by the department or search of the files if no copy is found. This regulation establishes a uniform fee of two dollars ($2) for each certified copy issued or search of the files if no certificate is found.

Section 1. Fees for Certified Copies of Certificates. An applicant for a certified copy of the record of any birth, death, marriage, divorce or other record registered with the Director of Vital Statistics, Department for Human Resources, shall pay a fee of two dollars ($2) for a copy thereof or search of the files if no copy is found.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:20 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operation
(901 KAR 5:060)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to regulate the registration of births in Kentucky. The purpose of this regulation is to provide a uniform procedure for issuing a new birth certificate where the old certificate is mutilated, defaced or contains information of a personal sensitive nature which might embarrass the applicant and which is not pertinent to the vital information required in the certificate.

Section 1. Issuance of New Birth Certificates Under Certain

Circumstances. The Director of Vital Statistics may issue a new birth certificate where the original certificate is mutilated, defaced or contains information of a personal sensitive nature which might embarrass the applicant and which is not pertinent to the vital information required in the certificate.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:19 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:070)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
Supersedes: VS-8
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to regulate the registration of births in Kentucky. The purpose of this regulation is to provide for uniform procedures for changing birth certificates of children born out of wedlock where a paternity affidavit is executed or where paternity is established by law.

Section 1. Paternity Affidavits. Paternity affidavits executed in accordance with KRS 213.050(1) shall be on a special declaration of paternity form provided by the department and shall be signed by both natural parents.

Section 2. Amendment or Issuance of New Certificate. Where an illegitimate child born in Kentucky has been legitimated as provided by law or paternity established as provided by law, the Director of Vital Statistics may amend the original certificate of birth or prepare a new certificate of birth.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:19 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administration and Operations
(901 KAR 5:080)

RELATES TO: KRS Chapter 213
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Department for Human Resources to register a delayed certificate of death. The purpose of this regulation is to provide a uniform procedure for registering deaths which were not reported at the time of death in accordance with KRS 213.110(3).

Section 1. Delayed Registration of Deaths. The registration of a death after the time prescribed by KRS 213.110(3) shall be registered on the standard certificate of death form in the manner prescribed below:

(1) If the attending physician, medical examiner or coroner at the time of death and the attending funeral director or person who acted as such are available to complete and sign the certificate of death, it may be completed without additional evidence and filed with the State Registrar of Vital Statistics. However, for those certificates filed one (1) year or more after the date of death, the physician, medical examiner or coroner and the funeral director or person who acted as such must file accompanying affidavits.

(2) In the absence of the attending physician, medical examiner or coroner and the funeral director or person who acted as such, the certificate may be filed by the next of kin of the deceased and shall be accompanied by:

(a) An affidavit of the person filing the certificate swearing to the accuracy of the information on the certificate;

(b) Two (2) documents which identify the deceased and his date and place of death.

(3) In the case of presumptive death, a certified copy of a court order finding that such death has occurred and the date of such death must be received by the State Registrar of Vital Statistics before a death certificate can be filed.

(4) In all cases, the State Registrar of Vital Statistics may require additional documentary evidence to prove the facts of death.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:18 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:080)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Acetaminophen pharmaceutical products by their generic and brand names that have been determined by the Council to be therapeutically equivalent.

Section 1. Acetaminophen Tablet Pharmaceutical Products. The following Acetaminophen tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Acetaminophen 325mg. Tablet Form

Acetaminophen	Alliance Labs., Inc.
Acetaminophen	Beecham-Massengill Pharmaceuticals
Acetaminophen	Mylan Pharmaceutical, Inc.
Acetaminophen	Philips-Roxane Labs., Inc.
APAP	Richie Pharmacal Company
APAP	Vangard Laboratories
Apenol	Purepac Pharmaceutical Co.
Apenol	Rondex Labs., Inc.
Nebs	Eaton Laboratories
SK-APAP	Smith, Kline & French Labs.
Tempra	Mead Johnson & Company
Tylenol	McNeil Laboratories
Valadol	E. R. Squibb & Sons, Inc.

Section 2. Acetaminophen Drops Pharmaceutical Products. The following Acetaminophen drops pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Acetaminophen 60mg/0.6ml Drops

Tempra	Mead Johnson & Company
Tylenol	McNeil Laboratories

Section 3. Acetaminophen Liquid Pharmaceutical Products. The following Acetaminophen pharmaceutical products: liquid suspension 120mg/5ml and elixir 120mg/5ml are considered to be therapeutically equivalent, within the respective dosage form. CAUTIONARY NOTE: While all these products have been evaluated as being therapeutically equivalent on the basis of their active drug components, "appropriate dispensing precautions" should be exercised for those individuals who are either diabetic or on contra-indicated drugs.

Acetaminophen Liquid Suspension and Elixir 120mg/5ml

Acetaminophen Elixir	Abbott Laboratories
Acetaminophen Elixir	Beecham-Massengill Pharmaceuticals
APAP Elixir	Richie Pharmacal Company
APAP Elixir	Vangard Laboratories
Cen-Apap	The Central Pharmacal Co.
Nebs	Eaton Laboratories
SK-APAP	Smith, Kline & French Labs.
Tempra Syrup	Mead Johnson & Company
Tylenol	McNeil Laboratories
Valadol Liquid	E. R. Squibb & Sons, Inc.

E. C. SEELEY, M.D., Chairperson

ADOPTED: November 14, 1974
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:37 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:090)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regualtion lists Trisulfapyrimidine pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Trisulfapyrimidine Tablet Pharmaceutical Products. The following Trisulfapyrimidine tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Trisulfapyrimidine 500mg/5ml Tablet Form

Neotrizine	Eli Lilly & Company
Sulfose	Wyeth Laboratories, Inc.
Terfonyl	E. R. Squibb & Sons, Inc.
Triple Sulfa #2	Vangard Laboratories
Trisem	Beecham-Massengill Pharmaceuticals
Trisulfapyrimidine	Geneva Drugs, Ltd.
Trisulfapyrimidine	Paramount Surgical Supply Corp.
Trisulfapyrimidine	Zenith Laboratories

Trisulfazine	The Central Pharmacal Company

Section 2. Trisulfapyrimidine Liquid Suspension Pharmaceutical Products. The following trisulfapyrimidine liquid suspension pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Trisulfapyrimidine 500mg/5ml Liquid Suspension

Neotrizine	Eli Lilly & Company
Sulfose	Wyeth Laboratories
Terfonyl	E. R. Squibb & Sons, Inc.
Triple Sulfa Suspension	Vangard Laboratories
Trisem	Beecham-Massengill Pharmaceuticals

E. C. SEELEY, M.D., Chairperson
ADOPTED: November 14, 1974
APPROVED: C. LESLIE DAWSON, Secretary
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:100)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Reserpine pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Reserpine Tablet Pharmaceutical Products. The following Reserpine tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1)	Reserpine 0.1mg Tablet Form	
	Reserpine	Geneva Drugs, Ltd.
	Reserpine	Geneva Generics
	Reserpine	Paramount Surgical Supply Corp.
	Reserpine	Purepac Pharmaceutical Co.
	Reserpine	Rexall Drug Co.
	Reserpine	Rondex Laboratories
	Reserpine	Zenith Laboratories
	Reserpoid	Upjohn Company
	Serpasil	Ciba Pharmaceutical Co.
	V-serp	Vangard Laboratories
(2)	Reserpine 0.25mg Tablet Form	
	Rau-sed	E. R. Squibb & Sons, Inc.
	Rausingle	Philips-Roxane Laboratories
	Resercen	The Central Pharmacal Company
	Reserpine	Alliance Laboratories
	Reserpine	Geneva Drugs, Ltd.
	Reserpine	Geneva Generics
	Reserpine	Kasar Laboratories
	Reserpine	Paramount Surgical Supply Corp.
	Reserpine	Purepac Pharmaceutical Co.
	Reserpine	Rexall Drug Company
	Reserpine	Richie Pharmacal Company
	Reserpine	Rondex Laboratories, Inc.
	Reserpine	Zenith Laboratories
	Reserpoid	Upjohn Company
	Serpasil	Ciba Pharmaceutical Co.
	V-serp	Vangard Laboratories
(3)	Reserpine 1.0mg Tablet Form	
	Reserpoid	Upjohn Company
	Serpasil	Ciba Pharmaceutical Co.

Section 2. Reserpine Elixir Pharmaceutical Products. The following Reserpine elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Reserpine 0.25mg/5ml Elixir Form	
Reserpoid	Upjohn Company
Serpasil	Ciba Pharmaceutical Co.

E. C. SEELEY, M.D., Chairperson
ADOPTED: November 14, 1974
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:41 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:110)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Diphenhydramine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Diphenhydramine Hydrochloride Capsule Pharmaceutical Products. The following Diphenhydramine Hydrochloride capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1)	Diphenhydramine Hydrochloride 25mg. Capsule Form	
	Benadryl	Parke-Davis & Company
	Di-Amine	Vangard Laboratories
	Diphenhydramine Hydrochloride	Columbia Medical Company
	Diphenhydramine Hydrochloride	Geneva Generics, Inc.
	Diphenhydramine Hydrochloride	Kasar Laboratories, Inc.
	Diphenhydramine Hydrochloride	Midway Medical Co., Inc.
	Diphenhydramine Hydrochloride	Paramount Surgical Supply Corp.
	Diphenhydramine Hydrochloride	Zenith Laboratories, Inc.
	Lensen	Geneva Drugs, Ltd.
(2)	Diphenhydramine Hydrochloride 50mg. Capsule Form	
	Benadryl	Parke-Davis & Company
	Di-Amine	Vangard Laboratories
	Diphenhydramine Hydrochloride	Alliance Laboratories
	Diphenhydramine Hydrochloride	Columbia Medical Company
	Diphenhydramine Hydrochloride	Geneva Generics, Inc.
	Diphenhydramine Hydrochloride	Kasar Laboratories
	Diphenhydramine Hydrochloride	Midway Medical Co., Inc.
	Diphenhydramine Hydrochloride	Paramount Surgical Supply Corp.
	Diphenhydramine Hydrochloride	Philips Roxane Labs., Inc.
	Diphenhydramine Hydrochloride	Zenith Laboratories
	Lensen	Geneva Drugs, Ltd.

Section 2. Diphenhydramine Hydrochloride Elixir Pharmaceutical Products. The following Diphenhydramine Hydrochloride elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Diphenhydramine Hydrochloride 12.5mg/ml Elixir	
Benadryl Elixir	Parke-Davis & Company
Di-Amine Elixir	Vangard Laboratories
Diphenhydramine Hydrochloride Elixir	Abbott Laboratories

E. C. SEELEY, M.D., Chairperson
ADOPTED: February 10, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:42 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:120)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Promethazine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Promethazine Hydrochloride Tablet Pharmaceutical Products. The following Promethazine Hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1)	Promethazine Hydrochloride 12.5mg. Tablet Form	
	Methazine	Vangard Laboratories
	Phenergan	Wyeth Laboratories, Inc.
	Promethazine Hydrochloride	Columbia Medical Company
	Promethazine Hydrochloride	Geneva Drugs, Ltd.
	Promethazine Hydrochloride	Midway Medical Company
	Promethazine Hydrochloride	Paramount Surgical Supply Corp.
	Promethazine Hydrochloride	Zenith Laboratories, Inc.
(2)	Promethazine Hydrochloride 25mg. Tablet Form	
	Methazine	Vangard Laboratories
	Phenergan	Wyeth Laboratories, Inc.

	Promethazine Hydrochloride	Geneva Drugs, Ltd.
	Promethazine Hydrochloride	Midway Medical Company
	Promethazine Hydrochloride	Paramount Surgical Supply Corp.
	Promethazine Hydrochloride	Zenith Laboratories, Inc.

(3) Promethazine Hydrochloride 50mg. Tablet Form

Methazine	Vangard Laboratories
Phenergan	Wyeth Laboratories, Inc.
Promethazine Hydrochloride	Geneva Drugs, Ltd.
Promethazine Hydrochloride	Midway Medical Company
Promethazine Hydrochloride	Paramount Surgical Supply Corp.
Promethazine Hydrochloride	Zenith Laboratories, Inc.

E. C. SEELEY, M.D., Chairperson
ADOPTED: February 10, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:42 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:130)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Chlorpromazine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Chlorpromazine Hydrochloride Tablet Pharmaceutical Products. The following Chlorpromazine Hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Chlorpromazine Hydrochloride 10mg. Tablet Form

Chlorpromazine Hydrochloride	Paramount Surgical Supply Corp.
Chlorpromazine Hydrochloride	Zenith Laboratories, Inc.
Marazine	Geneva Drugs, Ltd.
Proma	Vangard Laboratories
Thorazine	Smith, Kline & French Labs.

(2) Chlorpromazine Hydrochloride 25mg. Tablet Form

Chlorpromazine Hydrochloride	Abbott Laboratories
Chlorpromazine Hydrochloride	Paramount Surgical Supply Corp.
Chlorpromazine Hydrochloride	Rachelle Laboratories
Chlorpromazine Hydrochloride	Zenith Laboratories, Inc.
Marazine	Geneva Drugs, Ltd.
Proma	Vangard Laboratories
Thorazine	Smith, Kline & French Labs.

(3) Chlorpromazine Hydrochloride 50mg. Tablet Form

Chlorpromazine Hydrochloride	Abbott Laboratories
Chlorpromazine Hydrochloride	Paramount Surgical Supply Corp.
Chlorpromazine Hydrochloride	Rachelle Laboratories
Chlorpromazine Hydrochloride	Zenith Laboratories, Inc.
Marazine	Geneva Drugs, Ltd.
Proma	Vangard Laboratories
Thorazine	Smith, Kline & French Labs.

(4) Chlorpromazine Hydrochloride 100mg. Tablet Form

Chlorpromazine Hydrochloride	Abbott Laboratories
Chlorpromazine Hydrochloride	Paramount Surgical Supply Corp.
Chlorpromazine Hydrochloride	Rachelle Laboratories
Chlorpromazine Hydrochloride	Zenith Laboratories, Inc.
Marazine	Geneva Drugs, Ltd.
Proma	Vangard Laboratories
Thorazine	Smith, Kline & French Labs.

(5) Chlorpromazine Hydrochloride 200mg. Tablet Form

Chlorpromazine Hydrochloride	Abbott Laboratories
Chlorpromazine Hydrocholoride	Paramount Surgical Supply Corp.
Chlorpromazine Hydrochloride	Rachelle Laboratories
Chlorpromazine Hydrochloride	Zenith Laboratories, Inc.
Marazine	Geneva Drugs, Ltd.
Proma	Vangard Laboratories
Thorazine	Smith, Kline & French Labs.

E. C. SEELEY, M.D., Chairperson
ADOPTED: February 10, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:140)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Sulfisoxazole pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Sulfisoxazole Tablet Pharmaceutical Products. The following Sulfisoxazole tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

Sulfisoxazole 500mg. Tablet Form

Gantrisin	Roche Laboratories
SK-soxazole	Smith, Kline & French Labs.
Sulfisoxazole	Alliance Labs., Inc.
Sulfisoxazole	Kasar Laboratories
Sulfisoxazole	Mylan Pharmaceuticals, Inc.
Sulfisoxazole	Richie Pharmacal Company
V-sul	Vangard Laboratories

E. C. SEELEY, M.D., Chairperson
ADOPTED: February 10, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:43 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(902 KAR 1:150)

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Hydrochlorothiazide pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Hydrochlorothiazide Tablet Pharmaceutical Products. The following Hydrochlorothiazide tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Hydrochlorothiazide 25mg Tablet Form

Esidrix	Ciba Pharmaceutical Co.
Hydrochlorothiazide	Columbia Medical Company
Hydrochlorothiazide	Geneva Drugs, Ltd.
Hydrochlorothiazide	Midway Medical Company
Hydrochlorothiazide	Paramount Surgical Supply Corp.
Hydrochlorothiazide	Richie Pharmacal Company
Hydrochlorothiazide	Zenith Laboratories, Inc.
Hydrodiuril	Merck Sharp & Dohme
Oretic	Abbott Laboratories
Thiadril	Vangard Laboratories

(2) Hydrochlorothiazide 50mg Tablet Form

Esidrix	Ciba Pharmaceutical Co.
Hydrochlorothiazide	Columbia Medical Company
Hydrochlorothiazide	Geneva Drugs, Ltd.
Hydrochlorothiazide	Midway Medical Company
Hydrochlorothiazide	Paramount Surgical Supply Corp.
Hydrochlorothiazide	Richie Pharmacal Company
Hydrochlorothiazide	Zenith Laboratories, Inc.
Hydrodiuril	Merck Sharp & Dohme
Oretic	Abbott Laboratories
Thiadril	Vangard Laboratories

E. C. SEELEY, M.D., Chairperson
ADOPTED: November 14, 1974
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 2:44 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Al Austin, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 4:010)

RELATES TO: KRS 211.090, 211.180
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: MCH-2-3
NECESSITY AND FUNCTION: KRS 211.180 authorizes the Department for Human Resources to regulate the practice of midwifery in Kentucky, including the issuance of permits and the supervision of persons who practice midwifery. This regulation distinguishes between the nurse-midwife and the lay-midwife and recognizes the advance education, training and experience of the nurse-midwife and the increasing role of the nurse-midwife in the delivery of midwifery services in this state. This regulation does not authorize the issuance of new permits to practice lay-midwifery. It does, however, authorize the renewal of existing permits to practice lay-midwifery provided a need for such services exists locally.

Section 1. Practice of Nurse-Midwifery Defined. The practice or nurse-midwifery embodies the practice of professional nursing and the extension of that practice into the area of care and management of the essentially health woman and newborn during the childbearing processes.

Section 2. Practice of Lay-Midwifery Defined. The practice of lay-midwifery is defined as, and limited to, such assistance or offer of assistance as may be rendered by any person, other than a physician or nurse-midwife, to any woman in normal childbirth, without using any instrument or artificial, forcible or mechanical means and without performing or attempting to perform any version or removing or attempting to remove adherent placenta and without prescribing, using or advising the use of any drug except silver nitrate for the eyes of the newborn.

Section 3. Practice of Midwifery Without Permit Prohibited. No person shall engage or attempt to engage in the practice of midwifery within this state, unless such person holds a valid and effective permit issued as herein provided.

Section 4. Nurse-Midwife Permits. (1) Applications for permits to practice nurse-midwifery may be obtained from the Department for Human Resources, Bureau for Health Services, 275 East Main Street, Frankfort, Kentucky 40601.
(2) The Department for Human Resources may issue a nurse-midwife permit to any person who is:
(a) Licensed as a registered nurse in accordance with KRS Chapter 314;
(b) A graduate of a program in nurse-midwifery approved by the American College of Nurse Midwives and by the Department for Human Resources; and
(c) Nationally certified by the American College of Nurse Midwives to practice nurse-midwifery.

Section 5. Lay-Midwife Permits. New applications to practice lay-midwifery in the State of Kentucky shall not be accepted after the effective date of this regulation. Provided, however, that persons who have actively engaged in the practice of lay-midwifery in this state for a period of one (1) year prior to the effective date of this regulation and who hold a valid and effective permit issued by the former Department of Health may, upon furnishing proof thereof, be entitled to renewal of their existing permit upon recommendation of the local board of health certifying a need for such services.

Section 6. Nurse-Midwife Practice Standards. All nurse-midwives shall comply with the following practice standards and requirements. In such practice, the nurse-midwife shall:
(1) Render service to the mother and baby throughout the maternity cycle in such a way as to make a maximum contribution to their safety, health and welfare, including the control and prevention of complicating conditions and enhancing the childbearing experience;
(2) Attempt to maintain the integrity of the mother and her family and encourage their participation in plans for her maternity care;
(3) Not work as an independent practitioner but function within the boundaries of her professional competencies within the framework of medically approved protocols;
(4) Work in collaboration with the physician and other health professionals;
(5) Perform nurse-midwifery services only under terms or conditions which permit the exercise of nurse-midwifery judgment and skill and encourage a high quality of nurse-midwifery care;
(6) Strive continually to improve knowledge and skills and to make available to patients and co-workers the benefits of professional attainments;
(7) Understand, utilize and encourage the contributions of other professional disciplines and community resources to maternity care; and
(8) Demonstrate interest in and accept responsibility for participating in activities designed to improve the health and well-being of the family and the community.

Section 7. Lay-Midwife Practice Standards. Lay-midwives shall be under the supervision of the local board of health and shall comply with the following practice standards and requirements. In such practice, the lay-midwife shall:
(1) Refer expectant mothers to a physician or to the local health department for a prenatal examination and blood test;
(2) Report all expected deliveries to the local health department;
(3) Neither give nor prescribe drugs of any kind except silver nitrate for the eyes of the newborn;
(4) Not use instruments of any kind, nor assist labor by aritificial, forcible or mechanical means, nor insert hands or fingers into the birth canal or rectum; and
(5) Call a physician if:
(a) The mother has convulsions or other complications;
(b) There is any abnormal bleeding;
(c) The baby shows a presenting other than the head or is not born after twenty (20) hours of active labor in the primpara or ten (10) hours in the multipara; or
(d) There is any other evidence of abnormality.

Section 8. Permit Renewals. (1) Nurse-midwife permits issued under this regulation shall expire on December 31 of each year, but may on proper application be renewed provided the applicant is in full compliance with the provisions of this regulation.
(2) Lay-midwife permits issued under this regulation shall expire on December 31 of each year, but may be renewed upon recommendation of the local health department where the midwife practices and upon certification of the local health department that a need for such services exists.

Section 9. Denial, Revocation or Suspension of Permit. The Department for Human Resources may deny, revoke, probate, suspend or refuse to renew the permit of any midwife who has:
(1) Had license as a registered nurse revoked (if a nurse-midwife);
(2) Been convicted of a felony involving moral turpitude;
(3) Become habitually intemperate or is addicted to the use of habit-forming drugs;
(4) Knowingly made or caused to be made or abetted in the making of any false statement in procuring or attempting to procure a permit or in the making of a birth or death certificate;
(5) Developed such physical or mental disabilities that continued practice would be dangerous to the public or patients;
(6) Engaged in dishonorable, unprofessional conduct of a character likely to deceive or defraud the public; or
(7) Violated any of the provisions of this regulation or any other regulation of the Department for Human Resources relating to the practice of midwifery.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:26 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 4:020)

RELATES TO: KRS 211.180
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: MCH-1-1
NECESSITY AND FUNCTION: KRS 211.180 directs the Department for Human Resources to prevent and control communicable, chronic and degenerative diseases and to protect the health of infants. The purpose of this regulation is to protect the eyes of the newborn in order to prevent blindness.

Section 1. Care of Eyes of Newborn. The physician or midwife in attendance at childbirth shall use the following procedure: cleanse the eyes of the newborn infant immediately after birth with sterile water, wipe dry with clear absorbent cotton, open the eyelids carefully and deposit one (1) or two (2) drops of one percent (1%) solution of silver nitrate into the conjunctival sac. Prompt subsequent irrigation of the eyes with sterile isotonic saline solution shall be done in order to reduce the incidence of chemical conjunctivitis.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:26 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 4:030)

RELATES TO: KRS 214.155
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: MCH-3

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 214.155 to require infants to be tested for inborn errors of metabolism. The purpose of this regulation is to require infants to be tested for phenylkentonuria (PKU), which is an inborn error of metabolism.

Section 1. PKU Tests of Newborn Babies. (1) Except as otherwise provided in KRS 214.155(2), the administrative officer, or other person in charge of the hospital or other institution caring for infants twenty-eight (28) days or less of age and the attending physician or midwife shall cause to have administered to every such infant in its or his care a blood test to detect phenylkentonuria (PKU). In the event a baby is not born in a hospital or institution, the attending physician or midwife shall be solely responsible for causing such test to be administered.

(2) Hospitals and institutions may submit blood samples to the Department for Human Resources, Bureau for Health Services, Laboratory Services, 275 E. Main Street, Frankfort, Kentucky 40601, where tests shall be performed without charge or in lieu thereof conduct their own testing program, in which event the department shall be notified and the laboratory procedure approved. A private laboratory shall be required by the department to demonstrate its proficiency in the performance of the test. Positive results of such tests shall be reported within twenty-four (24) hours to the department and to the attending physician.

C. LESLIE DAWSON, Secretary

ADOPTED: February 13, 1975
RECEIVED BY LRC: February 14, 1975 at 3:26 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Room 201, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 7:010)

RELATES TO: KRS 219.011 to 219.081, 219.991(1)
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
NECESSITY AND FUNCTION: KRS 219.011 to 219.081 and 219.991(1) directs the Department for Human Resources to regulate hotels. KRS 219.041(3) directs the Department for Human Resources to adopt a State Hotel Code, which includes, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and other matters deemed necessary to insure a safe and sanitary operation of a hotel.

Section 1. Citation of Regulation. This regulation may be cited as the "State Hotel Code."

Section 2. Definitions. As used in this regulation:
(1) "Department" means the Department for Human Resources and includes the local health department having jurisdiction and their duly designated representatives.
(2) "Employee" means any person working in a hotel, including janitors, maids, porters, and other persons whose duties include the cleaning of rooms, toilets, or other parts of the building or the carrying of ice or ice water to guests.
(3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes and similar establishments, but excludes boarding houses and rooming houses.
(4) "Ice dispensing machine" means any selfservice or semi-selfservice machine operated by a mechanism which, upon insertion of a coin, coins, or tokens, or by other devices such as levers or switches, dispenses ice either in bulk or in package form.
(5) "Public rest room" means any facility that provides toilet and handwashing facilities for the general public.
(6) "Selfservice ice storage bin" means a selfservice machine or storage bin in which ice is manufactured or stored in bulk form and the ice removed by the hotel guest through use of an ice scoop or other similar device.

Section 3. Application for a Permit. (1) Application for a permit required by KRS 219.021 shall be made on forms provided by the department and include:
(a) Applicant's full name and address and indicate whether the applicant is an individual, firm or corporation;
(b) If a partnership, the names of the partners, with their addresses;
(c) The location of the hotel; and
(d) The signature of the applicant or applicants.
(2) Upon receipt of an application the department shall make an inspection of the hotel to determine compliance with the provisions of this regulation. When inspection reveals that the applicable requirements of this regulation have been met, a permit shall be issued to the applicant by the department.

Section 4. Hotel Water Supply and Ice. (1) The water supply shall be potable, adequate and from an approved public supply of a municipality or water district, if available. In the event a public water supply of a municipality or a water district is not available, the supply for a hotel shall be developed and approved in accordance with applicable requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public water supply of a municipality or water district subsequently becomes available, connections shall be made thereto and the hotel supply shall be discontinued.
(2) Hot and cold running water under pressure shall be provided in all bathrooms and toilet rooms.
(3) Ice used for any purpose shall be made from water which comes from an approved source, and shall be used only if it has been manufactured, stored, transported, and handled in a sanitary manner.
(4) Selfservice ice provided for the hotel guest shall be dispensed through use of ice dispensing machines or prepackaged for individual hotel guests from an approved source in all new hotels constructed after the effective date of this regulation; provided, however, that ice making equipment located in individual rooms shall not be prohibited. Selfservice ice storage bins presently being used may be continued in use provided that the machines are maintained in good repair and capable of being properly cleaned. In all cases where the replacement of a selfservice ice storage bin becomes necessary, or additional machines added, an ice dispensing machine shall be installed.

Section 5. Hotel Sewage and Waste Disposal. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the hotel sewerage system shall be discontinued.

Section 6. Toilet and Bathing Facilities. (1) Each hotel shall be provided with adequate and conveniently located toilet and bathing facilities. Except as provided by KRS 219.021(3) for existing hotels, toilet and bathing facilities shall be provided for each sleeping room. Toilet and bathing fixtures shall be of a sanitary design and readily cleanable. Toilets and bathing facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in public toilet rooms for women shall be covered. Public rest room facilities for both sexes shall be provided at a central location in all new hotels constructed after the effective date of this regulation. The doors of all public rest rooms shall be selfclosing.
(2) Each hotel shall provide adequate, conveniently located handwashing facilities at each toilet and bathroom including a lavatory or lavatories equipped with hot and cold or tempered running water, hand-cleansing soap and approved sanitary towels or other approved hand-drying devices. Such facilities shall be kept clean and in good repair.
(3) All plumbing in hotels shall comply with the State Plumbing Code.

Section 7. Storage, Collection and Disposal of Hotel Refuse. (1) All containers used in guest rooms, lobbies, hallways and public assembly rooms for storage of refuse and rubbish containing food waste shall be constructed of durable metal or other approved types of materials, which do not leak and do not absorb liquids. Such containers shall be thoroughly cleaned on the inside and outside each time they are emptied unless liners are used.
(2) All outside storage containers shall be constructed of durable metal or other approved types of materials, which do not leak and do not absorb liquids, and shall be provided with tightfitting lids or covers and shall, unless kept in a special vermin-proof room or enclosure, be kept covered when stored. Each storage container shall be cleaned at such frequency as to prevent a nuisance.
(3) The rooms, enclosures, areas and containers shall be adequate for storage of all refuse accumulating on the premises. Adequate cleaning facilities shall be provided and each storage room or area shall be thoroughly cleaned after the emptying or removal of refuse.
(4) All refuse and waste collected at a hotel shall be disposed of in a safe and sanitary manner. In the event a permitted site or facility approved by the Department for Natural Resources and Environmental Protection is available, disposal shall be at such site or facility.

Section 8. Room Construction and Layout. (1) All structures used as hotels shall be of permanent, weatherproof construction with sound floors, walls and ceilings.
(2) All habitable rooms, bathrooms, and halls shall have adequate lighting, ventilation and heating.
(a) The heating system shall be capable of maintaining a temperature of 68 degrees Fahrenheit.
(b) Natural and artificial lighting for general cleaning purposes and safety of guests shall be at least five (5) footcandles in guest rooms, stairways and hallways.
(c) Lighting in reading areas of guest rooms and public meeting rooms shall be thirty (30) footcandles.
(d) Lighting at bathroom mirrors shall be forty (40) footcandles.
(3) Sleeping rooms shall have at least one (1) window to

the outside air which can be easily opened unless other openings or mechanical devices are used for room ventilation. All sleeping rooms shall have a door opening directly to the outside or into a hallway leading to the outside.

Section 9. Soap, Towels, Washcloths, Drinking Glasses and Ice Containers. (1) Rooms used for sleeping purposes shall be provided with soap, towels, washcloths and drinking glasses.

(a) Two clean towels and one clean washcloth of adequate size shall be provided for each occupant.

(b) One multiuse drinking glass or individual single-service cup shall be provided for each occupant.

(2) Ice storage containers, scoops and drinking glasses, unless they are of the single-service type, shall be smooth, impervious material and designed to facilitate cleaning, and shall be stored, handled and dispensed in a sanitary manner.

(3) Multiuse drinking glasses and ice containers shall be washed and sanitized according to procedures as set forth in the State Food Service Code.

(4) Hotels which do not have adequate and effective facilities for cleaning and sanitizing multiuse drinking glasses and ice containers shall use single-service articles. All single-service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once. Single-service articles shall be made from nontoxic materials.

(5) Multiuse drinking glasses or single-service containers placed in sleeping rooms shall be individually wrapped or stored on a clean surface in an inverted position.

Section 10. Hotel Beds and Bedding Accessories. Mattress pads or covers shall be used on all mattresses. Beds, mattresses, springs, slats, mattress pads and covers shall be clean and free from vermin. Each bed shall be provided with two (2) sheets, and one (1) pillow and one (1) pillow case for each occupant. Sheets and pillow cases shall be kept clean and changed at least once per week or more often if necessary or when there is a new occupant. All beds shall be supplied with sufficient blankets or coverings to keep the occupant warm.

Section 11. Maintenance of Rooms, Furniture and Accessories. All sleeping rooms, hallways, lobbies and other facilities shall be kept clean and in good repair. Furniture, drapes, curtains and shades shall be kept clean and in good repair.

Section 12. Linen Storage. Adequate storage areas, rooms or cabinets shall be provided for all supplies, linens and equipment, and shall be kept neat, orderly and clean. Clean linens shall be stored in cabinets or on shelves in a linen storage room. Soiled linens shall be so handled and stored as not to come in contact with clean linens.

Section 13. Vermin Control. Effective measures shall be taken to control vermin and other pests including their entrance into the hotel.

Section 14. Poisonous and Toxic Materials. Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes may be used or stored in hotels. Such materials shall be properly stored and identified and shall be used only in such manner and under such conditions as will not constitute a hazard to employees or customers.

Section 15. Hotel Swimming Facilities. Any swimming pool provided for use by hotel occupants shall be constructed and operated in accordance with the regulations of the Department for Natural Resources and Environmental Protection.

Section 16. Hotel Personnel. (1) No person while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores or an acute respiratory infection, shall work in any area of a hotel in any capacity in which there is a likelihood of such a person contaminating bedding and other surfaces with pathogenic organisms, or transmitting disease to other individuals, and no person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the hotel has reason to suspect that any employee has contracted any disease in communicable form or has become a carrier of such a disease, he shall notify the department immediately.

(2) All employees shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved handwashing facility before starting work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet without first washing his hands.

Section 17. Procedure When Infection Is Suspected. When the department has reasonable cause to suspect the possibility of disease transmission from any hotel employee, the department shall secure a morbidity history of the suspected employee, or make such other investigation as may be indicated and take appropriate action. The department may require any or all of the following measures:

(1) The immediate exclusion of the employee from the hotel;

(2) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and

(3) Require adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.

Section 18. Plan Review of Future Construction. No person shall construct or extensively alter a hotel, or convert an existing structure for use as a hotel, until properly prepared plans and specifications for such construction or alteration, showing layout, arrangements, and construction materials, and the location, size and type of fixed equipment and facilities and a plumbing riser diagram, have been submitted to and approved by the department before such work is begun. If the construction plans are not acceptable, the department shall give the reason therefor in writing to the person submitting the construction plans and, if the objection can be corrected, the plans can be resubmitted for another review.

Section 19. Inspection of Hotels. (1) At least once every twelve (12) months, the department shall inspect each hotel and shall make additional inspections and reinspections as are necessary for the enforcement of this regulation.

(2) Whenever an agent of the department makes an inspection of a hotel, he shall record his findings on an official department inspection report form and provide the permit holder or operator with a copy. The inspection report shall:

(a) Set forth the specific violation(s) found;

(b) Establish a specific and reasonable period of time for the correction of the violation(s) found; and

(c) State that failure to comply with any notice issued in accordance with the provisions of this regulation may result in suspension of the permit.

Section 20. Suspension of Permit. (1) Whenever the department has reason to believe that an imminent public health hazard exists, or whenever the permit holder has interfered with the authorized agents of the department in the performance of their duties, the permit may be suspended immediately upon notice to the permit holder without a hearing. In such event the permit holder may request a hearing which shall be granted as soon as practicable.

(2) In all other instances of violation of the provisions of this regulation the department shall serve upon the holder of the permit a written notice specifying the violation(s) in question and afford the holder a reasonable opportunity to correct same. Whenever a permit holder or operator has failed to comply with any written notice issued under the provisions of this regulation, the permit holder or operator shall be notified in writing that the permit shall be suspended at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the department, by the permit holder within such ten (10) day period.

(3) The hearings provided for in this regulation shall be conducted by the department at a time and place designated by it. At the conclusion of the hearing, the department shall make a finding of fact and conclusion of the law. A transcript of the hearing need not be made unless the interested party assumes the costs thereof and a request is made therefor at the time a hearing is requested.

Section 21. Reinstatement of Suspended Permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the department shall make a reinspection. If the applicant is found to be in compliance with the requirements of this regulation, the permit shall be reinstated.

Section 22. Revocation of Permits. For serious or repeated violations of any of the requirements of this regulation or for interference with the agents of the department in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the department. Prior to such action, the department shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten (10) days following service of such notice, unless a request for a hearing is filed with the department, by the permit holder, within such ten (10) day period.

JOHN P. BELL, M.D., Chairperson
WILLIAM P. McELWAIN, M.D., Commissioner
ADOPTED: February 12, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:27 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 10:040)

RELATES TO: KRS 211.180
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: San. 7
NECESSITY AND FUNCTION: KRS 211.180 authorizes the Department for Human Resources to regulate certain public

health matters including the sanitation of public and semipublic recreational areas; the detection, prevention and control of communicable disease and health hazards; and to provide for the protection and improvement of the health of school age children. This regulation establishes uniform standards for Youth Camps and includes the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; solid waste disposal; sanitary standards for operation; inspections; and other matters necessary to insure a safe and sanitary environment in order to protect the health and safety of children who attend camps in this state.

Section 1. Citation of Regulation. This regulation may be cited as "The Kentucky Youth Camp Regulation."

Section 2. Definitions. The following definitions shall apply in the interpretation and enforcement of this regulation.

(1) "Camp" or "youth camp" means any area, parcel, or tract of land on which facilities are established, maintained or operated for recreational, educational, or vacation purposes for five (5) or more youths under eighteen (18) years of age, either free of charge, or for payment of a fee; provided, however, that individual or family camp units are excluded from the requirements of this regulation. This definition includes the following types of camps:

(a) "Day camp" means a camp operated for all or part of the day but less than twenty-four (24) hours a day during one (1) or more seasons of the year;

(b) "Primitive or outpost camp" means a portion of the permanent camp premises or other site under control of the youth camp operator at which the basic needs for camp operation, such as places of abode, water supply system, and permanent toilet and cooking facilities are not usually provided; and

(c) "Residential camp" means a camp operating on a permanent campsite and providing overnight lodging facilities.

(2) "Camper" means any child under eighteen (18) years of age living apart from, or with the intention of living apart from, his relatives, parents, or legal guardians, while attending a youth camp.

(3) "Camp director" means the individual on the premises of any youth camp who has the primary responsibility for the administration of program operations and supportive services for such camp and the supervision of the youth camp staff of such camp.

(4) "Camp operator" means any private or public agency, organization, or person, and any individual, who operates, controls or supervises a youth camp, whether such camp is operated for profit or not for profit.

(5) "Department" means the Department for Human Resources and the local health department having jurisdiction and their duly designated representatives.

(6) "Natural bathing place" means a swimming place, together with shores, buildings, equipment, and appurtenances if any, and the water and the land areas used in connection therewith, at a lake, stream, or other body of fresh water.

(7) "Permanent structure" means any building and appurtenances owned and operated by the camp management for living, dining, kitchen, sleeping, toilet, bathing, shelter, tool shed, storage, assembly, infirmary, or stable, so constructed as to be immobile and permanent.

(8) "Permit" means a written document issued by the department giving a designated person permission to operate a specific camp.

(9) "Person" means any individual, firm, partnership, company, corporation, trustee, association, or any public or private entity.

(10) "Semi-permanent structure" means any building, tent, structure or trailer and appurtenances owned and operated by the camp management for sleeping, living, dining, toilet, bathing, kitchen, tool shed, storage, assembly, infirmary, or animal shelter, so constructed as to be movable, may be easily disassembled, and not permanent in nature.

(11) "Swimming crib" means a pool structure partly submerged in a stream, river or lake to utilize the water thereof, and used as an enclosure for swimming.

Section 3. Permits. No person shall operate a youth camp within the Commonwealth of Kentucky who does not possess a valid permit issued to him without fee by the department. Only a person who complies with the requirements of this regulation shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person or place. The permit shall be posted or readily available at every camp. Each permit shall expire on December 31 next following its date of issuance.

Section 4. Application for a Permit. (1) Any person desiring to operate a camp shall make written application on forms provided by the department. The application shall include:

(a) Applicant's full name and address and indicate whether the applicant is an individual, firm or corporation;

(b) If a partnership, the names of the partners, and their addresses;

(c) The location of the camp;

(d) The type of camp; and

(e) The signature of the applicant or applicants.

(2) Upon receipt of such an application, the department shall make an inspection of the camp to determine compliance with the provisions of this regulation. When inspection discloses that the applicable requirements of this regulation have been met, a permit shall be issued to the applicant by the department.

Section 5. Camp Site. The camp site shall be located on land that provides good natural drainage. The area on which the tents, buildings, or structures are erected, together with such other areas frequently used for camp activities, shall be well drained and not located in a swamp or similar place in which mosquitos may breed.

Section 6. Lodging Facilities. (1) All places used for human habitation in a camp shall be provided with adequate artificial or natural lighting and ventilation and shall be maintained in a safe and sanitary condition.

(2) Floors, walls and ceilings in all permanent and semi-permanent structures used for living and sleeping purposes shall be kept clean and in good repair. Tent material shall be flame retardant.

(3) All gas or oil burning heating and cooking facilities provided in any camp shall be properly vented and maintained. No open-faced gas or oil burning heaters shall be allowed under any circumstances.

(4) The number of sleepers per permanent structure of any camp shall be such that each sleeper may be provided with at least forty (40) square feet of floor space; provided, however, slight variances may be permitted for existing structures. Permanent structures used as sleeping quarters shall be designed to provide a minimum of two (2) feet between beds, cots, or sleeping bags when arranged side by side. Beds, cots, or sleeping bags shall be placed so that heads of sleepers are at least six (6) feet apart, and if double decked beds are used, there shall be not less than twenty-seven (27) inches between the lower mattress and the bottom of the upper bed. If semi-permanent structures at a residential camp are used for sleeping purposes, the provisions of this subsection shall apply.

(5) Mattresses shall be flame retardant and provided with covers; provided, however, that existing camps shall have two (2) years from effective date of this regulation to meet this requirement. Sleeping surfaces shall be provided with at least one (1) sheet or mattress cover; provided, however, this requirement shall not apply if the camper provides his own sleeping bag.

(6) All articles of bedding provided by the camp shall be kept clean and in good repair. Linen shall be changed at least once weekly and more often if necessary, or when there is a new camper.

Section 7. Toilet, Lavatory and Shower Facilities. (1) Each residential and day camp shall be provided with water closets, handwashing and shower facilities for each sex accommodated, as shown in the following tables; provided, however, that day camps shall not be required to provide shower facilities.

Persons of Each Sex to be Served	Boys Water Closets	Boys Urinals*	Girls Water Closets	Boys or Girls Lavatories	Boys or Girls Showers
1-18	1	1	2	1	1
19-33	2	1	2	2	2
34-48	2	2	3	2	3
49-63	3	2	4	3	4
64-79	3	3	5	3	5
80-95	4	3	6	4	6

*Water closets can be substituted for urinals when facilities may be used by both sexes.

For camps having more than 95 residents there shall be provided: one additional water closet and lavatory for each 25 residents; one additional shower for each 20 residents; and one urinal per 50 male residents.

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(2) Toilets and bathhouses containing water closets, lavatories and showers shall be adequately ventilated, have natural or artificial lighting of twenty (20) footcandles, the floors shall be of concrete or other impervious material, and toilets shall be so located and distributed that no habitable permanent or semi-permanent structure or tent will be more than 500 feet from such facilities.

(3) Hot and cold water shall be provided at all showers at the campsites where overnight facilities are furnished; provided, however, existing camps will not be required to furnish hot water.

(4) Lavatories or handwashing facilities shall be conveniently located to all toilet facilities. Water, hand-cleansing soap, and approved sanitary towels or other approved hand-drying device shall be provided at all lavatories and handwashing facilities.

(5) All toilets, lavatories and bathing facilities shall be maintained in good repair and shall be kept clean at all times.

(6) When flush type toilets are not provided, other types of toilet facilities such as earth pit privies or chemical type may be used if so constructed and maintained as to prevent flybreeding, nuisances and contamination of any water supply. Privies shall be provided at the ratio of one pit opening for every ten (10) campers. Privies shall not be located within 100 feet of any kitchen or other place where food is prepared or served, and shall be located apart from

any building used for bathing or lodging.
(7) Adequate toilet tissue shall be provided at each toilet facility.
(8) Flame retardant, easily cleanable containers shall be provided in all toilet facilities and shall be covered in toilets for females.
(9) All plumbing shall comply with the State Plumbing Code.

Section 8. Sewage and Waste Disposal. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the camp sewerage system shall be discontinued.

Section 9. Water Supply System. (1) The water supply shall be potable, adequate and from an approved public supply of a municipality or water district, if available. In the event a public water supply of a municipality or water district is not available, the supply for the camp shall be developed and approved in accordance with applicable requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public water supply of a municipality or water district subsequently becomes available, connections shall be made thereto and the camp supply shall be discontinued.
(2) Adequate drinking fountains or portable water coolers of an approved type shall be provided within the camp. Common drinking cups, glasses or vessels are prohibited.
(3) Where portable drinking water containers are used, they shall be of easily cleanable construction, kept securely closed and so designed that water may be withdrawn from the container only by water tap or faucet and shall be maintained in a sanitary condition.
(4) All ice used shall be from an approved source and shall be handled and stored in such a manner as to prevent contamination. If ice is made on the premises of any camp, the ice-making machine shall be of approved construction and the water shall be of the same bacteriological quality as approved drinking water.

Section 10. Refuse Handling. (1) The storage, collection and disposal of refuse shall be so conducted as not to create a health hazard, rodent harborage, insect breeding area, accident or fire hazard, or air pollution violation and shall conform to all other requirements of the Department for Natural Resources and Environmental Protection.
(2) All refuse shall be stored in flytight, watertight, rodent proof containers and containers shall be emptied and cleaned at such frequency so as to prevent a nuisance.
(3) Approved container storage location shall be provided and shall be so designed and maintained as not to create a nuisance.
(4) All refuse containing garbage shall be collected at least once per week or more often if deemed necessary.

Section 11. Maintenance of Animal Facilities. (1) Barns, stables, corrals or other structures used to house horses and other animals shall be located at least 500 feet from any sleeping, eating or food preparation area. Tie-rails, or hitching posts shall not be located within 200 feet of any dining hall, kitchen or other place where food is prepared, cooked or served.
(2) Barns, stables and corrals shall be located on a well-drained, sloping area and so situated as to prevent contamination of any water supply.
(3) Manure shall be removed from barns, stalls, and corrals as often as necessary to prevent a fly problem. Fly repellants or other precautions shall be used to prevent such shelters from becoming an attractant for or breeding place for flies.

Section 12. Swimming Facilities and Recreational Water Activities. (1) All swimming pools, natural bathing places and swimming cribs shall comply with applicable regulations of the Department for Natural Resources and Environmental Protection and with applicable local regulations.
(2) All small craft and boating activities shall be conducted in compliance with applicable rules and regulations of the Department of Transportation, Division of Water Enforcement.
(3) All swimming and small craft and boating activities shall be under the supervision of a person holding a current American Red Cross Senior Life Saving Certificate or its equivalent at all times. All necessary life saving devices shall be provided.
(4) A method of checking swimmers recognized by the American Red Cross Life Saving and Water Safety Standards shall be enforced.
(5) Epidemiological investigation, sanitary survey and other factors shall indicate that the area is safe for swimming.

Section 13. Insect, Rodent and Pest Control. (1) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestations. Extermination methods and other measures to control insects and rodents shall be in accordance with applicable state laws and regulations.
(2) Camps shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos or other pests.
(3) Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building materials shall be stored at least one (1) foot above the ground.

