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IN THIS ISSUE

CUMULATIVE SUPPLEMENT

This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

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

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

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

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Public Hearings Scheduled

DEPARTMENT OF FISH AND WILDLIFE RESOURCES

A public hearing will be held at 10 a.m. EDT October 16, 1979, in the ground floor auditorium, Room G-1, of the Capital Plaza Tower, Mero Street, Frankfort, Kentucky on the following regulation:

301 KAR 2:085. Seasons and limits for migratory birds. [6 Ky.R. 187]

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 10 a.m. EST November 12, 1979, in the Auditorium of the Capital Plaza Tower, Mero Street, Frankfort, Kentucky on the following regulations:

401 KAR 7:010. General provisions. [6 Ky.R. 201]
401 KAR 7:020. Certification. [6 Ky.R. 204]
401 KAR 7:030. Commercial structural pest control and fumigation. [6 Ky.R. 207]

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

A public hearing will be held at 10 a.m. EST November 1, 1979 in the Conference Room of the Department of Housing, Buildings and Construction, U. S. 127 South, Frankfort, Kentucky on the following regulation:

815 KAR 30:050. Fireworks; approval of exempted novelties. [6 Ky.R. 212]

Emergency Regulations Now In Effect

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-771
August 14, 1979

EMERGENCY REGULATION
Department of Fish and Wildlife Resources

WHEREAS, the U.S. Fish and Wildlife Service, Department of the Interior, has jurisdiction in the regulation of hunting throughout the several states; and

WHEREAS, all regulation of season framework, daily bag and possession limits, and shooting hours for migratory species, by the Kentucky Department of Fish and Wildlife Resources, must comply with federal regulations; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources, in conjunction with the Secretary of the Development Cabinet, pursuant to Kentucky Revised Statutes 150.300, 150.305, 150.320, 150.330, 150.340, and 150.360, has promulgated the attached Regulation:

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

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

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources

301 KAR 2:028E. Doves, woodcock, wilson snipe and teal.

RELATES TO: KRS 150.300, 150.305, 150.320, 150.330, 150.340, 150.360
PURSUANT TO: KRS 13.082
EFFECTIVE: August 21, 1979
EXPIRES: December 19, 1979
NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons: (1) Doves: September 1 through October 31; December 8 through December 16.
(2) Woodcock: October 6 through November 30; December 8 through December 16.
(3) Wilson snipe: October 6 through November 30; December 8 through December 16.
(4) Teal, statewide: September 8 through September 16.

Section 2. Limits:

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

Section 3. Bag and Possession Limits: (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.
(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes. For further information on the above species, see Federal Register.

Section 4. Shooting Hours: (1) Doves: from 12 o'clock noon to one-half (½) hour before sunset prevailing time.
(2) Wilson snipe and woodcock: from one-half (½) hour before sunrise to sunset prevailing time.
(3) Teal: sunrise until sunset prevailing time.

Section 5. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 6. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:
(1) Ballard Wildlife Management Area, located in Ballard County:
(a) Doves: September 1 through October 14. No firearms permitted on this area except during shooting hours.
(b) Woodcock and snipe: Seasons closed.
(2) West Kentucky Wildlife Management Area, located in McCracken County: Doves: September 1 through October 14.
(3) Central Kentucky Wildlife Management Area, located in Madison County:
(a) Doves: September 1 through October 14.
(b) Woodcock and snipe: Seasons closed.
(4) Curtis Gates Lloyd Wildlife Management Area, located in Grant County: Doves: September 1 through October 14.
(5) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:
(a) Doves: September 1 through September 30; December 8 through December 16.
(b) Woodcock and snipe: December 8 through December 16.
(6) Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:
(a) Doves: September 1 through September 30; October 3 through October 8 on selected areas and December 8 through December 16 on selected areas. Shooting hours from 12 o'clock noon to sunset prevailing time.
(b) Woodcock and snipe: November 22 through November 30; December 8 through December 16 on selected areas.