Section 14. Camp Director, Records and Reports, Medical Supervision and First Aid. (1) The camp operator shall assure that a camp director or an authorized representative is available within the camp boundaries at all times while the camp is in operation.
(2) Records or personal data, including a medical history, shall be kept on each person attending a camp. Minimum records shall include the name, date of birth, and address of each person in camp; the name, address and telephone number of parents or guardians; and the medical history, and dates of admission and discharge of each camper.
(3) Residential camps shall have facilities for isolation of persons suspected of having a communicable disease. Other camps shall provide for the immediate isolation of campers suspected of having a communicable disease.
(4) Adequate first aid supplies and equipment shall be located within the camp. Residential camps shall have a person holding an American Red Cross Standard First Aid and Personal Safety Certificate or its equivalent on site twenty-four (24) hours a day while the camp is in session. All other camps shall have a person holding, as a minimum, a First Aid Course Certificate from the American Red Cross or its equivalent on site while camp is in session. The certificates shall be made available for examination upon request of an authorized agent of the department.
(5) All prescription drugs shall be kept in a locked cabinet or container.
(6) A nearby physician shall be on call for medical emergencies and the camp shall have access to a telephone, with emergency telephone numbers posted. Transportation shall be available at all times in the event of an emergency.
(7) All serious illnesses and accidents resulting in death or injury, other than minor injuries which require only first aid treatment and which do not involve medical treatment, shall be reported to the department at the end of the camping season, but in no event later than December 31 of each year, on forms provided by the department.

Section 15. Safety and Accident Prevention. (1) All camps shall comply with applicable rules and regulations of the State Fire Marshal and applicable local fire codes pertaining to fire safety, fuel supply and fuel connections.
(2) In every camp with an electrical system, the wiring, fixtures, and equipment shall be installed and maintained in accordance with applicable codes and regulations.
(3) Protection; Natural Hazards.
(a) Natural hazards within the boundaries of the camp shall be plainly marked as such and such measures and procedures as approved by the department shall be complied with to insure the safety of the campers.
(b) Poison plants such as poison sumac and poison ivy shall be subject to control and elimination from areas where their presence is hazardous to campers.
(4) Elimination of artificial hazards.
(a) All buildings, grounds and equipment shall be maintained in such a manner as to eliminate or minimize the danger from holes, glass, splinters, sharp projections and other hazardous conditions so as to protect the safety of all persons residing or using the facilities at the camp site.
(b) All insecticides, pesticides and chemical poisons shall be plainly labeled and stored in a safe place.
(c) Gasoline and other highly flammable fluids shall be plainly marked and stored in a locked container or building not occupied by residents of the camp and at a safe distance from sleeping quarters or buildings where people congregate.

Section 16. Plan Review of Future Construction. (1) Any person or persons contemplating construction, alteration, addition to or change in the construction of any permanent camp shall, prior to the initiation of any such construction, submit plans in triplicate to the department, through the local health department concerned, of any proposed camp, additions, alterations, or change in construction which shall show:
(a) Name and address of owner or operator of camp;
(b) Area and dimension of the site;
(c) Property lines;
(d) A separate floor plan of all buildings and other improvements constructed or to be constructed including location and number of sanitary conveniences, including water closets, urinals, showers, handwashing facilities and including a plumbing riser diagram;
(e) Detail drawings of sewage disposal facilities including written specifications of sewage plant disposal facilities;
(f) Detail drawings of water supply if source is other than public; and
(g) The location and size of water and sewer lines within the camp.
(2) In camps where central food preparation and food service buildings are to be provided, plans and specifications shall be submitted showing the kitchen floor plan, layout and type of equipment, storage area, restrooms, dining area all in accordance with the State Food Service Code.
(3) In camps where artificially constructed swimming pools

are contemplated, plans and specifications shall be submitted to the Department for Natural Resources and Environmental Protection for review and approval prior to construction.

Section 17. Inspection of Camp. (1) Each camping season an inspection shall be made by the department on each camp at least once prior to the opening of the camp and at least once while the camp is in actual operation. The department shall make as many additional inspections and reinspections as are necessary for the enforcement of this regulation.

(2) Whenever an agent of the department makes an inspection of a camp he shall record his findings on an official department inspection report form and provide the permit holder or operator with a copy. The inspection report shall:

(a) Set forth any violation(s) found;
(b) Establish a specific and reasonable period of time for the correction of the violation(s) found; and
(c) State that failure to comply with any notice issued in accordance with the provisions of this regulation may result in suspension of the permit.

Section 18. Suspension of Permit. (1) Whenever the department has reason to believe that an imminent public health hazard exists, or whenever the permit holder has interfered with the authorized agents of the department in the performance of their duties, the permit may be suspended immediately upon notice to the permit holder without a hearing. In such event the permit holder may request a hearing which shall be granted as soon as practicable.

(2) In all other instances of violation of the provisions of this regulation the department shall serve upon the holder of the permit a written notice specifying the violation(s) in question and afford the holder a reasonable opportunity to correct same. Whenever a permit holder or operator has failed to comply with any written notice issued under the provisions of this regulation, the permit holder or operator shall be notified in writing that the permit shall be suspended at the end of five (5) days following service of such notice, unless a written request for a hearing is filed with the department, by the permit holder, within such five (5) day period.

(3) The hearings provided for in this regulation shall be conducted by the department at a time and place designated by it. At the conclusion of the hearing, the department shall make a finding of fact and conclusion of the law. A transcript of the hearing need not be made unless the interested party assumes the costs thereof and a request is made therefor at the time a hearing is requested.

Section 19. Reinstatement of Suspended Permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within five (5) days following receipt of written request, including a statement signed by the applicant that in his opinion the conditions causing the suspension of the permit have been corrected, the department shall make a reinspection. If the applicant is found to be in compliance with the requirements of this regulation, the permit shall be reinstated.

Section 20. Revocation of Permits. For serious or repeated violations of any of the requirements of this regulation or for interference with the agents of the department in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the department. Prior to such action, the department shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten (10) days following service of such notice, unless a request for a hearing is filed with the department by the permit holder, within such ten (10) day period.

JOHN P. BELL, M.D., Chairperson
WILLIAM P. McELWAIN, M.D., Commissioner
ADOPTED: February 12, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:28 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(902 KAR 45:005)

RELATES TO: KRS 219.011 to 219.081, 219.991(1)
PURSUANT TO: KRS 13.082, 194.050, 211.090(1)(c)
SUPERSEDES: KDC-22
NECESSITY AND FUNCTION: KRS 219.011 to 219.081 and 219.991(1), the Kentucky Hotel and Food Service Establishment Act, authorizes the Department for Human Resources to regulate food service establishments in Kentucky. KRS 219.041(2) directs the department to adopt a State Food Service Code. The function of this regulation is to establish a uniform State Food Service Code for the regulation of all food service establishments within the Commonwealth of Kentucky for the purpose of protecting the public health.

Section 1. Citation of Regulation. This regulation may be cited as the "State Food Service Code."

Section 2. Applicability. The requirements of this regulation are applicable to all food service establishments, as defined by KRS 219.011(3) located within the Commonwealth of Kentucky.

Section 3. Application for Permit to Operate a Food Service Establishment. Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the department. Such application shall include the name and address of the applicant, the location and type of the proposed food service establishment, and the signature of the applicant. If the application is for a temporary food service establishment, it shall also include the dates of the proposed operation. Prior to approval of an application for permit, the department shall inspect the proposed food service establishment to determine compliance with the provisions of this regulation. The department shall issue a permit to the applicant if the inspection reveals that the proposed food service establishment complies with the requirements of this regulation.

Section 4. Food Supplies. (1) Food shall be wholesome and free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all applicable federal and state laws relating to food and food labeling. The use of food and food products canned, prepared or processed in the home is prohibited.

(2) All milk and milk products used or served shall comply with applicable department regulations relating thereto.

(3) All shellfish used or served shall comply with applicable department regulations relating thereto.

(4) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or pasteurized dry eggs or egg products shall be used.

(5) All meat and meat products, poultry and poultry products shall have been inspected and passed for wholesomeness under an official governmental regulatory program.

Section 5. Food Protection. At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from contamination from all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or condensation. The temperature of potentially hazardous foods shall be 45°F. or below or 140°F. or above at all times, except during necessary periods of preparation and service. Shell eggs shall be stored at 60°F. or below.

Section 6. Food Storage. (1) Stored food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be enclosed in a clean covered container except during necessary periods of preparation or service.

(2) Food shall be stored above the floor on clean surfaces in a way that permits cleaning the storage area and that protects the food from contamination by splash and other means; provided, that food in non-absorbent containers may be stored on the floor when it is maintained in an acceptable sanitary condition.

(3) Food shall not be stored under exposed sewer or nonpotable water lines.

(4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against contamination from food requiring washing or cooking. Food shall be stored in such a way that protects it from cross contamination.

(5) Packaged food shall not be stored in contact with water or undrained ice.

(6) Unless its identity is unmistakable, bulk food not stored in the container or package in which it was obtained shall be stored in a container identifying the food by common name.

(7) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of food at required temperatures during storage. Each cold food storage facility shall be provided with a numerically scaled indicating thermometer, accurate to ± 3°F. located to measure the air temperature in the warmest part of the facility and located to be easily readable.

(8) The temperature of potentially hazardous foods requiring refrigeration shall be 45°F. or below except during necessary periods of preparation.

(9) Frozen foods shall be kept frozen and should be stored at a temperature of 0°F. or below.

(10) Stored ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils.

(11) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food storage facility shall be provided with a numerically scaled indicating thermometer accurate to ± 3°F. located in the coolest part of the facility and located to be easily readable.

(12) The temperature of potentially hazardous foods requiring hot storage shall be 140°F. or more except during necessary periods of preparation.

Section 7. Food Preparation. (1) Food shall be prepared with the least possible manual contact, using suitable utensils, and on surfaces that prior to use have been cleaned and sanitized. Methods and procedures used shall prevent cross contamination.

(2) Raw fruits and raw vegetables shall be washed thoroughly before being cooked or served.

(3) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F. except that:

(a) Poultry, poultry stuffings, and stuffed meats shall be cooked to heat all parts of the food to at least 165°F. with no interruption of the cooking process.

(b) Raw pork and products containing raw pork shall be cooked to heat all parts of the food to at least 150°F.

(4) Reconstituted, dry milk, dry-milk products, dry eggs, and dry egg products shall be used only if heated to 140°F. or above.

(5) Potentially hazardous foods that were cooked and then refrigerated shall be heated rapidly to 165°F. or higher throughout before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and other hot food holding facilities are prohibited for the rapid heating of potentially hazardous foods.

(6) Metal stem-type numerically scaled indicating thermometers accurate to ± 3°F. shall be provided and used to assure attainment of proper internal cooking temperatures of all potentially hazardous foods.

(7) Potentially hazardous foods shall be thawed:

(a) In refrigerated units in a way that the temperature of the food does not exceed 45°F.; or

(b) Under potable running water of a temperature of 70°F. or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

(c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

Section 8. Food Display and Service. (1) Potentially hazardous foods shall be kept at a temperature of 45°F. or lower or at a temperature of 140°F. or higher during display and service.

(2) Food on display shall be protected from consumer contamination by the use of easily cleanable counter-protector devices, display cases and similar equipment in addition to other means of protection.

(3) Reuse of soiled tableware by self-service consumers is prohibited.

(4) Suitable utensils shall be used by employees or provided for consumers self-service to avoid unnecessary contact with food. Between uses during service, utensils shall be:

(a) Stored in food containers with the food they are being used to serve; or

(b) Stored clean and dry; or

(c) Stored in running water; or

(d) In the case of dispensing utensils and malt collars used in serving frozen desserts, stored either in a running water dipper well, or clean and dry.

(5) Ice for consumer use shall be dispensed only with scoops, tongs, or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment. Between uses during service, ice-dispensing utensils and ice receptacles shall be stored in a way that protects them from contamination.

(6) Sugar, condiments, seasonings, and dressings for self-service use shall be provided only in individual packages or from dispensers or containers that protect their contents.

(7) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one (1) pint in capacity, or served from an approved bulk milk dispenser.

(8) Once served to a consumer, individual portions of food shall not be served again. Packaged food, other than potentially hazardous food, that is still packaged and is still wholesome, may be re-served.

Section 9. Food Transportation. During transportation, food shall be in covered containers or completely wrapped or packaged so as to be protected from contamination. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this regulation relating to protection and storage of food.

Section 10. Employee Health. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment, except as noted in Section 38 of this regulation.

Section 11. Personal Cleanliness. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking or using the toilet. Employees shall keep their fingernails clean.

Section 12. Clothing. (1) The outer clothing of all employees shall be clean and suitable for the task to be performed.

(2) Employees shall use effective hair restraints where necessary to prevent the contamination of food or food contact surfaces.

Section 13. Employee Practices. (1) Employees shall consume food only in designated dining areas. An area shall not be designated as a dining area if consuming food there might result in contamination of other food, equipment, utensils, or other items needing protection.

(2) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment or utensil-washing or food preparation areas. Employees shall use tobacco in any form only in designated areas. An area shall not be designated for that purpose if the use of tobacco there might result in contamination of food, equipment, untensils, or other items needing protection.

(3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(4) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices.

(5) Employees shall remove all insecure jewelry, and during periods when food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

Section 14. Equipment and Utensils Materials. (1) Multi-use equipment and utensils shall be made and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(2) If soft solder or hard solder (silver solder) is used, it shall be composed of safe materials and be corrosion resistant.

(3) Hard maple or equivalently nonabsorbent materials that meets the general requirements set forth in subsection (1) of this section may be used for cutting blocks, cutting boards, and bakers' tables. The use of wood as a food-contact surface under other circumstances is prohibited.

(4) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (1) of this section are permitted for use. The use of equipment and utensils made of materials not meeting the requirements of this section is prohibited.

(5) The repeated use of mollusk and crustacea shells as food containers is prohibited.

Section 15. Equipment and Utensils Design and Fabrication. (1) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult to clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited.

(2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

(3) Sinks, dish tables, and drain boards shall be self draining.

(4) Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(a) Without being disassembled; or

(b) By disassembling without the use of tools; or

(c) By easy disassembling with the use of only simple tools kept available near the equipment, such as a mallet, a screwdriver, or an open-end wrench.

(5) Pipes, tubes, valves, and lines contacting food and intended for in-place cleaning shall be so designed and fabricated that:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(b) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(c) The system is self draining or capable of being completely evacuated.

(6) Thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to ± 3°F.

(7) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated so as to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(8) Ventilation hoods and devices shall be designed to prevent grease or condensate from dripping into food or onto food-contact surfaces. Filters where used, shall be readily removable for cleaning and replacement.

Section 16. Equipment Installation and Location. (1) Equipment, including ice makers and ice storage equipment, shall not be located under exposed sewer lines,

nonpotable water lines, stairwells, or other sources of contamination.

(2) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or mounted on legs at least four (4) inches high and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(3) Equipment is not portable within the meaning of subsection (2) of this section unless:

(a) It is small and light enough to be moved easily by one person; and

(b) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(4) Floor-mounted equipment, unless readily movable, shall be:

(a) Sealed to the floor; or

(b) Installed on raised platforms of concrete or other smooth masonary in a way that prevents liquids or debris from seeping or settling underneath, between, or behind the equipment in spaces that are not fully open for cleaning and inspection; or

(c) Elevated on legs at least six (6) inches off the floor, except that vertically mounted floor mixers may be elevated as little as four (4) inches off the floor if no part of the floor under the mixer is more than six (6) inches from cleaning access. Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(5) Aisles and working spaces between units of equipment and between equipment and walls should be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

(6) Equipment which was installed prior to the effective date of this regulation and which does not meet fully all of the requirements of this section, shall be deemed acceptable, if it is in good repair, capable of being maintained in a sanitary condition and the food contact surfaces are non-toxic. Such equipment shall be so located and installed as to enable reasonable compliance with the requirements of this section.

Section 17. Equipment and Utensil Cleaning and Sanitization. (1) Tableware shall be cleaned and sanitized after each use.

(2) Kitchenware and food-contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous foods shall be cleaned and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule approved by the department. This schedule shall be based on food temperature, type of food, and amount of food particle accumulation.

(4) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities of microwave ovens shall be cleaned at least once a day and shall be kept free of encrusted grease deposits and other accumulated soil.

(5) Non-food contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(6) Cloths used during service for wiping food spills on food-contact surfaces shall be clean and used for no other purpose. Cloths used for wiping non food-contact surfaces shall be clean and used for no other purpose. These cloths shall be rinsed frequently in one of the sanitizing solutions permitted by subsection (7)(a) of this section.

(7) When manual cleaning and sanitizing is used, sinks shall be cleaned prior to use. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil. Equipment and utensils shall be thoroughly washed in a hot detergent solution that is kept clean and then shall be rinsed free of detergent and abrasives.

(a) All tableware and the food-contact surfaces of all other equipment and utensils shall be sanitized by:

1. Immersion for at least one-half (1/2) minute in clean, hot water of a temperature of at least 170°F.; or
2. Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F.; or
3. Immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine and having a PH not higher than 5.0 and having a temperature of at least 75°F.; or
4. Immersion in a clean solution containing other chemical sanitizing agents approved by the department that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F. for one (1) minute; or
5. Treatment with steam free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
6. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under subsection (7)(a)4. of this section when used for immersion sanitization in the case of equipment too large to sanitize by immersion.

(b) When chemicals are used for sanitization, a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(c) A three (3) compartment sink shall be used if cleaning and sanitization of equipment or utensils is done manually; provided, that existing establishments not having a three (3) compartment sink that can demonstrate an acceptable procedure for cleaning and sanitizing equipment and utensils may be exempt from this requirement by the department. Sinks shall be large enough to permit the complete immersion of the equipment and utensils and each compartment of the sink shall be supplied with hot and cold potable running water. A two (2) compartment sink will be acceptable where only single service tableware is used. Suitable equipment shall be made available if cleaning and sanitizing cannot be accomplished by immersion.

(d) Dish tables or drain boards of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(e) When hot water is used for sanitizing, the following facilities shall be provided and used:

1. An integral heating device or fixture installed in or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F.; and
2. A numerically scaled indicating thermometer accurate to ± 3°F. convenient to the sink that can be used for frequent checks of water temperature; and
3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(8) When mechanical cleaning and sanitizing is used, cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. Such machines and devices shall be properly installed and maintained in good repair. Automatic detergent dispensers and wetting agent dispensers, if any, shall be properly installed and maintained.

(a) The pressure of water supplied to spray-type dishwashing machines shall be not less than fifteen (15) or more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the machine. A suitable guage cock shall be provided immediately upstream from the final rinse sprays to permit checking the flow pressure of the final rinse water.

(b) Easily readable numerically scaled indicating thermometers accurate to ± 3°F. shall be provided that indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(c) Rinse water tanks shall be so protected by baffles or other effective means as to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles as determined by specifications attached to the machines.

(d) Drain boards shall be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities.

(e) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to their being cleaned in a dishwashing machine. After flushing, scraping, or soaking, equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact services are subject to the unobstructed application of detergent wash and clean rinse waters and that permits free draining. Clean rinse water shall remove particulate matter and detergent residues. All dishwashing machines shall be thoroughly cleaned following use.

(9) When chemicals are used for sanitization, they shall be automatically dispensed in such concentration and for such a period of time as to provide effective bactericidal treatment of equipment and utensils. Wash water shall be kept clean. In machines using chemicals for sanitization (single-tank, stationary-rack, door-type machines, and spray-type glass washers), the temperature of the wash water shall be not less than 140°F. The sanitizing rinse water shall be not less than 75°F. nor less than the temperature specified by the machine manufacturer.

(10) Where machines using hot water sanitization are used,

wash waters and pumped rinse waters shall be kept clean. Water shall be maintained at not less than the temperatures stated in subsection (10)(a) to (e) of this subsection; provided, that existing machines not fully meeting the requirements of this subsection may be acceptable, if capable of meeting such time and temperature requirements as are acceptable by the department. Wash and pumped rinse temperatures shall be measured in the respective tanks, and final rinse temperatures shall be measured at the manifold.

(a) Single tank, stationary tank, dual temperature machine:
Wash temperature 150°F.
Final Rinse temperature 180°F.

(b) Single tank, stationary rack, single temperature machine:
Wash temperature 165°F.
Final rinse temperature 165°F.

(c) Single tank, conveyor machine:
Wash temperature 160°F.
Final rinse temperature 180°F.

(d) Multiple tank, conveyor machine:
Wash temperature 150°F.
Pumped rinse temperature 160°F.
Final rinse temperature 180°F.

(e) Single tank, pot, pan, and utensil washer (either stationary or moving rack):
Wash temperature 140°F.
Final rinse temperature 180°F.

(11) All equipment and utensils shall be air dried.

Section 18. Equipment and Utensil Storage. (1) Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, and bowls shall be handled without contact with inside surfaces or with surfaces that contact the user's mouth.

(2) Cleaned and sanitized utensils and movable equipment shall be stored above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer or nonpotable water lines.

(a) Utensils shall be air dried before being stored or shall be stored in a self-draining position on suitably located racks.

(b) Wherever practical, stored utensils shall be covered or inverted. Facilities for the storage of spoons, knives, and forks shall be provided and shall be designed to present the handle to the employee or consumer.

(3) If presetting is practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period; and after any place at a table is occupied.

(4) Single-service articles shall be stored above the floor on clean shelves and in closed containers that protect them from contamination.

(a) Single-service articles shall be commercially packaged for individual use or shall be available to the consumer from a dispenser in a way that prevents contamination of surfaces that may contact food or the user's mouth. Handling of single-service articles in bulk shall be conducted in a way that protects them from contamination.

(b) Single-service articles shall be used only once.

Section 19. Sanitary Facilities and Controls. Enough potable water for the needs of the food service establishment shall be provided from an approved source and be of safe, sanitary quality. Hot and cold running water under pressure shall be provided in all areas where food is prepared, or equipment, utensils or containers are washed.

Section 20. Sewage. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the private sewerage system shall be disconnected. Only non water-carried disposal methods which have been approved by the department for temporary use shall be used and operation of such facilities shall be in conformance with applicable state laws and regulations.

Section 21. Plumbing. (1) All plumbing shall be sized, installed, and maintained in accordance with the State Plumbing Code. There shall be no cross-connection between the safe water supply and any unsafe or questionable water supply, or source of pollution through which the safe water supply might become contaminated.

(2) A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to applicable state laws and regulations and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) The potable water system shall be installed to preclude the possibility of backflow. Devices to protect against backflow and backsiphonage shall be installed at all fixtures and equipment wherever backflow or backsiphonage may occur. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(4) If used, grease traps shall be located to be easily accessible for cleaning.

(5) There shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed.

Section 22. Toilet Facilities. (1) In existing food service establishments, separate toilet facilities shall be provided for both sexes when employed and shall be so located as to be readily accessible to employees at all times. In new establishments, or establishments that are extensively altered, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees; provided, however, that carry out type food service operations shall be exempted from providing toilet facilities for the use of patrons.

(2) Toilets and urinals shall be designed to be easily cleanable.

(3) Toilet room doors shall be tight-fitting, self-closing, and shall be closed except during cleaning or maintenance.

(4) Toilet facilities, including vestibules, if any, shall be kept clean and in good repair and free of objectionable odors. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials, and the receptacles in toilet rooms used by women shall be covered.

Section 23. Lavatory Facilities. (1) Lavatories shall be installed in accordance with the State Plumbing Code and shall be equipped with hot and cold running water or running water tempered by means of a mixing valve or combination faucet. Steam mixing valves are prohibited. Hand cleansing soap or detergent, and approved sanitary towels or other approved hand drying devices are to be conveniently located at each lavatory. If disposable towels are used, waste receptacles shall be located near the lavatory. Common towels are prohibited.

(2) Lavatories shall be located within or immediately adjacent to all toilet rooms. In all new establishments, and establishments which are extensively altered, lavatories shall also be conveniently located within the food preparation area. Sinks used for food preparation or for washing equipment or utensils should not be used for handwashing.

(3) Lavatories, soap dispensers, and hand drying devices and all related facilities shall be kept clean and in good repair.

Section 24. Garbage and Refuse. (1) Garbage and refuse shall be kept in durable insect-proof and rodent-proof containers that are leakproof and do not absorb liquids. Plastic bags and wet- strength paper bags may be used to line these containers, and may be used for storage inside the food service establishment when protected from insects and rodents.

(2) Containers, compactors, and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. Drain plugs, where required, shall be in place at all times, except during cleaning.

(3) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(4) After being emptied, each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food-preparation areas. Suitable facilities, including hot water and detergent, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

(5) Garbage and refuse on the premises shall be stored in a place inaccessible to insects and rodents. Outside storage of plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.

(6) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof, and shall be large enough to store the garbage and refuse containers that accumulate.

(7) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(8) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(9) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with applicable regulations of the Department for Natural Resources and Environmental Protection. Areas around incineration facilities shall be kept clean and orderly.

Section 25. Insect and Rodent Control. (1) Effective measures intended to eliminate the presence of rodents and flies, roaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage of feeding of insects or rodents.

(2) Openings to the outside shall be effectively protected against the entrance of rodents and shall be protected against

the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than sixteen (16) mesh to one (1) inch.

Section 26. Construction and Maintenance of Physical Facilities. (1) The floors of all food preparation, food storage, and utensil washing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, and toilet rooms and vestibules shall be constructed of smooth, durable materials such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair.

(2) Carpeting, if used, shall be properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in toilet rooms, food preparation and in equipment and utensil washing area where it would be exposed to large amounts of grease and water.

(3) Sawdust, wood shavings, peanut hulls, or similar material on the floors in food processing areas is prohibited.

(4) Properly installed floor drains shall be provided in floors that are water flushed for cleaning or that receive discharge of water or other fluid waste from equipment. Such floors shall be constructed of sealed concrete, terrazzo, ceramic tile, or similar material graded to drain all parts of the floor.

(5) The floor of each walk-in refrigerator shall be graded to drain all parts of the floor to the outside through a waste pipe, doorway, or other opening, or equipped with a floor drain.

(6) Mats and duckboards shall be of size, materials, design, and construction as to facilitate their being cleaned.

(7) Junctures of walls with floors shall be coved.

(8) Utility service lines and pipes shall not be unnecessarily exposed on floors in food preparation and utensil washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

(9) Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

(10) The walls, including nonsupporting partitions, wall coverings, and ceilings of all food preparation and utensil washing areas and of toilet rooms shall be smooth, nonabsorbent, and easily cleanable. The use of rough or unfinished building materials such as brick, concrete blocks, wooden beams, or shingles is prohibited in those locations except by special plan approval by the department.

(11) Studs, joists, and rafters shall not be exposed in food preparation and utensil washing areas and in toilet rooms except by special plan approval by the department.

(12) Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in food preparation and utensil washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

(13) Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(14) Covering material such as sheet metal, linoleum, vinyl, and similar materials shall be easily cleanable and nonabsorbent and shall be attached and sealed to the wall and ceiling surfaces so as to leave no open spaces or cracks.

(15) Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

Section 27. Cleaning Physical Facilities. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with push brooms. All cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. In new establishments, or establishments that are extensively altered, readily accessible service sinks shall be provided.

Section 28. Lighting. (1) At least fifty (50) foot candles of light shall be provided to all working surfaces and at least thirty (30) foot candles of light shall be provided to all other surfaces and equipment in food preparation, utensil washing, and hand washing areas, and in toilet rooms. At least twenty (20) foot candles of light at a distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

(2) Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, and display facilities; provided, that this requirement shall not apply to heat lamps.

Section 29. Ventilation. (1) All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, smoke, and fumes. Ventilation systems shall be installed and operated according to applicable state laws and regulations and, when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge.

(2) Rooms, including toilet room areas, and equipment, from which aerosols, obnoxious odors, or noxious fumes or vapors may originate shall be vented effectively to the outside.

(3) Intake air ducts, if any, shall be designed and maintained to prevent the entrance of dust, dirt, insects and other contaminating materials.

Section 30. Dressing Areas and Lockers. (1) If employees routinely change clothes within the establishment, areas shall be designated for that purpose. Those areas shall not be located in areas used for food preparation, storage, or service or for utensil washing or storage, except that a storage room containing only completely packaged food may be so designated.

(2) Enough lockers or other suitable facilities shall be provided and used for the storage of employees' clothing and other belongings. If dressing areas are designated, the lockers or other facilities shall be located within those areas.

Section 31. Poisonous or Toxic Materials. (1) Only those poisonous or toxic materials required to maintain the establishment in a sanitary condition or required for sanitization of equipment or utensils shall be present in food service establishments.

(2) Containers of poisonous or toxic materials, including insecticides and rodenticides, shall be prominently and distinctly labeled for easy identification of contents.

(3) Poisonous or toxic materials shall be stored in cabinets that are used for no other purpose or in a place other than an area where food is stored, prepared, displayed, or served and other than an area where clean equipment or utensils are stored. Bactericides and cleaning compounds shall not be stored in the same cabinet or area of a room as are insecticides, rodenticides, or other poisonous or toxic materials.

(4) Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees nor so stored as to be a potential food adulterant.

(5) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons nor in a way other than in full compliance with their labeling.

(6) Personal medications shall not be stored in food storage, preparation, or service areas.

(7) First-aid supplies shall be stored in a way that prevents them from contaminating food and food contact surfaces.

Section 32. Premises. (1) Food service establishments and all parts of the property used in connection with operation of the establishment shall be kept free of litter.

(2) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaces with concrete or asphalt or with gravel or similar material effectively treated to facilitate maintenance and to minimize dust. These surfaces shall be drained and shall be kept clean.

(3) Only articles necessary to the operation and maintenance of the food service establishment shall be stored on the premises.

(4) The traffic of unnecessary persons through the food preparation and utensil washing areas and the presence in those areas of persons not authorized to be there by the permit holder or person in charge is prohibited.

(5) No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. A solid self-closing door shall separate food service operations from any living or sleeping area.

(6) No laundry operation shall be conducted, except that linens, uniforms and aprons used in the establishment may be laundered on the premises separate from food preparation and service areas.

(7) Clean cloths and napkins shall be stored in a clean place and protected from contamination until used. Nonabsorbent containers or washable laundry bags shall be provided and damp or soiled linens and cloths shall be kept in them until removed for laundering.

(8) Maintenance and cleaning materials and equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linen storage.

(9) Live animals, including birds and turtles, shall be excluded from all food service establishments and from areas adjacent to serving areas that are under the control of the permit holder. The exclusion does not apply to edible crustacea, shellfish, or fish, nor to fish in aquariums. Escorted police patrol dogs or guide dogs accompanying blind persons shall be permitted in dining areas.

Section 33. Mobile Food Units. (1) Mobile food units shall comply with the requirements of this regulation, except as otherwise provided in this subsection and in subsection (2) of this section. The department may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this regulation relating to physical facilities, except those requirements of subsections (4) and (5) of this section and Sections 34 and 35.

(2) A mobile food unit that serves only food that was prepared, packaged in individual servings, transported, and stored under conditions meeting the requirements of this regulation or beverages that are not potentially hazardous and are

dispensed from protected equipment need not comply with requirements of this regulation pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary.

(3) Mobile food units shall provide only single-service articles for use by the consumer.

(4) A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning, and sanitization, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed according to the State Plumbing Code.

(5) If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed retention tanks that are at least fifty percent (50%) larger than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system.

Section 34. Commissary. Mobile food units shall operate from a commissary or other fixed food service establishment that is constructed and operated in compliance with this regulation.

Section 35. Mobile Food Unit Servicing Area and Operations. (1) Potable water servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

(2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public sewerage system subsequently becomes available, connection shall be made thereto and the establishment sewerage system shall be disconnected.

Section 36. Temporary Food Service Establishments. (1) A temporary food service establishment shall comply with the requirements of this regulation, except as otherwise provided in this section. The department may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this regulation, except those requirements of subsections (2) to (10) of this section.

(2) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters, which require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs, or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that is obtained in individual servings, is stored at a temperature of 45°F. or below, or at a temperature of 140°F. or above, and is served directly in the unopened container in which it was packaged.

(3) Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this regulation. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use foodgrade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used, it shall be dispensed in a way that protects it from contamination.

(4) Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where necessary to prevent contamination, effective shields for such equipment shall be provided.

(5) Enough potable water shall be available in the establishment for cleaning and sanitizing utensils and equipment and for handwashing. Enough hot water for these purposes shall be provided.

(6) The storage of packaged food in contact with water or undrained ice is prohibited, except that cans or bottles of nonpotentially hazardous beverages may be so stored when the water contains at least fifty (50) parts per million of available chlorine and is changed often enough to keep both the water and containers clean.

(7) Liquid waste shall be disposed of in such a manner as not to create a public health hazard or nuisance.

(8) A facility shall be provided for employee handwashing. Where water under pressure is unavailable, such facility shall consist of a pan, warm water, hand cleanser, and individual paper towels.

(9) Floors shall be made of concrete, tight wood, asphalt, or other similar cleanable material, except that dirt or gravel floors may be used if graded to preclude the accumulation of liquids and covered with removable, cleanable platforms or duckboards.

(10) Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Screening material used for walls shall be at least sixteen (16) mesh to the inch. Counter service openings shall not be larger than is necessary for the particular operation conducted. When flies are prevalent, counter-service openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Doors and windows, if any, shall be kept closed, except when food is being served.

Section 37. Plan Review of Future Construction. When a food service establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangements, size, location and type of facilities and a plumbing riser diagram shall be submitted to the department for approval before such work is begun.

Section 38. Procedure When Infection is Suspected. When the department has reasonable cause to suspect possibility of disease transmission from any food service establishment employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The department may require any or all of the following measures:

(1) The immediate exclusion of the employee from all food service establishments;

(2) The immediate closing of the food service establishment concerned until, in the opinion of the department, no further danger of disease outbreak exists;

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(4) Adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.

Section 39. Enforcement Provisions. (1) Whenever the department has substantial reason to believe that an imminent public health hazard exists, or whenever the permit holder or an authorized agent thereof has interfered with the department in the performance of its duties, and after its agents have duly and officially identified themselves the permit shall be suspended immediately upon notice to the permit holder without a hearing. In such event the permit holder may request a hearing which shall be granted as soon as practical.

(2) In all other instances of violation of the provisions of this regulation the department shall serve upon the holder of the permit a written notice specifying the violations and afford the holder a reasonable opportunity to correct same. Whenever a permit holder or operator has failed to comply with any written notice issued under the provisions of this regulation, the permit holder or operator shall be notified in writing that the permit shall be suspended at the end of five (5) days following service of such notice, unless a written request for a hearing is filed with the department, by the permit holder, within such five (5) day period.

(3) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the department shall make a reinspection. If the food service establishment is in compliance with the requirements of this regulation, the permit shall be reinstated.

(4) For serious or repeated violations of any of the requirements of this regulation, or for interference with the department in the performance of its duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the department. Prior to such action, the department shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the department, by the permit holder, within such five (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(5) Notices provided for under this regulation shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder.

(6) The hearings provided for in this regulation shall be conducted by the department at a time and place designated by it. Based upon the record of such hearing, the department

shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A transcript of the hearing need not be made unless the interested party assumes the costs thereof and a request is made therefor at the time a hearing is requested.

(7) At least once every six (6) months, the department shall inspect each food service establishment and shall make as many additional inspections and reinspections as are necessary for the enforcement of this regulation.

(8) Whenever an inspection is made of a food service establishment, the findings shall be recorded on the inspection report form provided for that purpose, and shall constitute a written notice to the permit holder. The original of the inspection report shall be furnished to the permit holder or person in charge. The inspection report form shall summarize the requirements of this regulation and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point value for all violations, subtracted from one hundred (100).

(9) The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(a) When the rating score of the establishment is eighty-five (85) or more, all violations of one (1) or two (2) point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(b) When the rating score of the establishment is at least seventy (70) but not more than eighty-four (84), all violations of one (1) or two (2) point weighted items shall be corrected as soon as possible, but in any event, within a period not to exceed thirty (30) days.

(c) Regardless of the rating score of the establishment, all violations of four (4) or five (5) point weighted items shall be corrected within a time specified by the department but in any event, not to exceed ten (10) days.

(d) When the rating score of the establishment is less than seventy (70), the establishment shall be issued a notice of intent to suspend the permit. The permit shall be suspended within five (5) days after receipt of such notice unless a written request for a hearing is filed with the department, by the permit holder, within such five (5) day period.

(e) In the case of temporary food service establishments, all violations shall be corrected within a specified period of time not to exceed twenty-four (24) hours. If violations are not so corrected, the permit shall be immediately suspended. In such event the permit holder may request a hearing which shall be granted as soon as practical.

(f) The report of inspection shall state that failure to comply with any time limits for corrections shall result in suspension of permit and that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed within five (5) days. If a request for hearing is received, a hearing shall be held at a time and place designated by the department.

(g) Whenever a food service establishment is required under the provisions of this regulation to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

Section 40. Examination and Detention of Foods. The department may examine and collect samples of foods as often as necessary for the enforcement of this regulation. The department shall, upon written notice to the permit holder or authorized agent specifying the reason therefor, place under quarantine any food which it has probable cause to believe is adulterated or misbranded within the meaning of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 to 217.215 and 217.992.

JOHN P. BELL, M.D., Chairperson
WILLIAM P. McELWAIN, Commissioner
ADOPTED: February 12, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:28 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 1:040)

RELATES TO: KRS 208.430(1)(b)
PURSUANT TO: KRS 13.082, 194.050
SUPERSEDES: DCW-6
NECESSITY AND FUNCTION: This regulation is required by KRS 208.430(1)(b). It serves to set forth minimum standards for the selection of foster boarding homes and placement of children therein.

Section 1. Basic Expectations for Foster Parents. (1) Prospective foster parents shall possess personal qualities of maturity, stability, flexibility, ability to cope with stress, capacity to give and receive love. Such characteristics are reflected in the following:

(a) The respect of the community and a reputable character, socially acceptable values, and ethical standards conducive to the well-being of children.

(b) Ability to accept the child's relationships with his own family and with the agency without any marked tendency to be over-possessive.

(c) Ability to give love, affection, and care to a child in order to meet his needs.

(d) Evidence of flexibility and modifiability in their expectations, attitudes, and behavior in relation to the needs and problems of children, as well as ability to use help when it is needed to meet the problems of children, and ability to use help when it is needed to meet problems of family living.

(e) Ability to accept the temporary nature of foster care and assist the agency in planning for the child.

(2) Physical Qualities:

(a) Age. The age of foster parents shall be considered only as it affects their physical energy, flexibility, and ability to care for a specific child, and in relation to the probable duration of placement of a particular child.

(b) Emotional Stability. There should be evidence that the emotional stability of the foster parents is such that is would positively affect the child.

(c) Income. There shall be evidence of sufficient income for maintaining their own family so as not to depend upon income from boarding children. Although this requirement is essential for the initial approval of the family, exceptions may be made in situations where financial problems develop in the course of the family's care of a foster child and it is in the best interest of the child to remain in the home.

(d) Family Composition. In most cases it is preferable that foster families consist of two (2) parents in order to provide optimum opportunities for personal development of the child. Martial harmony, based on satisfying and sustaining relationships over a reasonable period of time, should exist. The decision to apply shall be mutually agreed to by the husband and wife, their children, and others in the household. However, single parents shall be selected when they can more effectively fulfill the needs of a particular child.

(e) Number of Children in a Family. The number and ages of children in a home shall be determined by the stamina, capacities, and skills of the foster parents; physical accommodations of the home; and the effect upon the equilibrium of the family as a unit.

1. In homes where there are both infants and older children, no more than six (6) children, including the foster parents' own children living at home, shall be present. Exceptions may be made for sibling groups.

2. Exceptions may be made to any of the limitations where, in addition to the foster mother, there is in the home a responsible adult who can give full-time care to the children.

(f) Employment of Foster Mother. It is preferable that the foster mother not be employed outside the home. She should be available for mothering, which the foster child requires. However, there may be some exceptions, depending upon the age and stability of the child, the hours of the foster mother's employment, and her ability to make a suitable plan for the children while she is working.

(g) Sleeping Arrangements. Separate beds shall be provided for children of the opposite sex, with bedrooms being separate from that of the foster parents. An infant's bed may be in the foster parents' bedroom. Sleeping rooms should not be shared by children over four (4) years of age of opposite sexes. Sleeping arrangements should be such that space is provided within the sleeping room for the child's personal possessions and for a reasonable degree of privacy.

(h) Physical Facilities. Physical facilities of the home shall present no hazards to the safety of a foster child. Physical standards shall be of a degree of comfort sufficient to insure the well-being of the family. Safe water supply is essential.

(i) Location. Foster family homes shall be accessible to school, recreation, churches, other community facilities, and special resources (such as medical clinics) as needed.

(j) If the home is otherwise suitable, the foster family shall be provided with all available assistance in meeting the above requirements.

Section 2. The rights and best interests of children to be placed in foster care shall be paramount. Placement of children shall be based upon the needs of individual children requiring foster care and the ability of the foster care applicants to meet these needs.

Section 3. The approval of applicants for foster care shall not guarantee the placement of any child with them.

Section 4. In order to be approved, applicants shall make themselves available to representatives of the department for the purpose of evaluating their abilities to meet the needs of children requiring foster care.

Section 5. Applicants shall be subject to continued departmental visitation, supervision, and evaluation.

Section 6. Placement of any child in an approved foster home shall require prior approval by the department.

Section 7. No applicant shall be approved, and no child shall be placed with an applicant, if it is determined that the applicant has opinions or feelings, as evidenced by statement or action, which might be expected to adversely affect the applicant's capacity for foster parenting. Such feelings or opinions include, but are not limited to, those concerning illegitimacy, heredity, race, physical characteristics or resemblances.

Section 8. In order to be approved, an applicant shall have a love for children and shall have a desire and capacity for parenting. They shall have a capacity for feeling satisfaction from contributing to the development of a child, and shall have an ability to deal with developmental differences. They shall be flexible about their expectations and be capable of accepting a child as the child is or may develop.

Section 9. The approved applicants shall be able to present the foster child with appropriate opportunities for religious, spiritual, or ethical development.

Section 10. No applicant for foster care and no child suitable for foster care placement shall be denied approval or placement solely on the basis of age, race, sex, marital status, religion, or national origin.

Section 11. Whenever possible, sibling groups will be placed together.

Section 12. Foster parents shall be given consideration as adoptive parents upon request. Adoption of a particular child by his foster parents will be given consideration in situations where the child is legally free for adoption, has been in the home for one (1) year or more, and such adoption is in the best interest of the child.

JERRY B. HISSONG, Commissioner
ADOPTED: January 30, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:32 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 1:080)

RELATES TO: KRS 208.430(1)(b)
PURSUANT TO: KRS 199.380
SUPERSEDES: DCW-DLS-10
NECESSITY AND FUNCTION: This regulation is required by KRS 208.430(1)(b). It serves to set forth boarding home rates paid by the Department for Human Resources.

Section 1. (1) Boarding home payments made by the department shall be at the following rates:
(a) Children six (6) years of age and under, $2.75 per child per day;
(b) Children seven (7) years of age through twelve (12) years of age, $3 per child per day;
(c) Children thirteen (13) years of age and over, $3.25 per child per day.
(2) These rates shall not include medical, clothing, and certain other incidental expenses necessary in the maintaining of a child in boarding care.

Section 2. The daily rates for children, designated on an individual basis as children with special needs by the Secretary, may exceed these rates.

JERRY B. HISSONG, Commissioner
ADOPTED: January 15, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:32 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:010)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
SUPERSEDES: DCW-11
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for all child day care facilities.

Section 1. Definitions. The following definitions shall apply to all child day care regulations and standards:
(1) "Day care" means care of a child away from his own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten or nursery schools which have as their primary function educational instruction. In those instances where there is a question as to whether the facility should be licensed by the Department of Education, the determination will be made by the two (2) state departments. Full-time boarding care shall not be permitted in a day care facility. Day care includes:
(a) "Type I day care facility" means (i) any facility other than a dwelling unit which regularly receives four (4) or more children for day care; (ii) any facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children.
(b) "Type II day care facility" means any home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The director's own pre-school children shall be included in the number for which the home is licensed.
(2) "Department" means the Kentucky Department for Human Resources.
(3) "Secretary" means the Secretary for Human Resources.
(4) "Child" means a person under eighteen (18) years of age.
(5) "Director" means the person responsible for the day-to-day operation of a facility for the care of children.
(6) "Day care staff" means all persons, including volunteers, who work in a Type I or Type II day care facility.
(7) "Facility" shall include both Type I and Type II day care facilities.
(8) "Regularly" means the provision of day care services at a facility on more than one (1) day in any one (1) week.
(9) "Related" means to the third degree of consanguinity.
(10) "Full-time boarding care" means twenty-four (24) hour foster care, which provides substitute family life for a planned period of time, for a child who, of necessity, must be separated from his natural or legal parents.

Section 2. Responsibilities of the Department. (1) Licensing Authority. The department has responsibility for the licensing and supervision of any agency, association, organization, group, or individual who regularly provides full or part-time care during any time of the day or night for four (4) or more children not related to the director, within the third degree of consanguinity, by blood, marriage or adoption. Authorized representatives of the department, the office of the State Fire Marshal, and the Bureau for Health Services shall at all times have the right to inspect premises, records required by this regulation (Section 11) and programs of the day care facilities.
(2) Consultation and training. The department has the responsibility to provide consultation services to day care facilities through individual and group meetings with the staffs and boards, and to provide periodic scheduled workshops and training sessions.

Section 3. Licensing Issuance. (1) The license shall be issued for a specified physical location and for operation by a designated director and sponsor or owner, for specific hours of operation, and for a specified maximum number of children on the premises at any one time. The number for which the facility is licensed shall be determined by available space, adequacy of program, equipment, and staff.
(2) Types of licenses:
(a) A regular license shall be issued when the facility has met all requirements provided for by the regulations of the department under KRS 199.892 to 199.896.
(b) A provisional license shall be issued when the facility does not meet the requirements for a regular license but there is sufficient reason for belief that the facility will comply with minimum regulations within the time period designated by the licensing authority. A provisional license shall be issued for a period not to exceed one (1) year and shall not be renewable.
(3) A license is not transferable. A change in ownership of a facility requires a new application and fee. When circumstances covered by the license change (i.e., a number of children to be served, location, director, hours of operation, when the difference is over one (1) hour), notification shall be made to the department so that a revised license can be issued. This does not require an additional fee. In all cases except change of director, notification shall be made in advance.
(4) The license shall be posted in a conspicuous place.

Section 4. (1) Licensing fee shall be:
(a) $25 for all new facilities.
(b) $10 annual renewal fee for all facilities.
(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the license application.

Section 5. Licensing Procedure. (1) To qualify for a license, a day care facility shall comply with regulations and standards established by the department.

(2) Prior to application, a prospective director contacts the department to obtain a copy of standards and regulations. A representative from the department will be assigned to work with the prospective operator. After conferring with the representative, applicant applies for license.

(a) Complete three (3) copies of the application provided by representative,

(b) Send application, fee, and two (2) completed applications to Department for Human Resources, Division of Licensing and Regulation, or its successor, Frankfort, Kentucky,

(c) Keep one (1) copy on file.

(3) Prior to opening, all day care personnel shall obtain a statement from a physician verifying satisfactory conditions of health and negative reports of VDRL and TB tests. All adults who reside on primises shall have a current report of negative TB test.

Section 6. Permission to Open. (1) No facility subject to licensing shall begin operation without permission to open from the department. In order to open, the facility shall have:

(a) Approval of fire officials having jurisdiction,

(b) Approval of health officials having jurisdiction,

(c) Adequate equipment, supplies, and staff to serve initial enrollment of children.

(2) Once a facility is serving children, license evaluation study will be made by a representative of the department to determine if the facility qualifies for licensing, based on the regulations.

Section 7. License Renewal Procedure. (1) Facilities shall be relicensed annually from the date of issuance of the original license.

(2) The department shall notify the facility when a renewal application shall be filed.

(a) Renewal application shall be mailed to a facility at least six (6) weeks prior to expiration date.

(b) Health and safety inspections shall be requested by the department.

(c) A licensing representative shall visit and make recommendations for relicensing.

Section 8. Basis for Revocation or Denial. The secretary may deny, suspend, or revoke a license at any time the day care facility fails to meet the minimum standards as set out in the regulations.

Section 9. Right of Appeal. (1) When a license has been denied, suspended, or revoked, the director, owner, or president of the governing board, shall be notified in writing of the right to appeal to the secretary or his authorized representative for a hearing. The request for a hearing shall be made in writing within fifteen (15) days after receiving the notice of the action of the secretary.

(2) Upon receipt of the request for a hearing, the secretary or his representative shall notify the director, owner, or president of the governing board in writing within fifteen (15) days of the time and place of the hearing.

(3) A day care facility continuing to have children in attendance after the closing date established by the secretary, shall be subject to legal action by the department as provided by law. Likewise, a facility operating without having made license application shall be subject to legal action.

Section 10. Administrative Responsibilities. (1) General:

(a) The person, corporation, partnership, voluntary association, or other public or private organization ultimately responsible for the overall operation of a child day care facility must be sufficiently familiar with the provisions of the day care regulations to ensure continuing compliance.

(b) One (1) person designated as director shall have primary responsibility to the department for maintaining adequate standards of operation in accordance with the child day care regulations.

(c) Staff shall be instructed in the requirements for operation and a copy of the minimum standards must be available for their use.

(d) Sufficient funds shall be available and utilized to ensure adequate care of the children in accordance with these regulations. No child shall be exploited in fund raising or advertising campaigns. Liability insurance shall be carried by the facility.

(e) All information concerning children, their parents, relatives, or guardian shall be kept in strict confidence by the staff, except for sharing information with individuals who are personally or professionally responsible for the well-being of the child.

(2) Services. The services to be provided within the day care facility shall be clearly stated at the time of the application. The department shall be notified of any change in services. A written statement of services and policies shall be shared with parents.

(3) Staff-child ratios:

(a) Minimum staff-child ratios for all facilities shall be maintained throughout the times that a facility is in operation, as follows:

Age of Children	Ratio
Under one year	1 staff for 5 children
1 to 2 years	1 staff for 6 children
2 to 3 years	1 staff for 8 children
3 to 4 years	1 staff for 10 children
4 to 5 years	1 staff for 12 children
5 to 7 years	1 staff for 15 children
8 and older	1 staff for 20 children

(b) When only one (1) staff member is present in the facility, the age of the youngest child determines the staff-child ratio. In no case may one (1) adult alone provide care for more than ten (10) pre-school children, or for more than fifteen (15) school-age children.

(c) In facilities where more than one (1) staff member is present, the following apply: Mixed age groups including children under two (2) years, one (1) staff for five (5) children; Mixed age groups children, age two (2) to six (6), one (1) staff for ten (10) children; Mixed age groups children age six (6) and older, one (1) staff for fifteen (15) children.

Section 11. Records of the following shall be maintained at the facility: (1) Sufficient records to identify the individual children and to enable the person in charge to communicate with the parents or persons designated as being responsible for the child either at their home or place of employment, and in a medical emergency, with the family physician.

(2) Each child's medical history, along with authorization for emergency medical care, signed by the parent or guardian and left with the center director at the time of enrollment.

(3) Permission for children to be toilet trained, signed by the parent or guardian.

(4) Permission for trips off the premises, signed by the parent or guardian.

(5) Records of non-center sponsored activities attended by school-age children, signed by the parent.

(6) Daily attendance records of children.

(7) Health records of all staff.

(8) A written schedule of staff working hours.

(9) Records of staff training.

(10) A written plan for staff training.

(11) Records of monthly fire drills.

Section 12. Reports of the following shall be made to the department: (1) Any serious occurrences involving children including accident or injury requiring extensive medical care and/or hospitalization; or death; or any form of child abuse; or fire or other emergency situations; or any incident which results in legal action by or against the center which affects any child or children or personnel; within twenty-four (24) hours.

(2) Change of ownership, sponsorship or director; within one (1) week.

(3) Change of location; sufficiently in advance to allow for approval of the facility.

(4) Change of hours of operation (if change exceeds one (1) hour per day); in advance.

(5) Change of staff; within two (2) weeks.

JERRY B. HISSONG, Commissioner

ADOPTED: January 15, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:31 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:020)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
SUPERSEDES: DCW-12
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for Type I day care facilities.

Section 1. Staff. (1) The director shall be a mature, literate adult who is responsible and who has knowledge and understanding of the needs of children.

(2) The director shall have the ability to relate effectively to parents and to assume responsibility for supervision and conduct of staff.

(3) The director shall have the ability and willingness to provide a child care program which meets the regulations set forth.

(4) The director shall cooperate with the licensing and other appropriate agencies to improve the quality of care and competency of staff. This includes attendance by the director and staff at workshops and training sessions. Department-sponsored training is appropriate where accessible; courses or workshops sponsored by other groups may be substituted where appropriate.

(5) Staff members shall have a suitable personality for working with children. Personal qualities must include

patience, flexibility, and imagination. Staff shall have interest in, respect for and acceptance of children.

(6) All members of the child care staff shall be mentally and physically able to provide good care, maintain responsible supervision, and stimulate normal development.

(7) Staff shall have practical knowledge of first aid.

(8) A certificate stating that each staff member is free from any illness which might conflict with the children's interest and including results of VDRL and a tuberculin test shall be a prerequisite to employment or volunteer service. Tuberculin test reports shall be obtained and maintained on file annually thereafter. Additional health examinations may be required where appropriate. All adult household members shall have an annual TB test.

(9) At all times one (1) adult shall be designated as being in charge. At no time shall children be left without adult supervision.

(10) A minimum of two (2) qualified substitutes with current health certificates shall be available in case of need.

(11) Additional staff shall be employed during cooking and cleaning periods if necessary to ensure adequate supervision of the children.

(12) The number of adult workers in a center shall be sufficient to ensure that minors and trainees are at all times under direct supervision. No staff person under the age of sixteen (16) shall be counted as part of the staff-child ratio.

(13) The total child care staff shall be sufficient to provide the services for which the facility is licensed considering the hours of care given, the program offered, the size of the facility, and the number and ages of children under care.

Section 2. Physical Facilities. (1) Building:

(a) The building shall be suitable for the purpose intended with a minimum of thirty-five (35) square feet of space per child used for play, exclusive of the kitchen, bathroom, and storage areas.

(b) If all or any portion of the building is used for purposes other than day care, necessary provisions shall be made to avoid interference with the day care program.

(c) The building shall be so constructed that it is dry, adequately heated, ventilated, lighted, that windows, doors, stoves, heaters, furnaces, pipes, and stairs are protected; that screening is provided on windows and doors which are left open; and that floors are free from splinters and easily cleaned.

(d) There shall be a minimum of one (1) toilet and wash basin for each twenty (20) children. Toilet facilities shall be cleaned and sanitized daily.

(e) The kitchen shall be clean and equipped for the proper preservation, storage, preparation, and serving of food, and shall not be used for any other activities of the center.

(f) The facility shall conform to health and fire safety standards as set out by agencies having jurisdiction.

(g) The center shall be equipped with a telephone accessible to the rooms used by the children.

(h) Plans and specifications for new buildings and/or additions which are to be constructed for day care facilities shall be approved prior to construction by health and fire safety officials having jurisdiction.

(2) Grounds. There shall be an outdoor play area free from litter, glass, rubbish, and inflammable materials and adequate in size to accommodate the number of children using the area at a particular time. The outdoor area shall be suitably surfaced and drained. All facilities shall be fenced unless the department determines that fencing is not necessary for the protection of the children.

(3) Equipment:

(a) There shall be adequate and safe play equipment in good repair, both indoors and outdoors, to meet the physical and other developmental needs and interests of children of different age groups.

(b) Each center shall have enough toys and play apparatus to provide each child with a variety of activities during the day as specified in Section 3.

(c) Tables and chairs shall be of a suitable size for children.

(d) There shall be storage space in the form of low open shelves accessible to the children.

(e) Individual space for children's clothing shall be provided.

(f) An individual cot or crib shall be provided for each child with a sheet and cover which shall be laundered as needed and always upon change of occupancy. Cots and all other equipment and furnishings shall be properly spaced so as to allow free and safe movement by children and adults.

Section 3. Care of the Children. (1) Program. The day care center shall provide a planned program of well-balanced and constructive activities geared to the individual needs and developmental levels of the children served. These activities shall provide experiences which promote the individual child's physical, emotional, social, and intellectual growth and well-being. The daily program shall be under adult supervision and shall provide:

(a) A variety of creative activities including the following: art, music, dramatic play, stories and books, science, and block building.

(b) Indoor and outdoor play in which the children make use of both small and large muscles.

(c) A balance of active and quiet play, including group and individual activities, both indoors and outdoors.

(d) Opportunities for a child to have some free choice of activities and to play alone, if he desires, or with others.

(e) Opportunities to practice self-help procedures in respect to clothing, toileting, hand-washing, and feeding.

(f) Activity areas, equipment, and materials so arranged that the child's activities are visible to the supervising staff.

(g) Regularity of physical routines to afford the child the security of knowing what is coming next.

(h) Sufficient time for activities and routines so that children can progress at their own developmental rate.

(i) No long waiting periods between activities or prolonged periods during which children must stand or sit.

(2) Discipline. Disciplinary methods shall be designed and implemented through positive guidance to help the individual child develop self-control and assume responsibility for his acts. The center shall:

(a) Establish simple and consistent rules both for children and staff that set the limits of behavior.

(b) Not subject children to harsh or physical discipline, nor shall any method of discipline be used that is humiliating, threatening, shaming or frightening, loud, profane or abusive language shall not be used.

(c) Not associate discipline with rest, toileting, or food.

(3) Health:

(a) A current record of each child's medical history and immunization information shall be on file.

(b) Sufficient first aid supplies shall be available to provide prompt and proper first aid treatment. Provisions shall be made for obtaining emergency medical care.

(c) Each child shall be given a daily health inspection upon arrival. Any child showing signs of illness shall not be admitted. If a child becomes ill during the day, he shall be placed in a supervised area isolated from the rest of the children, until arrangements can be made for him to be taken home.

(d) No medication shall be given to a child except as prescribed by a duly licensed physician or on daily written request of the parent or guardian.

(e) Good personal hygiene shall be practiced by all persons in the center and children shall be helped with their personal care and cleanliness in all respects.

(f) The children in attendance shall have sufficient supervised rest for their ages and for the number of hours spent at the facility.

(g) The water supply shall be approved by the local health department. Drinking water shall be freely available and individual drinking cups provided.

(h) Toilet articles such as combs, brushes, toothbrushes, towels and washcloths used by children shall be individual and plainly marked.

(i) All children present at meal time shall be served a nutritious meal which includes a food from each of the four basic food groups. Adequate amounts of food shall be available. The center shall provide a nourishing mid-morning and mid-afternoon snack.

(j) Children shall be seated comfortably at eating time with sufficient room to manage food and implements.

(k) Individual eating utensils shall be of size and design that children can handle easily.

(l) Weekly menus shall be prepared, dated and posted in advance in a conspicuous place.

JERRY B. HISSONG, Commissioner

ADOPTED: January 15, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:31 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:025)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
SUPERSEDES: DCW-13
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for Type II day care facilities.

Section 1. Physical Facilities. (1) Type II Day Care Facility:

(a) The facility shall be so constructed that it is dry, properly heated, ventilated, lighted and cooled; that windows, doors, stoves, heaters, furnaces, pipes, and stairs are protected; that screening is provided; and that the floor is free from splinters

and easily cleaned.
(b) There shall be a minimum of thirty-five (35) square feet of space per child used for play exclusive of kitchen, bathroom, and storage areas.
(c) There shall be enough open space to provide room for all program activities. Furnishings must be properly spaced to allow free and safe movement by children and adults.
(d) There shall be a sanitary toilet and washroom facility accessible to playrooms and playgrounds.
(e) The kitchen shall be clean, equipped for proper preservation, storage, preparation, and serving of food and shall not be used for any other activities of the children.
(f) The facility shall be equipped with a telephone accessible to the rooms used by the children.
(g) Suitable toys and materials for creative activities shall be within reach of the children.
(2) Outdoor Play Area:
(a) There shall be an outdoor play area with adequate protection from hazards.
(b) All facilities shall be fenced unless the department determines that fencing is not necessary for the protection of the children.
(c) The yard shall be free from litter, glass, rubbish, and inflammable materials.
(3) Equipment:
(a) All equipment shall be safe and in good repair. There shall be variety of equipment for play, both indoors and outdoors, to meet the developmental needs and interests of children of different ages.
(b) Tables and chairs shall be suitable size and easily cleanable. They may be used for table activities and/or mealtime.
(c) There shall be low open shelves to afford the child the opportunity of selecting a variety of toys, books, and play equipment. Additional storage space out of the children's reach shall be provided for special materials.
(d) Individual storage space for children's clothing and other belongings shall be provided.
(e) An individual cot, crib, or bed shall be provided for each child with a sheet and cover which shall be laundered as needed and always upon change of occupancy.

Section 2. Staff. (1) Type II Day Care Facility Director:
(a) The director shall be mature, literate adult who is responsible and who has knowledge and understanding of the needs of children.
(b) The director shall be capable of handling an emergency situation promptly and intelligently, and shall have an emergency plan.
(c) The director shall cooperate with the licensing and other appropriate agencies to improve the quality of care and competency of staff. This includes attendance by the director and staff at workshops and training sessions. Department-sponsored training is appropriate where accessible; courses or workshops sponsored by other groups may be substituted where appropriate.
(d) During the hours of operation, the director shall not be gainfully employed in another capacity.
(2) Type II Day Care Facility Director and Assistant:
(a) The director and assistant shall be capable of implementing a program for children which exhibits an understanding of children's needs and stimulates normal development.
(b) The director and assistant shall have practical knowledge of first aid.
(c) At least two (2) qualified substitutes with current health certificate shall be available in case of need.
(d) A favorable physical examination including a VDRL and Tuberculin test shall be obtained by each person before working with the children and shall be kept on file in the home. Additional health examinations may be required when appropriate.
(3) Household:
(a) All adult household members shall obtain an annual Tuberculin test which must be kept on file in the facility.
(b) Activities of anyone living in the facility shall not interfere with the day care program.
Section 3. Care of the Children:
(1) Children under care shall never be left without competent adult supervision.
(2) Program:
(a) The day care facility shall provide a well-balanced daily program of indoor and outdoor activities appropriate for the age levels and interests of the children. These activities shall provide experiences which promote the individual child's physical, emotional, social, and intellectual growth and well-being.
(b) There shall be regularity of routines to provide the children the security of knowing what is coming next, especially with regard to the physical routines of meals, snacks, naps, and toileting.
(c) The program shall include outdoor play each day unless the weather is extremely bad.
(3) Discipline:
(a) Disciplinary methods shall be designed and implemented in such a way as to help the individual child develop his own self controls and to assume responsibility for his own acts.
(b) Simple and consistent rules that set limits of behavior for children and staff shall be established.
(c) Children shall not be subjected to harsh or physical discipline, nor shall any method of discipline be used that is humiliating, threatening, shaming or frightening.
(d) Discipline shall not be associated with rest, toileting, or food.
(4) Health:
(a) A child with symptoms of illness shall not be admitted to the Type II day care facility. If a child becomes ill while in the facility, he shall be placed in a supervised area isolated from the rest of the children while arrangements are made to take him home.
(b) No medication shall be given to a child except on written orders from a duly licensed physician or on the daily written request of the parent or guardian.
(c) Sufficient first aid supplies shall be available for minor emergencies.
(d) Arrangements shall be made with the parent or guardian for emergency medical care.
(e) All children present at meal time shall be served a nutritious meal which includes a food from each of the four (4) basic food groups. Adequate amounts of food shall be available. A nourishing mid-morning and mid-afternoon snack shall be provided.
(f) Weekly menus shall be prepared, dated, and posted in a conspicuous place.
(g) The children shall have sufficient supervised rest for the number of hours spent each day at the home.
(h) Good personal hygiene shall be practiced by all persons in the home and children shall be helped with their personal care and cleanliness.
(i) The water supply shall be from an approved source. Drinking water shall be freely available and individual drinking cups provided.
(j) Toilet articles such as combs, brushes, toothbrushes, towels and washcloths used by children shall be individual and plainly marked.

JERRY B. HISSONG, Commissioner

ADOPTED: January 15, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:030)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to establish minimum standards for care of school-age children.

Section 1. A Type I or Type II day care facility receiving school-age children shall comply with standards prescribed when not inconsistent with special requirements or exceptions as noted below.

Section 2. A school-age child shall be considered one attending first grade or above. Day care for school-age children shall include care given before, after, and/or at times when school is not in session.

Section 3. Physical Facilities. (1) A separate area or room shall be provided for school-age children.
(2) Separate toilet facilities for males and females, or a plan whereby the same facilities are used at separate times, shall be provided.
(3) If the only food served by the center is an afternoon snack for the school-age children, a kitchen is not required if adequate refrigeration is available.
(4) An outdoor play area shall be provided unless there are other provisions made for active play.
(5) There shall be provision made for rest and quiet.

Section 4. Care of the Children. (1) All school-age children shall be provided a snack after school.
(2) A day care facility which admits school-age children shall provide activities for them, according to their ages and individual needs.
(3) The presence of school-age children shall not interfere with or detract from the care of younger children.
(4) The schedule of activities for the school-age children shall at no time call for their supervising themselves or younger children.
(5) The program or schedule shall be flexible enough to enable a child to participate in desirable, nonacademic activities.
(6) Provision shall be made for active play.
(7) In addition to records required by 905 KAR 2:010, Section 11, each child's personal weekday schedule of non-center-sponsored activities shall be provided by the

parent to the center in writing. Written permission of the parent shall be obtained for schedule changes.

JERRY B. HISSONG, Commissioner
ADOPTED: January 30, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:29 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:035)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to establish minimum standards for care of infants and toddlers in day care facilities.

Section 1. Minimum standards as prescribed for child day care facilities shall apply to all infant/toddler care.

Section 2. An infant/toddler shall be considered to be under two (2) years of age.

Section 3. (1) Indoor areas for infant/toddlers shall be separated from areas used by older children.
(2) There shall be adequate crawling space protected from older children away from general traffic patterns of the center.
(3) The area shall be well ventilated, appropriately heated or cooled, free from odors, and direct drafts on children.
(4) Each area used for infants shall have direct access to handwashing facilities.
(5) A protected outdoor area, with sun and shade and out of the traffic pattern of older children, shall be provided.

Section 4. Equipment. (1) There shall be an individual crib or baby bed, appropriate to the age of the child, with waterproof firm mattress and an adequate supply of individual sheets and blankets.
(2) Tiered cribs shall not be allowed. This regulation shall not apply to those in use prior to the effective date of this regulation. There shall be adequate space for storage of individual child's bedding and clothing.
(3) Supplies shall be stored so that the adult may reach them without leaving the child unattended.
(4) There shall be a variety of safe washable toys; appropriate to age levels and number of children present. Toys shall be too large to swallow, durable, and without sharp points or edges.
(5) Comfortable chairs shall be provided for staff to use when feeding, holding or playing with children.
(6) There shall be equipment that encourages creeping, walking, and climbing.

Section 5. Staff Qualifications and Duties. (1) Caregivers for infant/toddlers shall meet all staff qualifications as required under minimum standards.
(2) Caregivers shall have the ability to implement a well balanced daily program to meet the child's total developmental needs.
(3) Caregivers shall have high energy level, as infants/toddlers require constant attention.
(4) Caregivers shall have tolerance for "baby ways" and be sensitive to the changing needs of the child.
(5) Caregivers shall have a special awareness of their impact on the infant/toddler, and enjoy giving care and providing growth experiences for very young children.
(6) Caregivers shall provide safe and supervised environment which will protect the child from hazards.
(7) Caregivers shall have the ability to safeguard health through provision of good sanitation, adequate rest, food and exercise.

Section 6. Daily Schedule. (1) Scheduling shall not be too rigid but should be planned, to allow for some regularity of sleep, feeding, and play times, based on the individual needs of each child.
(2) Schedules shall be changed according to the rate of development of each child.

Section 7. Program. (1) The program shall provide a play environment that invites learning and experimentation, and variety in the child's daily experiences.
(2) Infants/toddlers shall not be left in a crib or playpen for long periods of time while awake.
(3) Infants/toddlers shall be given the stimulation of physical holding.
(4) Infants/toddlers shall have the opportunity to play in an atmosphere of loving attention and alert supervision.
(5) Infant/toddlers shall have opportunities to move about safely to explore, look, listen, and manipulate, but also must be protected from over stimulation.
(6) The caregiver shall set firm limits on actions that are dangerous or objectionable while never resorting to any method of harsh punishment.

Section 8. Diapering and Toilet Training. (1) Diapering and toilet training shall be a relaxed, pleasant activity. Written parent permission shall be obtained before toilet training is begun.
(2) Adequate quantities of freshly laundered or disposable diapers and clean clothing shall be always on hand.
(3) The infants/toddlers shall be kept clean, dry and comfortable throughout the day. Diapers and/or wet clothing shall be changed promptly.
(4) Soiled diapers shall be stored in covered containers temporarily and shall be washed at least once a day.
(5) When changing table is used, each child shall lie on a fresh washable or disposable covering.
(6) Individual washcloths and towels shall be used to thoroughly dry the child's buttocks.
(7) When training chairs are used, they shall be emptied promptly and sanitized at least once a day.
(8) Caregivers shall wash hands after diapering or toileting each child.

Section 9. Feeding. (1) The infant's formula shall be prepared and provided by the parent.
(2) Bottles shall be individually labeled and promptly refrigerated.
(3) Bottles, nipples, and all other feeding equipment shall be properly sterilized before use.
(4) Caregivers shall wash hands immediately before feeding children.
(5) At no time shall a child be placed in bed with a propped bottle.
(6) At no time shall a child be allowed to carry a bottle around with him.
(7) Infants/toddlers shall be introduced gradually to new foods and new skills; e.g., cup feeding, and shall be allowed to help feed themselves.

Section 10. Sleeping. (1) Each child shall have a separate crib or cot for sleeping located in a quiet area.
(2) Each child's bedding shall be used for him/her only, and replaced when wet or soiled.
(3) When the caregiver is not actually in the sleeping room, doors shall be left open and a staff member shall be stationed on the same floor in an area adjacent to the sleeping room.
(4) Infant/toddlers' shoes and restrictive clothing shall be removed for sleep periods.

Section 11. Health and Safety. (1) Efforts shall be maintained to protect infant/toddlers from special dangers.
(2) An infant/toddler who has a communicable infection shall be promptly isolated with supervision until the parent picks him/her up.

Section 12. Records. Records required by 905 KAR 2:010, Section 11, shall be maintained. In addition, parents shall supply a record of the child's usual daily schedule at home, when child is entered in center.

JERRY B. HISSONG, Commissioner
ADOPTED: January 30, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:040)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to establish minimum standards for nighttime care.

Section 1. Nighttime care facilities are defined as facilities in which children are received for periodic care during the night when a single parent, or both parents, are absent from home because of employment, emergency, or other reasonable circumstances. A facility may be licensed for either day care or nighttime care, or both if circumstances permit.

Section 2. Minimum standards and regulations prescribed in 905 KAR 2:010, 905 KAR 2:020 and 905 KAR 2:025 apply also to nighttime care facilities. The premises of a licensed nighttime care facility shall meet the requirements of a day care facility. In addition, nighttime care facilities shall meet the requirements of the following sections.

Section 3. Services. (1) Hours of operation shall be stated on license application. The facility shall operate only during specified hours.
(2) No child in care is permitted to spend more than sixteen (16) hours in the facility during one (1) twenty-four (24) hour period or day. Where school-age children are served, time spent in school shall be included in the sixteen (16) hour limit.

Section 4. Responsibility. A nighttime director who is also a day care director shall employ additional staff to work

in the facility at night.

Section 5. Staff. (1) Staff members shall remain awake while on duty.
(2) At least one (1) staff member shall be stationed in an area on the same floor with the children, either in or adjacent to each sleeping room.
(3) The total child care staff shall be sufficient to provide the services for which the facility is licensed considering the hours of care given, the program offered, the size of the facility, and the number and ages of children under care. The adult/child ratio shall not be less than set out in the general requirements. Additional staff shall be employed during cooking and cleaning periods if necessary to insure adequate supervision of the children.

Section 6. Building. (1) A kitchen shall be available if meals are to be served.
(2) Adequate facilities shall be available for individual bathing, toileting, and toothbrushing.

Section 7. Equipment. (1) Cots, cribs, or beds, all with good firm mattresses, protected with waterproof materials, kept clean at all times, shall be provided for each child if his sleeping period is more than three (3) hours.
(2) A sheet and cover, laundered as needed and always upon change of occupancy, shall be used on each bed.
(3) There shall be at least two (2) feet of space between each bed.

Section 8. Program. (1) A nighttime care facility, if children are present for extended periods of time during their waking hours, shall provide a basic program of well-balanced and constructive activities geared to the age levels and developmental needs of the children served.
(2) Appropriate quiet activities shall be provided before bedtime.

Section 9. Health. (1) Toilet articles shall be individual and identified for each child. Bathing and toothbrushing schedules shall be arranged with parents.
(2) Children sleeping three (3) hours or more shall sleep in pajamas or nightgowns, not in daytime clothes. School children shall receive breakfast if they go to school from the center, and they shall be groomed and dressed appropriately.

JERRY B. HISSONG, Commissioner
ADOPTED: January 15, 1975
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DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services
(905 KAR 2:060)

RELATES TO: KRS 199.892 to 199.896
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to establish minimum standards for transportation of children in day care.

Section 1. When transportation is provided or arranged by a day care facility, staff shall be protected by adequate provision for staff supervision as specified in 905 KAR 2:010, Section 10(3), and safety precautions. There shall be conformance to state laws pertaining to vehicles, drivers, and insurance.

Section 2. The following requirements shall be met when a day care facility provides or arranges transportation:
(1) Any center providing transportation service shall have an individualized written plan and statement of transportation policies and procedures.
(2) Each child shall have a seat and remain seated while the vehicle is in motion.
(3) On any vehicle equipped with seat belts, these shall be used to secure individual children.
(4) No vehicle shall be used to transport more individuals than its rated capacity.
(5) A vehicle containing children shall never be left unattended.
(6) The maximum number of children under the age of six (6) a driver shall supervise is five (5), including a maximum of two (2) under age two (2).
(7) A child under age six (6) shall not be left unattended at the time of delivery.
(8) If the parent, or a person authorized by the parent to accept the child, is not present upon delivery of the child, a note shall be left explaining where the child can be picked up.
(9) If anyone other than an authorized person is to receive the child, such arrangements shall be made, in person, by the parent or guardian.
(10) Any vehicle other than those covered under Kentucky school bus regulations for Type I or Type II vehicles, shall not pick up and deliver children to a location which would require the child to cross the street or highway unless accompanied by a responsible person.

Section 3. The following regulations shall be met when transportation is provided by any means other than licensed public transportation.
(1) The vehicle shall be maintained in excellent condition at all times.
(2) The vehicle used for transportation shall be covered by passenger liability insurance.
(3) A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least every six months.
(4) The vehicle shall be checked, every day that it is used for transporting children, by the day care director or a delegated adult. Special attention shall be given to the steering mechanism, brakes, tires, and exhaust system, to assure that the vehicle is in good operating condition.
(5) Any defects in the vehicle shall be reported immediately to the day care director. The vehicle shall not be used for transporting children until all defects are corrected.
(6) Vehicles used to transport children, which require other traffic to stop while loading and unloading children at their various homes along public highways, shall meet the Kentucky school bus regulations for Type I and Type II vehicles.
(7) The driver of the vehicle transporting children shall meet the same general qualifications as those set forth for other members of the day care staff.
(8) The driver shall hold an appropriate license to transport children.
(9) The driver shall drive safely and defensively at all times.
(10) The motor shall be turned off, keys removed, and brake set anytime the driver is not in the driver's seat.

JERRY B. HISSONG, Commissioner
ADOPTED: January 15, 1975
APPROVED: C. LESLIE DAWSON, Secretary
RECEIVED BY LRC: February 14, 1975 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Capitol Annex, Frankfort, Kentucky 40601.

References to Kentucky Revised Statutes

KRS Section	Regulation No.
2.110	703 KAR 2:020
2.190	703 KAR 2:020
12.080	200 KAR 1:010E
	200 KAR 1:010
Chapter 13	1 KAR 1:010
15.020	40 KAR 1:010
15.025	40 KAR 1:020
16.050	502 KAR 5:010E
	502 KAR 5:010
16.080	502 KAR 5:010E
	502 KAR 5:010
17.210	806 KAR 50:100
18.110	101 KAR 1:010
	101 KAR 1:040
	101 KAR 1:070
	101 KAR 1:090
	101 KAR 1:100
	101 KAR 1:110
	101 KAR 1:120
18.120	101 KAR 1:020
18.140	101 KAR 1:090
18.160	101 KAR 1:030
18.170	101 KAR 1:020
	101 KAR 1:040
	101 KAR 1:050
	101 KAR 1:080
	101 KAR 1:120
	101 KAR 1:130
	101 KAR 1:140
18.190	101 KAR 1:020
	101 KAR 1:050
	101 KAR 1:060
	101 KAR 1:070
	101 KAR 1:080
	101 KAR 1:110
	101 KAR 1:140
18.210	101 KAR 1:020
	101 KAR 1:040
	101 KAR 1:050
	101 KAR 1:060
	101 KAR 1:070
	101 KAR 1:080
	101 KAR 1:090
	101 KAR 1:100
	101 KAR 1:110
	101 KAR 1:120
	101 KAR 1:140
18.220	101 KAR 1:020
	101 KAR 1:040
	101 KAR 1:110
	101 KAR 1:200
18.240	101 KAR 1:040
	101 KAR 1:050
	101 KAR 1:080
	101 KAR 1:120
18.250	101 KAR 1:060
	101 KAR 1:070
	101 KAR 1:090
	101 KAR 1:100
18.260	101 KAR 1:020
18.270	101 KAR 1:110
	101 KAR 1:120
	101 KAR 1:130
18.300	101 KAR 1:020
18.310	101 KAR 1:020
18.320	101 KAR 1:020
Chapter 42	200 KAR 2:030E
	200 KAR 2:030
	200 KAR 2:060E
	200 KAR 2:060
Chapter 44	200 KAR 2:030E
	200 KAR 2:030
	200 KAR 2:060E
	200 KAR 2:060
Chapter 45	200 KAR 2:030E
	200 KAR 2:030
	200 KAR 2:060E
	200 KAR 2:060
Chapter 56	200 KAR 3:010E
	200 KAR 3:010
61.552	102 KAR 1:185
61.680	102 KAR 1:185
Chapter 66	200 KAR 10:030
116.025	31 KAR 1:010
118.790	31 KAR 1:010
121.160	801 KAR 1:005
121.170	801 KAR 1:040E
	801 KAR 1:040
121.180(1)	801 KAR 1:010E
	801 KAR 1:010
121.180(2)	801 KAR 1:020E
	801 KAR 1:020
	801 KAR 1:030E
	801 KAR 1:030
131.110	103 KAR 1:010
131.130	103 KAR 18:090
131.340	103 KAR 1:010
131.345	103 KAR 1:010
	802 KAR 1:010
131.360	103 KAR 1:010
131.365	103 KAR 1:010
131.370	103 KAR 1:010
138.140	103 KAR 41:130
138.146	103 KAR 41:100
	103 KAR 41:130
138.155	103 KAR 41:110
138.195	103 KAR 41:030
	103 KAR 41:120
138.341	103 KAR 43:080
	103 KAR 43:090
138.342	103 KAR 43:080
139.050	103 KAR 26:020
	103 KAR 26:060
	103 KAR 26:090
	103 KAR 27:080
	103 KAR 27:090
	103 KAR 27:100
	103 KAR 27:170
	103 KAR 28:020
	103 KAR 28:040
	103 KAR 28:060
	103 KAR 28:100
	103 KAR 30:020
	103 KAR 30:030
	103 KAR 30:040
	103 KAR 30:050
	103 KAR 30:060
	103 KAR 30:070
	103 KAR 30:150
	103 KAR 30:160
	103 KAR 31:050
	103 KAR 31:060
	103 KAR 31:070
	103 KAR 31:080
	103 KAR 31:090
139.080	103 KAR 31:080
139.090	103 KAR 26:050
	103 KAR 28:050
	103 KAR 31:080
139.100	103 KAR 25:050
	103 KAR 26:020
	103 KAR 26:060
	103 KAR 26:090
	103 KAR 26:100
	103 KAR 27:030
	103 KAR 27:040
	103 KAR 27:140
	103 KAR 27:180
	103 KAR 28:010
	103 KAR 28:070
	103 KAR 28:100
	103 KAR 28:130
	103 KAR 30:020
	103 KAR 30:080
	103 KAR 30:100
	103 KAR 30:130
	103 KAR 30:150
	103 KAR 30:160
	103 KAR 31:080
139.110	103 KAR 26:010
	103 KAR 26:020
	103 KAR 26:030
	103 KAR 26:040
	103 KAR 26:060
	103 KAR 26:080
	103 KAR 26:090
	103 KAR 26:100
	103 KAR 27:010
	103 KAR 27:020
	103 KAR 27:030
	103 KAR 27:040
	103 KAR 27:050
	103 KAR 27:080
	103 KAR 27:090
	103 KAR 27:120
	103 KAR 27:140
	103 KAR 27:150
	103 KAR 27:180
	103 KAR 28:010
	103 KAR 28:070
	103 KAR 28:100
	103 KAR 28:130
	103 KAR 30:020
	103 KAR 30:080
	103 KAR 30:100
	103 KAR 30:150
	103 KAR 30:160
	103 KAR 31:080
139.120	103 KAR 26:020
	103 KAR 26:050
	103 KAR 26:060
	103 KAR 26:090
	103 KAR 26:100
139.120	103 KAR 27:030
	103 KAR 27:040
	103 KAR 27:120
	103 KAR 27:180
	103 KAR 28:010
	103 KAR 30:080
	103 KAR 30:100
	103 KAR 30:150
	103 KAR 30:160
	103 KAR 31:050
	103 KAR 31:060
	103 KAR 31:070
	103 KAR 31:080
139.140	103 KAR 26:100
	103 KAR 27:030
	103 KAR 27:180
	103 KAR 28:010
	103 KAR 30:080
	103 KAR 30:100
139.150	103 KAR 30:130
139.160	103 KAR 26:060
	103 KAR 28:090
139.170	103 KAR 30:120
139.190	103 KAR 26:050
	103 KAR 27:120
139.210	103 KAR 28:120
139.230	103 KAR 28:120
139.240	103 KAR 25:070
139.250	103 KAR 25:070
139.260	103 KAR 31:110
139.270	103 KAR 31:110
139.280	103 KAR 31:110
139.290	103 KAR 28:050
	103 KAR 31:100
	103 KAR 31:110
139.300	103 KAR 31:110
139.310	103 KAR 25:040
	103 KAR 27:040
139.320	103 KAR 25:110
	103 KAR 28:050
139.340	103 KAR 25:100
139.350	103 KAR 31:040
139.390	103 KAR 25:100
139.400	103 KAR 31:030
	103 KAR 31:110
139.410	103 KAR 31:110
139.420	103 KAR 31:110
139.430	103 KAR 28:050
	103 KAR 31:100
	103 KAR 31:110
139.440	103 KAR 31:110
139.470	103 KAR 26:050
	103 KAR 27:010
	103 KAR 27:180
	103 KAR 28:070
	103 KAR 30:040
	103 KAR 30:220E
	103 KAR 30:220
139.472	103 KAR 26:020
	103 KAR 30:020
139.480	103 KAR 30:120
139.490	103 KAR 31:110
	103 KAR 31:120
139.500	103 KAR 30:030
	103 KAR 30:130
139.550	103 KAR 25:060
139.560	103 KAR 25:060
139.670	103 KAR 31:150
139.680	103 KAR 31:150
139.700	103 KAR 25:040
139.710	103 KAR 31:030
139.720	103 KAR 31:020
139.760	103 KAR 1:010
	103 KAR 31:110
139.980(4)	103 KAR 1:010
139.990	103 KAR 31:110
141.010	103 KAR 16:010
	103 KAR 17:060
	103 KAR 17:070
	103 KAR 17:090
	103 KAR 19:010
	103 KAR 19:030
141.012	103 KAR 16:030
141.020	103 KAR 17:010
	103 KAR 17:030
	103 KAR 17:060
	103 KAR 17:070
	103 KAR 19:010
141.021	103 KAR 17:080
141.030	103 KAR 19.010
141.042	103 KAR 15:050
	103 KAR 15:060
141.050	103 KAR 17:020
	103 KAR 18:090
141.070	103 KAR 18:010
141.081	103 KAR 17:050
141.082	103 KAR 17:050
141.120	103 KAR 16:050
	103 KAR 16:060
	103 KAR 16:070
	103 KAR 16:080
	103 KAR 16:090
	103 KAR 16:100
	103 KAR 16:110
	103 KAR 16:120
	103 KAR 16:130
	103 KAR 16:150
	103 KAR 16:160
141.170	103 KAR 15.050
141.180	103 KAR 17:020
	103 KAR 17:030
141.190	103 KAR 19:010
141.206	103 KAR 19:030
141.210	103 KAR 15:040
141.215	103 KAR 17:040
141.235	103 KAR 15:040
141.300	103 KAR 15:050
	103 KAR 15:060
141.305	103 KAR 15:060
141.310	103 KAR 18:010
	103 KAR 18:120
141.315	103 KAR 18:060
	103 KAR 18:070
	103 KAR 18:080
141.320	103 KAR 18:010
141.325	103 KAR 18:100
141.330	103 KAR 18:020
	103 KAR 18:030
	103 KAR 18:040
	103 KAR 18:050
141.335	103 KAR 18:050
141.355	103 KAR 18:020
141.370	103 KAR 18:110
141.990	103 KAR 15:060
146.110	401 KAR 2:010
	401 KAR 2:020
Chapter 147A	200 KAR 10:010
150.010	301 KAR 1:057
	301 KAR 1:060
	301 KAR 1:080
	301 KAR 1:125
	301 KAR 1:130
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
150.022(1)	301 KAR 4:010
150.025	301 KAR 1:010
	301 KAR 1:012
	301 KAR 1:015
	301 KAR 1:016
	301 KAR 1:020
	301 KAR 1:030
	301 KAR 1:035
	301 KAR 1:040
	301 KAR 1:050
	301 KAR 1:055
	301 KAR 1:075
	301 KAR 1:080
	301 KAR 1:082
	301 KAR 1:085
	301 KAR 1:090
	301 KAR 1:110
	301 KAR 1:122
	301 KAR 1:130
	301 KAR 1:132
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
	301 KAR 2:010
	301 KAR 2:020
	301 KAR 2:022E
	301 KAR 2:025

KRS Section	Regulation No.
150.025	301 KAR 2:040
	301 KAR 2:055
	301 KAR 3:020
	301 KAR 3:030
	301 KAR 3:060
	301 KAR 4:010
150.090	301 KAR 1:012
	301 KAR 1:015
	301 KAR 1:016
150.105	301 KAR 2:025
150.110	301 KAR 1:085
150.120	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
150.170	301 KAR 1:035
	301 KAR 1:085
	301 KAR 1:100
	301 KAR 1:130
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
	301 KAR 2:040
	301 KAR 2:050
150.175	301 KAR 1:020
	301 KAR 1:030
	301 KAR 1:035
	301 KAR 1:057
	301 KAR 1:070
	301 KAR 1:075
	301 KAR 1:082
	301 KAR 1:085
	301 KAR 1:090
	301 KAR 1:100
	301 KAR 1:120
	301 KAR 1:122
	301 KAR 1:130
	301 KAR 1:132
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
	301 KAR 2:030
	301 KAR 2:040
	301 KAR 3:020
	301 KAR 3:050
150.176	301 KAR 2:050
	301 KAR 3:050
150.180	301 KAR 1:120
	301 KAR 1:122
	301 KAR 1:125
	301 KAR 1:132
	301 KAR 2:070
150.183	301 KAR 3:060
150.190	301 KAR 1:085
	301 KAR 1:120
	301 KAR 1:122
	301 KAR 2:030
150.225	301 KAR 3:020
150.235	301 KAR 1:120
150.237	301 KAR 3:020
150.240	301 KAR 2:040
150.250	301 KAR 1:031
	301 KAR 1:035
	301 KAR 1:120
150.280	301 KAR 1:115
	301 KAR 1:132
	301 KAR 2:020
	301 KAR 2:060
	301 KAR 2:070
150.290	301 KAR 1:115
	301 KAR 2:060
150.300	301 KAR 2:021E
	301 KAR 3:010
	301 KAR 4:020
150.305	301 KAR 2:021E
	301 KAR 2:022E
	301 KAR 3:050
150.310	301 KAR 3:050
150.320	301 KAR 2:021E
150.330	301 KAR 2:021E
	301 KAR 2:022E
	301 KAR 2:040
	301 KAR 3:030
150.340	301 KAR 1:130
	301 KAR 2:021E
	301 KAR 2:022E
150.360	301 KAR 1:075
	301 KAR 1:082
	301 KAR 1:090
	301 KAR 2:021E
	301 KAR 2:022E
	301 KAR 2:025
	301 KAR 2:050
	301 KAR 3:050
150.390	301 KAR 3:050
150.400	301 KAR 2:010
150.412	301 KAR 2:030
[illegible]	[illegible]
150.445	[illegible]
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155

KRS Section	Regulation No.
150.450	301 KAR 1:115
	301 KAR 1:130
	301 KAR 1:132
	301 KAR 1:145
	301 KAR 1:150
	301 KAR 1:155
150.460	301 KAR 3:010
150.470	301 KAR 1:020
	301 KAR 1:035
	301 KAR 1:055
	301 KAR 1:075
150.485	301 KAR 1:115
	301 KAR 1:120
	301 KAR 1:125
150.510	301 KAR 1:085
150.520	301 KAR 1:085
150.600	301 KAR 2:055
	301 KAR 4:020
150.620	301 KAR 1:010
	301 KAR 1:012
	301 KAR 1:015
	301 KAR 1:016
	301 KAR 1:040
	301 KAR 1:050
	301 KAR 3:010
150.625	301 KAR 1:012
	301 KAR 1:015
	301 KAR 1:016
150.640	301 KAR 1:016
	301 KAR 3:010
	301 KAR 3:012
150.650	301 KAR 1:100
	301 KAR 1:110
150.660	301 KAR 1:100
150.670	301 KAR 1:100
150.990	301 KAR 1:050
	301 KAR 1:055
151.140	401 KAR 4:010
151.160	401 KAR 4:010
152.105–152.190	902 KAR 100:001
	902 KAR 100:005
	902 KAR 100:010
	902 KAR 100:015
	902 KAR 100:020
	902 KAR 100:025
	902 KAR 100:030
	902 KAR 100:035
	902 KAR 100:040
	902 KAR 100:045
	902 KAR 100:050
	902 KAR 100:055
	902 KAR 100:060
	902 KAR 100:065
	902 KAR 100:070
	902 KAR 100:075
	902 KAR 100:080
	902 KAR 100:085
	902 KAR 100:090
	902 KAR 100:095
	902 KAR 100:100
	902 KAR 100:105
	902 KAR 100:110
	902 KAR 100:115
	902 KAR 100:120
	902 KAR 100:125
	902 KAR 100:130
	902 KAR 100:135
	902 KAR 100:140
	902 KAR 100:145
	902 KAR 100:150
	902 KAR 100:155
	902 KAR 100:160
	902 KAR 100:165
	902 KAR 100:170
156.010	705 KAR 3:080
156.015	705 KAR 3:080
156.022	702 KAR 2:010
	702 KAR 2:020
	702 KAR 2:030
	702 KAR 2:040
	702 KAR 2:050
	702 KAR 2:060
	702 KAR 2:070
	702 KAR 2:080
	702 KAR 2:090
	702 KAR 2:100
156.070	702 KAR 3:130
	702 KAR 3:150
	705 KAR 2:090
	705 KAR 3:010
	705 KAR 3:020
	705 KAR 3:030
	705 KAR 3:040
	705 KAR 3:050
	705 KAR 3:060
	705 KAR 5:060
	705 KAR 7:010
	705 KAR 7:020

KRS Section	Regulation No.
156.070	705 KAR 7:030
	705 KAR 7:040
	705 KAR 11:010
	705 KAR 11:020
	705 KAR 11:030
	705 KAR 11:040
	705 KAR 11:050
156.100	703 KAR 1:010
	703 KAR 1:020
	703 KAR 1:030
	703 KAR 1:040
	703 KAR 1:050
	703 KAR 1:060
	703 KAR 1:070
	703 KAR 1:080
	703 KAR 3:040
	704 KAR 2:010
	704 KAR 10:010
	705 KAR 1:010
	705 KAR 11:010
	705 KAR 11:020
	705 KAR 11:030
	705 KAR 11:040
	705 KAR 11:050
156.130	703 KAR 3:010
	703 KAR 3:020
	703 KAR 3:030
156.160	702 KAR 3:045
	702 KAR 3:120
	704 KAR 4:010
	704 KAR 4:020
156.200	703 KAR 1:070
156.265	705 KAR 2:090
156.480	703 KAR 1:070
156.485	705 KAR 7:010
	705 KAR 7:020
	705 KAR 7:030
	705 KAR 7:040
Chapter 157	703 KAR 2:040
157.200–157.305	704 KAR 1:020
	704 KAR 1:030
157.200(6)	704 KAR 1:010
157.290	704 KAR 1:010
157.312	704 KAR 5:050
157.315	704 KAR 5:050
157.320	705 KAR 3:010
	705 KAR 3:020
	705 KAR 3:030
	705 KAR 3:040
	705 KAR 3:050
	705 KAR 3:060
	705 KAR 5:010
157.320(10)	704 KAR 1:010
157.320(13)	702 KAR 3:070
	702 KAR 3:075
157.360	704 KAR 3:030
	704 KAR 3:040
	704 KAR 3:050
	704 KAR 3:060
	704 KAR 3:070
	704 KAR 3:080
	704 KAR 3:090
	704 KAR 3:100
	704 KAR 3:110
	704 KAR 3:120
	704 KAR 3:130
	704 KAR 3:140
	704 KAR 3:150
	704 KAR 3:160
	704 KAR 3:170
	704 KAR 3:180
	704 KAR 3:190
	704 KAR 3:200
	704 KAR 3:210
	704 KAR 3:220
	704 KAR 3:230
	704 KAR 3:240
	704 KAR 3:250
	704 KAR 3:260
	704 KAR 3:270
	704 KAR 5:050
157.360(5)	704 KAR 1:010
157.360(6)	704 KAR 3:010
157.360(10)	702 KAR 3:160
157.390	702 KAR 3:070
	702 KAR 3:100
	704 KAR 20:010
	704 KAR 20:015
	704 KAR 20:020
	704 KAR 20:025
157.390(2)(a)	702 KAR 1:020
157.420(1)	702 KAR 3:060
	702 KAR 3:070
	702 KAR 3:100
157.420(2)	702 KAR 3:060
[illegible]	[illegible]
[illegible]	[illegible]
158.035	902 KAR 2:060
158.060	703 KAR 2:010