Section 7. Closing of Certain Wildlife Management Areas to all Hunting. The following areas are closed to all hunting except as indicated on the Dewey Lake Wildlife Management Area:
(1) Grayson Wildlife Management Area located in Carter and Elliott Counties.
(2) Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties.
(3) Robinson Forest Wildlife Management Area, located in Breathitt, Perry and Knott Counties.
(4) Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties.
(5) Dewey Lake Wildlife Management Area, located in Floyd County: Open to archery deer hunting only.
(6) Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County.
(7) Mill Creek Wildlife Management Area, located in Jackson County.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: August 13, 1979
APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: August 21, 1979 at 8 a.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-828
September 4, 1979

EMERGENCY REGULATION
Department of Fish and Wildlife Resources

WHEREAS, the Department of Fish and Wildlife Resources establishes by regulation specific procedures to

fill deer hunter quotas during season at the Ballard Wildlife Management Area; and

WHEREAS, hunter applications were not sufficient to meet Ballard Wildlife Management Area quotas on various days during deer season; and

WHEREAS, proper control of the deer population by calculated quota hunting is essential to properly balance population of deer with capacity of the habitat; and

WHEREAS, the Commissioner of Fish and Wildlife has requested that the attached Regulation authorizing "first-come, first-served" hunting in the Ballard Wildlife Management Area on specified dates become effective so that it can be enforced on October 20, 1979, the earliest applicable hunting date:

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

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

CABINET FOR DEVELOPMENT
Department of Fish and Wildlife Resources

301 KAR 2:106E. Extended stand-by deer hunt.

RELATES TO: KRS 150.025, 150.300, 150.390
PURSUANT TO: KRS 13.082
EFFECTIVE: September 5, 1979
EXPIRES: November 12, 1979

NECESSITY AND FUNCTION: This regulation is a deviation from 301 KAR 2:107 Section 3(1)(g), applications for Ballard Wildlife Management Area deer hunt. This regulation is necessary due to an insufficient number of applications for deer hunting being received for certain designated hunting days. The deer population on the Ballard Wildlife Management Area is excessively high, and a substantial reduction is necessary for the health of the herd. The needed population cannot be achieved by the number of hunters who have applied during the previously specified application period; therefore, a stand-by hunt must be held on those hunting days for which an insufficient number of applications was received. This is consistent with the policy of the Kentucky Department of Fish and Wildlife Resources to offer the greatest possible hunting opportunity to the public while maintaining the health of the wildlife resource. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer to furnish sport and recreation for present and future residents of the state.

Section 1. Ballard Wildlife Management Area stand-by deer hunt: (1) Hunting will be allowed on a first-come, first-served basis until the maximum daily quota of 400 hunters as set forth in 301 KAR 2:107 is reached. Only one (1) day of hunting is allowed per hunter.

(2) Hunting will be allowed on the following dates for the specified number of persons:

(a) Archery hunting:

Date	Positions Open
October 20	77
October 21	136

(b) Gun hunting:

Date	Positions Open
October 22	1
October 27	2
October 29	87
November 4	341
November 5	337
November 10	325
November 11	359
November 12	362

(3) A ten dollar ($10) fee will be charged each hunter, payable by certified check, cashier's check, money order, or cash on the day of the hunt. No personal checks will be accepted.

(4) The hunter check-in station will open at 4:30 a.m. Central Time on each hunting day.

Section 2. This regulation will not be valid after November 12, 1979.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: August 27, 1979
APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: September 5, 1979 at 3 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-801
August 21, 1979

EMERGENCY REGULATION
State Board for Elementary and Secondary Education
School Officers: Summary Hearings

WHEREAS, KRS 156.132 establishes procedures concerning the suspension and removal of various school officers; and

WHEREAS, KRS 156.132(2) authorizes the State Board for Elementary and Secondary Education to suspend a district board member or superintendent after a summary hearing "as provided by regulations;" and

WHEREAS, the State Board adopted a summary hearing regulation on August 1 which has been filed with the Legislative Research Commission under the procedures of KRS 13.085; and

WHEREAS, currently pending proceedings before the State Board make it essential that a regulation be effective in the event that a summary hearing is necessary; and

WHEREAS, both the State Board by resolution and the Superintendent by letter formally requested that the Governor declare by Executive Order that the attached regulation become effective:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085(2), do hereby acknowledge the findings of the State Board and Superintendent of Public Instruction that an emergency exists, and declare that the attached regulation shall become effective upon being filed with the Legislative Research Commission.