KRS Section	Regulation No.
158.070	703 KAR 2:010
	703 KAR 2:020
	704 KAR 5:050
	704 KAR 15:050
158.080	704 KAR 3:020
158.090	704 KAR 5:050
158.300	704 KAR 5:010
	704 KAR 5:050
158.310	704 KAR 5:010
158.320	704 KAR 5:010
158.330	704 KAR 5:010
158.340	704 KAR 5:010
158.350	704 KAR 5:010
159.170	703 KAR 2:030
159.240	703 KAR 2:030
159.260	703 KAR 2:030
160.380	703 KAR 1:020
	703 KAR 1:030
	703 KAR 1:040
	703 KAR 1:050
	703 KAR 1:060
160.470	702 KAR 3:110
160.550	702 KAR 3:050
160.560	702 KAR 3:040
160.560(4)	702 KAR 3:080
160.570	702 KAR 3:090
161.010	704 KAR 15:080
161.020	703 KAR 1:020
	704 KAR 20:005
	704 KAR 20:055
	704 KAR 20:060
	704 KAR 20:065
	704 KAR 20:070
	704 KAR 20:075
	704 KAR 20:080
	704 KAR 20:085
	704 KAR 20:090
	704 KAR 20:095
	704 KAR 20:100
	704 KAR 20:105
	704 KAR 20:110
	704 KAR 20:115
	704 KAR 20:125
	704 KAR 20:130
	704 KAR 20:135
	704 KAR 20:140
	704 KAR 20:145
	704 KAR 20:150
	704 KAR 20:155
	704 KAR 20:160
	704 KAR 20:175
	704 KAR 20:180
	704 KAR 20:185
	704 KAR 20:190
	704 KAR 20:195
	704 KAR 20:200
	704 KAR 20:205
	704 KAR 20:210
	704 KAR 20:215
	704 KAR 20:220
161.025	704 KAR 15:010
	704 KAR 15:020
	704 KAR 15:030
	704 KAR 15:040
	704 KAR 20:005
	704 KAR 20:030
	704 KAR 20:065
	704 KAR 20:070
	704 KAR 20:075
	704 KAR 20:080
	704 KAR 20:085
	704 KAR 20:090
	704 KAR 20:095
	704 KAR 20:100
	704 KAR 20:105
	704 KAR 20:110
	704 KAR 20:115
	704 KAR 20:125
	704 KAR 20:130
	704 KAR 20:135
	704 KAR 20:140
	704 KAR 20:145
	704 KAR 20:150
	704 KAR 20:155
	704 KAR 20:160
	704 KAR 20:165
	704 KAR 20:175
	704 KAR 20:180
	704 KAR 20:185
	704 KAR 20:190
	704 KAR 20:195
	704 KAR 20:200
	704 KAR 20:205
	704 KAR 20:215
	704 KAR 20:220
161.030	704 KAR 15:010
[illegible]	[illegible]
[illegible]	[illegible]
	704 KAR 15:080
	704 KAR 20:005
	704 KAR 20:015

KRS Section	Regulation No.
161.030	704 KAR 20:020
	704 KAR 20:025
	704 KAR 20:030
	704 KAR 20:035
	704 KAR 20:040
	704 KAR 20:045
	704 KAR 20:050
	704 KAR 20:055
	704 KAR 20:060
	704 KAR 20:065
	704 KAR 20:070
	704 KAR 20:075
	704 KAR 20:080
	704 KAR 20:085
	704 KAR 20:090
	704 KAR 20:095
	704 KAR 20:100
	704 KAR 20:105
	704 KAR 20:110
	704 KAR 20:115
	704 KAR 20:125
	704 KAR 20:130
	704 KAR 20:135
	704 KAR 20:140
	704 KAR 20:145
	704 KAR 20:150
	704 KAR 20:155
	704 KAR 20:160
	704 KAR 20:165
	704 KAR 20:170
	704 KAR 20:175
	704 KAR 20:180
	704 KAR 20:185
	704 KAR 20:190
	704 KAR 20:195
	704 KAR 20:200
	704 KAR 20:205
	704 KAR 20:215
	704 KAR 20:220
161.035	704 KAR 20:060
161.044	704 KAR 15:080
161.100	704 KAR 20:120
	704 KAR 20:210
161.124	704 KAR 20:035
161.140	703 KAR 1:020
	703 KAR 1:030
	703 KAR 1:050
	703 KAR 1:060
161.152	703 KAR 1:040
161.159	702 KAR 1:030
161.220	102 KAR 1:037
	102 KAR 1:039
	102 KAR 1:130
161.220– 161.710	102 KAR 1:010
161.340	102 KAR 2:010
161.430	102 KAR 1:175
	102 KAR 1:180
161.440	102 KAR 1:135
161.470	102 KAR 1:039
	102 KAR 1:060
161.507	102 KAR 1:055
161.515	102 KAR 1:050
161.520	102 KAR 1:165
161.540	102 KAR 1:039
161.545	102 KAR 1:030
	102 KAR 1:036
	102 KAR 1:038
	102 KAR 1:110
161.555	102 KAR 1:130
161.560	102 KAR 1:125
161.580	102 KAR 1:135
161.590	102 KAR 1:045
161.600	102 KAR 1:070
161.605	102 KAR 1:035
161.607	102 KAR 1:040
161.620	102 KAR 1:020
	102 KAR 1:150
161.630	102 KAR 1:145
	102 KAR 1:150
	102 KAR 1:160
161.640	102 KAR 1:070
	102 KAR 1:155
161.661	102 KAR 1:140
161.675	102 KAR 1:100
161.705	102 KAR 1:115
	102 KAR 1:120
	102 KAR 1:150
	102 KAR 1:160
161.706	102 KAR 1:185
162.060	702 KAR 3:020
	705 KAR 3:080
162.140	702 KAR 3:030
162.170	702 KAR 3:020
162.180	702 KAR 3:020
162.300	702 KAR 3:030
163.010	705 KAR 3:010
	705 KAR 3:020
	705 KAR 3:030
	705 KAR 3:040
	705 KAR 3:050
	705 KAR 3:060

KRS Section	Regulation No.
163.020	705 KAR 2:090
	705 KAR 5:030
163.030	705 KAR 3:010
	705 KAR 3:020
	705 KAR 3:030
	705 KAR 3:040
	705 KAR 3:050
	705 KAR 3:060
	705 KAR 5:010
	705 KAR 5:020
	705 KAR 5:030
	705 KAR 5:040
	705 KAR 5:060
	705 KAR 11:010
	705 KAR 11:020
	705 KAR 11:030
	705 KAR 11:040
	705 KAR 11:050
163.330	705 KAR 10:020
163.340	705 KAR 10:010
	705 KAR 10:050
163.360	705 KAR 10:010
	705 KAR 10:040
	705 KAR 10:050
	705 KAR 10:060
	705 KAR 10:070
	705 KAR 10:080
	705 KAR 10:090
	705 KAR 10:100
	705 KAR 10:120
164.740– 164.764	11 KAR 1:010E
	11 KAR 1:010
	705 KAR 8:010
171.650	200 KAR 1:010E
	200 KAR 1:010
175.450	603 KAR 5:010
176.050	603 KAR 5:010
177.220	603 KAR 5:010
	603 KAR 5:020
	603 KAR 5:025
177.230	603 KAR 5:020
	603 KAR 5:025
	603 KAR 5:040
177.240	603 KAR 5:020
177.300	603 KAR 5:025
177.310	603 KAR 5:010
177.410	603 KAR 5:010
177.440	603 KAR 5:010
180.320	705 KAR 5:030
Chapter 183	602 KAR 1:010
	602 KAR 1:020
	602 KAR 1:030
	602 KAR 1:040
183.530– 183.620	602 KAR 1:025
	602 KAR 1:050
	602 KAR 1:060
	602 KAR 1:070
	602 KAR 1:080
183.140– 183.160	602 KAR 10:010
Chapter 186	601 KAR 12:010
186.570(1)(c)	601 KAR 13:010
189.190	603 KAR 5:025
189.222	601 KAR 1:010
	601 KAR 1:020E
	601 KAR 1:020
	603 KAR 6:010
	603 KAR 6:011
	603 KAR 6:012
	603 KAR 6:013
	603 KAR 6:014
	603 KAR 6:015
	603 KAR 6:016
	603 KAR 6:017
	603 KAR 6:018
	603 KAR 6:019
	603 KAR 6:020
	603 KAR 6:021
	603 KAR 6:022
	603 KAR 6:023
	603 KAR 6:024
	603 KAR 6:025
	603 KAR 6:026
	603 KAR 6:028
	603 KAR 6:029
	603 KAR 6:030
189.271	601 KAR 1:020E
	601 KAR 1:020
189.338	603 KAR 5:030
189.340	603 KAR 5:025
189.645	601 KAR 10:050
	601 KAR 10:060
189.647	601 KAR 10:030
	601 KAR 10:040
	601 KAR 10:050
189.651	601 KAR 10:010
	601 KAR 10:040
189.653	601 KAR 10:010
	601 KAR 10:020
	601 KAR 10:080

KRS Section	Regulation No.
189.655	601 KAR 10:040
189.659	601 KAR 10:070
190.010	601 KAR 20:110
190.030	601 KAR 20:030
	601 KAR 20:040
	601 KAR 20:050
	601 KAR 20:080
	601 KAR 20:090
	601 KAR 20:110
190.035	601 KAR 20:070
	601 KAR 20:110
190.037	601 KAR 20:040
190.040	601 KAR 20:040
	601 KAR 20:130
190.061	601 KAR 20:010
199.011(6)	905 KAR 1:090
199.011(7)	905 KAR 1:090
199.011(12)	905 KAR 1:090
199.470(4)	905 KAR 1:010
199.471	905 KAR 1:030
199.472	905 KAR 1:030
199.473	905 KAR 1:010
199.555	905 KAR 1:050
199.640– 199.670	905 KAR 1:070
	905 KAR 1:090
199.892– 199.896	905 KAR 2:010
	905 KAR 2:020
	905 KAR 2:025
	905 KAR 2:030
	905 KAR 2:035
	905 KAR 2:040
	905 KAR 2:060
205.200(2)	904 KAR 2:010
205.210(1)	904 KAR 2:010
205.550(4)	904 KAR 1:010E
	904 KAR 1:020E
205.560(4)	904 KAR 1:010E
	904 KAR 1:020E
208.430(1)(b)	905 KAR 1:040
	905 KAR 1:080
210.310	902 KAR 5:010
211.090	902 KAR 4:010
211.180	902 KAR 2:010
	902 KAR 2:020
	902 KAR 2:030
	902 KAR 2:040
	902 KAR 2:050
	902 KAR 2:060
	902 KAR 2:080
	902 KAR 4:010
	902 KAR 4:020
	902 KAR 10:010
	902 KAR 10:040
211.430(2)	201 KAR 8:375
	201 KAR 8:385
211.440(3)	201 KAR 8:380
Chapter 213	901 KAR 5:010
	901 KAR 5:020
	901 KAR 5:030
	901 KAR 5:040
	901 KAR 5:050
	901 KAR 5:060
	901 KAR 5:070
	901 KAR 5:080
214.010	902 KAR 2:010
	902 KAR 2:020
	902 KAR 2:030
	902 KAR 2:040
	902 KAR 2:080
214.020	902 KAR 2:010
	902 KAR 2:030
	902 KAR 2:040
	902 KAR 2:050
214.032	902 KAR 2:060
214.034	902 KAR 2:060
214.036	902 KAR 2:060
214.155	902 KAR 4:030
214.160	902 KAR 2:080
214.170	902 KAR 2:080
214.185	902 KAR 2:080
216.405– 216.485	902 KAR 20:005
	902 KAR 20:015
	902 KAR 20:025
	902 KAR 20:050
	902 KAR 20:065
	902 KAR 20:075
	902 KAR 20:080
	902 KAR 20:085
	902 KAR 20:090
	902 KAR 20:105
	902 KAR 20:110
	902 KAR 20:125
216.990(2)	902 KAR 20:005
	902 KAR 20:015
	902 KAR 20:025
	902 KAR 20:050
	902 KAR 20:065
	902 KAR 20:075
	902 KAR 20:080

KRS Section	Regulation No.
216.990(2)	902 KAR 20:085
	902 KAR 20:090
	902 KAR 20:105
	902 KAR 20:110
	902 KAR 20:125
Chapter 216A	201 KAR 6:010
217.005– 217.215	901 KAR 1:050
	901 KAR 1:060
	902 KAR 45:010
	902 KAR 45:020
	902 KAR 45:030
	902 KAR 45:040
	902 KAR 45:045
	902 KAR 45:050
	902 KAR 45:060
	902 KAR 45:080
217.808– 217.812	902 KAR 45:010
	902 KAR 45:100
217.814	
217.826	902 KAR 1:010
	902 KAR 1:020
	902 KAR 1:030
	902 KAR 1:040
	902 KAR 1:050
	902 KAR 1:060
	902 KAR 1:070
	902 KAR 1:080
	902 KAR 1:090
	902 KAR 1:100
	902 KAR 1:110
	902 KAR 1:120
	902 KAR 1:130
	902 KAR 1:140
	902 KAR 1:150
217.990(8)	902 KAR 45:010
	902 KAR 45:100
217.990 (9)(10)	902 KAR 1:010
	902 KAR 1:020
	902 KAR 1:030
	902 KAR 1:040
	902 KAR 1:050
	902 KAR 1:060
	902 KAR 1:070
	902 KAR 1:080
	902 KAR 1:090
	902 KAR 1:100
	902 KAR 1:110
	902 KAR 1:120
	902 KAR 1:130
	902 KAR 1:140
	902 KAR 1:150
217.992	901 KAR 1:050
	901 KAR 1:060
	902 KAR 45:010
	902 KAR 45:020
	902 KAR 45:030
	902 KAR 45:040
	902 KAR 45:045
	902 KAR 45:050
	902 KAR 45:060
	902 KAR 45:080
217C.010– 217C.990	902 KAR 50:010
	902 KAR 50:020
	902 KAR 50:030
	902 KAR 50:040
	902 KAR 50:050
	902 KAR 50:060
	902 KAR 50:070
	902 KAR 50:080
Chapter 218A	901 KAR 1:010
	901 KAR 1:020
	901 KAR 1:025
	901 KAR 1:030
	901 KAR 1:040
219.011– 219.081	902 KAR 7:010
	902 KAR 45:005
	902 KAR 45:010
219.310– 219.410	902 KAR 15:010
	902 KAR 15:020
219.991(1)	902 KAR 7:010
	902 KAR 45:005
	902 KAR 45:010
219.991(2)	902 KAR 15:010
	902 KAR 15:020
Chapter 221	902 KAR 10:020
221.010– 221.110	902 KAR 45:010
221.990	902 KAR 45:010
222.210	902 KAR 20:085
	902 KAR 20:110
223.010– 223.080	902 KAR 10:030
223.990	902 KAR 10:030

KRS Section	Regulation No.
Chapter 224	401 KAR 3:010
	401 KAR 3:020
	401 KAR 3:030
	401 KAR 3:050
	401 KAR 3:060
	401 KAR 3:070
224.033	401 KAR 3:040
224.330	401 KAR 3:040
227.220	806 KAR 50:010
227.300	806 KAR 50:080
227.305	806 KAR 50:020
227.570	806 KAR 50:200
234.120	806 KAR 50:050
	806 KAR 50:060
234.140	806 KAR 50:070
234.180	806 KAR 50:070
234.310–234.440	103 KAR 43:200
	103 KAR 43:210
236.030	806 KAR 50:150
	806 KAR 50:151
	806 KAR 50:155
	806 KAR 50:160
	806 KAR 50:165
	806 KAR 50:170
	806 KAR 50:175
241.060	804 KAR 4:150
243.020	804 KAR 4:100
	804 KAR 4:110
243.030	804 KAR 4:020
	804 KAR 4:030
	804 KAR 4:040
	804 KAR 4:050
	804 KAR 4:060
	804 KAR 4:070
	804 KAR 4:100
	804 KAR 4:110
	804 KAR 4:170
	804 KAR 4:180
243.030 (18)	804 KAR 4:080
	804 KAR 4:200
243.040	804 KAR 4:100
	804 KAR 4:110
	804 KAR 4:130
	804 KAR 4:140
	804 KAR 4:160
243.040 (7)	804 KAR 4:080
	804 KAR 4:190
243.090	804 KAR 4:110
243.120	804 KAR 4:050
243.150	804 KAR 4:190
243.200	804 KAR 4:030
	804 KAR 4:170
	804 KAR 4:180
243.210	804 KAR 4:160
243.260	804 KAR 4:060
243.300	804 KAR 4:060
243.320	804 KAR 4:070
243.340	804 KAR 4:020
243.350	804 KAR 4:040
243.380	804 KAR 4:120
243.390	804 KAR 4:010
243.430	804 KAR 4:110
	804 KAR 4:120
243.520	804 KAR 4:150
243.540	804 KAR 4:090
243.720	103 KAR 40:030
	103 KAR 40:090
243.760	103 KAR 40:030
244.030	804 KAR 1:050
	804 KAR 1:060
244.040	804 KAR 3:080
244.130	804 KAR 1:010
	804 KAR 1:020
	804 KAR 1:030
	804 KAR 1:040
	804 KAR 2:005
	804 KAR 2:015
	804 KAR 2:025
	804 KAR 3:070
244.140	804 KAR 1:010
	804 KAR 1:020
	804 KAR 2:005
244.380	804 KAR 3:010
	804 KAR 3:020
	804 KAR 3:060
	804 KAR 3:070
244.380–244.450	804 KAR 3:030
244.390 (5)	804 KAR 3:050
244.450	804 KAR 3:010
	804 KAR 3:020
	804 KAR 3:060
	804 KAR 3:070
244.460	804 KAR 3:040
244.530	804 KAR 2:005
247.510–247.595	302 KAR 1:010
258.005	902 KAR 2:070
258.085	902 KAR 2:070
258.990 (1) (2)	902 KAR 2:070
262.090	401 KAR 2:010
	401 KAR 2:020
Chapter 271A	30 KAR 1:010
	30 KAR 1:020
Chapter 272	30 KAR 1:010
	30 KAR 1:020
Chapter 273	30 KAR 1:010
	30 KAR 1:020
Chapter 274	30 KAR 1:010
	30 KAR 1:020
Chapter 278	807 KAR 1:010
	807 KAR 2:010
	807 KAR 2:020
	807 KAR 2:025
	807 KAR 2:030
	807 KAR 2:040
	807 KAR 3:010
Chapter 279	30 KAR 1:010
	30 KAR 1:020
280.320	705 KAR 5:030
Chapter 287	30 KAR 1:010
	30 KAR 1:020
Chapter 289	30 KAR 1:010
	30 KAR 1:020
Chapter 290	30 KAR 1:010
	30 KAR 1:020
Chapter 304	30 KAR 1:010
	30 KAR 1:020
311.530–311.620	201 KAR 9:010
	201 KAR 9:020
	201 KAR 9:030
	201 KAR 9:040
	201 KAR 9:050
	201 KAR 9:060
	201 KAR 9:070
	201 KAR 9:080
	201 KAR 9:090
311.990	201 KAR 9:010
	201 KAR 9:020
	201 KAR 9:030
	201 KAR 9:040
	201 KAR 9:050
	201 KAR 9:060
	201 KAR 9:070
	201 KAR 9:080
	201 KAR 9:090
313.020	201 KAR 8:120
313.040	201 KAR 8:150
	201 KAR 8:160
	201 KAR 8:170
	201 KAR 8:180
313.050	201 KAR 8:185
	201 KAR 8:190
	201 KAR 8:200
	201 KAR 8:210
	201 KAR 8:220
313.070	201 KAR 8:250
313.080 (2)	201 KAR 8:140E
	201 KAR 8:140
313.130	201 KAR 8:230
313.140	201 KAR 8:240
313.200	201 KAR 8:010
	201 KAR 8:050
	201 KAR 8:060
	201 KAR 8:070
	201 KAR 8:080
	201 KAR 8:090
	201 KAR 8:100
	201 KAR 8:110
313.210	201 KAR 8:020
	201 KAR 8:030
	201 KAR 8:035
	201 KAR 8:040
313.220	201 KAR 8:130
313.220 (4)	201 KAR 8:135
313.260	201 KAR 8:330
313.270	201 KAR 8:270
	201 KAR 8:277
	201 KAR 8:290
	201 KAR 8:320
313.300	201 KAR 8:260
313.300 (3)	201 KAR 8:310
313.307	201 KAR 8:300
313.330	201 KAR 8:280
313.430	201 KAR 8:340
313.430 (1) (b) 1.	201 KAR 8:345
313.430 (2)	201 KAR 8:350
313.440 (2)	201 KAR 8:355
Chapter 315	201 KAR 2:020
	201 KAR 2:030
	201 KAR 2:040
	201 KAR 2:050
	201 KAR 2:055
	201 KAR 2:060
	201 KAR 2:070
	201 KAR 2:080
	201 KAR 2:090
315.050	201 KAR 2:010
317A.100	201 KAR 12:050
Chapter 318	401 KAR 1:010
	401 KAR 1:020
	401 KAR 1:030
	401 KAR 1:040
	401 KAR 1:050
	401 KAR 1:060
	401 KAR 1:070
	401 KAR 1:080
	401 KAR 1:090
	401 KAR 1:100
	401 KAR 1:110
	401 KAR 1:120
	401 KAR 1:130
	401 KAR 1:140
	401 KAR 1:150
320.280	201 KAR 5:030
323A.010	201 KAR 10:030
323A.020	201 KAR 10:030
	201 KAR 10:060
323A.040	201 KAR 10:030
	201 KAR 10:040
323A.050	201 KAR 10:040
323A.060	201 KAR 10:040
	201 KAR 10:050
	201 KAR 10:060
323A.070	201 KAR 10:040
323A.080	201 KAR 10:030
	201 KAR 10:070
323A.100	201 KAR 10:030
	201 KAR 10:050
	201 KAR 10:060
323A.110	201 KAR 10:020
	201 KAR 10:030
	201 KAR 10:070
323A.120	201 KAR 10:020
	201 KAR 10:030
323A.130	201 KAR 10:020
323A.140	201 KAR 10:020
323A.210	201 KAR 10:010
	201 KAR 10:030
324.040	201 KAR 11:010
	201 KAR 11:120
	201 KAR 11:125
324.045	201 KAR 11:005
	201 KAR 11:015
	201 KAR 11:070
	201 KAR 11:130
	201 KAR 11:135
	201 KAR 11:150
	201 KAR 11:155
324.050	201 KAR 11:020
324.090	201 KAR 11:025
324.110	201 KAR 11:140
324.115	201 KAR 11:055
	201 KAR 11:060
	201 KAR 11:070
324.160	201 KAR 11:040
	201 KAR 11:045
	201 KAR 11:050
	201 KAR 11:065
	201 KAR 11:075
	201 KAR 11:080
	201 KAR 11:085
	201 KAR 11:090
	201 KAR 11:095
	201 KAR 11:100
	201 KAR 11:105
	201 KAR 11:110
	201 KAR 11:115
	201 KAR 11:130
324.170	201 KAR 11:035
324.281	201 KAR 11:160
324.310	201 KAR 11:145
324.330	201 KAR 11:030
325.265	201 KAR 1:120
325.270	201 KAR 1:120
330.020	201 KAR 3:060
330.040	201 KAR 3:060
330.070	201 KAR 3:010
	201 KAR 3:020
	201 KAR 3:040
330.095	201 KAR 3:030
330.110	201 KAR 3:050
331.010	201 KAR 4:020
	201 KAR 4:030
	201 KAR 4:040
	201 KAR 4:060
331.040 (3) (7)	201 KAR 4:020
	201 KAR 4:030
	201 KAR 4:040
	201 KAR 4:060
331.050 (3)	201 KAR 4:040
331.050 (4)	201 KAR 4:020
334.090	201 KAR 7:122
	201 KAR 7:125
334.150	201 KAR 7:052
336.510–336.680	803 KAR 4:010
337.275	803 KAR 1:005
	803 KAR 1:065
	803 KAR 1:066
	803 KAR 1:070
	803 KAR 1:075
	803 KAR 1:080
	803 KAR 1:090
337.285	803 KAR 1:005
	803 KAR 1:060
	803 KAR 1:065
	803 KAR 1:066
	803 KAR 1:070
	803 KAR 1:075
	803 KAR 1:080
	803 KAR 1:090
337.505–337.550	803 KAR 1:020
	803 KAR 1:030
	803 KAR 1:040
	803 KAR 1:050
	803 KAR 1:085
Chapter 338	803 KAR 2:020
	803 KAR 2:030
	803 KAR 2:140
	803 KAR 2:160
	803 KAR 50:010
	807 KAR 3:010
338.015	803 KAR 2:040
338.021	803 KAR 2:050
338.051	803 KAR 2:110
338.101	803 KAR 2:070
	803 KAR 2:130
338.121	803 KAR 2:090
338.121 (3) (b)	803 KAR 2:150
338.131	803 KAR 2:100
338.141	803 KAR 2:115
	803 KAR 2:120
338.153	803 KAR 2:170
338.161	803 KAR 2:060
	803 KAR 2:125
338.171	803 KAR 2:095
338.991	803 KAR 2:115
338.991 (9)	803 KAR 2:080
339.210–339.450	803 KAR 1:100
339.430	705 KAR 5:060
Chapter 343	803 KAR 1:010
Chapter 344	104 KAR 1:010
	104 KAR 1:020
	104 KAR 1:030
	104 KAR 1:040
	104 KAR 1:050
	104 KAR 1:060
350.151	402 KAR 1:010
352.050 (1)	805 KAR 2:010
353.550	805 KAR 1:030
353.560	805 KAR 1:040
353.590	805 KAR 1:030
	805 KAR 1:050
402.120	902 KAR 2:080
402.180	902 KAR 2:080
424.260	702 KAR 3:140
	703 KAR 1:070
433.750	603 KAR 5:025
433.753	603 KAR 5:025
439.340	501 KAR 1:010
208.430 (1) (b)	905 KAR 2:050

KAR Codification

(Following is an outline of the codification system which has been developed for the KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE. The entries for regulations received to date are listed below. Other Cabinets, Departments and agencies of state government will be assigned Titles and Chapters as their regulations are received.)

TITLE 1 LEGISLATIVE RESEARCH COMMISSION

Ch. 1 Administrative Regulations
- 010 Form of administrative regulations; Administrative Register; Codification

TITLE 10 GOVERNOR

TITLE 11 KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Ch. 1 State Student Incentive Grants
- 010 Criteria for selection; amounts
- 010E (same as above, filed on Emergency basis)

TITLE 30 DEPARTMENT OF STATE

Ch. 1 Corporations
- 010 Certificates of good standing
- 020 Statements, reports and documents; filing requirements

TITLE 31 STATE BOARD OF ELECTIONS

Ch. 1 Absentee Voting
- 010 When charged with or indicted for a crime

TITLE 40 DEPARTMENT OF LAW

Ch. 1 Attorney General
- 010 Conditions for furnishing opinions
- 020 Requests for opinions

TITLE 100 SECRETARY OF CABINET

TITLE 101 DEPARTMENT OF PERSONNEL

Ch. 1 Personnel Rules
- 010 Definitions
- 020 General provisions
- 030 Personnel Board procedures
- 040 Classification plan
- 050 Compensation plan
- 060 Applications and examinations
- 070 Registers
- 080 Certification and selection of eligibles
- 090 Types of appointments
- 100 Probationary period
- 110 Promotion, transfer, demotion and detail to special duty
- 120 Separations and disciplinary actions
- 130 Appeals
- 140 Service regulations
- 200 Unclassified service rules

TITLE 102 TEACHERS' RETIREMENT SYSTEM

Ch. 1 General Rules
- 010 Rules and regulations
- 020 Supplemental payments
- 030 Substitute Teachers
- 035 Substitute teaching by retired teachers
- 036 Part-time service
- 037 Administrative staff membership
- 038 Fractional service year
- 039 New entrants
- 040 Reciprocal arrangements
- 045 Transfer to other systems
- 050 Out-of-State service interest rates
- 055 Military service credit
- 060 Refunds
- 070 Applications for retirement
- 100 Insurance
- 110 Leave of absence
- 115 Tax-sheltered contributions
- 120 Voluntary contributions
- 125 Omitted contributions
- 130 Additional contributions
- 135 Interest credited to accounts
- 140 Disability
- 145 Basis for options
- 150 Optional benefits
- 155 Annuity payments
- 160 Annuity tables
- 165 Surviving children's benefits
- 175 Investment policies
- 180 KIDFA investments
- 185 Reciprocal program between CERS, KERS, SPRS and TRS

Ch. 2 Board of Trustees
- 010 Election of chairman; vice-chairman

TITLE 103 DEPARTMENT OF REVENUE

Ch. 1 General Administration
- 010 Protests and appeals

Ch. 15 Income Tax – General Administration
- 040 Statute of limitations; assessments and refunds
- 050 Filing dates and extensions
- 060 Estimated tax; amended declarations; short years

Ch. 16 Income tax – Corporations
- 010 Taxable income – coal royalty
- 030 Net operating loss deductions of corporations
- 050 Application of 103 KAR 16:060 through 103 KAR 16:090
- 060 Income classification – Business and nonbusiness
- 070 Apportionment – Sales factor
- 080 Apportionment – Property factor
- 090 Apportionment – Payroll factor
- 100 Apportionment and allocation – Telephone and telegraph companies
- 110 Apportionment and allocation – Pipeline companies
- 120 Apportionment and allocation – Trucklines – Bus – Airlines
- 130 Apportionment and allocation – Railroad companies
- 150 Apportionment and allocation – Loan companies
- 160 Apportionment and allocation – Construction companies

Ch. 17 Income tax – Individual
- 010 Residence
- 020 Combined individual returns
- 030 Filing requirements
- 040 Military personnel – Filing extension
- 050 Standard deduction
- 060 Income subject to taxation; portions
- 070 Personal tax credits
- 080 Retirement income
- 090 Federal income tax deductions and refunds

Ch. 18 Income tax – Withholding
- 010 Employers required to withhold
- 020 Withholding return adjustment
- 030 Monthly reporting requirements
- 040 Annual payment of income tax withholding
- 050 Withholding statements; Form K-2
- 060 Miscellaneous payroll period
- 070 Supplemental wages
- 080 Two or more employers
- 090 Payroll records
- 100 Exemption certificates
- 110 Withholding methods
- 120 Security for compliance; bonds

Ch. 19 Income Tax – Miscellaneous
- 010 Computation of income; estates and trusts
- 030 Income tax information returns

Ch. 25 Sales and Use Tax – Registration and Collection
- 040 Out-of-state retailers
- 050 Factors and agents
- 060 Temporary and transient vendors
- 070 Railroad companies; display of retailers' permit
- 100 Receipts for tax paid to retailers – Use tax
- 110 Use tax on construction machinery

Ch. 26 Sales and Use Tax – Service and Professional Occupations
- 010 Service enterprises in general
- 020 Physicians and surgeons
- 030 Optometrists, Oculists and Opticians
- 040 Morticians, undertakers and funeral directors
- 050 Common carriers
- 060 Painters and finishers
- 080 Dentists and dental laboratories
- 090 Veterinarians
- 100 Towel and linen service

Ch. 27 Sales and Use Tax – Miscellaneous Retailer Occupations
- 010 Auctioneers
- 020 Blueprints and photostat copies
- 030 Brokers, lienors and fiduciaries
- 040 Finance companies
- 050 Florists and nurserymen
- 080 Meals served by railroads, airplanes, etc.
- 090 Memorial dealers
- 100 Motor vehicles, motor homes and trailers
- 120 Photographers, photo finishers and x-ray labs
- 140 Publishers of newspapers, magazines and periodicals
- 150 Repairers and reconditioners of personal property
- 170 Sales by civic clubs and similar organizations
- 180 Vending machines

Ch. 28 Sales and Use Tax – Miscellaneous Retail Transactions
- 010 Admissions
- 020 Layaway sales
- 040 Redemption of premium or trading stamps
- 050 Rentals and leases
- 060 Replacement parts
- 070 Sales of ice
- 090 Tangible personal property; security instrument enforcement
- 100 Sales to employees
- 120 Telephonic, telegraphic communications; services
- 130 Tire retreading and recapping

Ch. 30 Sales and Use Tax – General Exemptions
- 020 Prescription medicines, prosthetic devices and physical aids
- 030 Gasoline and special fuels
- 040 Federal taxes
- 050 Finance and carrying charges
- 060 Articles taken in trade
- 070 Freight and delivery charges
- 080 Deposits on returnable containers
- 100 Artificial insemination of livestock
- 120 Machinery for new and expanded industry
- 130 Raw materials and industrial supplies
- 150 Fuels used in the manufacture of electricity
- 160 Natural gas; by-product gases and fuels
- 220 Sales to local governments
- 220E (Same as 220, filed on Emergency Basis)

Ch. 31 Sales and Use Tax – Administration and Accounting
- 020 Records
- 030 Direct pay authorization
- 040 Repossessions and bad debts
- 050 Returned merchandise
- 060 Cash discounts
- 070 Goods damaged in transit
- 080 Coupons or redemption certificates
- 090 Tax-paid purchases resold
- 100 Demonstration and display
- 110 Resale certificates
- 120 Exemption certificates
- 150 Successors' liability

Ch. 40 Selective Excise Tax – Alcoholic Beverage
- 030 Malt beverage tax
- 090 Consumer tax rates

Ch. 41 Selective Excise Tax – Cigarettes
- 030 Wholesalers, resident and nonresident
- 100 Segregation of cigarettes
- 110 Sample of cigarettes
- 120 Retention of records
- 130 Elimination of cigarette tax indicia

Ch. 43 Selective Excise Tax – Motor Fuels
- 080 Assignment
- 090 Tax refund
- 200 Display
- 210 Storage

TITLE 104 COMMISSION ON HUMAN RIGHTS

Ch. 1 Human Rights
- 010 Posting and distribution of notices
- 020 Rules of practice and procedure
- 030 Employer records and reports
- 040 Guidelines for employment advertisement
- 050 Guidelines on discrimination
- 060 Multiple dwelling reporting

TITLE 200 EXECUTIVE DEPARTMENT FOR FINANCE & ADMINISTRATION

Ch. 1 Public Records
- 010 Inspecting and copying
- 010E (same as above, filed on emergency basis)

Ch. 2 Travel Expense and Reimbursement
- 030 Official work station
- 030E (same as above, filed on emergency basis)
- 060 Subsistence expenses
- 060E (same as above, filed on emergency basis)

Ch. 3 State Owned Buildings and Grounds
- 010 Vehicle parking and traffic control
- 010E (Same as 010, filed on Emergency basis)

Ch. 10 Office for Local Government
- 010 District boards; directors, terms
- 030 Local government bonds, obligations; marketing assistance

TITLE 201 DIVISION OF OCCUPATIONS AND PROFESSIONS

Ch. 1 Board of Accountancy
- (010 through 110 reserved)
- 120 Examinations; Subjects, grading, reexamination

Ch. 2 Board of Pharmacy
- 010 Schools approved by the Board
- 020 Examinations
- 030 Reciprocity – Temporary license
- 040 Registration of interns
- 050 Licenses and permits; Fees
- 055 License renewal; revival fee
- 060 Pocket certificates
- 070 Prescription intermediary services restricted
- 080 Prescription substitution
- 090 Reference material and prescription equipment

Ch. 3 Board of Auctioneers
- 010 Apprenticeship requirements for principal examination
- 020 Residence requirements for apprentices
- 030 Reciprocity with Indiana residents
- 040 Non-cancellation during active military duty
- 050 Accounting of funds by licensed auctioneers
- 060 Sale of real estate at auction

Ch. 4 Board of Business Schools
- 020 Bonding requirements
- 030 Authority after licensure
- 040 Inspection; requirements
- 060 Refund policy requirements

Ch. 5 Board of Optometric Examiners
- 030 Annual courses of study required

Ch. 6 Board of Licensure for Nursing Home Administrators
- 010 Licensure

Ch. 7 Board for Licensing Hearing Aid Dealers
- 052 Annual meeting of board
- 122 Completion of training requirement; certification (WITHDRAWN)
- 125 Examination after training requirement (WITHDRAWN)

Ch. 8 Board of Dentistry
- 010 Oath
- 020 Organization; officers
- 030 Duties of president
- 035 Duties of vice-president
- 040 Duties of secretary-treasurer
- 050 Salaries; location of office
- 060 Rules of order
- 070 Vacancies; how filled
- 080 Annual meeting
- 090 Order of business
- 100 Interim administration
- 110 Amendments to rules and regulations
- 120 Special licensure
- 130 X-rays by dental assistants
- 135 Auxiliary personnel
- 140 Continuing education compliance
- 140E (Same as above; filed on emergency basis.)
- 150 Examination; application
- 160 Qualifications for examination
- 170 Application prior to graduation
- 180 Applicant; requirements
- 185 Written examination grade requirements
- 190 Examination committee
- 200 Release of examination questions
- 210 Examination questions review; approval
- 220 Clinical examination
- 230 Re-examination; when
- 240 Clinical demonstrations
- 250 Duplicate license certificate
- 260 Dental hygiene; application
- 270 Grade requirement; dental hygiene examination
- 277 Written and clinical application grade requirements
- 280 Re-examination; dental hygienists
- 290 Hygienists' official register
- 300 County registration; hygienists
- 310 Duplicate license; hygienists
- 320 Notice of place of employment; hygienists
- 330 Hygienists' temporary retirement; reinstatement
- 340 Specialty application; examination
- 345 Educational requirements; specialties
- 350 Specialty grade requirement
- 355 Register; dental specialists
- 375 Scholarship; administration
- 380 Repayment contract; scholarship
- 385 Scholarship contract form

Ch. 9 Board of Medical Licensure
- 010 Code of conduct
- 020 Licensing qualifications; approved schools
- 030 Examinations
- 040 License fees
- 050 License renewal; annual registration
- 060 Limited licenses
- 070 Temporary and emergency permits
- 080 Probation, suspension, revocation; hearing procedures
- 090 Physio-therapeutics' practice

Ch. 10 Board of Examiners and Registration of Landscape Architects
- 010 Duties of board
- 020 Hearings
- 030 Code of ethics
- 040 Applications
- 050 Fees
- 060 Renewals
- 070 Seals

Ch. 11 Real Estate Commission
- 005 Application for license
- 010 Classroom instruction required
- 015 Re-examination after failure
- 020 Fee not reduced on reciprocal agreement
- 025 Renewal after military duty
- 030 License cancellation; reasons for
- 035 Complaints against licensee
- 040 Contracts to contain financing provisions
- 045 Written offers to be submitted to owner-client
- 050 Net listings; requirements
- 055 Broker's sign requirements
- 060 Broker's name required on advertising
- 065 Trust or agency accounts required
- 070 Branch offices
- 075 Broker's interest disclosure
- 080 Broker's requirements when not regularly engaged in business
- 085 Conduct when managing property
- 090 Instruments prepared by broker; disposition
- 095 Closing statements; rental management agreements
- 100 Exclusive listing contract; continuation
- 105 Owner's consent and authorization
- 110 Exclusive authority retained by original broker
- 115 Auction obligations
- 120 Broker-salesman defined
- 125 Salesman required to complete instruction for examination
- 130 Complaints must be resolved
- 135 Salesman obtaining broker's license
- 140 Salesman operating as broker; when
- 145 Salesman's duties when terminating employment with broker
- 150 Builder defined
- 155 Builder - developer; compliance with rules and regulations
- 160 Hearing on failure to abide by rules and regulations

Ch. 12 Board of Hairdressers and Cosmetologists
- 050 Reciprocity for valid licensee

TITLE 300 CABINET FOR DEVELOPMENT

TITLE 301 DEPARTMENT OF FISH AND WILDLIFE RESOURCES

Ch. 1 Fish
- 010 Boat docks and concession stands
- 012 Boating, swimming and water skiing
- 015 Boats and outboard motors - Size limits
- 016 Private camps; boat docks, etc.
- 020 Snagging
- 030 Tennessee River closing hours
- 031 Land-Between-the-Lakes provisions
- 035 Cumberland Gap National Historical Park restrictions
- 040 Skin and scuba diving prohibited; exceptions
- 050 Small state-owned lakes, special regulations of
- 055 Angling - Limits and seasons
- 057 Trotlines; sport fishing
- 060 Sport and rough fishing
- 070 Rough fish from backwaters
- 075 Gigging, snagging, tickling and noodling
- 080 Fish and aquatic organisms
- 082 Frog seasons; limits
- 085 Mussel shell harvesting
- 090 Bow fishing
- 100 Trout stamp
- 110 Prohibition on raising or hatching fish in public waters
- 115 Propogation of fish, frogs, crayfish or aquatic organisms
- 120 Live fish sales and handling - Licensure
- 122 Importation, possession; live fish
- 125 Transportation of fish
- 130 Live bait for personal use
- 132 Sale of live bait
- 145 Gear allowed for commercial fishing
- 150 Waters open to commercial fishing
- 155 Commercial fishing requirements

Ch. 2 Game
- 010 Use of steel traps
- 020 Use of devices for taking and pursuing wildlife
- 021E Migratory birds seasons; limits
- 022E Waterfowl seasons; limits
- 025 Calling devices
- 030 Commercial guides
- 040 Upland game shooting preserves
- 050 Land Between the Lakes hunting rules
- 055 Pits and blinds; restrictions
- 060 Sale of bobwhite quail for food purposes
- 070 Birds of prey; taking and use

Ch. 3 Hunting and Fishing
- 010 Acts of depredation prohibited
- 020 License fees
- 030 Year round season for some birds and animals
- 050 Wild Turkey; gun and archery season
- 060 Endangered fish and wildlife species

Ch. 4 Wildlife
- 010 Districts
- 020 Ballard Refuge restrictions

TITLE 302 DEPARTMENT OF AGRICULTURE

Ch. 1 Soybeans
- 010 Referendum

TITLE 400 DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

TITLE 401 BUREAU OF ENVIRONMENTAL QUALITY

Ch. 1 Division of Plumbing
- 010 Definitions
- 020 Installation permits
- 030 Quality and weight of materials
- 040 Plumbing fixtures
- 050 Waste pipe size
- 060 Soil, waste and vent systems
- 070 Joints and connections
- 080 Traps and cleanouts
- 090 Water supply and distribution
- 100 House sewers and storm water piping; methods of installation
- 110 Inspection and tests
- 120 Private and commercial septic systems
- 130 Mobile home park waste systems and connections
- 140 Special connections
- 150 Public buildings

Ch. 2 (reserved for Division of Solid Waste)

Ch. 3 Division of Air Pollution
- 010 General provisions
- 020 Ambient air quality standards
- 030 Emergency episodes
- 040 Emission standards for hazardous air pollutants
- 050 Standards of performance for new sources
- 060 Standards of performance for existing sources
- 070 Indirect sources

Ch. 4 Division of Water Resources
- 010 Water withdrawal permits; Criteria; Reports

TITLE 402 BUREAU OF LAND RESOURCES

Ch. 1 Division of Reclamation
- 010 Reclamation plans of surface effects of underground mines; Definitions; Certificates, fees, terms; Requirements

Ch. 2 Division of Conservation
- 010 Direct aid eligibility of districts
- 020 Allowable district expenditures

Ch. 3 (reserved for Division of Forestry)

TITLE 500 DEPARTMENT OF JUSTICE

TITLE 501 BUREAU OF CORRECTIONS

Ch. 1 Kentucky Parole Board
- 010 Time served for parole eligibility

TITLE 502 BUREAU OF STATE POLICE

Ch. 5 Personnel - General
- 010 Promotional system
- 010E (Same as 010, filed on Emergency basis)

TITLE 600 DEPARTMENT OF TRANSPORTATION

TITLE 601 BUREAU OF VEHICLE REGULATION

Ch. 1 Division of Motor Carriers
- 010 Truck tractors, semi-trailers; Maximum length
- 020 Permit for hauling industrial materials; Fee; Bond
- 020E (same as 020, filed on Emergency basis)

Ch. 10 Motor Vehicle Inspection
- 010 Station permits
- 020 Safety inspectors - Mechanics
- 030 Reports

040 Display of permits and signs
050 Inspection at time of registration—Annually
060 Extension of time
070 Exemptions
080 Private fleet permits

Ch. 12 Driver's License
010 Notice and hearing prior to revocation (WITHDRAWN)

Ch. 13 Driver Improvement
010 Medical Review Board — Basis for examination, evaluation, test

Ch. 14 (reserved for Driver Training Schools)

Ch. 20 Motor Vehicle Dealers
010 Board meetings
030 Application — Disposition
040 Licenses — Issuance or denial
050 Supplemental license
070 Suitable premises — Signs — Multi-businesses
080 Change of business location
090 Change of ownership
110 Dealer — Salesman
130 Used car dealers — Trade names

TITLE 602 DIVISION OF AERONAUTICS AND AIRPORT ZONING

Ch. 1 Air Carriers
010 Applications for intrastate certificates of public convenience and necessity
020 Rules and procedures for hearings on certificates
025 Tariff hearing procedures
030 Operation of aircraft in intrastate air commerce
040 Insurance and indemnity bond requirements
050 Certificates; limitations and conditions
060 Service requirements
070 Monthly report of operations
080 Schedule reporting

Ch. 10 Airport Boards
010 Reimbursement to airport boards for commuter air carriers service

TITLE 603 BUREAU OF HIGHWAYS

Ch. 1 (reserved for Construction and Materials)

Ch. 2 (reserved for Pre-Construction)

Ch. 3 (reserved for Maintenance)

Ch. 4 (reserved for Right of Way)

Ch. 5 Traffic
010 Types of limited access; permits for other access
020 Pedestrian traffic on limited access facilities
025 Fully controlled access highways
030 Right turn on red signal prohibitions
040 Use of rest areas

Ch. 6 Truckway Classifications
010 KY 15 Classifications
011 KY 36 Classifications
012 US 119 Classficiation
013 KY 136 Classficiations
014 KY 797 Classification
015 KY 909 Classifications
016 KY 1232 Classification
017 KY 1526 Classifications
018 KY 1 Classifications
019 KY 7 Classifications
020 US 31-W Classifications
021 I-24 Classification
022 KY 153 Classifications
023 KY 805 Classification
024 KY 70 Classifications
025 KY 85 Classifications
026 KY 181 Classifications
027 KY 1543 Classification
028 KY 59 Classification
029 KY 111 Classification
030 KY 292 Classifications

TITLE 700 EDUCATION AND ARTS CABINET

TITLE 701 DEPARTMENT OF EDUCATION

TITLE 702 EDUCATION — BUREAU OF ADMINISTRATION AND FINANCE

Ch. 1 General Administration
010 Facilities surveys
020 Length of employment
030 Group life insurance program

Ch. 2 Surplus Property
010 Definitions of eligible entities
020 Authority for organizing and operating
030 Certification of eligibles
040 Donee requirements on use and disposal of Federal surplus personal property donated for public health or educational purposes
050 Donee requirements on use and disposal of Federal excess property
060 Nonfederal excess, surplus or purchased property; requirements on use and disposal
070 Acquisition from Division
080 Service charges, funds and accounting procedures
090 Director of Division; duties
100 Property not covered by PL 152; authority for acquisition

Ch. 3 School District Finance
010 Guidelines for use of foundation program capital outlay funds
020 Bond issue approval
030 Insurance requirements on mortgaged buildings
040 Check issuing policy
045 Withholding funds
050 Budget not to be exceeded
060 Teachers' salaries payment plan
070 Teachers' salary scheduling
075 Substitute teachers' salary scheduling
080 Treasurer's bond, penal sum
090 Depository bond, penal sum
100 Data form, professional staff
110 Document filing dates
120 Uniform school financial accounting system
130 Internal accounting
140 Bidding guidelines
150 Audit exceptions and corrections
160 Classroom units on basis of an area larger than a district

TITLE 703 EDUCATION — BUREAU OF PUPIL PERSONNEL SERVICES

Ch. 1 Food Service Programs
010 Local responsibilities
020 District director
030 Principal's responsibilities
040 Personnel; policies and procedures
050 Lunch and breakfast requirements
060 Time minimum for meals
070 Funds and reports
080 Accrual cost accounting

Ch. 2 School Terms, Attendance and Operation
010 Terms and months
020 Calendar
030 Census
040 Experimental schools

Ch. 3 Guidance Services
010 Personnel functions
020 Counselor; criteria and duties
030 Counselor units
040 Federal funds

TITLE 704 EDUCATION — BUREAU OF INSTRUCTION

Ch. 1 Exceptional and Handicapped Programs
010 Hearing impairment
020 Private programs
030 Multiple handicapped

Ch. 2 Textbooks, Library and Instructional Materials
010 State plan under PL 89-10

Ch. 3 Instructional Services
010 Administrative and special services
020 Reduction of clock hours (WITHDRAWN)
030 Special instructional service units
040 Criteria for the unit of superintendent or assistant superintendent
050 Criteria for the unit of principal or assistant principal
060 Criteria for the unit of visiting teacher
070 Criteria for the unit of school social worker
080 Criteria for the unit of school health coordinator
090 Criteria for the unit of physical education teacher
100 Criteria for the unit of health and physical education program consultant
110 Criteria for the unit of music education teacher
120 Criteria for the unit of music program consultant
130 Criteria for the unit of art education teacher
140 Criteria for the unit of art program consultant
150 Criteria for the unit of industrial arts teacher
160 Criteria for the unit of local director of vocational education

170 Criteria for the unit of school media librarian
180 Criteria for the unit of school psychologist or psychometrist
190 Criteria for the unit of driver education and traffic safety teacher
200 Criteria for the unit of finance officer
210 Criteria for the unit of school lunch director
220 Criteria for the unit of supervisor of instruction
230 Criteria for the unit of director of pupil personnel
240 Criteria for the unit of reading program consultant
250 Criteria for ASIS unit of special education work-study program coordinator
260 Criteria for the unit of special consultants in academic subjects
270 Criteria for the unit of teacher-consultants in programs for exceptional children

Ch. 4 Health and Physical Education Programs
010 Physical education
020 School health

Ch. 5 Kindergartens and Nursery Schools
010 Private programs
050 Public school programs

Ch. 10 Elementary and Secondary Education Act
010 Kentucky plan

Ch. 15 Teacher Education
010 Accreditation of institutions
020 Curricula; evaluation and approval
030 Experimental programs of teacher preparation
040 Internship modifications
050 In-service training
080 Paraprofessional personnel

Ch. 20 Teacher Certification
005 Kentucky plan for preparation program approval
010 Ranking procedures; general
015 Rank I classification
020 Rank II equivalency
025 Ranking of vocational instructors
030 Proficiency evaluation
035 Out-of-state preparation
040 Correspondence credit
045 Certification application
050 Time limit for applying for certification
055 Date of issuance; expiration
060 Renewals
065 Standard high school certificate
070 Provisional high school certificate
075 Secondary school level on elementary certification
080 Provisional middle school-junior high certificate
085 Standard elementary certificate
090 Provisional elementary certificate
095 Elementary level on high school certification
100 Administrators and supervisors
105 Art at elementary level on high school certificate
110 Business administrators
115 Driver education
120 Emergency certification
125 Experimental programs
130 Guidance counselors
135 Kindergarten teachers
140 Librarians
145 Media librarians
150 Media specialists
155 Media supervisors
160 Music at elementary level on high school certification
165 Newly created provisions
170 Non-tax supported schools
175 Physical education at elementary level on high school certification
180 Reading specialists
185 Psychometrists
190 Rehabilitation counselors
195 Social workers
200 Special education supervisors
205 Special education teachers
210 Substitute teachers
215 Vocational education administrators
220 Vocational education teachers

TITLE 705 EDUCATION - BUREAU OF VOCATIONAL EDUCATION

Ch. 1 Administration
010 State plan

Ch. 2 Fiscal Management
090 Audits

Ch. 3 Facilities and Equipment
010 Definitions
020 Specialized public high school; standards
030 Area center or public high school, standards for department of
040 Vocational-technical, public or state; standards
050 College or university, department of; standards
060 Remote high school, department of; standards
080 Construction

Ch. 5 Management of State-Operated Schools
010 Student enrollment quotas, local school districts
020 Administration
030 Transportation reimbursement
040 Steering committee
060 Live work projects, selection of

Ch. 7 Adult Education
010 Definitions
020 Testing program
030 High school equivalency certificate
040 Eighth grade equivalency certificate

Ch. 8 Student Financial Aid
010 Administration

Ch. 10 Licensing Proprietary Schools
010 Certificate of approval
020 Agent's permit
040 Personnel qualifications
050 School catalog
060 Cancellation and refund policy
070 Advertising
080 Equipment and facilities
090 Enrollment contract, records and reports
100 Financial stability
120 Appeals procedure

Ch. 11 Veterans' Approval Agency
010 Institutional courses, approval of
020 Apprenticeship and OJT courses, approval of
030 Revisions and amendments approval
040 Denial or revocation of approval
050 Inspection and supervision

TITLE 800 PUBLIC PROTECTION AND REGULATION CABINET

TITLE 801 REGISTRY OF ELECTION FINANCE

Ch. 1 Reports and Forms
005 Campaign treasurer
010 Executive committee's report of contributions and expenditures
010E (same as 010, filed on Emergency basis)
020 Campaign committee's report of contributions and expenditures
020E (same as 020, filed on Emergency basis)
030 Campaign treasurer's report of contributions and expenditures
030E (same as 030, filed on Emergency basis)
040 Notice of organization of campaign committee
040E (same as 040, filed on Emergency basis)

TITLE 802 KENTUCKY BOARD OF TAX APPEALS

Ch. 1 Tax Appeals
010 Rules of practice and procedure

TITLE 803 DEPARTMENT OF LABOR

Ch. 1 Labor Standards; Wages and Hours
005 Employe-Employer relationship
010 Registration of apprenticeship programs
020 Employment of apprentices and trainees
030 Hearings on prevailing wage determinations
040 Review of Commissioner's determination
050 Contractor's records
060 Overtime pay requirements
065 Hours worked
066 Record-keeping requirements
070 Executive, administrative, supervisory or professional employes - Salesmen
075 Exclusions from minimum wage and overtime
080 Board, lodging, gratuities and other allowances
085 Fringe benefits
090 Handicapped, sheltered workshop and student employees' wages
100 Child labor

Ch. 2 Occupational Safety and Health
020 Adoption of 29 CFR Part 1910
030 Adoption of 29 CFR Part 1926
040 Definitions
050 Scope
060 Employers' responsibilities
070 Inspections; procedure
080 Advance notice of inspections
090 Unwarranted inspections; complaint
095 Trade secrets
100 Imminent danger

110 Employer and employee representatives
115 Penalties
120 Citations
125 Posting of citations
130 Informal conferences
140 Employer and employee contests
150 Time for filing complaint
160 Carcinogens; registering
170 Variances

Ch. 3 (reserved for Fire Fighters Collective Bargaining)

Ch. 4 Elevator Safety
010 Elevators, dumbwaiters, escalators and moving walks standards

Ch. 50 Kentucky Occupational Safety and Health Review Commission
010 Hearings; procedure, disposition

TITLE 804 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Ch. 1 Advertising Distilled Spirits and Wine
010 Inside signs
020 Outside signs, first and second class cities
030 Prohibited statements
040 Novelties and specialties
050 Promotion of particular brands prohibited
060 Solicitation

Ch. 2 Advertising Malt Beverages
005 Outside signs; first and second class cities
015 Prohibited statements
025 Novelties and specialties

Ch. 3 Fair Trade, Pricing and Sales
010 Minimum case distilled spirits values
020 Minimum resale prices
030 Minimum wholesale price for wine
040 Close-out sales, date for approving
050 Transportation charges equalization
060 Taxes to be included in retail price
070 Retail price advertising
080 Cash sales only

Ch. 4 Licensing
010 Information required
020 Non-resident, special agent or solicitor
030 Transport permit, non-resident licensee
040 Bottling house storage
050 Rectifying plants, bottling permitted
060 Special miniature vendor
070 Special industrial alcohol
080 Military reservations
090 Transfer of stock
100 Records to be retained
110 Dormant license renewal
120 Retail beer applications
130 Beer storage
140 Distributors' storage
150 Request for citation
160 Beer transporter
170 Through transporter
180 Freight forwarder
190 Out-of-state brewers bond
200 Warehouses

TITLE 805 DEPARTMENT OF MINES AND MINERALS

Ch. 1 Division of Oil and Gas
030 Well location plat, preparation, form and contents
040 Vacuums; use of
050 Surety bonds; requirements, cancellation

Ch. 2 Diesel Equipment
010 Underground coal mine usage

TITLE 806 DEPARTMENT OF INSURANCE

Ch. 50 Fire Marshal
010 General construction requirements
020 Construction requirements to accommodate physically handicapped
050 LP Gas license denial, revocation or suspension (WITHDRAWN)
060 LP Gas license; financial responsibility required
070 LP Gas; standby usage requirements
080 Flammable liquids; self-service station requirements
100 Fire department aid
150 Boiler standards (WITHDRAWN)
151 Definitions; boiler safety
155 Administrative procedures; requirements
160 General requirements
165 Power boiler requirements
170 Heating boiler requirements
175 Nuclear vessel requirements
200 Mobile homes and recreational vehicles

TITLE 807 PUBLIC SERVICE COMMISSION

Ch. 1 Administration
010 Rules of procedure

Ch. 2 Electric, Water, Gas and Telephone Utilities
010 General rules
020 Tariffs
025 Gas
030 Gas service - Service lines
040 Water

Ch. 3 Occupational Safety and Health
010 Utilities - Employees and work areas

TITLE 900 DEPARTMENT FOR HUMAN RESOURCES

TITLE 901 BUREAU FOR ADMINISTRATION AND OPERATIONS

Ch. 1 Controlled Substances
010 Licensing of manufacturers and wholesalers
020 Schedule II substances
025 Schedule III substances
030 Schedule IV substances
040 Exempt preparations
050 Prescription drug refills
060 Return of prescription drugs prohibited

Ch. 5 Vital Statistics
010 State registrar
020 Delayed birth registration
030 Stillbirths
040 Verification of birth and death facts
050 Certified copies of certificates; fee
060 Birth certificate reissued; circumstances
070 Certificate of birth amended
080 Delayed registration of deaths

TITLE 902 BUREAU FOR HEALTH SERVICES

Ch. 1 Drug Formulary
010 Distribution of generic drug formulary
020 Ampicillin
030 Erythromycin
040 Penicillin-G
050 Penicillin-V
060 Sodium Pentobarbital
070 Sodium Secobarbital
080 Acetaminophen
090 Trisulfapyrimidine
100 Resperine
110 Diphenhydramine
120 Promethazine Hydrochloride
130 Chlorpromazine Hydrochloride
140 Sulfisoxazole
150 Hydrochlorothiazide

Ch. 2 Communicable Diseases
010 Definitions and methods of control
020 Reportable diseases
030 Inspections and control procedures
040 Surveillance and screening of carriers and selected groups
050 Control procedures
060 Immunization schedules
070 Rabies control
080 Venereal disease

Ch. 4 Maternal and Child Health
010 Midwifery
020 Care of eyes
030 PKU tests

Ch. 5 Hospitals and Institutions
010 Patients' fees

Ch. 7 Public Accommodations
010 Hotel and motel code

Ch. 10 Sanitation
010 Public rest rooms
020 Frozen food locker plants
030 Sanitarians
040 Youth camps

Ch. 15 Mobile Homes and Recreational Vehicles Parks - Facilities Standards
010 Mobile homes
020 Recreational vehicles

Ch. 20 Certificate of Need and Licensure Board
005 Certificate of need
015 Hospital services; operations
025 Extended care and recuperation center services
050 Intermediate care facilities
065 Day health care programs
075 Outpatient clinics and ambulatory care services
080 Home health agencies
085 Special services for mentally retarded and developmentally disabled
090 Community mental health-mental retardation center services

Regulation	1 Ky. R. Page No.	Effective Date
200 KAR 2:060E	58	Effective September 11, 1974; Expired January 9, 1975.
200 KAR 2:060	60	Effective November 13, 1974.
200 KAR 3:010E	584	Effective January 24, 1975; Expires May 24, 1975.
200 KAR 3:010	591	
200 KAR 10:010	591	
200 KAR 10:030	592	
201 KAR 1:120	8	
201 KAR 2:010	9	Effective September 11, 1974.
201 KAR 2:020	9	Effective September 11, 1974.
201 KAR 2:030	147	Effective December 11, 1974.
201 KAR 2:040	9	Effective September 11, 1974.
201 KAR 2:050	10	Effective September 11, 1974.
201 KAR 2:055	147	Effective December 11, 1974.
201 KAR 2:060	10	Effective September 11, 1974.
201 KAR 2:070	10	Effective September 11, 1974.
201 KAR 2:080	147	Effective December 11, 1974.
201 KAR 2:090	147	Effective December 11, 1974.
201 KAR 3:010	32	
201 KAR 3:020	32	
201 KAR 3:030	32	
201 KAR 3:040	32	
201 KAR 11:155	599	
201 KAR 11:160	599	
201 KAR 12:050	599	
301 KAR 1:010	33	Effective October 2, 1974.
301 KAR 1:012	148	Effective December 11, 1974.
301 KAR 1:015	148	Effective December 11, 1974.
301 KAR 1:016	345	Effective February 5, 1975.
301 KAR 1:020	33	Effective October 2, 1974.
301 KAR 1:030	33	Effective October 2, 1974.
301 KAR 1:031	346	Effective February 5, 1975.
301 KAR 1:035	149	Effective December 11, 1974.
301 KAR 1:040	33	Effective October 2, 1974.
Amended	119	Effective December 11, 1974.
301 KAR 1:050	62	Effective November 13, 1974.
301 KAR 1:055	149	Effective December 11, 1974.
301 KAR 1:057	346	Effective February 5, 1975.
301 KAR 1:060	63	Effective November 13, 1974.
301 KAR 1:070	63	Effective November 13, 1974.
301 KAR 1:075	149	Effective December 11, 1974.
301 KAR 1:080	63	Effective November 13, 1974.
301 KAR 1:082	241	Effective January 8, 1975.
301 KAR 1:085	241	Effective January 8, 1975.
301 KAR 1:090	63	Effective November 13, 1974.
301 KAR 1:100	63	Effective November 13, 1974.
301 KAR 1:110	64	Effective November 13, 1974.
301 KAR 1:115	241	Effective January 8, 1975.
301 KAR 1:120	150	Effective December 11, 1974.
301 KAR 1:122	345	Effective February 5, 1975.
301 KAR 1:125	346	Effective February 5, 1975.
301 KAR 1:130	242	Effective January 8, 1975.
301 KAR 1:132	347	Effective February 5, 1975.
301 KAR 1:145	474	
301 KAR 1:150	242	Effective January 8, 1975.
301 KAR 1:155	243	Effective January 8, 1975.
301 KAR 2:010	33	Effective October 2, 1974.
301 KAR 2:020	33	Effective October 2, 1974.
301 KAR 2:021E	24	Effective August 21, 1974; Expired December 19, 1974.
301 KAR 2:022E	121	Effective September 23, 1974; Expired January 21, 1975.
301 KAR 2:025	347	Effective February 5, 1975.
301 KAR 2:030	64	Effective November 13, 1974.
301 KAR 2:040	64	Effective November 13, 1974.
301 KAR 2:050	65	Effective November 13, 1974.
301 KAR 2:055	600	
301 KAR 2:060	347	Effective February 5, 1975.
301 KAR 2:070	475	
301 KAR 3:010	34	Effective October 2, 1974.
301 KAR 3:020	34	Effective October 2, 1974.
301 KAR 3:030	600	
301 KAR 3:050	475	
301 KAR 3:060	475	
301 KAR 4:010	35	Effective October 2, 1974.
301 KAR 4:020	65	Effective November 13, 1974.
302 KAR 1:010	150	Effective December 11, 1974.
401 KAR 1:010	475	
401 KAR 1:020	10	Effective September 11, 1974.
401 KAR 1:030	479	
401 KAR 1:040	480	
401 KAR 1:050	481	
401 KAR 1:060	481	
401 KAR 1:070	483	
401 KAR 1:080	484	
401 KAR 1:090	485	
401 KAR 1:100	485	
401 KAR 1:110	487	
401 KAR 1:120	488	
401 KAR 1:130	488	
401 KAR 1:140	488	
401 KAR 1:150	489	
401 KAR 3:010	601	
401 KAR 3:020	604	
401 KAR 3:030	605	
401 KAR 3:040	607	
401 KAR 3:050	610	
401 KAR 3:060	619	
401 KAR 3:070	625	
401 KAR 4:010	11	
Amended	448	Effective February 5, 1975.
402 KAR 1:010	11	
Amended	211, 448	
402 KAR 2:010	13	
402 KAR 2:020	14	
501 KAR 1:010	348	
502 KAR 5:010E	584	Effective January 31, 1975; Expires May 31, 1975.
502 KAR 5:010	626	
601 KAR 1:010	14	Effective September 11, 1974.
601 KAR 1:020E	2	Effective July 23, 1974; Expired November 20, 1974.
601 KAR 1:020	14	Effective September 11, 1974.
601 KAR 10:010	243	Effective January 8, 1975.
601 KAR 10:020	243	Effective January 8, 1975.
601 KAR 10:030	244	Effective January 8, 1975.
601 KAR 10:040	244	Effective January 8, 1975.
601 KAR 10:050	244	Effective January 8, 1975.
601 KAR 10:060	244	Effective January 8, 1975.
601 KAR 10:070	244	Effective January 8, 1975.
601 KAR 10:080	245	Effective January 8, 1975.
601 KAR 12:010	151	
601 KAR 13:010	35	Effective October 2, 1974.
601 KAR 20:010	245	Effective January 8, 1975.
601 KAR 20:030	245	Effective January 8, 1975.
601 KAR 20:040	245	Effective January 8, 1975.
601 KAR 20:050	246	Effective January 8, 1975.
601 KAR 20:070	246	Effective January 8, 1975.
601 KAR 20:080	246	Effective January 8, 1975.
601 KAR 20:090	246	Effective January 8, 1975.
601 KAR 20:110	246	Effective January 8, 1975.
601 KAR 20:130	247	Effective January 8, 1975.
602 KAR 1:010	15	Effective September 11, 1974.
602 KAR 1:020	15	Effective September 11, 1974.
602 KAR 1:025	627	
602 KAR 1:030	36	
Amended	213	Effective November 20, 1974.
602 KAR 1:040	36	Effective October 2, 1974.
602 KAR 1:050	627	
602 KAR 1:050	628	
602 KAR 1:070	630	
602 KAR 1:080	630	
602 KAR 10:010	631	
603 KAR 5:010	37	Effective October 2, 1974.
603 KAR 5:020	37	Effective October 2, 1974.
603 KAR 5:025	152	Effective December 11, 1974.
603 KAR 5:030	66	Effective November 13, 1974.
603 KAR 5:040	152	Effective December 11, 1974.
603 KAR 6:010	66	Effective November 13, 1974.
603 KAR 6:011	66	Effective November 13, 1974.
Amended	214	Effective January 8, 1975.
603 KAR 6:012	66	Effective November 13, 1974.
603 KAR 6:013	66	Effective November 13, 1974.
603 KAR 6:014	67	Effective November 13, 1974.
603 KAR 6:015	67	Effective November 13, 1974.
603 KAR 6:016	67	Effective November 13, 1974.
603 KAR 6:017	67	Effective November 13, 1974.
603 KAR 6:018	67	Effective November 13, 1974.
603 KAR 6:019	67	Effective November 13, 1974.
603 KAR 6:020	67	Effective November 13, 1974.
603 KAR 6:021	68	Effective November 13, 1974.
603 KAR 6:022	153	Effective December 11, 1974.
603 KAR 6:023	153	Effective December 11, 1974.
603 KAR 6:024	247	Effective January 8, 1975.
603 KAR 6:025	247	Effective January 8, 1975.
603 KAR 6:026	247	Effective January 8, 1975.
603 KAR 6:027	632	
603 KAR 6:028	248	Effective January 8, 1975.
603 KAR 6:029	248	Effective January 8, 1975.
603 KAR 6:030	248	Effective January 8, 1975.
702 KAR 1:010	37	
702 KAR 1:020	68	Effective November 13, 1974.
Amended	451	
702 KAR 1:030	68	Effective November 13, 1974.
702 KAR 2:010	38	Effective October 2, 1974.
702 KAR 2:020	38	Effective October 2, 1974.
702 KAR 2:030	39	Effective October 2, 1974.
702 KAR 2:040	39	Effective October 2, 1974.
702 KAR 2:050	40	Effective October 2, 1974.
702 KAR 2:060	40	Effective October 2, 1974.
702 KAR 2:070	40	Effective October 2, 1974.
702 KAR 2:080	40	Effective October 2, 1974.
702 KAR 2:090	41	Effective October 2, 1974.
702 KAR 2:100	42	
Amended	119	Effective October 2, 1974.
702 KAR 3:010	68	Effective November 13, 1974.
702 KAR 3:020	69	Effective November 13, 1974.
702 KAR 3:030	69	Effective November 13, 1974.
702 KAR 3:040	69	Effective November 13, 1974.
702 KAR 3:045	69	
702 KAR 3:050	69	
702 KAR 3:060	70	Effective November 13, 1974.
702 KAR 3:070	70	
702 KAR 3:075	70	Effective November 13, 1974.
702 KAR 3:080	70	Effective November 13, 1974.
702 KAR 3:090	71	Effective November 13, 1974.
702 KAR 3:100	71	
702 KAR 3:110	71	Effective November 13, 1974.
702 KAR 3:120	71	Effective November 13, 1974.
702 KAR 3:130	71	Effective November 13, 1974.

Regulation	1 Ky. R. Page No.	Effective Date
702 KAR 3:140	72	
702 KAR 3:150	72	Effective November 13, 1974.
702 KAR 3:160	72	Effective November 13, 1974.
703 KAR 1:010	42	Effective October 2, 1974.
703 KAR 1:020	42	
703 KAR 1:030	42	
703 KAR 1:040	43	
703 KAR 1:050	43	Effective October 2, 1974.
703 KAR 1:060	43	
703 KAR 1:070	43	
703 KAR 1:080	44	
703 KAR 2:010	44	
703 KAR 2:020	44	
703 KAR 2:030	45	
703 KAR 2:040	45	
703 KAR 3:010	45	Effective October 2, 1974.
703 KAR 3:020	45	Effective October 2, 1974.
703 KAR 3:030	45	Effective October 2, 1974.
703 KAR 3:040	46	Effective October 2, 1974.
704 KAR 1:010	46	Effective October 2, 1974.
704 KAR 1:020	72	Effective November 13, 1974.
704 KAR 1:030	73	
704 KAR 2:010	46	Effective October 2, 1974.
704 KAR 3:010	73	Effective November 13, 1974.
704 KAR 3:020	73	
704 KAR 3:030	74	Effective November 13, 1974.
704 KAR 3:040	74	Effective November 13, 1974.
704 KAR 3:050	74	Effective November 13, 1974.
704 KAR 3:060	75	Effective November 13, 1974.
704 KAR 3:070	75	Effective November 13, 1974.
704 KAR 3:080	75	Effective November 13, 1974.
704 KAR 3:090	76	
704 KAR 3:100	76	Effective November 13, 1974.
704 KAR 3:110	76	Effective November 13, 1974.
704 KAR 3:120	77	Effective November 13, 1974.
704 KAR 3:130	77	Effective November 13, 1974.
704 KAR 3:140	77	Effective November 13, 1974.
704 KAR 3:150	77	
704 KAR 3:160	78	Effective November 13, 1974.
704 KAR 3:170	78	Effective November 13, 1974.
704 KAR 3:180	78	
704 KAR 3:190	79	Effective November 13, 1974.
704 KAR 3:200	79	Effective November 13, 1974.
704 KAR 3:210	79	
704 KAR 3:220	80	Effective November 13, 1974.
704 KAR 3:230	80	
704 KAR 3:240	80	Effective November 13, 1974.
704 KAR 3:250	80	
704 KAR 3:260	81	Effective November 13, 1974.
704 KAR 3:270	81	Effective November 13, 1974.
704 KAR 4:010	81	Effective November 13, 1974.
704 KAR 4:020	81	Effective November 13, 1974.
704 KAR 5:010	82	Effective November 13, 1974.
704 KAR 5:050	83	
704 KAR 10:010	491	
704 KAR 15:010	491	
704 KAR 15:020	491	
704 KAR 15:030	491	
704 KAR 15:040	492	
704 KAR 15:050	492	
704 KAR 15:080	492	
704 KAR 20:005	492	
704 KAR 20:010	493	
704 KAR 20:015	493	
704 KAR 20:020	493	
704 KAR 20:025	493	
704 KAR 20:030	494	
704 KAR 20:035	494	
704 KAR 20:040	494	
704 KAR 20:045	494	
704 KAR 20:050	494	
704 KAR 20:055	495	
704 KAR 20:060	495	
704 KAR 20:065	495	
704 KAR 20:070	496	
704 KAR 20:075	495	
704 KAR 20:080	496	
704 KAR 20:085	496	
704 KAR 20:090	497	
704 KAR 20:095	497	
704 KAR 20:100	497	
704 KAR 20:105	497	
704 KAR 20:110	498	
704 KAR 20:115	498	
704 KAR 20:120	498	
704 KAR 20:125	499	
704 KAR 20:130	499	
704 KAR 20:135	499	
704 KAR 20:140	500	
704 KAR 20:145	500	
704 KAR 20:150	500	
704 KAR 20:155	501	
704 KAR 20:160	501	
704 KAR 20:165	501	
704 KAR 20:170	501	
704 KAR 20:175	501	
704 KAR 20:180	502	
704 KAR 20:185	502	
704 KAR 20:190	502	
704 KAR 20:195	503	
704 KAR 20:200	503	
704 KAR 20:205	503	
704 KAR 20:210	504	
704 KAR 20:215	504	
704 KAR 20:220	504	
705 KAR 1:010	47	Effective October 2, 1974.
705 KAR 2:090	505	
705 KAR 3:010	505	
705 KAR 3:020	506	
705 KAR 3:030	507	
705 KAR 3:040	507	
705 KAR 3:050	507	
705 KAR 3:060	507	
705 KAR 3:080	508	
705 KAR 5:010	84	
705 KAR 5:020	508	
705 KAR 5:030	84	
705 KAR 5:040	509	
705 KAR 5:060	84	Effective November 13, 1974.
705 KAR 7:010	85	Effective November 13, 1974.
705 KAR 7:020	509	
705 KAR 7:030	509	
705 KAR 7:040	85	Effective November 13, 1974.
705 KAR 8:010	510	
705 KAR 10:010	85	Effective November 13, 1974.
705 KAR 10:020	510	
705 KAR 10:040	85	Effective November 13, 1974.
705 KAR 10:050	86	Effective November 13, 1974.
705 KAR 10:060	86	Effective November 13, 1974.
705 KAR 10:070	86	Effective November 13, 1974.
705 KAR 10:080	87	Effective November 13, 1974.
705 KAR 10:090	87	Effective November 13, 1974.
705 KAR 10:100	87	Effective November 13, 1974.
705 KAR 10:120	87	Effective Noevmber 13, 1974.
705 KAR 11:010	87	Effective November 13, 1974.
705 KAR 11:020	88	Effective November 13, 1974.
705 KAR 11:030	88	Effective November 13, 1974.
705 KAR 11:040	88	Effective November 13, 1974.
705 KAR 11:050	88	Effective November 13, 1974.
801 KAR 1:005	248	Effective January 8, 1975.
801 KAR 1:010E	3,4	Effective July 25, 1974; Expired November 22, 1974.
801 KAR 1:010	4,16	
801 KAR 1:020E	3,5	Effective July 25, 1974; Expired November 22, 1974.
801 KAR 1:020	5,16	
801 KAR 1:030E	3,6	Effective July 25, 1974; Expired November 22, 1974.
801 KAR 1:030	6,16	
801 KAR 1:040E	3,7	Effective July 25, 1974; Expired November 22, 1974.
801 KAR 1:040	7,16	Effective September 11, 1974.
802 KAR 1:010	47	Effective October 2, 1974.
803 KAR 1:005	249	Effective January 8, 1975.
803 KAR 1:010	47	Effective October 2, 1974.
803 KAR 1:020	48	Effective October 2, 1974.
803 KAR 1:030	49	
Amended	119	Effective November 13, 1974.
803 KAR 1:040	49	
Amended	120	Effective November 13, 1974.
803 KAR 1:050	50	Effective October 2, 1074.
803 KAR 1:060	251	
Amended	451	Effective January 8, 1975.
803 KAR 1:065	253	Effective January 8, 1975.
803 KAR 1:066	510	
803 KAR 1:070	255	
Amended	586	Effective February 5, 1975.
803 KAR 1:075	256	Effective January 8, 1975.
803 KAR 1:080	153	Effective December 11, 1974.
803 KAR 1:085	155	Effective December 11, 1974.
803 KAR 1:090	156	
Amended	324, 455	Effective January 8, 1975.
803 KAR 1:100	157	Effective December 11, 1974.
803 KAR 2:020	88	Effective November 13, 1974.
803 KAR 2:030	89	Effective November 13, 1974.
Amended	214	Effective January 8, 1975.
803 KAR 2:040	158	Effective December 11, 1974.
803 KAR 2:050	158	Effective December 11, 1974.
803 KAR 2:060	158	Effective December 11, 1974.
803 KAR 2:070	159	Effective December 11, 1974.
803 KAR 2:080	159	Effective December 11, 1974.
803 KAR 2:090	160	Effective December 11, 1974.
803 KAR 2:095	160	Effective December 11, 1974.
803 KAR 2:100	160	Effective December 11, 1974.
803 KAR 2:110	161	Effective December 11, 1974.
803 KAR 2:115	161	Effective December 11, 1974.
803 KAR 2:120	161	Effective December 11, 1974.
803 KAR 2:125	162	Effective December 11, 1974.
803 KAR 2:130	162	Effective December 11, 1974.
803 KAR 2:140	162	Effective December 11, 1974.
803 KAR 2:150	162	Effective December 11, 1974.
803 KAR 2:160	163	Effective December 11, 1974.
803 KAR 2:170	163	Effective December 11, 1974.
803 KAR 4:010	50	Effective October 2, 1974.
803 KAR 50:010	349	Effective February 5, 1975.
804 KAR 1:010	50	Effective October 2, 1974.
804 KAR 1:020	50	Effective October 2, 1974.
804 KAR 1:030	51	Effective October 2, 1974.
804 KAR 1:040	51	Effective October 2, 1974.
804 KAR 1:050	51	Effective October 2, 1974.
804 KAR 1:060	52	Effective October 2, 1974.
804 KAR 2:005	632	

Regulation	1 Ky. R. Page No.	Effective Date
804 KAR 2:015	632	
804 KAR 2:025	633	
804 KAR 3:010	52	Effective October 2, 1974.
804 KAR 3:020	52	Effective October 2, 1974.
Amended	325	Effective February 5, 1975.
804 KAR 3:030	167	Effective December 11, 1974.
804 KAR 3:040	167	Effective December 11, 1974.
804 KAR 3:050	167	Effective December 11, 1974.
804 KAR 3:060	167	Effective December 11, 1974.
804 KAR 3:070	167	Effective December 11, 1974.
804 KAR 3:080	168	Effective December 11, 1974.
804 KAR 4:010	353	Effective February 5, 1975.
804 KAR 4:020	354	Effective February 5, 1975.
804 KAR 4:030	354	Effective February 5, 1975.
804 KAR 4:040	354	Effective February 5, 1975.
804 KAR 4:050	355	Effective February 5, 1975.
804 KAR 4:060	355	Effective February 5, 1975.
804 KAR 4:070	355	Effective February 5, 1975.
804 KAR 4:080	355	Effective February 5, 1975.
804 KAR 4:090	355	Effective February 5, 1975.
804 KAR 4:100	356	Effective February 5, 1975.
804 KAR 4:110	356	Effective February 5, 1975.
804 KAR 4:120	356	Effective February 5, 1975.
804 KAR 4:130	357	Effective February 5, 1975.
804 KAR 4:140	357	Effective February 5, 1975.
804 KAR 4:150	357	Effective February 5, 1975.
804 KAR 4:160	357	Effective February 5, 1975.
804 KAR 4:170	358	Effective February 5, 1975.
804 KAR 4:180	358	Effective February 5, 1975.
804 KAR 4:190	358	Effective February 5, 1975.
804 KAR 4:200	358	Effective February 5, 1975.
805 KAR 1:030	89	Effective November 13, 1974.
805 KAR 1:040	633	
805 KAR 1:050	633	
805 KAR 2:010	168	Effective December 11, 1974
806 KAR 50:010	90	
Amended	215	Effective November 20, 1974.
806 KAR 50:020	94	
Amended	222	Effective November 13, 1974.
806 KAR 50:050	95	Withdrawn November 7, 1974.
806 KAR 50:060	96	Effective November 13, 1974.
806 KAR 50:070	96	Effective November 13, 1974.
806 KAR 50:080	96	Effective November 13, 1974.
806 KAR 50:100	97	Effective November 13, 1974.
806 KAR 50:150	170	Withdrawn November 15, 1974.
806 KAR 50:151	359	Effective February 5, 1975.
806 KAR 50:155	360	Effective February 5, 1975.
806 KAR 50:160	362	Effective February 5, 1975.
806 KAR 50:165	363	Effective February 5, 1975.
806 KAR 50:170	366	Effective February 5, 1975.
806 KAR 50:175	368	Effective February 5, 1975.
806 KAR 50:200	97	
Amended	456	
807 KAR 1:010	179	Effective December 11, 1974.
807 KAR 2:010	183	
807 KAR 2:020	257	
807 KAR 2:025	260	
807 KAR 2:030	266	
807 KAR 2:040	267	
807 KAR 3:010	271	
901 KAR 1:010	634	
901 KAR 1:020	634	
901 KAR 1:025	634	
901 KAR 1:030	635	
901 KAR 1:040	635	
901 KAR 1:050	635	
901 KAR 1:060	635	
901 KAR 5:010	635	
901 KAR 5:020	636	
901 KAR 5:030	636	
901 KAR 5:040	636	
901 KAR 5:050	636	
901 KAR 5:060	636	
901 KAR 5:070	637	
901 KAR 5:080	637	
902 KAR 1:010	101	Effective November 13, 1974.
902 KAR 1:020	101	Effective November 13, 1974.
Amended	587	
902 KAR 1:030	102	Effective November 13, 1974.
Amended	583	
902 KAR 1:040	102	Effective November 13, 1974.
Amended	588	
902 KAR 1:050	103	Effective November 13, 1974.
Amended	589	
902 KAR 1:060	104	Effective November 13, 1974.
902 KAR 1:070	104	Effective November 13, 1974.
902 KAR 1:080	637	
902 KAR 1:090	637	
902 KAR 1:100	638	
902 KAR 1:110	638	
902 KAR 1:120	638	
902 KAR 1:130	639	
902 KAR 1:140	639	
902 KAR 1:150	639	
902 KAR 2:010	186	Effective December 11, 1974.
902 KAR 2:020	187	Effective December 11, 1974.
902 KAR 2:030	187	Effective December 11, 1974.
902 KAR 2:040	188	Effective December 11, 1974.
902 KAR 2:050	188	Effective December 11, 1974.
902 KAR 2:060	188	
Amended	460	

Regulation	1 Ky. R. Page No.	Effective Date
902 KAR 2:070	188	Effective December 11, 1974.
902 KAR 2:080	189	Effective December 11, 1974.
902 KAR 4:010	640	
902 KAR 4:020	640	
902 KAR 4:030	640	
902 KAR 5:010	369	Effective February 5, 1975.
902 KAR 7:010	641	
902 KAR 10:010	369	Effective February 5, 1975.
902 KAR 10:020	510	
902 KAR 10:030	511	
902 KAR 10:040	642	
902 KAR 15:010	369	Effective February 5, 1975.
902 KAR 15:020	371	Effective February 5, 1975.
902 KAR 20:005	512	
902 KAR 20:015	513	
902 KAR 20:025	514	
902 KAR 20:050	374	Effective February 5, 1975.
902 KAR 20:065	521	
902 KAR 20:075	523	
902 KAR 20:080	524	
902 KAR 20:085	526	
902 KAR 20:090	529	
902 KAR 20:105	530	
902 KAR 20:110	532	
902 KAR 20:125	533	
902 KAR 45:005	645	
902 KAR 45:010	533	
902 KAR 45:020	534	
902 KAR 45:030	537	
902 KAR 45:040	539	
902 KAR 45:045	542	
902 KAR 45:050	543	
902 KAR 45:060	547	
902 KAR 45:080	550	
902 KAR 45:100	552	
902 KAR 50:010	279	Effective January 8, 1975.
902 KAR 50:020	280	Effective January 8, 1975.
902 KAR 50:030	284	Effective January 8, 1975.
902 KAR 50:040	287	Effective January 8, 1975.
902 KAR 50:050	288	Effective January 8, 1975.
902 KAR 50:060	293	Effective January 8, 1975.
902 KAR 50:070	293	Effective January 8, 1975.
902 KAR 50:080	293	Effective January 8, 1975.
902 KAR100:001	380	Effective February 5, 1975.
902 KAR100:005	380	Effective February 5, 1975.
902 KAR100:010	381	Effective February 5, 1975.
902 KAR100:015	384	Effective February 5, 1975.
902 KAR100:020	384	Effective February 5, 1975.
902 KAR100:025	388	Effective February 5, 1975.
902 KAR100:030	391	Effective February 5, 1975.
902 KAR100:035	392	Effective February 5, 1975.
902 KAR100:040	394	Effective February 5, 1975.
902 KAR100:045	396	Effective February 5, 1975.
902 KAR100:050	397	Effective February 5, 1975.
902 KAR100:055	400	Effective February 5, 1975.
902 KAR100:060	402	Effective February 5, 1975.
902 KAR100:065	403	Effective February 5, 1975.
902 KAR100:070	403	Effective February 5, 1975.
902 KAR100:075	404	Effective February 5, 1975.
902 KAR100:080	404	Effective February 5, 1975.
902 KAR100:085	405	Effective February 5, 1975.
902 KAR100:090	406	Effective February 5, 1975.
902 KAR100:095	407	Effective February 5, 1975.
902 KAR100:100	408	Effective February 5, 1975.
902 KAR100:105	410	Effective February 5, 1975.
902 KAR100:110	411	Effective February 5, 1975.
902 KAR100:115	412	Effective February 5, 1975.
902 KAR100:120	412	Effective February 5, 1975.
902 KAR100:125	413	Effective February 5, 1975.
902 KAR100:130	415	Effective February 5, 1975.
902 KAR100:135	415	Effective February 5, 1975.
902 KAR100:140	416	Effective February 5, 1975.
902 KAR100:145	417	Effective February 5, 1975.
902 KAR100:150	418	Effective February 5, 1975.
902 KAR100:155	419	Effective February 5, 1975.
902 KAR100:160	420	Effective February 5, 1975.
902 KAR100:165	420	Effective February 5, 1975.
902 KAR100:170	421	Effective February 5, 1975.
904 KAR 1:010E	323	Effective December 13, 1974; Expires April 12, 1975.
904 KAR 1:020E	323	Effective December 13, 1974; Expires April 12, 1975.
904 KAR 2:010	423	Effective February 5, 1975.
905 KAR 1:010	294	Effective January 8, 1975.
905 KAR 1:030	294	Effective January 8, 1975.
905 KAR 1:040	651	
905 KAR 1:050	295	Effective January 8, 1975.
905 KAR 1:070	295	Effective January 8, 1975.
905 KAR 1:080	652	
905 KAR 1:090	297	Effective January 8, 1975.
905 KAR 2:010	652	
905 KAR 2:020	653	
905 KAR 2:025	654	
905 KAR 2:030	655	
905 KAR 2:035	656	
905 KAR 2:040	656	
905 KAR 2:060	657	

Index

Page

ACCOUNTANCY

CPA examinations; 201 KAR 1:120....8

ADMINISTRATIVE REGULATIONS

Form; amended; 1 KAR 1:010....7, 118
Register; amended; 1 KAR 1:010....7, 118

ADMINISTRATIVE SERVICES

Occupations and Professions
  Accountancy
    CPA examination; 201 KAR 1:120....8
  Auctioneers
    Apprenticeship
      Reciprocity with Indiana; 201 KAR 3:030....32
      Requirements for principal examination; 201 KAR 3:010....32
      Residence requirements; 201 KAR 3:020....32
    Licenses and Licensees
      Accounting of funds; 201 KAR 3:050....32
      Non-cancellation during active military duty; 201 KAR 3:040....32
      Real estate, sale of at auction; 201 KAR 3:060....32
  Business Schools
    Authority after licensure; 201 KAR 4:030....240
    Bonding requirements; 201 KAR 4:020....240
    Inspection; requirements; 201 KAR 4:040....240
    Refund policy requirements; 201 KAR 4:060....240
  Dentistry
    Applicant; requirements; 201 KAR 8:180....339
    Application prior to graduation; 201 KAR 8:170....339
    Auxiliary personnel; 201 KAR 8:135....337
    Business, order of; 201 KAR 8:090....336
    Clinical examination; 201 KAR 8:220....340
    Clinical demonstration; 201 KAR 8:240....340
    County registration; hygienists; 201 KAR 8:300....342
    Dental hygiene; application; 201 KAR 8:260....340
    Duplicate license certificate; 201 KAR 8:250....340
    Duplicate license; hygienists; 201 KAR 8:310....342
    Education; continuing; 201 KAR 8:140; 201 KAR 8:140E....447, 348
    Education requirement; specialties; 201 KAR 8:345....344
    Examination, application; 201 KAR 8:150....338
    Examination committee; 201 KAR 8:190....339
    Examination, qualifications; 201 KAR 8:160....339
    Examination questions, release of; 201 KAR 8:200....340
    Examination questions; review, approval; 201 KAR 8:210....340
    Grade requirement; dental hygiene; 201 KAR 8:270....342
    Grade requirement; written, clinical; 201 KAR 8:185; 201 KAR 8:277....
    Hygienists' official register; 201 KAR 8:290....342
    Hygienists' re-examination; 201 KAR 8:280....342
    Interim administration; 201 KAR 8:100....336
    Licensure, special; 201 KAR 8:120....336
    Meeting, annual; 201 KAR 8:080....336
    Notice of place of employment; hygienists; 201 KAR 8:320....342
    Oath of office; 201 KAR 8:010....334
    Organization; officers; 201 KAR 8:020....335
    President, duties; 201 KAR 8:030....335
    Re-examination; when; 201 KAR 8:230....340
    Register; specialists; 201 KAR 8:355....344
    Repayment contract; scholarship; 201 KAR 8:380....344
    Retirement, reinstatement; hygienists; 201 KAR 8:330....342
    Rules of order; 201 KAR 8:060....335
    Rules and regulations; amendments to; 201 KAR 8:110....336
    Salaries; office location; 201 KAR 8:050....335
    Secretary-treasurer, duties; 201 KAR 8:040....335
    Scholarship; administration; 201 KAR 8:375....344
    Scholarship contract form; 201 KAR 8:385....344
    Specialty application; examination; amended; 201 KAR 8:340....343, 586
    Specialty grade requirement; 201 KAR 8:350....344
    Vacancies, how filled; 201 KAR 8:070....336
    Vice-president, duties; 201 KAR 8:035....335
    X-rays, by assistants; 201 KAR 8:130....337
  Hairdressers and Cosmetologists
    Reciprocity; fees; 201 KAR 12:050....599
  Hearing Aid Dealers
    Board, annual meeting; 201 KAR 7:052....241
    Examination after training requirement; 201 KAR 7:125....241
    Training requirement completion; certification; 201 KAR 7:122....241
  Landscape Architects
    Applications; 201 KAR 10:040....594
    Board duties; 201 KAR 10:010....592
    Ethics, code of; 201 KAR 10:030....593
    Fees; 201 KAR 10:050....594
    Hearings; 201 KAR 10:020....593
    Renewals; 201 KAR 10:060....594
    Seals; 201 KAR 10:070....594
  Medical Licensure
    Conduct, code of; 201 KAR 9:010....470
    Examination; 201 KAR 9:030....472
    Hearing procedures; 201 KAR 9:080....473
    License fees; 201 KAR 9:040....472
    License renewal; 201 KAR 9:050....472
    Licenses, limited; 201 KAR 9:060....472

Page
    Licensing qualification; 201 KAR 9:020....470
    Permits; temporary, emergency; 201 KAR 9:070....473
    Physio-therapeutics practice; 201 KAR 9:090....474
    Probation, suspension, revocation; 201 KAR 9:080....473
    Registration, annual; 201 KAR 9:050....472
    Schools, approved; 201 KAR 9:020....470
  Nursing Home Administrators
    Licensure; 201 KAR 6:010....61
  Optometric Examiners
    Annual course of study required; 201 KAR 5:030....61
  Pharmacy
    Examinations; 201 KAR 2:020....9
    Fees, licenses and permits; 201 KAR 2:050....10
    Intermediary services restricted; 201 KAR 2:070....10
    Interns, registration of; 201 KAR 2:040....9
    License renewal; 201 KAR 2:055....147
    Pocket certificates; 201 KAR 2:060....10
    Prescription equipment; 201 KAR 2:090....147
    Prescription substitution; 201 KAR 2:080....147
    Reciprocity; 201 KAR 2:030....147
    Reference material; 201 KAR 2:090....147
    Revival fee; 201 KAR 2:055....147
    Schools, approved by; 201 KAR 2:010....9
    Temporary license; 201 KAR 2:030....147
  Real Estate Commission
    Advertising, brokers name on; 201 KAR 11:060....596
    Auction obligations; 201 KAR 11:115....598
    Branch offices; 201 KAR 11:070....597
    Broker licensing of salesman; 201 KAR 11:135....599
    Broker-salesman, defined; 201 KAR 11:120....593
    Broker's interest disclosure; 201 KAR 11:075....597
    Broker's requirements, not regularly in business; 201 KAR 11:080....597
    Broker's sign; 201 KAR 11:055....596
    Builder defined; 201 KAR 11:150....599
    Builder-developer; rule compliance; 201 KAR 11:155....599
    Classroom instruction required; 201 KAR 11:010....595
    Closing statements; 201 KAR 11:095....597
    Complaints, resolving; 201 KAR 11:130....598
    Conduct when managing property; 201 KAR 11:085....597
    Contracts to contain financing provisions; 201 KAR 11:040....596
    Exclusive authority, retention of; 201 KAR 11:100....598
    Financing provisions, contracts to contain; 201 KAR 11:040....596
    Hearings; 201 KAR 11:160....599
    Instruction, salesman to complete; 201 KAR 11:125....598
    Instruments, disposition; 201 KAR 11:090....597
    License application; 201 KAR 11:005....595
    License cancellation, reasons; 201 KAR 11:030....595
    Licenses, complaints against; 201 KAR 11:035....596
    Military duty, renewal after; 201 KAR 11:025....595
    Net listing requirements; 201 KAR 11:050....596
    Owner's consent, authorization; 201 KAR 11:105....598
    Reciprocal agreement, fee not reduced; 201 KAR 11:020....595
    Re-examination after failure; 201 KAR 11:015....595
    Rental management agreements; 201 KAR 11:095....597
    Salesman as broker, when; 201 KAR 11:140....599
    Salesman terminating employment; 201 KAR 11:145....599
    Trust, agency accounts, required; 201 KAR 11:065....597
    Written offers, submission of; 201 KAR 11:045....596