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

EDUCATION AND ARTS CABINET
Department of Education
State Board for Elementary and Secondary Education

704 KAR 10:005E. Summary hearings.

RELATES TO: KRS 156.132
PURSUANT TO: KRS 13.082, 156.070
EFFECTIVE: August 21, 1979
EXPIRES: December 19, 1979
NECESSITY AND FUNCTION: KRS 156.132 requires that summary hearings must be conducted before the State Board may suspend a local superintendent or district board member and that such summary hearing must be in accordance with regulation of the board.

Section 1. A summary hearing required by KRS 156.132 shall be held at a regular or duly called special meeting of the State Board for Elementary and Secondary Education. The sole purpose for such a hearing shall be to determine whether or not to suspend a local board member or superintendent pending due process removal hearings pursuant to KRS 156.134. Such a hearing is not an adversary hearing and the person charged shall have no right to be present or to be represented by counsel.

Section 2. The summary hearing shall be at a closed session.

Section 3. In determining whether or not to vote for suspension, it is not necessary or desirable that the individual board member be convinced beyond a shadow of a doubt that the official is guilty of the charges. It is sufficient to sustain such a vote if the individual board member is of the opinion and belief that there is substantial evidence to justify suspension pending removal procedures as provided for by KRS 156.134.

Section 4. At least four (4) members of the State Board for Elementary and Secondary Education must vote in favor of the suspension in order to effect a suspension.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: August 1, 1979
RECEIVED BY LRC: August 21, 1979 at 4 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-802
August 21, 1979

EMERGENCY REGULATION
Department of Elementary and Secondary Education
Provisional Certificates: Teachers of Exceptional Children

WHEREAS, KRS 161.020, et seq., requires that teacher certification be issued upon completion of programs prescribed by the Kentucky Council on Teacher Education and Certification, and approved by the State Board for Elementary and Secondary Education; and
WHEREAS, the Council has prescribed modifications in regulations relating to provisional certificates for teachers of exceptional children which were adopted by the State Board on August 1, and have been submitted to the Legislative Research Commission; and
WHEREAS, the procedural requirements of KRS 13.085 will not enable the regulations to become effective in such time that these teachers can be certified for the fall term, thus creating a possible loss of school accreditation; and
WHEREAS, both the State Board by resolution and the Superintendent by letter have concluded that an emergency exists, and that the Governor should by Executive Order declare the attached regulation effective upon filing:
NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of both the State Board and Superintendent that an emergency exists, and declare that the attached regulations shall become effective upon filing with the Legislative Research Commission.

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

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction

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

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160
EFFECTIVE: August 21, 1979
EXPIRES: December 19, 1979
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; futhermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and

relates to the corresponding standards and procedures for program approval as included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children; learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board for Elementary and Secondary Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky State Plan for the Approval of Preparation Programs for the Certification of Professional School Personnel.

(2) The provisional certificate for teachers of exceptional children; learning and behavior disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth year program.

(3) The provisional certificate for teachers of exceptional children; learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children; learning and behavior disorders shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

(5) (a) The provisional certificate for teachers of exceptional children; learning and behavior disorders, limited in validity to grades seven (7) through twelve (12), may be issued to an applicant who holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching and who has completed the approved special education component of twenty-seven (27) semester hours for learning and behavior disorders and in addition thereto, two (2) sequential courses in the teaching of reading and two (2) courses in mathematics for elementary school teachers.

(b) The provisional certificate for teachers of exceptional children; learning and behavior disorders, valid for grades seven (7) through twelve (12), may be issued for a one (1) year period to an applicant who holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the curriculum described above and a three (3) semester hour course in reading. The certificate may be renewed for subsequent one (1) year periods upon completion of at least six (6) semester hours credit each year from the approved curriculum.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: August 1, 1979
RECEIVED BY LRC: August 21, 1979 at 4 p.m.

Amended Regulations Now In Effect

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
As Amended

803 KAR 1:100. Child labor.

RELATES TO: KRS 339.210 to 339.450
PURSUANT TO: KRS 13.082, 339.230
EFFECTIVE: September 5, 1979
NECESSITY AND FUNCTION: KRS 339.230(3) authorizes the Commissioner of Labor to promulgate regulations to properly protect the life, health, safety or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment and other pertinent factors. The Commissioner may in no event make regulations less restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments. The function of this regulation is to set standards for the employment of minors. This regulation and KRS Chapter 339 will guide the Department of Labor in carrying out its responsibilities under the law and assist employers who may be concerned with the provisions of the law in understanding their obligations under the law.