AERONAUTICS AND AIRPORT ZONING

Air Carriers
  Application for; 602 KAR 1:010....15
  Certificates; limitations and conditions; 602 KAR 1:050....627
  Hearings on; 602 KAR 1:020....15
  Insurance and indemnity bond requirements; 602 KAR 1:040....36
  Operation of aircraft in intrastate air commerce; amended; 602 KAR 1:030....36, 213
  Operations; monthly report; 602 KAR 1:070....630
  Schedule reporting; 602 KAR 1:080....630
  Service requirements; 602 KAR 1:060....630
  Tariff hearing procedures; 602 KAR 1:025....627
Airport Boards
  Commuter service; reimbursement for; 602 KAR 10:010....631

AGRICULTURE

Soybeans
  Referendum; 302 KAR 1:010....150

AIR POLLUTION

Ambient air quality; 401 KAR 3:020....604
Emergency episodes; 401 KAR 3:030....605
Existing source standards; 401 KAR 3:060....619
General provisions; 401 KAR 3:010....601
Hazards; emission standards; 401 KAR 3:040....607
Indirect source; 401 KAR 3:070....625
New source standards; 401 KAR 3:050....610

ALCOHOLIC BEVERAGE CONTROL

Advertising Distilled Spirits and Wine
  Brands, prohibition on promotion; 804 KAR 1:050....51
  Novelties and specialities; 804 KAR 1:040....51
  Prohibited statements; 804 KAR 1:030....51
  Signs, inside; 804 KAR 1:010....50
  Signs, outside, 1st and 2nd class cities; 804 KAR 1:020....50
  Solicitation; 804 KAR 1:060....52

Page

Advertising Malt Beverages
Novelties and specialties; 804 KAR 2:025.....633
Outside signs; 1st. and 2nd. class cities; 804 KAR 2:005.....632
Prohibited statements; 804 KAR 2:015.....632
Fair Trade, Pricing and Sales
Advertising retail price; 804 KAR 3:070.....167
Cash sales; 804 KAR 3:080.....168
Close-out sales; 804 KAR 3:040.....167
Distilled spirits, minimum case values; 804 KAR 3:010.....52
Resale prices, minimum; 804 KAR 3:020; amended;.....52, 325
Taxes included in retail price; 804 KAR 3:060.....167
Transportation charges; 804 KAR 3:050.....167
Wine, minimum wholesale price; 804 KAR 3:030.....167
Licensing
Beer storage; 804 KAR 4:130.....357
Beer transporter; 804 KAR 4:160.....357
Bottling house storage; 804 KAR 4:040.....354
Citation request; 804 KAR 4:150.....357
Distributors' storage; 804 KAR 4:140.....357
Dormant license renewal; 804 KAR 4:110.....356
Freight forwarders; 804 KAR 4:180.....358
Industrial alcohol; 804 KAR 4:070.....355
Information required; 804 KAR 4:010.....353
Military reservations; 804 KAR 4:080.....355
Miniature vendor; 804 KAR 4:060.....355
Non-resident, special agent, solicitor; 804 KAR 4:020.....354
Out-of-state brewers bond; 804 KAR 4:190.....358
Records, retention; 804 KAR 4:100.....356
Rectifying plants, bottling permitted; 804 KAR 4:050.....355
Retail beer applications; 804 KAR 4:120.....356
Stock transfer; 804 KAR 4:090.....355
Through transporter; 804 KAR 4:170.....358
Transport permit; non-resident licensee; 804 KAR 4:030.....354
Warehouses; 804 KAR 4:200.....358

ATTORNEY GENERAL
Opinions
Conditions for furnishing; amended; 40 KAR 1:010.....8, 118
Requests for; amended; 40 KAR 1:020.....8, 118

AUCTIONEERS
Accounting of funds by; 201 KAR 3:050.....32
Apprenticeship requirements for principal examination; 201 KAR 3:010.....32
Non-cancellation of license during active military duty; 201 KAR 3:040.....32
Reciprocity with Indiana residents; 201 KAR 3:030.....32
Residence requirements for apprentices; 201 KAR 3:020.....32
Sale of real estate at auction; 201 KAR 3:060.....32

AVIATION
(see Aeronautics)

BUSINESS AND PROFESSIONAL REGULATIONS
Accountancy; 201 KAR 1:120.....8
Auctioneers; 201 KAR 3:010 to 201 KAR 3:060.....32
Business Schools; 201 KAR 4:020 to 201 KAR 4:060.....240
Dentistry; 201 KAR 8:010 to 201 KAR 8:385.....334-344
Hearing Aid Dealers; 201 KAR 7:052; 201 KAR 7:122; 201 KAR 7:125.....241
Landscape Architects; 201 KAR 10:010 to 201 KAR 10:070.....592-594
Medical Licensure; 201 KAR 9:010 to 201 KAR 9:090.....470-474
Nursing Home Administrators; 201 KAR 6:010.....51
Optometric Examiners; 201 KAR 5:030.....61
Pharmacy; 201 KAR 2:010 to 201 KAR 2:070; 201 KAR 2:080; 201 KAR 2:090.....9, 10, 147

BUSINESS SCHOOLS
Authority after licensure; 201 KAR 4:030.....240
Bonding requirements; 201 KAR 4:020.....240
Inspection; requirements; 201 KAR 4:040.....240
Refund policy requirements; 201 KAR 4:060.....240

CERTIFICATE OF NEED AND LICENSURE
Alcohol detoxification centers; 902 KAR 20:110.....532
Ambulatory surgical center services; 902 KAR 20:105.....530
Certificate of need; 902 KAR 20:005.....512
Day health care program; 902 KAR 20:065.....521
Developmentally disabled; special services; 902 KAR 20:085.....526
Extended care, recuperation, services; 902 KAR 20:025.....514
Home health agencies; 902 KAR 20:080.....524
Hospital services; operations; 902 KAR 20:015.....513
Intermediate care facilities; 902 KAR 20:050.....374
Mental health, mental retardation; community services; 902 KAR 20:090.....529
Mentally retarded; special services; 902 KAR 20:085.....526
Outpatient clinics; ambulatory care services; 902 KAR 20:075.....523

CHILD WELFARE
Adoptive parents; selection; approval; 905 KAR 1:030.....294
Agencies, standards; 905 KAR 1:090.....297
Application to place or receive child; 905 KAR 1:010.....294
Boarding rates; 905 KAR 1:080.....652
Foster parents; criteria; 905 KAR 1:040.....651
Group home standards; 905 KAR 1:070.....295
Institutions; standards; 905 KAR 1:090.....297
Subsidies, approval; 905 KAR 1:050.....295

Page

CIVIL RIGHTS
Advertising guidelines; employment; 104 KAR 1:040.....238
Discrimination guidelines; 104 KAR 1:050.....239
Employer records and reports; 104 KAR 1:030.....237
Guidelines on discrimination; 104 KAR 1:050.....239
Guidelines; employment advertising; 104 KAR 1:040.....238
Multiple dwelling reporting; amended; 104 KAR 1:060...239, 451
Notices; posting and distributing; 104 KAR 1:010.....234
Posting and distribution of notices; 104 KAR 1:010.....234
Practice and procedure; Rules; 104 KAR 1:020.....235
Records and reports; employer; 104 KAR 1:030.....237
Rules of practice and procedure; 104 KAR 1:020.....235

CONSERVATION
Districts
Direct Aid Program eligibility; 402 KAR 2:010.....13
Expenditures, limits on; 402 KAR 2:020.....14

CONTROLLED SUBSTANCES
Exempt preparations; 901 KAR 1:040.....635
Licensing; manufacturers, wholesalers; 901 KAR 1:010.....634
Prescription refills; 901 KAR 1:050.....635
Prescription returns prohibited; 901 KAR 1:060.....635
Schedule II; 901 KAR 1:020.....634
Schedule III; 901 KAR 1:025.....634
Schedule IV; 901 KAR 1:030.....635

CORPORATE FILING
Certificate of good standing; 30 KAR 1:010.....326
Statements, reports, documents; 30 KAR 1:020.....326

CORRECTIONS
Probation and Parole
Parole eligibility, time served for; 501 KAR 1:010.....348

COSMETICS
(see Food and Cosmetics)

DENTISTRY
Applicant; requirements; 201 KAR 8:180.....339
Application prior to graduation; 201 KAR 8:170.....339
Auxiliary personnel; 201 KAR 8:135.....337
Business, order of; 201 KAR 8:090.....336
Clinical examination; 201 KAR 8:220.....340
Clinical demonstration; 201 KAR 8:240.....340
County registration; hygienists; 201 KAR 8:300.....342
Dental hygiene; application; 201 KAR 8:260.....340
Duplicate license certificate; 201 KAR 8:250.....340
Duplicate license; hygienists; 201 KAR 8:310.....342
Education; continuing; 201 KAR 8:140; 201 KAR 8:140E..348, 447
Education requirement; specialties; 201 KAR 8:345.....344
Examination, application; 201 KAR 8:150.....338
Examination committee; 201 KAR 8:190.....339
Examination, qualifications; 201 KAR 8:160.....339
Examination questions, release of; 201 KAR 8:200.....340
Examination questions; review, approval; 201 KAR 8:210.....340
Grade requirement; dental hygiene; 201 KAR 8:270.....342
Grade requirement; written, clinical; 201 KAR 8:165; 201 KAR 8:277.....592
Hygienists' official register; 201 KAR 8:290.....342
Hygienists' re-examination; 201 KAR 8:280.....342
Interim administration; 201 KAR 8:100.....336
Licensure, special; 201 KAR 8:120.....336
Meeting, annual; 201 KAR 8:080.....336
Notice of place of employment; hygienists; 201 KAR 8:320...342
Oath of office; 201 KAR 8:010.....334
Organization; officers; 201 KAR 8:020.....335
President, duties; 201 KAR 8:030.....335
Re-examination; when; 201 KAR 8:230.....340
Register; specialists; 201 KAR 8:355.....344
Repayment contract; scholarship; 201 KAR 8:380.....344
Retirement, reinstatement; hygienists; 201 KAR 8:330.....342
Rules of order; 201 KAR 8:060.....335
Rules and regulations; amendments to; 201 KAR 8:110.....336
Salaries; office location; 201 KAR 8:050.....335
Secretary-treasurer, duties; 201 KAR 8:040.....335
Scholarship; administration; 201 KAR 8:375.....344
Scholarship contract form; 201 KAR 8:385.....344
Specialty application; examination; amended; 201 KAR 8:340.....343
Specialty grade requirement; 201 KAR 8:350.....344
Vacancies, how filled; 201 KAR 8:070.....336
Vice-president, duties; 201 KAR 8:035.....335
X-rays, by assistants; 201 KAR 8:130.....337

DEVELOPMENT
Agriculture
Soybean referendum; 302 KAR 1:010.....150
Fish and Wildlife Resources
Fish; 301 KAR 1:010 through 301 KAR 1:120; 301 KAR 1:082 through 301 KAR 1:155.....64, 148-150, 241-243, 345-347, 474
Game; 301 KAR 2:010 through 301 KAR 2:060; 301 KAR 2:021E; 301 KAR 2:022E; 301 KAR 2:070.....24, 65, 121, 347, 475, 600
Hunting and Fishing; 301 KAR 3:010 through 301 KAR 3:020; 301 KAR 3:050; 301 KAR 3:060.....34, 475, 476, 600
Wildlife; 301 KAR 4:010; 301 KAR 4:020; 301 KAR 2:022E; 301 KAR 2:025; 301 KAR 2:060; 301 KAR 2:070; 301 KAR 2:070; 301 KAR 3:060.....35, 65, 121, 347, 475, 476

Page

DISEASES

Communicable
- Carriers, groups; screening; 902 KAR 2:040.....188
- Control methods; 902 KAR 2:010.....185
- Control procedures; 902 KAR 2:030.....187
- Control procedures, application; 902 KAR 2:050.....188
- Definitions; 902 KAR 2:010.....186
- Immunization schedules; 902 KAR 2:060; amended.....188, 460
- Inspections; 902 KAR 2:030.....187
- Rabies control; 902 KAR 2:070.....188
- Reportable; 902 KAR 2:020.....187
- Surveillance; 902 KAR 2:040.....188
- Venereal disease; 902 KAR 2:080.....189

DRIVERS' LICENSE

Revocation
- Notice and hearing, prior to; 601 KAR 12:010.....

DRUG FORMULARY

Acetaminophen; 902 KAR 1:080.....637
Ampicillin; amended; 902 KAR 1:020.....101, 587
Chlorpromazine Hydrochloride; 902 KAR 1:130.....639
Diphenhydramine; 902 KAR 1:110.....638
Erythromycin; amended; 902 KAR 1:030.....102, 588
Generic formulary, distribution of; 902 KAR 1:010.....101
Hydrochlorothiazide; 902 KAR 1:150.....639
Penicillin-G; amended; 902 KAR 1:040.....102, 588
Penicillin-V; amended; 902 KAR 1:050.....103, 589
Promethazine Hydrochloride; 902 KAR 1:120.....638
Reserpine; 902 KAR 1:100.....638
Sodium Pentobarbital; 902 KAR 1:060.....104
Sodium Secobarbital; 902 KAR 1:070.....104
Sulfisoxazole; 902 KAR 1:140.....639
Trisulfapyrimidine; 902 KAR 1:090.....637

EDUCATION

Administration and Finance
- General Administration
  - Employment, length of; amended; 702 KAR 1:020.....68
  - Facilities survey; 702 KAR 1:010.....37
  - Insurance, group life program; 702 KAR 1:030.....68
- School District Finance
  - Accounting, internal; 702 KAR 3:130.....71
  - Accounting system, uniform; 702 KAR 3:120.....71
  - Audits; exceptions, corrections; 702 KAR 3:150.....72
  - Bidding guidelines; 702 KAR 3:140.....72
  - Bond issue approval; 702 KAR 3:020.....69
  - Budget not to be exceeded; 702 KAR 3:050.....69
  - Check issuing policy; 702 KAR 3:040.....69
  - Classroom units, exceptions; 702 KAR 3:160.....72
  - Data form; 702 KAR 3:100.....71
  - Depository bond; 702 KAR 3:090.....71
  - Document filing; 702 KAR 3:110.....71
  - Foundation program capital outlay funds, guidelines for use; 702 KAR 3:010.....68
  - Funds, withholding; 702 KAR 3:045.....69
  - Mortgaged buildings, insurance on; 702 KAR 3:030.....69
  - Substitute teachers' salary scheduling; 702 KAR 3:075.....70
  - Teachers' salary payment plan; 702 KAR 3:060.....70
  - Teachers' salary scheduling; 702 KAR 3:070.....70
  - Treasurers' bond; 702 KAR 3:080.....70
- Surplus Property
  - Accounting procedures; 702 KAR 2:080.....40
  - Acquisition; 702 KAR 2:070.....40
  - Certification of eligibles; 702 KAR 2:030.....39
  - Definitions of eligible entities; 702 KAR 2:010.....38
  - Director of Division, duties; 702 KAR 2:090.....41
  - Federal excess, donee requirements; 702 KAR 2:050.....40
  - Federal surplus, donee requirements; 702 KAR 2:040.....39
  - Funds; 702 KAR 2:080.....40
  - Non-federal excess, requirements; 702 KAR 2:060.....40
  - Organizing and operating, authority for; 702 KAR 2:020.....38
  - Property not covered by PL 152; amended; 702 KAR 2:100.....42, 119
  - Services charges; 702 KAR 2:080.....40

Instruction
- Elementary and Secondary Education Act
  - Kentucky plan; 704 KAR 10:010.....491
- Exceptional and Handicapped Programs
  - Hearing impairment; 704 KAR 1:010.....46
  - Multiple handicapped; 704 KAR 1:030.....73
  - Private programs; 704 KAR 1:020.....72
- Health and Physical Education Programs
  - Physical education; 704 KAR 4:010.....81
  - School health; 704 KAR 4:020.....81
- Instructional Services
  - Academic subjects consultant; 704 KAR 3:260.....81
  - Administrative and special; 704 KAR 3:010.....73
  - Art education teacher; 704 KAR 3:130.....77
  - Art program consultant; 704 KAR 3:140.....77
  - ASIS program coordinator; 704 KAR 3:250.....80
  - Clock hours, reduction of; 704 KAR 3:020.....73
  - Driver education and traffic safety teacher; 704 KAR 3:190.....79
  - Exceptional children, teacher-consultants; 704 KAR 3:270.....81
  - Finance officer; 704 KAR 3:200.....79
  - Health and physical education consultant; 704 KAR 3:100.....76
  - Industrial arts teacher; 704 KAR 3:150.....77

Page

- Instructional service units, special; 704 KAR 3:030.....74
- Librarian, school media; 704 KAR 3:170.....78
- Music education teacher; 704 KAR 3:110.....76
- Music program consultant; 704 KAR 3:120.....77
- Physical education teacher; 704 KAR 3:090.....75
- Principal; assistant; 704 KAR 3:050.....74
- Psychologist; Psychometrist; 704 KAR 3:180.....78
- Pupil personnel director; 704 KAR 3:230.....80
- Reading program consultant; 704 KAR 3:240.....80
- School lunch director; 704 KAR 3:210.....79
- Social worker; 704 KAR 3:080.....75
- Superintendent; assistant; 704 KAR 3:040.....74
- Supervisor of instruction; 704 KAR 3:220.....80
- Teacher, visiting; 704 KAR 3:060.....75
- Vocational education, local director; 704 KAR 3:160.....78
- Kindergartens and Nursery Schools
  - Private programs; 704 KAR 5:010.....82
  - Public school programs; 704 KAR 5:050.....83
- Textbooks, Libraries and Materials
  - State plan under PL 89-10; 704 KAR 2:010.....46

Pupil Personnel Services
- Food Service Programs
  - Accrual cost accounting; 703 KAR 1:080.....34
  - District Director; 703 KAR 1:020.....42
  - Funds and reports; 703 KAR 1:070.....43
  - Local responsibilities; 703 KAR 1:010.....42
  - Lunch and breakfast requirements; 703 KAR 1:050.....43
  - Meals, time minimum; 703 KAR 1:060.....43
  - Personnel, policies and procedures; 703 KAR 1:040.....43
  - Principals' responsibilities; 703 KAR 1:030.....42
- School Terms, Attendance and Operation
  - Calendar; 703 KAR 2:020.....44
  - Census; 703 KAR 2:030.....45
  - Experimental schools; 703 KAR 2:040.....45
  - Terms and months; 703 KAR 2:010.....44
- Guidance Services
  - Counselor, criteria, duties; 703 KAR 3:020.....45
  - Counselor units; 703 KAR 3:030.....45
  - Federal funds; 703 KAR 3:040.....46
  - Personnel functions; 703 KAR 3:010.....45

Teacher Certification
- Administrators and supervisors; 704 KAR 20:100.....493
- Art; elementary on secondary certificate; 704 KAR 20:105.....497
- Business administrators; 704 KAR 20:110.....498
- Certification application; 704 KAR 20:045.....495
- Correspondence credit; 704 KAR 20:040.....494
- Date of issuance; expiration; 704 KAR 20:055.....495
- Driver education; 704 KAR 20:115.....498
- Elementary, provisional; 704 KAR 20:090.....497
- Elementary on secondary certification; 704 KAR 20:095.....497
- Elementary, standard; 704 KAR 20:085.....496
- Emergency; 704 KAR 20:120.....495
- Experimental program teachers; 704 KAR 20:125.....499
- Guidance counselors; 704 KAR 20:130.....499
- High school certificate; provisional; 704 KAR 20:070.....496
- High school certificate, standard; 704 KAR 20:065.....495
- Kentucky plan; approval; 704 KAR 20:005.....492
- Kindergarten teachers; 704 KAR 20:135.....499
- Librarians; 704 KAR 20:140.....500
- Librarians; media; 704 KAR 20:145.....500
- Middle school/junior high; provisional; 704 KAR 20:080.....496
- Music; elementary on secondary certification; 704 KAR 20:160.....501
- New positions; 704 KAR 20:165.....501
- Non tax supported schools; 704 KAR 20:170.....501
- Out of state preparation; 704 KAR 20:035.....494
- P.E.; elementary on secondary certification; 704 KAR 20:175.....501
- Proficiency evaluation; 704 KAR 20:030.....494
- Psychometrists; 704 KAR 20:185.....502
- Rank I; 704 KAR 20:015.....493
- Rank II equivalency; 704 KAR 20:020.....493
- Ranking procedures; general; 704 KAR 20:010.....493
- Ranking, vocational instructors; 704 KAR 20:025.....493
- Rehabilitation counselors; 704 KAR 20:190.....502
- Renewals; 704 KAR 20:060.....495
- Secondary, on elementary certification; 704 KAR 20:075.....496
- Special education supervisors; 704 KAR 20:200.....503
- Special education teachers; 704 KAR 20:205.....503
- Specialists, media; 704 KAR 20:150.....500
- Specialists, reading; 704 KAR 20:180.....502
- Substitutes; 704 KAR 20:210.....504
- Supervisors, media; 704 KAR 20:155.....501
- Time limit for applying; 704 KAR 20:050.....494
- Vocational education administrators; 704 KAR 20:215.....504
- Vocational education teachers; 704 KAR 20:220.....504

Teacher Education
- Accreditation of institutions; 704 KAR 15:010.....491
- Curricula; evaluation and approval; 704 KAR 15:020.....491
- Experimental preparation program; 704 KAR 15:030.....494
- In service training; 704 KAR 15:050.....492
- Internship modifications; 704 KAR 15:040.....492
- Paraprofessionals; 704 KAR 15:080.....492

Teachers' Retirement System
- Absence, leave of; 102 KAR 1:110.....461
- Additional contributions; 102 KAR 1:130.....137
- Administrative staff; 102 KAR 1:037.....460
- Annuity payments; 102 KAR 1:155.....463
- Annuity tables; 102 KAR 1:160.....463
- Applications for retirement; 102 KAR 1:070.....136

Page

Chairman, vice chairman, election; 102 KAR 2:010.....464
Contributions, additional; 102 KAR 1:130.....137
Contributions, omitted; 102 KAR 1:125.....137
Contributions, voluntary; 102 KAR 1:120.....136
Disability; 102 KAR 1:140.....462
Entrants, new; 102 KAR 1:039.....461
Fractional service year; 102 KAR 1:038.....461
Insurance; 102 KAR 1:100.....136
Interest credited; 102 KAR 1:135.....462
Interest rate; out-of-state service; 102 KAR 1:050.....135
Investment policies; 102 KAR 1:175.....464
KIDFA investments; 102 KAR 1:180.....464
Military service credit; 102 KAR 1:055.....135
Omitted contributions; 102 KAR 1:125.....137
Optional benefits; 102 KAR 1:150.....463
Out-of-state service interest rate; 102 KAR 1:050.....135
Part time service; 102 KAR 1:035.....460
Refunds; 102 KAR 1:060.....136
Retired teachers, substitute teaching by; 102 KAR 1:035..135
Retirement, application for; 102 KAR 1:070.....136
Rules and regulations; 102 KAR 1:010.....460
Substitute teachers; 102 KAR 1:030.....134
Substitution by retired teachers; 102 KAR 1:035.....135
Supplemental payments; 102 KAR 1:020.....59
Surviving children's benefits; 102 KAR 1:165.....463
Tax sheltered contributions; 102 KAR 1:115.....462
Transfer to other systems; 102 KAR 1:045.....135
Voluntary contributions; 102 KAR 1:120.....136
Vocational Education
Administration
State plan; 705 KAR 1:010.....47
Adult Education
Definitions; 705 KAR 7:010.....85
Eighth grade equivalency certificate; 705 KAR 7:040....85
High school equivalency certificate; 705 KAR 7:030....509
Testing program; 705 KAR 7:020.....509
Facilities and Equipment
Area center; public high school; 705 KAR 3:030.....507
College or university, department of; 705 KAR 3:050...507
Construction; 705 KAR 3:080.....508
Definitions; 705 KAR 3:010.....505
Public high school, specialized; 705 KAR 3:020.....506
Remote high school; 705 KAR 3:060.....507
Vocational/technical; public or state; 705 KAR 3:040..507
Fiscal Management
Audits; 705 KAR 2:090.....505
Licensing Proprietary Schools
Advertising; 705 KAR 10:070.....86
Agent's permit; 705 KAR 10:020.....510
Appeals procedure; 705 KAR 10:120.....87
Cancellation and refund; 705 KAR 10:060.....86
Catalog; 705 KAR 10:050.....86
Certificate of approval; 705 KAR 10:010.....85
Enrollment contract; records, reports; 705 KAR 10:090..87
Equipment and facilities; 705 KAR 10:080.....87
Financial stability; 705 KAR 10:100.....87
Personnel qualifications; 705 KAR 10:040.....85
Management of State-Operated Schools
Admininstration; 705 KAR 5:020.....508
Enrollment quotas; 705 KAR 5:010.....84
Live work projects; 705 KAR 5:060.....84
Steering committee; 705 KAR 5:040.....509
Transportation reimbursement; 705 KAR 5:030.....84
Student Financial Aid
Admininstration; 705 KAR 8:010.....510
Veterans' Approval Agency
Apprenticeship and OJT courses; 705 KAR 11:020.....88
Denial and revocation; 705 KAR 11:040.....88
Inspection and supervision; 705 KAR 11:050.....88
Institutional courses; 705 KAR 11:010.....87
Revisions and amendments; 705 KAR 11:030.....88

EDUCATION AND ARTS

Education
Administration and Finance
General administration; 702 KAR 1:010;
702 KAR 1:020; 702 KAR 1:030; amended;.....37, 68, 451
School district finance; 702 KAR 3:010 through
702 KAR 3:160.....68-72
Surplus property; 702 KAR 2:010 to 702 KAR
2:100; amended.....38, 39, 40, 41, 42, 119
Instruction
Elementary and secondary education act;
704 KAR 10:010.....491
Exceptional and Handicapped programs; 704 KAR 1:010;
through 704 KAR 1:030.....46-73
Health and physical education programs; 704 KAR 4:010;
704 KAR 4:020.....81
Instructional services; 704 KAR 3:010 through
704 KAR 3:270.....73-81
Kindergarten and nursery schools; 704 KAR 5:010;
704 KAR 5:050.....82-83
Teacher certification; 704 KAR 20:005 to
704 KAR 20:220.....497-504
Teacher education; 704 KAR 15:010 to
704 KAR 15:080.....491-492
Textbooks, libraries and instructional materials;
704 KAR 2:010.....46
Pupil Personnel Services
Food service programs; 703 KAR 1:010 to 703 KAR
1:080.....42, 43, 44
Guidance services; 703 KAR 3:010 to 703 KAR
3:040.....45, 46

Page

School terms, attendance and operation; 703 KAR 2:010
to 703 KAR 2:040.....44, 45
Vocational Education
Administration; 705 KAR 1:010.....47
Adult education; 705 KAR 7:010; 705 KAR 7:040.....47, 85
Facilities and equipment; 705 KAR 3:010 to
705 KAR 3:080.....508
Fiscal management; 705 KAR 2:090.....505
Licensing proprietary schools; 705 KAR 10:010
through 705 KAR 10:120.....85-87
Management of state-operated schools; 705 KAR 5:010;
705 KAR 5:030; 705 KAR 5:060.....84
Student financial aid; 705 KAR 8:010.....510
Veterans' approval agency; 705 KAR 11:010
through 705 KAR 11:050.....87, 88
Education Assistance Authority
Student incentive grants; 11 KAR 1:010.....30

EDUCATION ASSISTANCE AUTHORITY

Student incentive grants; 11 KAR 1:010; 11 KAR 1:010E...30, 22

ELECTIONS

Absentee ballot
Eligibility when under indictment; 31 KAR 1:010.....8
Registry of Election Finance
Forms for reporting; 801 KAR 1:010 to 801 KAR 1:040 and
801 KAR 1:010E to 801 KAR 1:040E;
801 KAR 1:005.....3, 4, 5, 6, 7, 16, 248

ELEVATORS

Standards; elevators, dumbwaiters, escalators and
moving walks; 803 KAR 4:010.....50

EMPLOYEES, STATE

Personnel Rules (Merit System)
Annual leave; 101 KAR 1:140.....133
Appeals; 101 KAR 1:130.....131
Applications; 101 KAR 1:060.....126
Appointments, types of; 101 KAR 1:090.....129
Attendance; 101 KAR 1:140.....133
Board procedures; 101 KAR 1:030.....123
Certification and selection of eligibles; 101 KAR 1:080..128
Classification plan; 101 KAR 1:040.....124
Compensation plan; 101 KAR 1:050;amended;.....124, 208
Compensatory leave; 101 KAR 1:140.....133
Court leave; 101 KAR 1:140;amended;.....133, 209
Definitions; 101 KAR 1:010.....123
Demotion; 101 KAR 1:110.....130
Disciplinary actions; 101 KAR 1:120.....131
Examinations; 101 KAR 1:060.....126
General provisions; 101 KAR 1:020.....123
Hours of work; 101 KAR 1:140.....133
Military leave; 101 KAR 1:140.....133
Probationary period; 101 KAR 1:100.....130
Promotion; 101 KAR 1:110.....127
Registers; 101 KAR 1:070.....127
Retirement; 101 KAR 1:140.....133
Separations; 101 KAR 1:120.....131
Service; 101 KAR 1:140.....133
Sick leave; 101 KAR 1:140.....133
Special duty, detail to; 101 KAR 1:110.....130
Transfer; 101 KAR 1:110.....130
Voting leave; 101 KAR 1:140.....133
Travel Expense and Reimbursement
Official work station; 200 KAR 2:030E;
200 KAR 2:030.....58, 60
Subsistence expenses; 200 KAR 2:060E;
200 KAR 2:060.....58, 60
Unclassified service rules; 101 KAR 1:200.....326

ENVIRONMENTAL QUALITY

Air Pollution
Ambient air quality; 401 KAR 3:020.....604
Emergency episodes; 401 KAR 3:030.....605
Existing source standards; 401 KAR 3:060.....619
General provisions; 401 KAR 3:010.....601
Hazards; emission standards; 401 KAR 3:040.....607
Indirect source; 401 KAR 3:070.....625
New source; 401 KAR 3:050.....610
Plumbing Code
Buildings, public; 401 KAR 1:150.....489
Connections, special; 401 KAR 1:140.....488
Definitions; 401 KAR 1:010.....476
Fixtures; 401 KAR 1:040.....480
House sewers; 401 KAR 1:100.....485
Inspection, tests; 401 KAR 1:110.....487
Installation permits; 401 KAR 1:020.....10
Joints, connections; 401 KAR 1:070.....483
Materials, quality and weight; 401 KAR 1:030.....479
Mobile home parks; waste systems, connections;
401 KAR 1:130.....488
Public buildings; 401 KAR 1:150.....489
Septic systems; private, commercial; 401 KAR 1:120.....488
Soil, waste, vent systems; 401 KAR 1:060.....481
Storm water piping; 401 KAR 1:100.....485
Traps, cleanouts; 401 KAR 1:080.....484
Waste pipe size; 401 KAR 1:050.....481
Water supply, distribution; 401 KAR 1:090.....485
Water
Withdrawal permits; amended; 401 KAR 4:010.....11, 448

Page

EXCISE TAX

Alcoholic Beverages
Consumer rates; 103 KAR 40:090....332
Malt beverages; 103 KAR 40:030....332
Cigarettes
Indicia, elimination of; 103 KAR 41:130....333
Records, retention of; 103 KAR 41:120....333
Sample; 103 KAR 41:110....333
Segregation; 103 KAR 41:100....333
Wholesale; resident, nonresident; 103 KAR 41:030....333
Motor Fuels
Assignment; 103 KAR 43:080....334
Display; 103 KAR 43:200....334
Refund; 103 KAR 43:090....334
Storage; 103 KAR 43:210....334

FINANCE AND ADMINISTRATION

Local Government, Office of
Bonds, obligations of local governments; marketing assistance; 200 KAR 10:030....593
District boards; directors, terms; 200 KAR 10:010....592
Occupations and Professions
Accountancy; 201 KAR 1:120....8
Auctioneers; 201 KAR 3:010 to 201 KAR 3:060....32
Business Schools; 201 KAR 4:020 to 201 KAR 4:060....240
Dentistry; 201 KAR 8:010 to 201 KAR 8:385....334–344
Hairdressers and Cosmetologists; 201 KAR 12:050....599
Hearing Aid Dealers; 201 KAR 7:052; 201 KAR 7:122; 201 KAR 7:125....241
Landscape Architects; 201 KAR 10:010 to 201 KAR 10:070....592–594
Medical licensure; 201 KAR 9:010 to 201 KAR 9:090....470–474
Nursing Home Administrators; 201 KAR 6:010....61
Optometric Examiners; 201 KAR 5:030....61
Pharmacy; 201 KAR 2:010 to 201 KAR 2:090....9, 10, 147
Real Estate Commission; 201 KAR 11:005 to 201 KAR 11:160....595–599
Public Records
Inspecting and copying; 200 KAR 1:010; 200 KAR 1:010E....31, 24
State Buildings and Grounds
Traffic control; 200 KAR 3:010; 200 KAR 3:010E....584, 591
Vehicle parking; 200 KAR 3:010; 200 KAR 3:010E....584, 591
Travel Expense and Reimbursement
Official work station; 200 KAR 2:030E; 200 KAR 2:030....58, 60
Subsistence expenses; 200 KAR 2:060E; 200 KAR 2:060....58, 60

FIRE MARSHAL

Boiler standards; 806 KAR 50:150....170
Boilers
Administrative procedures; 806 KAR 50:155....360
Definitions; 806 KAR 50:151....359
General requirements; 806 KAR 50:160....362
Heating boilers; 806 KAR 50:170....366
Nuclear vessels; 806 KAR 50:175....368
Power boilers; 806 KAR 50:160....362
Construction Requirements
General; 806 KAR 50:010; amended;....90, 215
Physically handicapped accommodations; 806 KAR 50:020; amended;....94, 222
Fire department aid; 806 KAR 50:100....97
Flammable liquids; self-service stations; 806 KAR 50:080....96
LP Gas
License denial, revocation, suspension; 806 KAR 50:050....95
License, financial responsibility; 806 KAR 50:060....96
Standby usage; 806 KAR 50:070....96
Mobile homes and recreational vehicles; amended; 806 KAR 50:200....97, 456

FISH AND WILDLIFE RESOURCES

Fish
Angling; limits, seasons; 301 KAR 1:055....149
Aquatic organisms and fish; 301 KAR 1:080....63
Backwaters, rough fish from; 301 KAR 1:070....63
Bait for personal use; 301 KAR 1:130....242
Boat docks and concession stands; 301 KAR 1:010....33
Boating; 301 KAR 1:012....148
Boats, size; 301 KAR 1:015....148
Bow fishing; 301 KAR 1:090....63
Commercial fishing gear; 301 KAR 1:145....474
Commercial fishing; requirements; 301 KAR 1:155....243
Commercial fishing, waters open to; 301 KAR 1:150....242
Cumberland Gap Park restrictions; 301 KAR 1:035....149
Endangered species; 301 KAR 3:060....476
Frog seasons; limits; 301 KAR 1:082....241
Gigging, snagging, tickling and noodling; 301 KAR 1:075....149
Hatching or raising in public waters prohibited; 301 KAR 1:110....64
Lakes, small, special regulation of; 301 KAR 1:050....62
Land-Between-the-Lakes; 301 KAR 1:031....346
Licensure; live fish sales, handling; 301 KAR 1:120....150
Live bait sales; 301 KAR 1:132....347
Live fish; importing, possession; 301 KAR 1:122....346
Live fish sales, handling; 301 KAR 1:120....150
Motors, outboard, size; 301 KAR 1:015....148
Mussel shell harvesting; 301 KAR 1:085....241
Private camps; boat docks; 301 KAR 1:016....345
Prohibited species; 301 KAR 1:122....346
Propagation; fish, etc.; 301 KAR 1:115....241

Page

Scuba diving prohibited; 301 KAR 1:040....119
Skiing, water; 301 KAR 1:012....148
Skin and scuba diving prohibited; amended; 301 KAR 1:040....33, 119
Snagging; 301 KAR 1:020....33
Sport and rough; 301 KAR 1:060....63
Swimming; 301 KAR 1:012....148
Tennessee River closing hours; 301 KAR 1:030....33
Transportation of; 301 KAR 1:125....346
Trotlines; 301 KAR 1:057....346
Trout stamp; 301 KAR 1:100....63
Game
Birds of prey; 301 KAR 2:070....475
Bobwhite quail sales for food; 301 KAR 2:060....347
Calling devices; 301 KAR 2:025....347
Commercial guides; 301 KAR 2:030....64
Devices for taking wildlife, use of; 301 KAR 2:020....33
Endangered species; 301 KAR 3:060....476
Land Between the Lakes hunting rules; 301 KAR 2:050....65
Migratory birds; seasons, limits; 301 KAR 2:021E....24
Pits and blinds; restrictions; 301 KAR 2:055....600
Steel traps, use of; 301 KAR 2:010....33
Turkey, wild; 301 KAR 3:050....475
Upland game shooting preserves; 301 KAR 2:040....64
Waterfowl seasons; limits; 301 KAR 2:022E....121
Hunting and Fishing
Depredation acts prohibited; 301 KAR 3:010....34
Endangered species; 301 KAR 3:060....476
License fees; 301 KAR 3:020....34
Turkey, wild; 301 KAR 3:050....475
Year round season; exceptions; 301 KAR 3:030....600
Wildlife
Ballard Refuge restrictions; 301 KAR 4:020....65
Birds of prey; 301 KAR 2:070....475
Districts; 301 KAR 4:010....35
Endangered species; 301 KAR 3:060....475
Turkey, wild; 301 KAR 3:050....476
Waterfowl seasons; limits; 301 KAR 2:022E....121

FOOD AND COSMETICS

Bakery products; 902 KAR 45:030....537
Carbonated beverages; 902 KAR 45:040....539
Cosmetic packaging and labeling; 902 KAR 45:060....547
Definitions; 902 KAR 45:010....533
Food packaging and labeling; 902 KAR 45:050....543
Food service code; 902 KAR 45:005....645
Salvage; 902 KAR 45:080....550
Sanitation; retail food markets; 902 KAR 45:045....542
Shellfish; 902 KAR 45:020....534
Vending machines; food and beverages; 902 KAR 45:100....552

HEALTH SERVICES

Certificate of Need and Licensure
Alcohol detoxification centers; 902 KAR 20:110....532
Ambulatory surgical center services; 902 KAR 20:105....530
Certificate of need; 902 KAR 20:005....512
Day health care programs; 902 KAR 20:065....521
Developmentally disabled; special services; 902 KAR 20:085....526
Extended care, recuperation, services; 902 KAR 20:025....514
Home health agencies; 902 KAR 20:080....524
Hospital services; operations; 902 KAR 20:015....513
Intermediate care facilities; 902 KAR 20:050....374
Mental health, mental retardation, community services; 902 KAR 20:090....529
Mentally retarded; special services; 902 KAR 20:085....526
Outpatient clinics; ambulatory care services; 902 KAR 20:075....523
Communicable Diseases
Carriers, groups; screening; 902 KAR 2:040....188
Control methods; 902 KAR 2:010....186
Control procedures; 902 KAR 2:030....187
Control procedures, application; 902 KAR 2:050....185
Definitions; 902 KAR 2:010....186
Immunization schedules; 902 KAR 2:060; amended;....188, 460
Inspections; 902 KAR 2:030....187
Rabies control; 902 KAR 2:070....188
Reportable; 902 KAR 2:020....187
Surveillance; 902 KAR 2:040....188
Venereal disease; 902 KAR 2:080....189
Drug Formulary
Ampicillin; amended; 902 KAR 1:020....101, 587
Chlorpromazine Hydrochloride; 902 KAR 1:130....639
Diphenhydramine; 902 KAR 1:110....638
Generic, distribution of; 902 KAR 1:010....101
Hydrochlorothiazide; 902 KAR 1:150....639
Erythromycin; amended; 902 KAR 1:030....102, 588
Penicillin-G; amended; 902 KAR 1:040....102, 588
Penicillin-V; amended; 902 KAR 1:050....103, 589
Promethazine Hydrochloride; 902 KAR 1:120....638
Reserpine; 902 KAR 1:100....638
Sodium Pentobarbital; 902 KAR 1:060....104
Sodium Secobarbital; 902 KAR 1:070....104
Sulfisoxazole; 902 KAR 1:140....639
Trisulfapyrimidine; 902 KAR 1:090....637
Food and Cosmetics
Bakery products; 902 KAR 45:030....537
Carbonated beverages; 902 KAR 45:040....539
Cosmetic packaging and labeling; 902 KAR 45:060....547
Definitions; 902 KAR 45:010....533
Food packaging and labeling; 902 KAR 45:050....543
Food service code; 902 KAR 45:005....645
Salvage; 902 KAR 45.080....550

Page

Sanitation; retail food markets; 902 KAR 45:045.....542
Shellfish; 902 KAR 45:020.....534
Vending machines; food and beverages; 902 KAR 45:100.....552
Hospitals and Institutions
Patients' fees; 902 KAR 5:010.....369
Maternal and Child Care
Eyes, care of; 902 KAR 4:020.....640
Midwifery; 902 KAR 4:010.....640
PKU tests; 902 KAR 4:030.....640
Milk and Milk Products
Dating requirements; 902 KAR 50:080.....293
Definitions; milk; 902 KAR 50:010.....279
Farm manufacturing requirements; 902 KAR 50:030.....284
Frozen desserts; 902 KAR 50:060.....293
Grade A requirements; 902 KAR 50:020.....280
Hauler requirements; 902 KAR 50:040.....287
Identity standards; 902 KAR 50:070.....293
Manufacturing plant requirements; 902 KAR 50:050.....288
Park Standards
Mobile homes; 902 KAR 15:010.....369
Recreational vehicles; 902 KAR 15:020.....371
Public Accommodations
Hotel and motel code; 902 KAR 7:010.....641
Radiology
Cabinet system; 902 KAR 100:145.....417
Classification, groups; 902 KAR 100:075.....404
Concentrations; air and water; 902 KAR 100:025.....388
Concentrations, exempt; 902 KAR 100:085.....405
Definitions; 902 KAR 100:010.....381
Dental; 902 KAR 100:130.....415
Exemptions; 902 KAR 100:045.....396
General applicability; 902 KAR 100:005.....380
General requirements; 902 KAR 100:015.....384
Industrial radiography; 902 KAR 100:100.....408
Leak testing; 902 KAR 100:060.....402
License limits; 902 KAR 100:090.....406
Licenses, general; 902 KAR 100:050.....397
Licenses, specific; 902 KAR 100:055.....400
Licenses, specific; general provisions;
902 KAR 100:040.....394
Notices, reports, instructions to employees;
902 KAR 100:165.....420
Particle accelerator; 902 KAR 100:155.....419
Plan review; 902 KAR 100:160.....420
Posting, disposal; 902 KAR 100:030.....391
Proceedings; 902 KAR 100:170.....421
Quantities, exempt; 902 KAR 100:080.....404
Reciprocal recognition; 902 KAR 100:065.....403
Repeals; 902 KAR 100:001.....380
Sealed sources; 902 KAR 100:095.....407
Standards; 902 KAR 100:020.....384
Therapy; 902 KAR 100:135.....415
Transport; 902 KAR 100:035.....392
Transportation, intrastate; 902 KAR 100:070.....403
Veterinarians; 902 KAR 100:140.....416
X-ray, diagnostic; 902 KAR 100:115.....412
X-ray, fluoroscopic; 902 KAR 100:125.....413
X-ray, general; 902 KAR 100:105.....410
X-ray, microscopic analytical; 902 KAR 100:150.....418
X-ray, registration; 902 KAR 100:110.....411
X-ray, special; 902 KAR 100:120.....412
Sanitation
Frozen food locker plants; 902 KAR 10:020.....510
Public rest rooms; 902 KAR 10:010.....369
Sanitarians; 902 KAR 10:030.....511

HEARING AID DEALERS

Board, annual meeting; 201 KAR 7:052.....241
Examination after training requirement; 201 KAR 7:125.....241
Training requirement completion; certification;
201 KAR 7:122.....241

HIGHER EDUCATION

Education Assistance Authority
Student incentive grants; 11 KAR 1:010;
11 KAR 1:010E.....30, 22

HIGHWAYS

Traffic
Limited access highways
Types; 603 KAR 5:010.....37
Pedestrian; 603 KAR 5:020.....37
Fully controlled access highways; 603 KAR 5:025.....152
Rest areas, use of; 603 KAR 5:040.....152
Right turn on red signal, prohibitions;
603 KAR 5:030.....66
Truckway Classification
I-24; 603 KAR 6:021.....68
US 31-W; 603 KAR 6:020.....67
US 119; 603 KAR 6:012.....66
KY 1; 603 KAR 6:018.....67
KY 7; 603 KAR 6:019.....67
KY 15; 603 KAR 6:010.....66
KY 36; 603 KAR 6:011;amended;.....66, 214
KY 59; 603 KAR 6:028.....248
KY 70; 603 KAR 6:024.....247
KY 85; 603 KAR 6:025.....247
KY 111; 603 KAR 6:029.....248
KY 136; 603 KAR 6:013.....66
KY 153; 603 KAR 6:022.....153
KY 181; 603 KAR 6:026.....247
KY 292; 603 KAR 6:030.....248
KY 797; 603 KAR 6:014.....67

Page

KY 805; 603 KAR 6:023.....153
KY 909; 603 KAR 6:015.....67
KY 1232; 603 KAR 6:016.....67
KY 1526; 603 KAR 6:017.....67
KY 1543; 603 KAR 6:027.....632

HOSPITALS AND INSTITUTIONS (STATE)

Patients' fees; 902 KAR 5:010.....369

HUMAN RESOURCES

Administration and Operations
Controlled Substances
Exempt preparations; 901 KAR 1:040.....635
Licensing; manufacturers, wholesalers;
901 KAR 1:010.....634
Prescription refills; 901 KAR 1:050.....635
Prescription returns prohibited; 901 KAR 1:060.....635
Schedule II; 901 KAR 1:020.....634
Schedule III; 901 KAR 1:025.....634
Schedule IV; 901 KAR 1:030.....635
Vital Statistics
Amended birth certificate; 901 KAR 5:070.....637
Birth and death; verification; 901 KAR 5:040.....636
Birth certified reissued; 901 KAR 5:060.....636
Certified copies of certificate; 901 KAR 5:050.....636
Delayed birth registration; 901 KAR 5:020.....636
Delayed death registration; 901 KAR 5:080.....637
State registrar; 901 KAR 5:010.....635
Stillbirths; 901 KAR 5:030.....636
Health Services
Certificate of Need and Licensure
Alcohol detoxification centers; 902 KAR 20:110.....532
Ambulatory surgical center services;
902 KAR 20:105.....530
Certificate of need; 902 KAR 20:005.....512
Day health care programs; 902 KAR 20:065.....521
Developmentally disabled; special services;
902 KAR 20:085.....526
Extended care, recuperation, services;
902 KAR 20:025.....514
Home health agencies; 902 KAR 20:080.....524
Hospital services; operations; 902 KAR 20:015.....513
Intermediate care facilities; 902 KAR 20:050.....374
Mental health, mental retardation, community
services; 902 KAR 20:090.....529
Mentally retarded; special services;
902 KAR 20:085.....526
Outpatient clinics; ambulatory care services;
902 KAR 20:075.....523
Communicable Diseases
Carriers, groups; screening; 902 KAR 2:040.....188
Control methods; 902 KAR 2:010.....186
Control procedures; 902 KAR 2:030.....187
Control procedures, application; 902 KAR 2:050.....188
Definitions; 902 KAR 2:010.....186
Immunization schedules; 902 KAR 2:060; amended.....188
Inspections; 902 KAR 2:030.....187
Rabies control; 902 KAR 2:070.....188
Reportable; 902 KAR 2:020.....187
Surveillance; 902 KAR 2:040.....188
Venereal disease; 902 KAR 2:080.....189
Drug Formulary
Acetaminophen; 902 KAR 1:080.....637
Ampicillin; amended; 902 KAR 1:020.....101, 587
Chlorpromazine Hydrochloride; 902 KAR 1:130.....639
Diphenhydramine; 902 KAR 1:110.....638
Erythromycin; amended; 902 KAR 1:030.....102, 588
Generic formulary distribution; 902 KAR 1:010.....101
Hydrochlorothiazide; 902 KAR 1:150.....639
Pencillin-G; amended; 902 KAR 1:040.....102, 588
Penicillin-V; amended; 902 KAR 1:050.....103, 589
Promethazine Hydrochloride; 902 KAR 1:120.....638
Reserpine; 902 KAR 1:100.....638
Sodium Pentobarbital; 902 KAR 1:060.....104
Sodium Secobarbital; 902 KAR 1:070.....104
Sulfisoxazole; 902 KAR 1:140.....639
Trisulfapyrimidine; 902 KAR 1:090.....637
Food and Cosmetics
Bakery products; 902 KAR 45:030.....537
Carbonated beverages; 902 KAR 45:040.....539
Cosmetic packaging and labeling;
902 KAR 45:060.....547
Definitions; 902 KAR 45:010.....533
Food packaging and labeling; 902 KAR 45:050.....543
Food service code; 902 KAR 45:005.....645
Salvage; 902 KAR 45:080.....550
Sanitation; retail food markets;
902 KAR 45:045.....542
Shellfish; 902 KAR 45:020.....534
Vending machines; food and beverages;
902 KAR 45:100.....552
Hospitals and Institutions
Patients' fees; 902 KAR 5:010.....369
Maternal and Child Care
Eyes, care of; 902 KAR 4:020.....640
Midwifery; 902 KAR 4:010.....640
PKU tests; 902 KAR 4:030.....640
Milk and Milk Products
Dating requirements; 902 KAR 50:080.....293
Definitions, milk; 902 KAR 50:010.....279
Farm manufacturing requirements; 902 KAR 50:030.....284
Frozen desserts; 902 KAR 50:060.....293
Grade A requirements; 902 KAR 50:020.....280

Page

Hauler requirements; 902 KAR 50:040.....287
Identity standards; 902 KAR 50:070.....293
Manufacturing plant requirements; 902 KAR 50:050.....288
Park Standards
Mobile homes; 902 KAR 15:010.....369
Recreational vehicles; 902 KAR 15:020.....371
Public Accommodations
Hotel and motel code; 902 KAR 7:010.....641
Radiology
Cabinet systems; 902 KAR 100:145.....417
Classification groups; 902 KAR 100:075.....404
Concentrations; air and water; 902 KAR 100:025.....388
Concentrations, exempt; 902 KAR 100:085.....405
Definitions; 902 KAR 100:010.....381
Dental; 902 KAR 100:130.....415
Exemptions; 902 KAR 100:045.....396
General applicability; 902 KAR 100:005.....380
General requirements; 902 KAR 100:015.....384
Industrial radiography; 902 KAR 100:100.....408
Leak testing; 902 KAR 100:060.....402
License limits; 902 KAR 100:090.....406
Licenses, general; 902 KAR 100:050.....397
Licenses, specific; 902 KAR 100:055.....400
Licenses, specific; general provisions; 902 KAR 100:040.....394
Notices, reports, instructions to employees; 902 KAR 100:165.....420
Particle accelerator; 902 KAR 100:155.....419
Plan review; 902 KAR 100:160.....420
Posting, disposal; 902 KAR 100:030.....391
Proceedings; 902 KAR 100:170.....421
Quantities, exempt; 902 KAR 100:080.....404
Reciprocal recognition; 902 KAR 100:065.....403
Repeals; 902 KAR 100:001.....380
Sealed sources; 902 KAR 100:095.....407
Standards; 902 KAR 100:020.....384
Therapy; 902 KAR 100:135.....415
Transport; 902 KAR 100:035.....392
Transportation, intrastate; 902 KAR 100:070.....403
Veterinarians; 902 KAR 100:140.....416
X-ray, diagnostic; 902 KAR 100:115.....412
X-ray, fluoroscopic; 902 KAR 100:125.....413
X-ray, general; 902 KAR 100:105.....410
X-ray, microscopic analytical; 902 KAR 100:150.....418
X-ray, registration; 902 KAR 100:110.....411
X-ray, special; 902 KAR 100:120.....412
Sanitation
Frozen food locker plants; 902 KAR 10:020.....510
Public rest rooms; 902 KAR 10:010.....369
Sanitarians; 902 KAR 10:030.....511
Youth camps; 902 KAR 10:040.....642
Social Services
Child Welfare
Adoptive parents; selection, approval; 905 KAR 1:030.....294
Agencies, standards; 905 KAR 1:090.....297
Application to place or receive child; 905 KAR 1:010.....294
Boarding rates; 905 KAR 1:080.....652
Foster parents; 905 KAR 1:040.....651
Group homes standards; 905 KAR 1:070.....295
Institutions, standards; 905 KAR 1:090.....297
Subsidies, approval; 905 KAR 1:050.....295
Day Care
Infants and toddlers; 905 KAR 2:035.....656
Nighttime care; 905 KAR 2:040.....655
School-age children; 905 KAR 2:030.....655
Standards, all facilities; 905 KAR 2:010.....652
Standards, type I; 905 KAR 2:020.....653
Standards, type II; 905 KAR 2:025.....654
Transportation; 905 KAR 2:060.....657
Medical Assistance
Pharmacy services; 904 KAR 1:020E.....323
Physician services; 904 KAR 1:010E.....323
Public Assistance
AFDC; need, amount standards; 904 KAR 2:010.....423

HUMAN RIGHTS

Advertising guidelines; employment; 104 KAR 1:040.....238
Discrimination guidelines; 104 KAR 1:050.....239
Employer records and reports; 104 KAR 1:030.....237
Guidelines on discrimination; 104 KAR 1:050.....239
Guidelines; employment advertising; 104 KAR 1:040.....238
Multiple dwelling reporting; 104 KAR 1:060; amended;.....239, 447
Notices; posting and distributing; 104 KAR 1:010.....234
Posting of notices; 104 KAR 1:010.....234
Practice and Procedure; rules; 104 KAR 1:020.....235
Records and reports; employer; 104 KAR 1:030.....237
Rules of practice and procedure; 104 KAR 1:020.....235

HUNTING AND FISHING

Angling; limits, seasons; 301 KAR 1:055.....149
Aquatic organisms and fish, taking of; 301 KAR 1:080.....63
Backwaters, rough fish from; 301 KAR 1:070.....63
Bait for personal use; 301 KAR 1:130.....242
Ballard Refuge restrictions; 301 KAR 4:020.....65
Birds of prey; 301 KAR 2:070.....475
Boat docks on state lakes; 301 KAR 1:010.....33
Boating; 301 KAR 1:012.....148
Boats, size; 301 KAR 1:015.....148
Bobwhite sales for food; 301 KAR 2:060.....347
Bow fishing; 301 KAR 1:090.....63

Page

Calling devices; 301 KAR 2:025.....347
Commercial fishing gear; 301 KAR 1:145.....474
Commercial fishing; requirements; 301 KAR 1:155.....243
Commercial fishing, waters open to; 301 KAR 1:150.....242
Concession stands on state lakes; 301 KAR 1:010.....33
Cumberland Gap Park restrictions; 301 KAR 1:035.....149
Depredation acts prohibited; 301 KAR 3:010.....34
Devices, use of; 301 KAR 2:020.....33
Endangered species; 301 KAR 3:060.....476
Frog seasons; limits; 301 KAR 1:082.....241
Gigging, snagging, tickling and noodling; 301 KAR 1:075.....149
Guides, commercial; 301 KAR 2:030.....64
Hatching or raising fish in public waters prohibited; 301 KAR 1:110.....64
Importing, possession; prohibitions; 301 KAR 1:122.....346
Lakes, small, special regulation of; 301 KAR 1:050.....62
Land-Between-the-Lakes; 301 KAR 1:031.....346
Land-Between-the-Lakes hunting rules; 301 KAR 2:050.....65
License fees; 301 KAR 3:020.....34
Licensure; live fish sales, handling; 301 KAR 1:120.....150
Live bait sales; 301 KAR 1:132.....347
Live fish sales, handling; 301 KAR 1:120.....150
Migratory birds; seasons, limits; 301 KAR 2:021E.....35
Motors, outboard, size; 301 KAR 1:015.....148
Mussel shell harvesting; 301 KAR 1:085.....241
Pits and blinds; restrictions; 301 KAR 2:055.....600
Private camps; boat docks; 301 KAR 1:016.....345
Prohibited species; 301 KAR 1:122.....346
Propagation; fish, etc.; 301 KAR 1:115.....241
Snagging; 301 KAR 1:020.....33
Sport and rough fish; 301 KAR 1:060.....63
Steel traps, use of; 301 KAR 2:010.....33
Tennessee River closing hours; 301 KAR 1:030.....33
Transporting; 301 KAR 1:125.....346
Trotlines; 301 KAR 1:057.....346
Trout stamp; 301 KAR 1:100.....63
Upland game shooting preserves; 301 KAR 2:040.....64
Waterfowl seasons; limits; 301 KAR 2:022E.....121
Wild turkey; 301 KAR 2:070.....475
Year round season; exceptions; 301 KAR 3:030.....600

INCOME TAX

Corporations
Airlines; apportionment, allocation; 103 KAR 16:120.....224
Application of regulations; 103 KAR 16:050.....138
Bus lines; apportionment, allocation; 103 KAR 16:120.....224
Coal royalty, taxable; 103 KAR 16:010.....138
Construction companies; apportionment, allocation; 103 KAR 16:160.....225
Deductions, net operating loss; 103 KAR 16:030.....138
Income classifications; 103 KAR 16:060.....138
Loan companies; apportionment, allocation; 103 KAR 16:150.....225
Payroll factor apportionment; 103 KAR 16:090.....143
Pipeline companies; apportionment, allocation; 103 KAR 16:110.....224
Property factor apportionment; 103 KAR 16:080.....141
Railroad companies; apportionment, allocation; 103 KAR 16:130.....224
Sales factor apportionment; 103 KAR 16:070.....140
Telegraph companies; apportionment, allocation; 103 KAR 16:100.....224
Telephone companies; apportionment, allocation; 103 KAR 16:100.....224
Trucklines; apportionment, allocation; 103 KAR 16:120.....224
General Administration
Dates, extensions, for filing; 103 KAR 15:050.....328
Declarations, amended; 103 KAR 15:060.....328
Estimated tax; 103 KAR 15:060.....328
Extensions; 103 KAR 15:050.....328
Short years; 103 KAR 15:060.....328
Statute of limitations; 103 KAR 15:040.....327
Individual
Combined returns; 103 KAR 17:020.....225
Credits, personal; 103 KAR 17:070.....226
Deductions, federal; 103 KAR 17:090.....227
Deductions, standard; 103 KAR 17:050.....225
Extension for filing, military; 103 KAR 17:040.....226
Federal deductions and refunds; 103 KAR 17:090.....227
Filing requirements; 103 KAR 17:030.....226
Income, portions; subject to taxation; 103 KAR 17:060.....329
Military personnel; filing extension; 103 KAR 17:040.....226
Refunds, federal; 103 KAR 17:090.....227
Residence; 103 KAR 17:010.....328
Retirement income; 103 KAR 17:080.....227
Standard deduction; 103 KAR 17:050.....226
Tax credits, personal; 103 KAR 17:070.....226
Miscellaneous
Estates and trusts, computation; 103 KAR 19:010.....332
Returns, information; 103 KAR 19:030.....332
Protests and appeals; 103 KAR 1:010; amended;.....137, 324
Withholding
Adjustment; 103 KAR 18:020.....227
Annual payment; 103 KAR 18:040.....329
Bond, compliance; 103 KAR 18:120.....331
Exemption certificates; 103 KAR 18:100.....331
Forms, statements; 103 KAR 18:050.....329
Methods; 103 KAR 18:110.....331
Miscellaneous pay period; 103 KAR 18:060.....330
Errors; adjustment; 103 KAR 18:020.....227
Monthly reporting requirements; 103 KAR 18:030.....228
Payroll records; 103 KAR 18:090.....330
Reporting requirements, monthly; 103 KAR 18:030.....228

Page

Requirement to withhold; 103 KAR 18:010.....329
Supplemental wages; 103 KAR 18:070.....330

INSURANCE

Aircraft
Insurance and indemnity bonds requirements; 602 KAR 1:040.....36
Fire Marshal
Boilers; 806 KAR 50:151 to 806 KAR 50:175.....359–368
Boiler standards; 806 KAR 50:150.....170
Construction requirements, general; 806 KAR 50:010; amended;.....90, 215
Construction requirements to accomodate physically handicapped; 806 KAR 50:020;amended;.....94, 222
Fire Department aid; 806 KAR 50:100.....97
Flammable liquids; self-service stations; 806 KAR 50:080.....96
LP Gas license denial, revocation, suspension; 806 KAR 50:050.....95
LP Gas license; financial responsibility; 806 KAR 50:060.....96
LP Gas; standby usage; 806 KAR 50:070.....96
Mobile homes; 806 KAR 50:200; amended;.....97, 456
Recreational vehicles; 806 KAR 50:200.....97

LABOR

Elevator Safety
Standards; 803 KAR 4:010.....50
Kentucky Occupational Safety and Health Review Commission
Hearings; procedures, disposition; 803 KAR 50:010.....349
Occupational Safety and Health
Adoption of 29 CFR Part 1910; 803 KAR 2:020.....88
Adoption of 29 CFR Part 1926; 803 KAR 2:030; amended;.....89, 214
Carcinogens, registering of; 803 KAR 2:160.....163
Citations; 803 KAR 2:120.....161
Citations; posting of; 803 KAR 2:125.....162
Complaint, time for filing; 803 KAR 2:150.....162
Conferences, informal; 803 KAR 2:130.....162
Contests, employer and employee; 803 KAR 2:140.....162
Danger, imminent; 803 KAR 2:100.....160
Definitions; 803 KAR 2:040.....158
Employers' responsibilities; 803 KAR 2:060.....158
Inspections, advance notice of; 803 KAR 2:080.....159
Inspections; procedure; 803 KAR 2:070.....159
Inspections unwarranted; complaint; 803 KAR 2:090.....160
Penalties; 803 KAR 2:115.....161
Representatives for employer, employee; 803 KAR 2:110.....161
Scope; 803 KAR 2:050.....158
Trade secrets; 803 KAR 2:095.....160
Variances; 803 KAR 2:170.....163
Wages and Hours Standards
Administrators and supervisors; amended; 803 KAR 1:070.....255, 586
Apprentices and trainees, employment of; 803 KAR 1:020.....48
Apprenticeship programs, registration of; 803 KAR 1:010.....47
Board, lodging, gratuities and other allowances; 803 KAR 1:080.....153
Child labor; 803 KAR 1:100.....157
Commissioner's determination, review of; amended; 803 KAR 1:040.....49, 120
Contractors' records; 803 KAR 1:050.....50
Employe-employer relationship; 803 KAR 1:005.....249
Exclusion from minimum wage; overtime; 803 KAR 1:075.....256
Executives; amended; 803 KAR 1:070.....255, 586
Fringe benefits; 803 KAR 1:085.....155
Handicapped, sheltered workshop, student employees; 803 KAR 1:090; amended;.....156, 324
Hours worked; 803 KAR 1:065.....253
Overtime pay requirements; 803 KAR 1:060; amended;.....251, 451
Prevailing wage determinations, hearings on; amended; 803 KAR 1:030.....49, 119
Professionals; amended; 803 KAR 1:070.....255, 586
Record keeping requirements; 803 KAR 1:066.....510
Salesmen; amended; 803 KAR 1:070.....255, 586

LAND RESOURCES

Conservation Districts
Direct Aid Program, eligibility for; 402 KAR 2:010.....13
Expenditures, limits on; 402 KAR 2:020.....14
Mining and Reclamation
Diesel equipment in underground coal mines; 805 KAR 2:010.....168
Oil and Gas; 805 KAR 1:030.....89
Surface effects, plans of; 402 KAR 1:010; amended;.....11, 211, 448

LANDSCAPE ARCHITECTS

Applications; 201 KAR 10:040.....594
Board duties; 201 KAR 10:010.....592
Ethics, code of; 201 KAR 10:030.....593
Fees; 201 KAR 10:050.....594
Hearings; 201 KAR 10:020.....593
Renewals; 201 KAR 10:060.....594
Seals; 201 KAR 10:070.....594

LAW AND JUSTICE

Attorney General; 40 KAR 1:010 and 40 KAR 1:020; amended;.....8, 118

Page

Probation and Parole
Parole eligibility, time served for; 501 KAR 1:010.....348
State Police
Promotional system; 502 KAR 5:010; 502 KAR 5:010E...626, 584

LEGISLATIVE RESEARCH COMMISSION

Administrative Register; amended; 1 KAR 1:010.....7, 118
Regulations, form of; amended; 1 KAR 1:010.....7, 118

LOANS AND GRANTS

Student incentive grants; 11 KAR 1:010; 11 KAR 1:010E...30, 22

LOCAL GOVERNMENT, OFFICE OF

Bonds and Obligations
Marketing assistance; 200 KAR 10:030.....592
District Boards
Membership; 200 KAR 10:010.....591
Directors, terms; 200 KAR 10:010.....591

MATERNAL AND CHILD HEALTH

Eyes, care of; 902 KAR 4:020.....640
Midwifery; 902 KAR 4:010.....640
PKU tests; 902 KAR 4:030.....640

MEDICAL ASSISTANCE

Pharmacy Services
Fees for dispensing; 904 KAR 1:020E.....323
Physician Services
Fees, method of; 904 KAR 1:010E.....323

MEDICAL LICENSURE

Approved schools; 201 KAR 9:020.....470
Conduct, code of; 201 KAR 9:010.....470
Examinations; 201 KAR 9:030.....472
Hearing procedures; 201 KAR 9:080.....473
License fees; 201 KAR 9:040.....472
License renewal; 201 KAR 9:050.....472
Licenses, limited; 201 KAR 9:060.....472
Permits, temporary and emergency; 201 KAR 9:070.....473
Physio-therapeutics; 201 KAR 9:090.....474
Probation, suspension, revocation; 201 KAR 9:080.....473
Qualifications for licensing; 201 KAR 9:020.....470
Registration, annual; 201 KAR 9:050.....472

MERIT SYSTEM

Personnel Rules
Annual leave; 101 KAR 1:140.....133
Appeals; 101 KAR 1:130.....131
Applications; 101 KAR 1:060.....126
Appointments, types of; 101 KAR 1:090.....129
Attendance; 101 KAR 1:140.....133
Board procedures; 101 KAR 1:030.....123
Certification and selection of eligibles; 101 KAR 1:080..128
Classification plan; 101 KAR 1:040.....124
Compensation plan; 101 KAR 1:050;amended;.....124, 208
Compensatory leave; 101 KAR 1:140.....133
Court leave; 101 KAR 1:140;amended;.....133, 209
Definitions; 101 KAR 1:010.....123
Demotion; 101 KAR 1:110.....130
Disciplinary actions; 101 KAR 1:120.....131
Examinations; 101 KAR 1:060.....126
General provisions; 101 KAR 1:020.....123
Hours of work; 101 KAR 1:140.....133
Military leave; 101 KAR 1:140.....133
Probationary period; 101 KAR 1:100.....130
Promotion; 101 KAR 1:110.....130
Registers; 101 KAR 1:070.....127
Retirement; 101 KAR 1:140.....133
Separations; 101 KAR 1:120.....131
Service; 101 KAR 1:140.....133
Sick leave; 101 KAR 1:140.....133
Special duty, detail to; 101 KAR 1:110.....130
Transfers; 101 KAR 1:110.....130
Voting leave; 101 KAR 1:140.....133

MILK AND MILK PRODUCTS

Dating requirements; 902 KAR 50:080.....293
Definitions, milk; 902 KAR 50:010.....279
Farm manufacturing requirements; 902 KAR 50:030.....284
Frozen desserts; 902 KAR 50:060.....293
Grade A requirements; 902 KAR 50:020.....280
Hauler requirements; 902 KAR 50:040.....287
Identity standards; 902 KAR 50:070.....293
Manufacturing plant requirements; 902 KAR 50:050.....288

MINES AND MINERALS

Diesel Equipment
Underground coal mine usage; 805 KAR 2:010.....168
Oil and Gas
Surety bonds; requirements, cancellation; 805 KAR 1:050.....633
Vacuums, use of; 805 KAR 1:040.....633
Well location plat; preparation; 805 KAR 1:030.....89
Underground; surface effects of reclamation; 402 KAR 1:010; amended;.....11, 211, 448

MOTOR CARRIERS

Trucks, tractors, semi-trailers
Industrial materials permit; 601 KAR 1:020, 601 KAR 1:020E.....2, 14
Size limitations; 601 KAR 1:010.....14

Page

MOTOR VEHICLE DEALERS
Application; disposition; 601 KAR 20:030....245
Board meetings; 601 KAR 20:010....245
Dealer; 601 KAR 20:110....246
Dealer, used cars; trade names; 601 KAR 20:130....247
Licenses, issuance, denial; 601 KAR 20:040....245
Licenses, supplemental; 601 KAR 20:050....246
Location, change of; 601 KAR 20:080....246
Multi-businesses; 601 KAR 20:070....246
Ownership, change of; 601 KAR 20:090....246
Premises; 601 KAR 20:070....246
Salesman; 601 KAR 20:110....246
Signs; 601 KAR 20:070....246

MOTOR VEHICLE INSPECTION
Exemptions; 601 KAR 10:070....244
Extension of time; 601 KAR 10:060....244
Fleet permits; 601 KAR 10:080....245
Inspection at registration; annually; 601 KAR 10:050....244
Permits and signs; display; 601 KAR 10:040....244
Reports; 601 KAR 10:030....244
Safety inspectiors; mechanics; 601 KAR 10:020....243
Station permits; 601 KAR 10:010....243

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Air pollution; 401 KAR 3:010 to 401 KAR 3:070....601-625
Conservation districts; 402 KAR 2:010, 402 KAR 2:020....13, 14
Mining and reclamation; 402 KAR 1:010; amended;...11, 211, 448
Plumbing; 401 KAR 1:020....10
Water; 401 KAR 4:010....11

NURSING HOME ADMINISTRATORS
Licensure; 201 KAR 6:010....61

OCCUPATIONAL SAFETY AND HEALTH
29 CFR, Part 1910, adoption of; 803 KAR 2:020....85
29 CFR, Part 1926, Adoption of; 803 KAR 2:030; amended;....89, 214
Carcinogens, registering of; 803 KAR 2:160....163
Citations; 803 KAR 2:120....161
Citations; posting of; 803 KAR 2:125....162
Complaint, time for filing; 803 KAR 2:150....162
Conferences, informal; 303 KAR 2:130....162
Contests, employer and employee; 803 KAR 2:140....162
Danger, imminent; 803 KAR 2:100....160
Definitions; 803 KAR 2:040....158
Employers' responsibilities; 803 KAR 2:060....158
Inspections, advance notice of; 803 KAR 2:080....159
Inspections; procedure; 803 KAR 2:070....159
Inspections unwarranted; 803 KAR 2:090....160
Penalties; 803 KAR 2:115....161
Representatives for employer, employee; 803 KAR 2:110....161
Scope; 803 KAR 2:050....158
Trade secrets; 803 KAR 2:095....160
Variances; 803 KAR 2:170....163

OCCUPATIONS AND PROFESSIONS
Accountancy
  CPA examinations; 201 KAR 1:120....8
Auctioneers
  Accounting of funds by; 201 KAR 3:050....32
  Apprenticeship requirements for principal examination; 201 KAR 3:010....32
  Non-cancellation of license during active military duty; 201 KAR 3:040....32
  Reciprocity with Indiana residents; 201 KAR 3:030....32
  Residence requirements for apprentices; 201 KAR 3:020....32
  Sale of real estate at auction; 201 KAR 3:060....32
Business Schools
  Authority after licensure; 201 KAR 4:030....240
  Bonding requirements; 201 KAR 4:020....240
  Inspection; requirements; 201 KAR 4:040....240
  Refund policy requirements; 201 KAR 4:060....240
Dentistry
  Applicant; requirements; 201 KAR 8:180....339
  Application prior to graduation; 201 KAR 8:170....339
  Auxiliary personnel; 201 KAR 8:135....337
  Business, order of; 201 KAR 8:090....336
  Clinical examination; 201 KAR 8:220....340
  Clinical demonstration; 201 KAR 8:240....340
  County registration; hygienists; 201 KAR 8:300....342
  Dental hygiene; application; 201 KAR 8:260....340
  Duplicate license certificate; 201 KAR 8:250....340
  Duplicate license; hygienists; 201 KAR 8:310....340
  Education, continuing; 201 KAR 8:140; 201 KAR 8:140E....447, 338
  Education requirement; specialties; 201 KAR 8:345....344
  Examination, application; 201 KAR 8:150....338
  Examination committee; 201 KAR 8:190....339
  Examination, qualifications; 201 KAR 8:160....339
  Examination questions, release of; 201 KAR 8:200....340
  Examination questions; review, approval; 201 KAR 8:210...340
  Grade requirement; dental hygiene; 201 KAR 8:270....342
  Grade requirements; written and clinical; 201 KAR 8:185; 201 KAR 8:277....
  Hygienists' official register; 201 KAR 8:290....342
  Hygienists' re-examination; 201 KAR 8:280....342
  Interim administration; 201 KAR 8:100....336
  Licensure, special; 201 KAR 8:120....336
  Meeting, annual; 201 KAR 8:080....336
  Notice of place of employment; hygienists; 201 KAR 8:320....342
  Oath of office; 201 KAR 8:010....334

Page
  Organization; officers; 201 KAR 8:020....335
  President, duties; 201 KAR 8:030....335
  Register; specialists; 201 KAR 8:355....344
  Repayment contract; scholarship; 201 KAR 8:380....344
  Retirement, reinstatement; hygienists; 201 KAR 8:330....342
  Re-examination; when; 201 KAR 8:230....340
  Rules of order; 201 KAR 8:060....335
  Rules and regulations, amendments to; 201 KAR 8:110....336
  Salaries; office location; 201 KAR 8:050....335
  Secretary-treasurer, duties; 201 KAR 8:040....335
  Scholarship; administration; 201 KAR 8:375....344
  Scholarship contract form; 201 KAR 8:385....344
  Specialty application, examination; amended; 201 KAR 8:340....343, 586
  Specialty grade requirement; 201 KAR 8:350....344
  Vacancies, how filled; 201 KAR 8:070....336
  Vice-president, duties; 201 KAR 8:035....335
  X-rays, by assistants; 201 KAR 8:130....337
Hairdressers and Cosmetologists
  Reciprocity for valid licensee; 201 KAR 12:050....599
Hearing Aid Dealers
  Board, annual meeting; 201 KAR 7:052....241
  Examination after training requirement; 201 KAR 7:125....241
  Training requirement, completion; certification; 201 KAR 7:122....241
Landscape Architects
  Applications; 201 KAR 10:040....594
  Board duties; 201 KAR 10:010....592
  Ethics, code of; 201 KAR 10:030....593
  Fees; 201 KAR 10:050....594
  Hearings; 201 KAR 10:020....593
  Renewals; 201 KAR 10:060....594
  Seals; 201 KAR 10:070....594
Medical Licensure, Board of
  Approved schools; 201 KAR 9:020....476
  Conduct, code of; 201 KAR 9:010....476
  Hearing procedures; 201 KAR 9:080....473
  Examinations; 201 KAR 9:030....472
  License, examination for; 201 KAR 9:030....472
  License fees; 201 KAR 9:040....472
  License renewal; registration; 201 KAR 9:050....472
  Licenses, limited; 201 KAR 9:060....472
  Licensing qualifications; 201 KAR 9:020....476
  Permits; temporary, emergency; 201 KAR 9:070....472
  Physio-therapeutics, practice of; 201 KAR 9:090....474
  Probation; 201 KAR 9:080....473
  Qualifications for licensing; 201 KAR 9:020....476
  Revocation; 201 KAR 9:080....473
  Schools approved; 201 KAR 9:020....476
  Suspension; 201 KAR 9:030....473
Nursing Home Administrators
  Licensure; 201 KAR 6:010....61
Optometric Examiners
  Annual courses of study; 201 KAR 5:030....51
Pharmacy
  Examinations; 201 KAR 2:020....9
  Fees for licenses and permits; 201 KAR 2:050....10
  Intermediary services restricted; 201 KAR 2:070....10
  Interns, registration of; 201 KAR 2:040....9
  License renewal; 201 KAR 2:055....147
  Pocket certificate; 201 KAR 2:060....10
  Prescription equipment; 201 KAR 2:090....147
  Prescription substitution; 201 KAR 2:080....147
  Reciprocity; 201 KAR 2:030....147
  Reference material; 201 KAR 2:090....147
  Revival fee; 201 KAR 2:055....147
  Schools, approved; 201 KAR 2:010....9
  Temporary license; 201 KAR 2:030....147
Real Estate Brokers
  Advertising, broker's name on; 201 KAR 11:060....595
  Auction obligations; 201 KAR 11:115....593
  Branch offices; 201 KAR 11:070....597
  Broker licensing of salesman; 201 KAR 11:135....599
  Broker-salesman, defined; 201 KAR 11:120....595
  Broker's interest disclosure; 201 KAR 11:075....597
  Broker's requirements, not regularly in business; 201 KAR 11:080....597
  Broker's sign; 201 KAR 11:055....598
  Builder, defined; 201 KAR 11:150....599
  Builder-developer; rule compliance by; 201 KAR 11:155....599
  Classroom instruction required; 201 KAR 11:010....595
  Closing statements; 201 KAR 11:095....597
  Complaints, resolving; 201 KAR 11:130....598
  Conduct when managing property; 201 KAR 11:085....597
  Contracts to contain financing provisions; 201 KAR 11:040....596
  Exclusive authority, retention of; 201 KAR 11:110....595
  Exclusive listing contract, continuation; 201 KAR 11:100....596
  Financing provisions, contracts to contain; 201 KAR 11:040....595
  Hearings; 201 KAR 11:160....599
  Instruction, salesman to complete; 201 KAR 11:125....595
  Instruments, disposition; 201 KAR 11:090....597
  License application; 201 KAR 11:005....595
  License cancellation, reasons; 201 KAR 11:030....595
  Licensees, complaints against; 201 KAR 11:035....596
  Military duty, renewal after; 201 KAR 11:025....595
  Net listing requirements; 201 KAR 11:050....596
  Owner's consent, authorization; 201 KAR 11:105....598
  Reciprocal agreement, fee not reduced; 201 KAR 11:020....595
  Re-examination after failure; 201 KAR 11:015....595

Page
Rental management agreements; 201 KAR 11:095.....597
Salesman as broker, when; 201 KAR 11:140.....599
Salesman, terminating employment; 201 KAR 11:145.....599
Trust, agency accounts, required; 201 KAR 11:065.....597
Written offers, submission of; 201 KAR 11:045.....596

OIL AND GAS MINING
Surety bonds; requirements, cancellation; 805 KAR 1:050....633
Vacuums, use of; 805 KAR 1:040.....633
Well location plat, preparation, form and contents;
805 KAR 1:030.....89

OPTOMETRIC EXAMINERS
Annual courses of study required; 201 KAR 5:030.....61
License renewal, study required for; 201 KAR 5:030.....61

PERSONNEL
Rules
Annual leave; 101 KAR 1:140.....133
Appeals; 101 KAR 1:130.....131
Applications; 101 KAR 1:060.....126
Appointments, types of; 101 KAR 1:090.....129
Attendance; 101 KAR 1:140.....133
Board procedures; 101 KAR 1:030.....123
Certification and selection of eligibles; 101 KAR 1:080..128
Classification plan; 101 KAR 1:040.....124
Compensation plan; 101 KAR 1:050; amended;.....124, 208
Compensatory leave; 101 KAR 1:140.....133
Court leave; 101 KAR 1:140; amended;.....133, 209
Definitions; 101 KAR 1:010.....123
Demotion; 101 KAR 1:110.....130
Disciplinary actions; 101 KAR 1:120.....131
Examinations; 101 KAR 1:060.....126
General provisions; 101 KAR 1:020.....123
Hours of work; 101 KAR 1:140.....133
Military leave; 101 KAR 1:140.....133
Probationary period; 101 KAR 1:100.....130
Promotion; 101 KAR 1:110.....130
Registers; 101 KAR 1:070.....127
Retirement; 101 KAR 1:140.....133
Separations; 101 KAR 1:120.....131
Service; 101 KAR 1:140.....133
Sick leave; 101 KAR 1:140.....133
Special duty, detail to; 101 KAR 1:110.....130
Transfer; 101 KAR 1:110.....130
Voting leave; 101 KAR 1:140.....133
Unclassified service rules; 101 KAR 1:200.....326

PHARMACY
Examinations; 201 KAR 2:020.....9
Fees for licenses and permits; 201 KAR 2:050.....10
Intermediary services restricted; 201 KAR 2:070.....10
Interns, registration of; 201 KAR 2:040.....9
License renewal; 201 KAR 2:055.....147
Pocket certificate; 201 KAR 2:060.....10
Prescription equipment; 201 KAR 2:090.....147
Prescription substitution; 201 KAR 2:080.....147
Reciprocity; 201 KAR 2:030.....147
Reference materials; 201 KAR 2:090.....147
Revival fee; 201 KAR 2:055.....147
Schools approved by; 201 KAR 2:010.....9
Temporary license; 201 KAR 2:030.....147

PLUMBING CODE
Buildings; public; 401 KAR 1:150.....489
Connections, special; 401 KAR 1:140.....488
Definitions; 401 KAR 1:010.....476
Fixtures; 401 KAR 1:040.....480
House sewers; 401 KAR 1:100.....465
Inspection, tests; 401 KAR 1:110.....487
Installation permits; 401 KAR 1:020.....10
Joints, connections; 401 KAR 1:070.....483
Materials; quality, weight; 401 KAR 1:030.....479
Mobile home parks; waste systems; connections;
401 KAR 1:130.....488
Public buildings; 401 KAR 1:150.....489
Septic systems; private, commercial; 401 KAR 1:120.....488
Soil, waste, vent systems; 401 KAR 1:060.....481
Storm water piping; 401 KAR 1:100.....485
Traps, cleanouts; 401 KAR 1:080.....484
Waste pipe size; 401 KAR 1:050.....481
Water supply, distribution; 401 KAR 1:090.....485

PROBATION AND PAROLE
Corrections
Parole eligibility, time served for; 501 KAR 1:010.....348

PUBLIC ASSISTANCE
Aid to Families With Dependent Children (AFDC)
Need and amount standards; 904 KAR 2:010.....423

PUBLIC PROTECTION AND REGULATION
Alcoholic Beverage Control
Advertising Distilled Spirits and Wine
Brands, prohibition on promotion; 804 KAR 1:050.....51
Novelties and specialties; 804 KAR 1:040.....51
Prohibited statements; 804 KAR 1:030.....51
[illegible]
[illegible]
Solicitation; 804 KAR 1:060.....52
Advertising Malt Beverages
Novelties and specialties; 804 KAR 2:025.....633
Outside signs; 1st, 2nd class cities; 804 KAR 2:005...632
Prohibited statements; 804 KAR 2:015.....632
Fair Trade, Pricing and Sales
Advertising, retail price; 804 KAR 3:070.....167
Cash sales; 804 KAR 3:080.....168
Close-out sales; 804 KAR 3:040.....167
Distilled spirits, minimum case values; 804 KAR
3:010.....52
Resale prices, minimum; 804 KAR 3:020; amended;.....52
Taxes included in retail price; 804 KAR 3:060.....167
Transportation charges; 804 KAR 3:050.....167
Wine, minimum wholesale price; 804 KAR 3:030.....167
Licensing
Beer storage; 804 KAR 4:130.....357
Beer transporter; 804 KAR 4:160.....357
Bottling house storage; 804 KAR 4:040.....354
Citation request; 804 KAR 4:150.....357
Distributors' storage; 804 KAR 4:140.....357
Dormant license renewal; 804 KAR 4:110.....356
Freight forwarder; 804 KAR 4:180.....358
Industrial alcohol; 804 KAR 4:070.....355
Information required; 804 KAR 4:010.....353
Military reservations; 804 KAR 4:080.....355
Miniature vendor; 804 KAR 4:060.....355
Non-resident, special agent, solicitor;
804 KAR 4:020.....354
Out-of-state brewers bond; 804 KAR 4:190.....358
Records, retention; 804 KAR 4:100.....356
Rectifying plants, bottling permitted;
804 KAR 4:050.....355
Retail beer applications; 804 KAR 4:120.....356
Stock transfer; 804 KAR 4:090.....355
Through transporter; 804 KAR 4:170.....358
Transport permit, non-resident licensee;
804 KAR 4:030.....354
Warehouses; 804 KAR 4:200.....358
Election Finance, Registry of
Campaign committees, report of; 801 KAR 1:020,
801 KAR 1:020E; statements of; 801 KAR 1:040
801 KAR 1:040E.....3, 5, 7, 16
Campaign treasurer; 801 KAR 1:005.....248
Candidates, report of; 801 KAR 1:030, 801 KAR
1:030E.....3, 6, 16
Executive committees, report of; 801 KAR 1:010, 801
KAR 1:010E.....3, 4, 16
Elevator Safety
Standards; elevators, dumbwaiters, escalators and
moving walks; 803 KAR 4:010.....50
Insurance
Fire Marshal
Boilers; 806 KAR 50:151 to 806 KAR 50:175.....359-368
Boiler standards; 806 KAR 50:150.....170
Construction requirements, general; 806 KAR 50:010;
amended;.....90, 215
Construction requirements to accommodate physically
handicapped; 806 KAR 50:020; amended;.....94, 222
Fire department aid; 806 KAR 50:100.....97
Flammable liquids; self-service stations;
806 KAR 50:080.....96
LP Gas license denial, revocation, suspension;
806 KAR 50:050.....95
LP Gas license; financial responsibility;
806 KAR 50:060.....95
LP Gas; standby usage; 806 KAR 50:070.....96
Mobile homes; 806 KAR 50:200; amended.....97, 456
Recreational vehicles; 806 KAR 50:200.....97, 456
Labor
Kentucky Occupational Safety and Health Review Commission
Hearings; procedures, disposition; 803 KAR 50:010.....349
Occupational Safety and Health
Adoption of 29 CFR Part 1910; 803 KAR 2:020.....88
Adoption of 29 CFR Part 1926; 803 KAR 2:030;
amended;.....89, 214
Carcinogens, registering of; 803 KAR 2:160.....163
Citations; 803 KAR 2:120.....161
Citations; posting of; 803 KAR 2:125.....162
Complaint, time for filing; 803 KAR 2:150.....162
Conferences, informal; 803 KAR 2:130.....162
Contests, employer and employee; 803 KAR 2:140.....162
Danger, imminent; 803 KAR 2:100.....160
Definitions; 803 KAR 2:040.....158
Employers' responsibilities; 803 KAR 2:060.....158
Inspections, advance notice of; 803 KAR 2:080.....159
Inspections; procedure; 803 KAR 2:070.....159
Inspections, unwarranted; complaint; 803 KAR 2:090....160
Penalties; 803 KAR 2:115.....161
Representatives for employer, employe;
803 KAR 2:110.....161
Scope; 803 KAR 2:050.....158
Trade secrets; 803 KAR 2:095.....160
Variances; 803 KAR 2:170.....163
Wages and Hours Standards
Apprentices and trainees, employment of; 803 KAR
1:020.....48
Apprenticeship programs, registration of; 803
KAR 1:010.....47
Board, lodging, gratuities and other allowances;
[illegible]
[illegible]
803 KAR 1:040.....49, 120
Contractors' records; 803 KAR 1:050.....50
Employe-employer relationship; 803 KAR 1:005.....249

Page

Exclusions from overtime and minimum wage; 803 KAR 1:075.....256
Executive, administrative, supervisory or professional employes-Salesmen; amended; 303 KAR 1:070.....255, 586
Fringe benefits; 803 KAR 1:085.....155
Handicapped, sheltered workshop, student employees; 803 KAR 1:090; amended;.....156, 324, 455
Hours worked; 803 KAR 1:065.....253
Overtime pay requirements; 803 KAR 1:060; amended;.....251, 451
Prevailing wage determinations, hearings on; amended; 803 KAR 1:030.....49, 119
Record-keeping requirements; 803 KAR 1:066.....510

Mines and Minerals
Diesel Equipment
Underground coal mine usage; 805 KAR 2:010.....168
Oil and Gas
Surety bonds; requirements, cancellation; 805 KAR 1:050.....633
Vacuums, use of; 805 KAR 1:040.....633
Well location plat, preparation; 805 KAR 1:030.....89

Public Service Commission
Gas; 807 KAR 2:025.....260
Gas service lines; 807 KAR 2:030.....266
OSH, employes, work areas; 807 KAR 3:010.....271
Rules of procedure; 807 KAR 1:010.....179
Tariffs; 807 KAR 2:020.....257
Utilities rules; electric, water, gas, telephone; 807 KAR 2:010.....183
Water; 807 KAR 2:040.....267

Tax Appeals
Rules of practice and procedure; 802 KAR 1:010.....47

PUBLIC RECORDS
Inspecting and copying; 200 KAR 1:010; 200 KAR 1:010E.....31, 24

PUBLIC SERVICE COMMISSION
Employees; work areas; OSH; 807 KAR 3:010.....271
Gas; 807 KAR 2:025.....260
Gas service lines; 807 KAR 2:030.....266
Occupational safety and health; 807 KAR 3:010.....271
Procedure, rules of; 807 KAR 1:010.....179
Tariffs; 807 KAR 2:020.....257
Utilities rules; electric, water, gas, telephone; 807 KAR 2:010.....183
Water; 807 KAR 2:040.....267

RADIOLOGY
Cabinet systems; 902 KAR 100:145.....417
Classification, groups; 902 KAR 100:075.....404
Concentrations; air and water; 902 KAR 100:025.....388
Concentrations, exempt; 902 KAR 100:085.....405
Definitions; 902 KAR 100:010.....381
Dental; 902 KAR 100:130.....415
Exemptions; 902 KAR 100:045.....396
General applicability; 902 KAR 100:005.....380
General requirements; 902 KAR 100:015.....384
Industrial radiography; 902 KAR 100:100.....406
Leak testing; 902 KAR 100:060.....402
License limits; 902 KAR 100:090.....406
Licenses, general; 902 KAR 100:050.....397
Licenses, specific; 902 KAR 100:055.....400
Licenses, specific; general provisions; 902 KAR 100:040.....394
Notices, reports, instructions to employees; 902 KAR 100:165.....420
Particle accelerator; 902 KAR 100:155.....419
Plan review; 902 KAR 100:160.....420
Posting, disposal; 902 KAR 100:030.....391
Proceedings; 902 KAR 100:170.....421
Quantities, exempt; 902 KAR 100:080.....404
Reciprocal recognition; 902 KAR 100:065.....403
Repeals; 902 KAR 100:001.....380
Sealed sources; 902 KAR 100:095.....407
Standards; 902 KAR 100:020.....384
Therapy; 902 KAR 100:135.....415
Transport; 902 KAR 100:035.....392
Transportation, intrastate; 902 KAR 100:070.....403
Veterinarians; 902 KAR 100:140.....416
X-ray, diagnostic; 902 KAR 100:115.....412
X-ray, fluoroscopic; 902 KAR 100:125.....413
X-ray, general; 902 KAR 100:105.....410
X-ray, microscopic analytical; 902 KAR 100:150.....418
X-ray, registration; 902 KAR 100:110.....411
X-ray, special; 902 KAR 100:120.....412

REAL ESTATE COMMISSION
Advertising, broker's name on; 201 KAR 11:060.....596
Auction obligations; 201 KAR 11:115.....598
Branch offices; 201 KAR 11:070.....597
Broker licensing of salesman; 201 KAR 11:135.....599
Broker-salesman, defined; 201 KAR 11:120.....598
Broker's interest disclosure; 201 KAR 11:075.....597
Broker's requirements, not regularly in business; 201 KAR 11:080.....597
Broker's sign; 201 KAR 11:055.....596
Builder, defined; 201 KAR 11:150.....599
Builder-developer; rule compliance by; 201 KAR 11:155.....599
Classroom instruction required; 201 KAR 11:010.....595
Closing statements; 201 KAR 11:095.....597
Complaints, resolving; 201 KAR 11:130.....598
Conduct when managing property; 201 KAR 11:085.....597

Page

Contracts to contain financing provisions; 201 KAR 11:040.....596
Exclusive authority, retention of; 201 KAR 11:110.....598
Exclusive listing contract, continuation; 201 KAR 11:100.....598
Financing provisions, contracts to contain; 201 KAR 11:040.....596
Hearings; 201 KAR 11:160.....599
Instruction, salesman to complete; 201 KAR 11:125.....598
Instruments, disposition; 201 KAR 11:090.....597
License application; 201 KAR 11:005.....595
License cancellation, reasons; 201 KAR 11:030.....595
Licensees, complaints against; 201 KAR 11:035.....596
Military duty, renewal after; 201 KAR 11:025.....595
Net listing requirements; 201 KAR 11:050.....596
Owner's consent, authorization; 201 KAR 11:105.....598
Reciprocal agreement, fee not reduced; 201 KAR 11:020.....595
Re-examination after failure; 201 KAR 11:015.....595
Rental management agreements; 201 KAR 11:095.....597
Salesman as broker, when; 201 KAR 11:140.....599
Salesman, terminating employment; 201 KAR 11:145.....599
Trust, agency accounts, required; 201 KAR 11:065.....597
Written offers, submission of; 201 KAR 11:045.....598

RECLAMATION
Mining
Underground, surface effects of reclamation; 402 KAR 1:010; amended;.....11, 211, 448