Section 1. Definitions. (1) "School in session" means that inclusive time between the beginning and ending of the calendar school year as established by local school district authorities; but shall not include Christmas and Spring Break.

(2) "School not in session" means period of time not included in subsection (1) of this section.

Section 2. [1.] Employment of minors between fourteen (14) and sixteen (16) years of age. (1) Minors between fourteen (14) and sixteen (16) years of age may not be employed in any of the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performances of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations in connection with:

1. Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

2. Warehousing and storage;

3. Communications and public utilities;

4. Construction (including demolition and repair); except such office work, or sales work, in connection with subparagraphs 1., 2., 3., and 4. of this paragraph, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

(f) Any occupation which the U.S. Secretary of Labor may find and declare to be hazardous for the employment of minors and set forth in CFR Title 29, Part 570, Subpart E, Section 570.50 through 570.68;

(g) Any occupation prohibited under KRS 339.230(2)(d).

(2) Except as provided in subsection (3) of this section, employment in any of the occupations to which this section is applicable shall be confined to the following periods:

(a) Outside school hours;

(b) Not more than forty (40) hours in any one (1) week when school is not in session;

(c) Not more than eighteen (18) hours in any one (1) week when school is in session;

(d) Not more than eight (8) hours in any one (1) day when school is not in session;

(e) Not more than three (3) hours in any one (1) day when school is in session;

(f) Between 7 a.m. and 7 p.m. in any one (1) day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

(3) In the case of enrollees in work training programs conducted under the provisions of the Comprehensive Employment and Training Act of 1973, there is an exception to the requirement of subsection (2)(a) of this section if the employer has on file an unrevoked written statement of the Regional Administrator for Employment and Training or his representative setting out the periods which the minor will work and certifying that his employment confined to such periods will not interfere with his health and well-being, countersigned by the principal of the school which the minor is attending with his certificate that such employment will not interfere with the minor's schooling.

(4) Minors between fourteen (14) and sixteen (16) years of age may be employed by retail, food service, and gasoline service establishments in the following occupations:

(a) Office and clerical work, including the operation of office machines;

(b) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;

(c) Price marketing and tagging by hand or by machine, assembling orders, packing and shelving;

(d) Bagging and carrying out customer's orders;

(e) Errand and delivery work by foot, bicycle, and public transportation;

(f) Clean up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers, or cutters;

(g) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to: dishwashers, toasters, dumb-waiters, popcorn poppers, milk shake blenders and coffee grinders;

(h) Work in connection with cars and trucks if confined to the following: dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing; and other occupations permitted by this section, but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

(i) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physcically separate from freezers and meat coolers.

(5) Subsection (4) of this section shall not be construed to permit the employment of minors between fourteen (14) and sixteen (16) years of age in any of the following in retail, food service, and gasoline service establishments:

(a) All occupations listed in subsection (1) of this section:

(b) Work performed in or about boiler or engine rooms;

(c) Work in connection with maintenance or repair of the establishment, machines or equipment;

(d) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;

(e) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;

(f) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers, and cutters, and bakery-type mixers;

(g) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in subsection (4)(i) of this section;

(h) Loading and unloading goods to and from trucks, railroad cars, or conveyors;

(i) All occupations in warehouses except office and clerical work.

Section 3.[2.] Employment of minors between sixteen (16) and eighteen (18) years of age.

(1) Minors between sixteen (16) and eighteen (18) years of age may be employed at any occupation except as hereinafter restricted:

(a) Occupations particularly hazardous as declared by the U. S. Secretary of Labor and set forth in CFR Title 29, Part 570, Subpart E, Section 570.50 through 570.68 which is incorporated herein and made a part hereof by reference.

(b) Any occupation prohibited under KRS 339.230(2)(d).

(2) Except as provided in subsection (3) of this section, employment in any occupation, not prohibited by subsection (1) of this section, shall be confined to the following periods:

[(a) Not more than forty-eight (48) hours in any one (1) week when school is not in session;]

(a) [(b)] Not more than thirty-two (32) hours in any one (1) week when school is in session;

[(c) Not more than eight (8) hours in any one (1) day when school is not in session;]

(b) [(d)] Not more than *six (6)* [four (4)] hours in any one (1) day when school is in session, *Monday through Friday*

[except Friday]; *nor more than eight (8) hours on Saturday and Sunday, when school is in session;*

(c) [(e)] Between 6 a.m. and *11:30 p.m.* [10 p.m.] Sunday through Thursday, and *between* 6 a.m. and *1:00 a.m.* [Midnight] on Friday and Saturday when *school is in session* [attending school];

[(f) Between 6 a.m. and midnight during vacation; except if in a federally sponsored program where such program requires, may be employed between midnight and 6 a.m.;]

(3) (a) *There are no restrictions of hours or time of work schedule for the following:* [If minor has graduated from high school or an approved vocational school equivalent to a high school, or is no longer attending a school and has not attended school for the previous sixty (60) days, he may work a maximum of ten (10) hours per day not to exceed sixty (60) hours per week.]

1. Minors who have graduated from high school or an approved vocational school equivalent to a high school; or

2. Minors who are no longer attending a school and have not attended school for the previous sixty (60) days; or

3. Minors not required to attend school for that period herein described as "school not in session."

(b) Enrollees in a work training program established by a local board of education or the federal government and approved by the federal government shall be exempt from subsection (2) of this section, except under no circumstances shall the minor be employed more than eight (8) hours per day or more than forty-eight (48) hours per week.

JAMES R. YOCOM, Commissioner
ADOPTED: July 13, 1979
APPROVED: MIKE HELTON, Secretary
RECEIVED BY LRC: August 15, 1979 at 1 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Utility Regulatory Commission
As Amended

807 KAR 25:025. Advertising.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.040, 278.190(3)
EFFECTIVE: September 5, 1979
NECESSITY AND FUNCTION: KRS 278.190(3) provides that at any hearing involving a rate or charge of a utility for which an increase is sought, the burden of proof shall be on the utility to show that the increased charge or rate is just and reasonable. This regulation specifies *what advertising expenses of a utility will be allowable as a cost to the utility for ratemaking purposes.* [that a utility shall have the burden of proving that all advertising expenses proposed for inclusion in a utility's cost of service will produce a benefit to that utility's ratepayers.]

Section 1. General. The purpose of this regulation is to insure that no *direct or indirect* expenditures [for advertising] may be includable in a utility's cost of service for ratemaking purposes *which are for political advertising or institutional advertising. "Advertising" means the commercial use of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to utility consumers.* [unless the utility demonstrates that such advertising expenditure produces a benefit to that utility's ratepayers.]

[Section 2. Definitions. (1) The term "advertising" means the commercial use of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to utility consumers.]

[(2)The word "ratepayer" shall mean any person, firm or corporation, municipality or other political subdivision of the state receiving and paying for services delivered by a public utility.]

Section *2.* [3.] Applicability. This regulation shall apply to any utility subject to the jurisdiction of the Utility Regulatory Commission.

Section *3.* [4.] Advertising Allowed. (1) No advertising expenditure of a utility shall be taken into consideration by the commission for the purpose of establishing rates unless such advertising will produce a *material* benefit for the ratepayers. [The utility shall have the burden of proving that any advertising cost or expenditure proposed for inclusion in its operating expenses for ratemaking purposes within a given test year is of direct benefit to its ratepayers.]

(2) As used in this regulation, advertising expenditures shall include costs of advertising directly incurred by the public utility and those costs of advertising incurred by contribution to third parties, *including parent or affiliated companies.*

[(3)Nothing herein shall be construed to prohibit, for the purpose of establishing rates, advertising which promotes conservation or advertising required by state or federal law.]

Section 4. Material Benefit. Advertising expenditures which produce a "material benefit" include, but are not limited to the following:

(1) Advertising limited exclusively to demonstration of means for ratepayers to reduce their bills or conserve energy;

(2) Advertising promoting competitive or other services which would have the effect of holding down the cost of providing basic service;

(3) Advertising conveying safety information in the direct use of utility equipment;

(4) Advertising promoting off-peak usage of existing facilities;

(5) Advertising which explains the use, cost, applicability or availability of new or existing utility equipment and other utility services where energy consumption would either be reduced or not materially increased.

(6) Advertising which furnishes factual and objective data programs to educational institutions on the subject of water, sewer or communications technology;

(7) Advertising providing information to the public regarding potential safety hazards associated with construction or a utility's maintenance program;

(8) Legal advertising notices to ratepayers required by statute, rule or order of the commission.