REGISTRY OF ELECTION FINANCE
Campaign committees, report of; 801 KAR 1:020, 801 KAR 1:020E; statements of; 801 KAR 1:040, 801 KAR 1:040E.....3, 5, 7, 16
Campaign treasurer; 801 KAR 1:005.....243
Candidates, report of; 801 KAR 1:030, 801 KAR 1:030E.....3, 6, 16
Executive committees, report of; 801 KAR 1:010, 801 KAR 1:010E.....3, 4, 16

RETIREMENT SYSTEMS
Teachers' Retirement System
Absence, leave of; 102 KAR 1:110.....461
Additional contributions; 102 KAR 1:130.....137
Administrative staff; 102 KAR 1:037.....460
Annuity payments; 102 KAR 1:155.....463
Annuity tables; 102 KAR 1:160.....463
Applications for retirement; 102 KAR 1:070.....136
Chairman, vice-chairman, election; 102 KAR 2:010.....464
Contributions, additional; 102 KAR 1:130.....137
Contributions, omitted; 102 KAR 1:125.....137
Contributions, voluntary; 102 KAR 1:120.....136
Disability; 102 KAR 1:140.....462
Entrants, new; 102 KAR 1:039.....461
Fractional service year; 102 KAR 1:038.....461
Insurance; 102 KAR 1:100.....136
Interest credited; 102 KAR 1:135.....462
Interest rate; out-of-state service; 102 KAR 1:050.....135
Investment policies; 102 KAR 1:175.....464
KIDFA investments; 102 KAR 1:180.....464
Military service credit; 102 KAR 1:055.....135
Omitted contributions; 102 KAR 1:125.....137
Optional benefits; 102 KAR 1:150.....463
Options, basis for; 102 KAR 1:145.....462
Out-of-state service interest rate; 102 KAR 1:050.....135
Part-time service; 102 KAR 1:036.....460
Reciprocal arrangements; 102 KAR 1:040.....461
Reciprocal program; CERS, KERS, SPRS, TRS; 102 KAR 1:185.....590
Refunds; 102 KAR 1:060.....136
Retired teachers, substitute teaching by; 102 KAR 1:035.....135
Retirement, application for; 102 KAR 1:070.....136
Rules and regulations; 102 KAR 1:010.....460
Substitute teachers; 102 KAR 1:030.....134
Substitution by retired teachers; 102 KAR 1:035.....135
Supplemental payments; 102 KAR 1:020.....59
Surviving children's benefits; 102 KAR 1:165.....463
Tax-sheltered contributions; 102 KAR 1:115.....462
Transfer to other systems; 102 KAR 1:045.....135
Voluntary contributions; 102 KAR 1:120.....135

REVENUE AND TAXATION
Appeals Board
Rules of practice and procedure; 802 KAR 1:010.....47
Excise Tax
Alcoholic Beverages
Consumer rates; 103 KAR 40:090.....332
Malt beverages; 103 KAR 40:030.....332
Cigarettes
Indicia, elimination of; 103 KAR 41:130.....333
Records, retention of; 103 KAR 41:120.....333
Samples; 103 KAR 41:110.....333
Segregation; 103 KAR 41:100.....333
Wholesalers; resident, nonresident; 103 KAR 41:030.....333
Motor Fuels
Assignment; 103 KAR 43:080.....334
Display; 103 KAR 43:200.....334
Refund; 103 KAR 43:090.....334
Storage; 103 KAR 43:210.....334
General Administration
Appeals; 103 KAR 1:010;amended;.....137, 324
Protests; 103 KAR 1:010;amended;.....137, 324

Page

Income Tax
Corporations
Airlines; 103 KAR 16:120....224
Application of regulations; 103 KAR 16:050....138
Bus lines; 103 KAR 16:120....224
Coal royalty; taxable income; 103 KAR 16:010....138
Construction companies; 103 KAR 16:160....225
Deductions; net operating loss; 103 KAR 16:030....138
Income classifications; 103 KAR 16:050....138
Loan companies; 103 KAR 16:150....225
Payroll factor, apportionment; 103 KAR 16:090....143
Pipeline companies; 103 KAR 16:110....224
Property factor, apportionment; 103 KAR 16:080....141
Railroad companies; 103 KAR 16:130....224
Sales factor, apportionment; 103 KAR 16:070....140
Telegraph companies; 103 KAR 16:100....224
Telephone companies; 103 KAR 16:100....224
Trucklines; 103 KAR 16:120....224
General Administration
Dates, extensions, for filing; 103 KAR 15:050....328
Declarations, amended; 103 KAR 15:060....328
Estimated tax; 103 KAR 15:060....328
Extensions; 103 KAR 15:050....328
Short years; 103 KAR 15:060....328
Statute of limitations; 103 KAR 15:040....327
Individual
Combined returns; 103 KAR 17:020....225
Federal deductions and returns; 103 KAR 17:090....227
Filing extension; military personnel; 103 KAR 17:040....226
Filing requirements; 103 KAR 17:030....226
Income, portions; subject to taxation; 103 KAR 17:060....329
Personal tax credits; 103 KAR 17:070....226
Residence; 103 KAR 17:010....
Retirement income; 103 KAR 17:080....227
Standard deduction; 103 KAR 17:050....226
Miscellaneous
Estates and trusts; computation of income; 103 KAR 19:010....332
Returns; information; 103 KAR 19:030....332
Withholding
Adjustment; correction; 103 KAR 18:020....227
Annual payment; 103 KAR 18:040....329
Bond, compliance; 103 KAR 18:120....331
Exemption certificates; 103 KAR 18:100....331
Forms, statements; 103 KAR 18:050....329
Methods; 103 KAR 18:110....331
Miscellaneous pay period; 103 KAR 18:060....330
Monthly reporting requirements; 103 KAR 18:030....228
Payroll records; 103 KAR 18:090....330
Requirement to withhold; 103 KAR 18:010....329
Supplemental wages; 103 KAR 18:070....330
Two or more employees; 103 KAR 18:080....330
Sales and Use Tax
Administration and Accounting
Cash discounts; 103 KAR 31:060....233
Coupons; 103 KAR 31:080....470
Damaged goods; 103 KAR 31:070....233
Demonstration and display; 103 KAR 31:100....234
Direct pay authorization; 103 KAR 31:030....470
Exemption certificates; 103 KAR 31:120....234
Goods damaged in transit; 103 KAR 31:070....233
Merchandise returned; 103 KAR 31:050....233
Records; 103 KAR 31:020....232
Redemption certificates; 103 KAR 31:080....470
Repossessions; bad debts; 103 KAR 31:040....233
Resale certificates; 103 KAR 31:110....146
Successor's liability; 103 KAR 31:150....234
Tax-paid purchases resold; 103 KAR 31:090....233
General Exemptions
Articles taken in trade; 103 KAR 30:060; amended;....146, 324
Artificial insemination of livestock; 103 KAR 30:100....232
Delivery charges; 103 KAR 30:070....231
Deposits on containers; 103 KAR 30:080....232
Federal taxes; 103 KAR 30:040....469
Finance and carrying charges; 103 KAR 30:050....231
Freight charges; 103 KAR 30:070....231
Fuels used to manufacture electricity; 103 KAR 30:150....232
Gasoline, special fuels; 103 KAR 30:030....468
Industrial supplies; 103 KAR 30:130....469
Livestock; artificial insemination; 103 KAR 30:100....232
Local governments, sales to; 103 KAR 30:220; 103 KAR 30:220E....590, 583
Machinery; new, expanded industry; 103 KAR 30:120....469
Natural gas; by-product gases and fuels; 103 KAR 30:160....232
Physical aids; 103 KAR 30:020....145
Prescription medicines; 103 KAR 30:020....145
Prosthetic devices; 103 KAR 30:020....145
Raw materials; 103 KAR 30:130....469
Miscellaneous Retail Transactions
Admissions; 103 KAR 28:010....467
Ice sales; 103 KAR 28:070....231
Layaway sales; 103 KAR 28:020....230
Leases; 103 KAR 28:050....467
Redemption of premium or trading stamps; 103 KAR 28:040....230
Rentals; 103 KAR 28:050....467
Replacement parts; 103 KAR 28:060....231
Sales to employees; 103 KAR 28:100....468
Tangible personal property; 103 KAR 28:090....468
Telephonic, telegraphic; services; 103 KAR 28:120....468
Tire retreading, recapping; 103 KAR 28:130....231
Miscellaneous Retailer Occupations
Auctioneers; 103 KAR 27:010....465
Blueprints and photostat copies; 103 KAR 27:020....230
Brokers, lienors, fiduciaries; 103 KAR 27:030....144
Civic clubs, organizations; 103 KAR 27:170....145
Finance companies; 103 KAR 27:040....230
Florists and nurserymen; 103 KAR 27:050....145
Meals served by railroads; 103 KAR 27:080....466
Memorial dealers; 103 KAR 27:090....230
Motor homes; 103 KAR 27:100....466
Motor vehicles; 103 KAR 27:100....466
Photographers, photo finishers; 103 KAR 27:120....230
Publishers of newspapers, magazines, periodicals; 103 KAR 27:140....145
Repairers, reconditioners; 103 KAR 27:150....466
Trailers; 103 KAR 27:100....466
Vending machines; 103 KAR 27:180....466
X-Ray labs; 103 KAR 27:120....230
Registration and Collection
Construction machinery; 103 KAR 25:110....465
Factors and agents; 103 KAR 25:050....144
Out-of-state retailers; 103 KAR 25:040....464
Railroads; display of permits; 103 KAR 25:070....228
Receipts; 103 KAR 25:100....228
Vendors; temporary and transit; 103 KAR 25:060....228
Service and Professional Occupations
Common carriers; 103 KAR 26:050....229
Dentists; dental labs; 103 KAR 26:080....229
Funeral directors; 103 KAR 26:040....465
Morticians; 103 KAR 26:040....465
Oculists; 103 KAR 26:030....144
Opticians; 103 KAR 26:030....144
Optometrists; 103 KAR 26:030....144
Painters and finishers; 103 KAR 26:060....229
Physicians; 103 KAR 26:020....144
Service; general; 103 KAR 26:010....144
Surgeons; 103 KAR 26:020....144
Towel and linen service; 103 KAR 26:100....229
Undertakers; 103 KAR 26:040....465
Veternarians; 103 KAR 26:090....229

SALES AND USE TAX

Administration and Accounting
Cash discounts; 103 KAR 31:060....233
Certificates of exemption; 103 KAR 31:120....234
Coupons; 103 KAR 31:080....470
Damaged goods; 103 KAR 31:070....233
Debts, bad; 103 KAR 31:040....233
Demonstration; 103 KAR 31:100....234
Direct pay authorization; 103 KAR 31:030....470
Discounts, cash; 103 KAR 31:060....233
Display; 103 KAR 31:100....234
Exemption certificates; 103 KAR 31:120....234
Goods damaged in transit; 103 KAR 31:070....233
Merchandise returned; 103 KAR 31:050....233
Records; 103 KAR 31:020....232
Redemption certificates; 103 KAR 31:080....470
Repossessions; 103 KAR 31:040....233
Resale certificates; 103 KAR 31:110....146
Resold purchases, tax-paid; 103 KAR 31:090....233
Returned merchandise; 103 KAR 31:050....233
Successor's liability; 103 KAR 31:150....234
Tax-paid purchases resold; 103 KAR 31:090....233
Exemptions, General
Articles taken in trade; 103 KAR 30:060;amended;....146, 324
Artificial insemination of livestock; 103 KAR 30:100....232
By-product gases; 103 KAR 30:160....232
Carrying and finance charges; 103 KAR 30:050....231
Containers, deposits on; 103 KAR 30:080....232
Deposits on containers; 103 KAR 30:080....232
Electricity, fuel used to manufacture; 103 KAR 30:150....232
Federal taxes; 103 KAR 30:040....469
Finance and carrying charges; 103 KAR 30:050....231
Freight and delivery charges; 103 KAR 30:070....231
Fuels for manufacture of electricity; 103 KAR 30:150....232
Fuels produced as by-products; 103 KAR 30:160....232
Gasoline, special fuels; 103 KAR 30:030....468
Industrial supplies; 103 KAR 30:130....469
Livestock, artificial insemination of; 103 KAR 30:100....232
Local governments, sales to; 103 KAR 30:220; 103 KAR 30:220E....590, 583
Machinery; new, expanded industry; 103 KAR 30:120....469
Natural gas; 103 KAR 30:160....232
Physical aids; 103 KAR 30:020....145
Prescription medicines; 103 KAR 30:020....145
Prosthetic devices; 103 KAR 30:020....145
Raw materials; 103 KAR 30:130....469
Miscellaneous Retail Transactions
Admissions; 103 KAR 28:010....467
Ice sales; 103 KAR 28:070....231
Layaway sales; 103 KAR 28:020....230
Leases; 103 KAR 28:050....467
Recapping tires; 103 KAR 28:130....231
Redemption of stamps; 103 KAR 28:040....230
Rentals; 103 KAR 28:050....467
Replacement parts; 103 KAR 28:060....231
Retreading tires; 103 KAR 28:130....231
Sales to employees; 103 KAR 28:100....468
Sales of ice; 103 KAR 28:070....231

Page
Sales on layaway; 103 KAR 28:020....230
Stamp redemption; 103 KAR 28:040....230
Tangible personal property; 103 KAR 28:090....468
Telephonic, telegraphic; services; 103 KAR 28:120....468
Tire retreading; recapping; 103 KAR 28:130....231
Miscellaneous Retailer Occupations
Auctioneers; 103 KAR 27:010....465
Blueprints; 103 KAR 27:020....230
Brokers, lienors, fiduciaries; 103 KAR 27:030....144
Civic clubs, organizations; 103 KAR 27:170....145
Finance companies; 103 KAR 27:040....230
Florists and nurserymen; 103 KAR 27:050....145
Meals served by railroads, airplanes, etc.; 103 KAR 27:080....466
Memorial dealers; 103 KAR 27:090....230
Motor homes; 103 KAR 27:100....466
Motor vehicles; 103 KAR 27:100....466
Photo finishers; 103 KAR 27:120....230
Photographers; 103 KAR 27:120....230
Photostat copies; 103 KAR 27:020....230
Publishers of newspapers, magazines, periodicals; 103 KAR 27:140....145
Repairers, reconditioners; 103 KAR 27:150....466
Trailers; 103 KAR 27:100....466
Vending machines; 103 KAR 27:180....466
X-Ray labs; 103 KAR 27:120....230
Registration and Collection
Construction machinery; 103 KAR 25:110....465
Factors and agents; 103 KAR 25:050....144
Out-of-state retailers; 103 KAR 25:040....464
Railroads, display of permit; 103 KAR 25:070....228
Receipts; 103 KAR 25:100....228
Temporary vendors; 103 KAR 25:060....228
Transit vendors; 103 KAR 25:060....228
Vendors; 103 KAR 25:060....228
Service and Professional Occupations
Common carriers; 103 KAR 26:050....229
Dental laboratories; 103 KAR 26:080....229
Dentists; 103 KAR 26:080....229
Funeral directors; 103 KAR 26:040....465
Linen and towel service; 103 KAR 26:100....229
Morticians; 103 KAR 26:040....465
Oculists; 103 KAR 26:030....144
Opticians; 103 KAR 26:030....144
Optometrists; 103 KAR 26:030....144
Painters and finishers; 103 KAR 26:060....229
Physicians; 103 KAR 26:020....144
Service, general; 103 KAR 26:010....144
Surgeons; 103 KAR 26:020....144
Towel and linen service; 103 KAR 26:100....229
Undertakers; 103 KAR 26:040....465
Veterinarians; 103 KAR 26:090....229

SANITATION
Frozen food locker plants; 902 KAR 10:020....510
Public rest rooms; 902 KAR 10:010....369
Sanitarians; 902 KAR 10:030....511
Youth camps; 902 KAR 10:040....642

SECRETARY OF STATE
Corporations
Certificate of good standing; 30 KAR 1:010....326
Statements, reports, documents; 30 KAR 1:020....325
State Board of Elections
Absentee voting when under indictment; 31 KAR 1:010....8

SOCIAL SERVICES
Child Welfare
Adoptive parents; selection, approval; 905 KAR 1:030....294
Agencies, standards; 905 KAR 1:090....297
Application to place or receive child; 905 KAR 1:010....294
Boarding rates; 905 KAR 1:080....652
Foster parents; criteria; 905 KAR 1:040....651
Group home standards; 905 KAR 1:070....295
Institutions; standards; 905 KAR 1:090....297
Subsidies, approval; 905 KAR 1:050....295
Day Care
Infants and toddlers; 905 KAR 2:035....656
Nighttime care; 905 KAR 2:040....656
School-age children; 905 KAR 2:030....655
Standards; all facilities; 905 KAR 2:010....652
Standards, type I; 905 KAR 2:020....653
Standards, type II; 905 KAR 2:025....654
Transportation; 905 KAR 2:060....657
Medical Assistance
Pharmacy services; 904 KAR 1:020E....323
Physician services; 904 KAR 1:010E....323
Public Assistance
AFDC; need and amount standards; 904 KAR 2:010....423

STATE, DEPARTMENT OF
Corporate Filing
Certificate of good standing; 30 KAR 1:010....326
Statements, reports, documents; filing of; 30 KAR 1:020....326

STATE OWNED BUILDINGS AND GROUNDS
Traffic control; 200 KAR 3:010; 200 KAR 3:010E....591, 584
Vehicle parking; 200 KAR 3:010; 200 KAR 3:010E....591, 584

STATE POLICE
Promotional system; 502 KAR 5:010; 502 KAR 5:010E....625, 584

Page
TAX APPEALS
Rules of practice and procedure; 802 KAR 1:010....47

TAXATION (See REVENUE AND TAXATION)

TEACHERS' RETIREMENT SYSTEM
Absence, leave of; 102 KAR 1:110....461
Additional contributions; 102 KAR 1:130....137
Administrative staff; 102 KAR 1:037....460
Annuity payments; 102 KAR 1:155....463
Annuity tables; 102 KAR 1:160....463
Applications for retirement; 102 KAR 1:070....136
Chairman, vice-chairman, election; 102 KAR 2:010....464
Contributions, additional; 102 KAR 1:130....137
Contributions, omitted; 102 KAR 1:125....137
Contributions, voluntary; 102 KAR 1:120....136
Disability; 102 KAR 1:140....462
Entrants, new; 102 KAR 1:039....461
Fractional service year; 102 KAR 1:038....461
Insurance; 102 KAR 1:100....136
Interest credited; 102 KAR 1:135....462
Interest rate; out-of-state service; 102 KAR 1:050....135
Investment policies; 102 KAR 1:175....464
KIDFA investments; 102 KAR 1:180....464
Military service credit; 102 KAR 1:055....135
Omitted contributions; 102 KAR 1:125....137
Optional benefits; 102 KAR 1:150....463
Options, basis for; 102 KAR 1:145....462
Out-of-state service interest rate; 102 KAR 1:050....135
Part-time service; 102 KAR 1:036....460
Reciprocal arrangements; 102 KAR 1:040....462
Reciprocal program; CERS, KERS, SPRS, TRS; 102 KAR 1:185....590
Refunds; 102 KAR 1:050....135
Retired teachers, substitute teaching by; 102 KAR 1:035....135
Retirement, application for; 102 KAR 1:070....136
Rules and regulations; 102 KAR 1:010....460
Substitute teachers; 102 KAR 1:030....134
Substitution by retired teachers; 102 KAR 1:035....135
Supplemental payments; 102 KAR 1:020....59
Surviving children's benefits; 102 KAR 1:165....463
Tax-sheltered contributions; 102 KAR 1:115....462
Transfer to other systems; 102 KAR 1:045....135
Voluntary contributions; 102 KAR 1:120....136

TRANSPORTATION
Aeronautics
Air Carriers
Application for certificate; 602 KAR 1:010....15
Certificate; limitations and conditions; 602 KAR 1:050....627
Hearings on; 602 KAR 1:020....15
Insurance and indemnity bond requirements; 602 KAR 1:040....36
Operation of aircraft in intrastate air commerce; 602 KAR 1:030; amended;....36, 213
Operations; monthly report; 602 KAR 1:070....630
Service requirements; 602 KAR 1:060....628
Schedule reporting; 602 KAR 1:080....630
Tariff hearing procedures; 602 KAR 1:025....527
Airport Boards
Commuter service; reimbursement for; 602 KAR 10:010....631
Highways
Traffic
Fully controlled access highways; 603 KAR 5:025....152
Limited access, types; 603 KAR 5:010....37
Pedestrian; 603 KAR 5:020....37
Rest areas, use of; 603 KAR 5:040....152
Right turn on red signal prohibitions; 603 KAR 5:030....66
Truckway Classifications
I-24; 603 KAR 6:021....68
US 31-W; 603 KAR 6:020....67
US 119; 603 KAR 6:012....66
KY 1; 603 KAR 6:018....67
KY 7; 603 KAR 6:019....67
KY 15; 603 KAR 6:010....66
KY 36; 603 KAR 6:011; amended;....66, 214
KY 59; 603 KAR 6:028....248
KY 70; 603 KAR 6:024....247
KY 85; 603 KAR 6:025....247
KY 111; 603 KAR 6:029....248
KY 136; 603 KAR 6:013....66
KY 153; 603 KAR 6:022....153
KY 181; 603 KAR 6:026....247
KY 292; 603 KAR 6:030....248
KY 797; 603 KAR 6:014....67
KY 805; 603 KAR 6:023....153
KY 909; 603 KAR 6:015....67
KY 1232; 603 KAR 6:016....67
KY 1526; 603 KAR 6:017....67
KY 1543; 603 KAR 6:027....632
Motor Carriers
Industrial materials permit; 601 KAR 1:020, 601 KAR 1:020E....2, 14
Size, limitations on; 601 KAR 1:010....14
Vehicle Regulation
Dealers
Application; disposition; 601 KAR 20:030....245
Board meetings; 601 KAR 20:010....245
Dealer; 601 KAR 20:110....246
Licenses, issuance, denial; 601 KAR 20:040....245
Licenses, supplemental; 601 KAR 20:050....246

Page

Location, change of; 601 KAR 20:080....246
Multi-businesses; 601 KAR 20:070....246
Ownership, change; 601 KAR 20:090....246
Premises; 601 KAR 20:070....246
Salesmen; 601 KAR 20:110....246
Signs; 601 KAR 20:070....246
Used car dealers; trade names; 601 KAR 20:130....247
Driver Improvement
Medical Review Board; 601 KAR 13:010....35
Drivers' License
Notice and hearing prior to revocation; 601 KAR 12:010....151
Vehicle Inspection
Exemptions; 601 KAR 10:070....244
Extension of time; 601 KAR 10:060....244
Fleet permits; 601 KAR 10:080....245
Inspection at registration; annually; 601 KAR 10:050....244
Permits and signs; display; 601 KAR 10:040....244
Reports; 601 KAR 10:030....244
Safety inspectors; mechanics; 601 KAR 10:020....243
Station permits; 601 KAR 10:010....243

TRAVEL EXPENSE AND REIMBURSEMENT

Officers and Employees, State
Official work station; 200 KAR 2:030E; 200 KAR 2:030..58, 60
Subsistence expenses; 200 KAR 2:060E; 200 KAR 2:060...58, 60

TRUCKWAY CLASSIFICATIONS

I-24; 603 KAR 6:021....68
US 31-W; 603 KAR 6:020....67
US 119; 603 KAR 6:012....66
KY 1; 603 KAR 6:018....67
KY 7; 603 KAR 6:019....67
KY 15; 603 KAR 6:010....66
KY 36; 603 KAR 6:011; amended;....66, 214
KY 59; 603 KAR 6:028....248
KY 70; 603 KAR 6:024....247
KY 85; 603 KAR 6:025....247
KY 111; 603 KAR 6:029....248
KY 136; 603 KAR 6:013....66
KY 153; 603 KAR 6:022....153
KY 181; 603 KAR 6:026....247
KY 292; 603 KAR 6:030....248
KY 797; 603 KAR 6:014....67
KY 805; 603 KAR 6:023....153
KY 909; 603 KAR 6:015....67
KY 1232; 603 KAR 6:016....67
KY 1526; 603 KAR 6:017....67
KY 1543; 603 KAR 6:027....632

UTILITIES

Employees; OSHA, work areas; 807 KAR 3:010....271
Gas; 807 KAR 2:025....260
Gas service lines; 807 KAR 2:030....266
Rules; 807 KAR 2:010....183
Tariffs; 807 KAR 2:020....257
Water; 807 KAR 2:040....267

VEHICLE REGULATION

Dealers
Application; disposition; 601 KAR 20:030....245
Board meetings; 601 KAR 20:010....245
Dealer; 601 KAR 20:110....245
Licenses, issuance, denial; 601 KAR 20:040....245
Licenses, supplemental; 601 KAR 20:050....246
Location, change of; 601 KAR 20:080....246
Multi-businesses; 601 KAR 20:070....246
Ownership, change of; 601 KAR 20:090....246
Premises; 601 KAR 20:070....246
Salesman; 601 KAR 20:110....246
Signs; 601 KAR 20:070....246
Used car dealers; trade names; 601 KAR 20:130....247
Driver Improvement
Medical Review Board; 601 KAR 13:010....35
Drivers' License
Notice and hearing prior to revocation; 601 KAR 12:010....151
Trucks, tractors, semi-trailers
Industrial materials permit; 601 KAR 1:020, 601 KAR 1:020E....2, 14
Size limitations; 601 KAR 1:010....14
Vehicle Inspection
Exemptions; 601 KAR 10:070....244

Page

Extension of time; 601 KAR 10:060....244
Fleet permits; 601 KAR 10:080....245
Inspection at registration; annually; 601 KAR 10:050....244
Permits and signs; display; 601 KAR 10:040....244
Reports; 601 KAR 10:030....244
Safety inspectors; mechanics; 601 KAR 10:020....243
Station permits; 601 KAR 10:010....243

VITAL STATISTICS

Amended birth certificate; 901 KAR 5:070....637
Birth and death; verification; 901 KAR 5:040....636
Birth certificate reissued; 901 KAR 5:060....636
Certified copies of certificate; 901 KAR 5:050....636
Delayed birth registration; 901 KAR 5:020....636
Delayed death registration; 901 KAR 5:080....637
State registrar; 901 KAR 5:010....635
Stillbirths; 901 KAR 5:030....636

VOCATIONAL EDUCATION

Administration
State plan; 705 KAR 1:010....47
Adult Education
Definitions; 705 KAR 7:010....85
Eighth grade equivalency certificate; 705 KAR 7:040....85
High school equivalency certificate; 705 KAR 7:030....509
Testing program; 705 KAR 7:020....509
Facilities and Equipment
College or university, department of; 705 KAR 3:050....507
Construction; 705 KAR 3:080....508
Definitions; 705 KAR 3:010....505
Remote high school; 705 KAR 3:060....507
Specialized public high school; 705 KAR 3:030....507
Vocational-technical; public or state; 705 KAR 3:040....507
Fiscal Management
Audits; 705 KAR 2:090....505
Licensing Proprietary Schools
Advertising; 705 KAR 10:120....87
Agent's permit; 705 KAR 10:020....510
Appeals procedure; 705 KAR 10:120....87
Cancellation and refund; 705 KAR 10:060....86
Catalog; 705 KAR 10:050....86
Certificate of approval; 705 KAR 10:010....85
Enrollment contract; records, reports; 705 KAR 10:090....87
Equipment and facilities; 705 KAR 10:080....87
Financial stability; 705 KAR 10:100....87
Personnel qualifications; 705 KAR 10:040....85
Management of State-Operated Schools
Administration; 705 KAR 5:020....508
Enrollment quotas; 705 KAR 5:010....84
Live work projects; 705 KAR 5:060....84
Steering committee; 705 KAR 5:040....509
Transportation reimbursement; 705 KAR 5:030....84
Student Financial Aid
Administration; 705 KAR 8:010....510
Veterans' Approval Agency
Apprenticeship and OJT courses; 705 KAR 11:020....88
Denial or revocation; 705 KAR 11:040....88
Inspection and supervision; 705 KAR 11:050....88
Institutional courses; 705 KAR 11:010....87
Revision and amendments; 705 KAR 11:030....88

VOTING

Absentee
When under indictment; 31 KAR 1:010....8
Soybean referendum; 302 KAR 1:010....150

WAGES AND HOURS

(see Labor)

WATER RESOURCES

Withdrawal permits; 401 KAR 4:010; amended....11, 448

WILDLIFE

Ballard Refuge restrictions; 301 KAR 4:020....65
Birds, migratory; seasons, limits; 301 KAR 2:021E....24
Birds of prey; 301 KAR 2:070....475
Devices for taking; 301 KAR 2:020....33
Districts, state; 301 KAR 4:010....35
Pits and blinds; restrictions; 301 KAR 2:055....600
Species, endangered; 301 KAR 3:060....476
Steel traps, use of; 301 KAR 2:010....33
Turkey, wild; 301 KAR 3:050....475
Waterfowl seasons; limits; 301 KAR 2:022E....121
Year round season; exceptions; 301 KAR 3:030....600

KENTUCKY REVISED STATUTES

Chapter 13

ADMINISTRATIVE REGULATIONS

13.075 Definition of Commission. — As used in this chapter unless the context requires otherwise: "Commission" means the Legislative Research Commission. (Enact. Acts 1956, ch. 97, sec. 1, eff. May 18, 1956.)

13.080 Definitions and construction. — As used in KRS 13.080 to 13.125,

(1) "Administrative Body" means each state board, bureau, commission, department, division, authority, officer, or other entity, except the legislature and the courts, authorized by law to make regulations.

(2) "Subcommittee" means Administrative Regulation Review Subcommittee.

(3) "Regulation" means each statement of general applicability issued by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior regulation, but does not include

(a) statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public, or

(b) declatory rulings, or

(c) intradepartmental memoranda.

(4) "Affirmative consideration" means that an administrative body must either adopt suggestions or recommendations regarding a regulation or issue a concise statement setting forth the reasons for not adopting suggestions or recommendations regarding a regulation.

(5) Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective. (Enact. Acts 1952, ch. 63, sec. 1; 1972, ch. 180, sec 1; 1974, ch. 73, sec. 1, eff. July 1, 1974.)

13.082 Uniformity of power to adopt regulations — Repeal of conflicting provisions. — (1) The power vested in every administrative body to adopt regulations shall be uniform and shall be confined to the direct implementation of the functions and duties assigned to an administrative body by the General Assembly, or by executive order.

(2) All grants of authority to adopt regulations inconsistent with this provision are hereby repealed and the Legislative Research Commission is hereby directed to identify and to draft legislation for introduction in the 1976 General Assembly repealing all provisions of the Kentucky Revised Statutes in conflict with this section. (Enact. Acts 1974, ch. 73, sec. 5, eff. July 1, 1974)

13.084 Refiling of regulations — Rescinding of regulations not refiled. — (1) Each administrative body shall file within one (1) year of July 1, 1974, in accordance with the provisions of KRS Chapter 13, all regulations which were adopted by such administrative body prior to July 1, 1974, and which are still effective and all regulations which were adopted by such administrative body prior to July 1, 1974 and which do not become effective until after July 1, 1974.

(2) All regulations filed prior to July 1, 1974, whether or not they shall have become effective, are rescinded effective one (1) year after July 1, 1974. (Enact. Acts 1974, ch. 73, sec. 6, eff. July 1, 1974.)

13.085 Publication, hearing, and review of proposed administrative regulation — Requisites of proposal — Public hearing. — (1) Except as provided in subsection (2) of this section no regulation made by any administrative body after July 1, 1974, shall become effective until after an original and five (5) duplicate copies of the regulation are forwarded to the office of the Legislative Research Commission, and:

(a) the proposed regulation has been published in the Administrative Register as required by KRS 13.096; and

(b) a public hearing is held, if requested, by a person having an interest in the subject matter, within thirty (30) days following publication of proposed regulation, as provided by subsection (4) of this section; Provided, however, that if no public hearing is requested within thirty (30) days of publication the regulation shall be submitted to the Administrative Regulation Review Subcommittee;

(c) the proposed regulation has been reviewed by the Administrative Regulation Review Subcommittee as required by KRS 13.087; and

(d) the proposed regulation is reviewed by the appropriate interim or standing committees of the General Assembly, if required by KRS 13.087.

(2) The requirements of subsection (1) of this section shall not apply when the administrative body finds that an emergency exists, and the Governor issues an executive order that the regulation become effective immediately upon being filed in the office of the Legislative Research Commission. A regulation so filed shall expire at the end of 120 days, during which time the proposed regulation may be processed in accordance with this section if the administrative body desires it to become permanent. The General Assembly hereby declares that it is the state policy that emergencies are held to a minimum.

(3) Each proposed regulation submitted to the Legislative Research Commission shall include a citation of the authority pursuant to which it, or any part of it, was adopted, a brief statement which sets forth the necessity for issuing the regulation, a summary of the functions sought to be implemented by the regulation, and the place and manner in which interested persons may present their views.

(4) If within thirty (30) days following publication of the text of a proposed regulation a request is received by the administrative body from a person having an interest in the subject matter of the regulation to offer comment upon the proposed regulation, the administrative body shall fix a date, time and place for a hearing, open to the public, on the proposed regulation. Every hearing shall be conducted in such a manner so as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so; Provided, However, every hearing shall be conducted so as to be completed within sixty (60) days from the date the proposed regulation was first published in the Administrative Register. No transcript need be taken of the hearing unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. Following the hearing the administrative body shall give affirmative consideration to all written and oral statements submitted regarding the proposed regulation. The administrative body shall then forward to the Legislative Research Commission a copy of the regulation as originally published in the Register accompanied by a statement indicating whether any changes have been made in the original wording and by a statement summarizing the comments submitted to the administrative body at the hearing.

(5) The Legislative Research Commission shall cause to be endorsed on the original and duplicate copies of each regulation submitted the time and date of the filing thereof and shall maintain a file of such regulations for public inspection, with suitable indexes. (Enact. Acts 1952, ch. 63, sec. 2; 1972, ch. 180, sec. 3; 1974, ch. 73, sec. 2, eff. July 1, 1974.)

13.087 Administrative Regulation Review Subcommittee—Procedure upon objection to regulations.—(1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of three (3) members, no more than two (2) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) Prior to filing, all regulations shall be submitted to the Administrative Regulation Review Subcommittee to determine if the regulation conforms to the statutory authority under which it was promulgated and if it carries out the legislative intent of the statutory authority under which it was promulgated. The subcommittee's finding that a regulation does not conform to the statutory authority or carry out the legislative intent shall be reported to the promulgating administrative body and to the Director of the Legislative Research Commission. In the event the subcommittee determines that a regulation, other than an emergency filing approved by the Governor, does not conform to the statutory authority, or does not coincide with the legislative intent, the subcommittee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the subcommittee to the Director of the Legislative Research Commission. The subcommittee shall act on a regulation submitted to the Legislative Research Commission within thirty (30) days of the submission of the regulation.

(5) The promulgating administrative body may revise a regulation to comply with the subcommittee's objections, and may return the revised regulation to the subcommittee, or it may return the regulation, with the subcommittee's notation attached, without change. The Legislative Research Commission shall immediately accept a regulation as filed if it is not objected to by the subcommittee.

(6) In the event an administrative body returns a regulation, objected to by the subcommittee, to the Legislative Research Commission, without change, the regulation shall be referred by the Director to the standing committee of the House of Representatives and Senate or to the Interim Committee with appropriate jurisdiction as determined by the Rules of the House and Senate then in effect or in effect during the most recent session of the General Assembly. The standing committees of the House and Senate or the other committee to which a regulation is referred under this section shall review the regulation in the same manner as did the Administrative Regulation Review Subcommittee and shall not expand their review beyond whether the regulation conforms to the statutory authority under which it was promulgated and whether the regulation conforms to the legislative intent of the statute it seeks to implement. In the standing committee of the House,

KENTUCKY REVISED STATUTES

Chapter 13

ADMINISTRATIVE REGULATIONS

13.075 Definition of Commission. — As used in this chapter unless the context requires otherwise: "Commission" means the Legislative Research Commission. (Enact. Acts 1956, ch. 97, sec. 1, eff. May 18, 1956.)

13.080 Definitions and construction. — As used in KRS 13.080 to 13.125,

(1) "Administrative Body" means each state board, bureau, commission, department, division, authority, officer, or other entity, except the legislature and the courts, authorized by law to make regulations.

(2) "Subcommittee" means Administrative Regulation Review Subcommittee.

(3) "Regulation" means each statement of general applicability issued by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior regulation, but does not include

(a) statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public, or

(b) declatory rulings, or

(c) intradepartmental memoranda.

(4) "Affirmative consideration" means that an administrative body must either adopt suggestions or recommendations regarding a regulation or issue a concise statement setting forth the reasons for not adopting suggestions or recommendations regarding a regulation.

(5) Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective. (Enact. Acts 1952, ch. 63, sec. 1; 1972, ch. 180, sec 1; 1974, ch. 73, sec. 1, eff. July 1, 1974.)

13.082 Uniformity of power to adopt regulations — Repeal of conflicting provisions. — (1) The power vested in every administrative body to adopt regulations shall be uniform and shall be confined to the direct implementation of the functions and duties assigned to an administrative body by the General Assembly, or by executive order.

(2) All grants of authority to adopt regulations inconsistent with this provision are hereby repealed and the Legislative Research Commission is hereby directed to identify and to draft legislation for introduction in the 1976 General Assembly repealing all provisions of the Kentucky Revised Statutes in conflict with this section. (Enact. Acts 1974, ch. 73, sec. 5, eff. July 1, 1974)

13.084 Refiling of regulations — Rescinding of regulations not refiled. — (1) Each administrative body shall file within one (1) year of July 1, 1974, in accordance with the provisions of KRS Chapter 13, all regulations which were adopted by such administrative body prior to July 1, 1974, and which are still effective and all regulations which were adopted by such administrative body prior to July 1, 1974 and which do not become effective until after July 1, 1974.

(2) All regulations filed prior to July 1, 1974, whether or not they shall have become effective, are rescinded effective one (1) year after July 1, 1974. (Enact. Acts 1974, ch. 73, sec. 6, eff. July 1, 1974.)

13.085 Publication, hearing, and review of proposed administrative regulation — Requisites of proposal — Public hearing. — (1) Except as provided in subsection (2) of this section no regulation made by any administrative body after July 1, 1974, shall become effective until after an original and five (5) duplicate copies of the regulation are forwarded to the office of the Legislative Research Commission, and:

(a) the proposed regulation has been published in the Administrative Register as required by KRS 13.096; and

(b) a public hearing is held, if requested, by a person having an interest in the subject matter, within thirty (30) days following publication of proposed regulation, as provided by subsection (4) of this section; Provided, however, that if no public hearing is requested within thirty (30) days of publication the regulation shall be submitted to the Administrative Regulation Review Subcommittee;

(c) the proposed regulation has been reviewed by the Administrative Regulation Review Subcommittee as required by KRS 13.087; and

(d) the proposed regulation is reviewed by the appropriate interim or standing committees of the General Assembly, if required by KRS 13.087.

(2) The requirements of subsection (1) of this section shall not apply when the administrative body finds that an emergency exists, and the Governor issues an executive order that the regulation become effective immediately upon being filed in the office of the Legislative Research Commission. A regulation so filed shall expire at the end of 120 days, during which time the proposed regulation may be processed in accordance with this section if the administrative body desires it to become permanent. The General Assembly hereby declares that it is the state policy that emergencies are held to a minimum.

(3) Each proposed regulation submitted to the Legislative Research Commission shall include a citation of the authority pursuant to which it, or any part of it, was adopted, a brief statement which sets forth the necessity for issuing the regulation, a summary of the functions sought to be implemented by the regulation, and the place and manner in which interested persons may present their views.

(4) If within thirty (30) days following publication of the text of a proposed regulation a request is received by the administrative body from a person having an interest in the subject matter of the regulation to offer comment upon the proposed regulation, the administrative body shall fix a date, time and place for a hearing, open to the public, on the proposed regulation. Every hearing shall be conducted in such a manner so as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so; Provided, However, every hearing shall be conducted so as to be completed within sixty (60) days from the date the proposed regulation was first published in the Administrative Register. No transcript need be taken of the hearing unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. Following the hearing the administrative body shall give affirmative consideration to all written and oral statements submitted regarding the proposed regulation. The administrative body shall then forward to the Legislative Research Commission a copy of the regulation as originally published in the Register accompanied by a statement indicating whether any changes have been made in the original wording and by a statement summarizing the comments submitted to the administrative body at the hearing.

(5) The Legislative Research Commission shall cause to be endorsed on the original and duplicate copies of each regulation submitted the time and date of the filing thereof and shall maintain a file of such regulations for public inspection, with suitable indexes. (Enact. Acts 1952, ch. 63, sec. 2; 1972, ch. 180, sec. 3; 1974, ch. 73, sec. 2, eff. July 1, 1974.)

13.087 Administrative Regulation Review Subcommittee—Procedure upon objection to regulations.—(1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of three (3) members, no more than two (2) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) Prior to filing, all regulations shall be submitted to the Administrative Regulation Review Subcommittee to determine if the regulation conforms to the statutory authority under which it was promulgated and if it carries out the legislative intent of the statutory authority under which it was promulgated. The subcommittee's finding that a regulation does not conform to the statutory authority or carry out the legislative intent shall be reported to the promulgating administrative body and to the Director of the Legislative Research Commission. In the event the subcommittee determines that a regulation, other than an emergency filing approved by the Governor, does not conform to the statutory authority, or does not coincide with the legislative intent, the subcommittee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the subcommittee to the Director of the Legislative Research Commission. The subcommittee shall act on a regulation submitted to the Legislative Research Commission within thirty (30) days of the submission of the regulation.

(5) The promulgating administrative body may revise a regulation to comply with the subcommittee's objections, and may return the revised regulation to the subcommittee, or it may return the regulation, with the subcommittee's notation attached, without change. The Legislative Research Commission shall immediately accept a regulation as filed if it is not objected to by the subcommittee.

(6) In the event an administrative body returns a regulation, objected to by the subcommittee, to the Legislative Research Commission, without change, the regulation shall be referred by the Director to the standing committee of the House of Representatives and Senate or to the Interim Committee with appropriate jurisdiction as determined by the Rules of the House and Senate then in effect or in effect during the most recent session of the General Assembly. The standing committees of the House and Senate or the interim committee to which a regulation is referred under this section shall review the regulation in the same manner as did the Administrative Regulation Review Subcommittee and shall not expand their review beyond determining whether the regulation conforms to the statutory authority under which it was promulgated and whether the regulation carries out the legislative intent of the statute it seeks to implement. In the event the standing committee of the House

and Senate or the Interim Committee determines that a regulation does not conform to the statutory authority under which it was promulgated, or does not coincide with the legislative intent of the statute it seeks to implement the standing committees or the interim committee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and the Director shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the standing committees or by the interim committee to the Director of the Legislative Research Commission. The standing committees or interim committee shall act on a regulation submitted in accordance with this section within thirty (30) days of the date the administrative body returns the regulation.

(7) The promulgating administrative body may revise a regulation to comply with the subcommittee's interim or standing committee's objections, and may return the revised regulation to said subcommittee or committee, or may return the regulation with the subcommittee's interim or standing committee's notation attached, without change. The Legislative Research Commission shall immediately accept the regulation as filed.

(8) The subcommittee shall report monthly to the Legislative Research Commission all action taken on administrative bodies' regulations. The Director of the Legislative Research Commission shall report to the Commission all action taken by the standing committee or by the interim committee.

(9) All regulations objected to by the subcommittee and by the standing committees or interim committee and not revised by the promulgating administrative body together with the notations of the subcommittee's and the standing committee's or interim committee's objection shall be transmitted by the Director to the clerk of the Senate and the clerk of the House of Representatives on or before the first day of each regular session of the General Assembly. The clerk of the Senate and the clerk of the House of Representatives shall lay all regulations so transmitted before the Senate and the House of Representatives, respectively, for such action as the respective legislative bodies may determine to be appropriate. (Enact. Acts 1972, ch. 180, sec. 4; 1974, ch. 73, sec. 3, eff. July 1, 1974.)

13.090 Functions of Legislative Research Commission.—(1) The commission shall prescribe rules governing the manner and form in which regulations shall be prepared, to the end that all regulations shall be prepared in a uniform manner. The commission may refuse to accept for filing any regulation that does not conform to the rules.

(2) The Legislative Research Commission shall furnish advice and assistance to all administrative bodies in the preparation of their regulations, and in revising, codifying and editing existing or new regulations. (Enact. Acts 1952, ch. 63, sec. 3; 1972, ch. 180, sec. 5.)

13.096 Kentucky Administrative Regulations Service—Administrative Register.—(1) The Legislative Research Commission shall compile, publish and distribute the regulations filed by administrative bodies in a manner which will accommodate changes in regulations and allow distribution of any topical or organizational part of the regulations as well as all of them. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of proposed regulations filed in accordance with KRS 13.085. Every regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13.085.

(3) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section. (Enact. Acts 1956 (1st Ex. Sess.) ch. 6, sec. 1; 1972, ch. 180, sec. 6; 1974, ch. 73, sec. 4, eff. July 1, 1974.)

13.097 Regulations Compiler—Certificate—Filing of publication with Secretary of State.—The Kentucky Administrative Regulations Service shall be prepared under the direct supervision of an employe appointed by the director of the Legislative Research Commission and designated the Regulations Compiler. The Director shall cause to be prepared a certificate to the effect that the text of the regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings. (Enact. Acts 1956 (1st Ex. Sess.) ch. 6, sec. 2; 1974, ch. 370, sec. 2.)

13.100 Effect of Commission's file stamp on regulation or publication of regulation.—The Legislative Research Commission's authenticated file stamp on a rule or regulation, or publication of a rule or regulation in the Kentucky Administrative Regulations Service shall raise a rebuttable presumption that the rule or regulation was adopted and filed in compliance with all requirements necessary to make it effective. (Enact. Acts 1952, ch. 63, sec. 5; 1956 (1st Ex. Sess.), ch. 6, sec. 3.)

13.102 Administrative body's publication of informational copies.—No administrative body other than the Legislative Research Commission shall publish administrative rules or regulations unless the rules or regulations are inclosed in a booklet or binder on which the words "Informational Copy" are clearly stamped or printed. (Enact. Acts 1958, ch. 47, sec. 1; repealed and reen. Acts 1966, ch. 255, sec. 5; 1972, ch. 180, sec. 7.)

13.105 Judicial notice.—The courts shall take judicial notice of any regulation duly filed under the provisions of KRS Chapter 13, after the regulation has become effective. (Enact. Acts 1952, ch. 63, sec. 6; 1972, ch. 180, sec. 8.)

13.115 File of ineffective regulations to be kept.—When any regulation filed with the Legislative Research Commission expires by its own terms, or is superseded or revoked, the commission shall cause the same to be placed in a "dead" file. (Enact. Acts 1952, ch. 63, sec. 8.)

13.125 Notice and hearings on proposed regulations.—Where practicable to do so, state agencies are encouraged to give notice, to interested persons, of proposed regulations, and conduct hearings upon the proposed regulations prior to adoption thereof. (Enact. Acts 1952, ch. 63, sec. 10, eff. June 19, 1952.)

Subscription Order Form

Here is my subscription to the Administrative Register of Kentucky for the year beginning August, 1974 and ending July, 1975. Enclosed is my check for $24 made payable to the KENTUCKY STATE TREASURER.

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