Section 5. Advertising Disallowed. (1) For the purposes of this regulation, political and institutional advertising

shall not be considered as producing a material benefit to the ratepayers and, as such, these expenditures are expressly disallowed for ratemaking purposes.

(2) "Political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(3) "Institutional advertising" means advertising which has as its primary objective the enhancement or preservation of the corporate image of the utility and to present it in a favorable light to the general public, investors, and potential employees.

(4) The terms "political advertising" and "institutional advertising" do not include:

(a) Advertising which informs utility customers how they can conserve energy;

(b) Advertising required by law or regulation;

(c) Advertising regarding service interruption, safety measures, or emergency conditions;

(d) Advertising concerning current employment opportunities;

(e) Advertising which promotes the use of energy efficient appliances, equipment, or services.

Section 6. Burden of Proof. The utility shall have the burden of proving that any advertising cost or expenditures proposed for inclusion in its operating expenses for ratemaking purposes within a given test year fall within the categories enumerated in Section 4 or that such advertising is otherwise of material benefit to its ratepayers.

RICHARD S. TAYLOR, Chairman
ADOPTED: July 20, 1979
APPROVED: JACK B. HALL, Secretary
RECEIVED BY LRC: August 8, 1979 at 10:45 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Energy Regulatory Commission
As Amended

807 KAR 50:020. Advertising.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.040, 278.190(3)
EFFECTIVE: September 5, 1979
NECESSITY AND FUNCTION: KRS 278.190(3) provides that at any hearing involving a rate or charge of a utility for which an increase is sought, the burden of proof shall be on the utility to show that the increased charge or rate is just and reasonable. This regulation specifies *what advertising expenses of a utility will be allowable as a cost to the utility for ratemaking purposes.* [that a utility shall have the burden of proving that all advertising expenses proposed for inclusion in a utility's cost of service will produce a benefit to that utility's ratepayers.]

Section 1. General. The purpose of this regulation is to insure that no *direct or indirect* expenditures [for advertising] may be includable in a utility's cost of service for ratemaking purposes *which are for promotional advertising, political advertising, or institutional advertising. "Advertising" means the commercial use of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to utility consumers.* [unless the utility demonstrates that such advertising expenditure produces a benefit to that utility's ratepayers.]

[Section 2. Definitions. (1) The term "advertising" means the commercial use of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to utility consumers.]

[(2)The word "ratepayer" shall mean any person, firm or corporation, municipality or other political subdivision of the state receiving and paying for services delivered by a public utility.]

Section *2.* [3.] Applicability. This regulation shall apply to any utility subject to the jurisdiction of the Energy Regulatory Commission.

Section *3.* [4.] Advertising Allowed. (1) No advertising expenditure of a utility shall be taken into consideration by the commission for the purpose of establishing rates unless such advertising will produce a *material* benefit for the ratepayers. [The utility shall have the burden of proving that any advertising cost or expenditure proposed for inclusion in its operating expenses for ratemaking purposes within a given test year is of direct benefit to its ratepayers.]

(2) As used in this regulation, advertising expenditures shall include costs of advertising directly incurred by the public utility and those costs of advertising incurred by contribution to third parties, *including parent and affiliated companies.*

[(3)Nothing herein shall be construed to prohibit, for the purpose of establishing rates, advertising which promotes conservation or advertising required by state or federal law.]

Section 4. Material Benefit. Advertising expenditures which produce a "material benefit" include, but are not limited to the following:

(1) Advertising limited exclusively to demonstration of means for ratepayers to reduce their bills or conserve energy;

(2) Advertising conveying safety information in the direct use of utility equipment;

(3) Advertising which furnishes factual and objective data programs to educational institutions on the subject of energy technology;

(4) Advertising providing information to the public regarding potential safety hazards associated with construction or a utility's maintenance program;

(5) Legal advertising notices to ratepayers required by statute, rule or order of the commission.

Section 5. Advertising Disallowed. (1) For the purposes of this regulation, political, promotional, and institutional advertising shall not be considered as producing a material benefit to the ratepayers and, as such, those expenditures are expressly disallowed for ratemaking purposes.

(2) "Political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(3) "Promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an energy utility, or the

selection or installation of any appliance or equipment designed to use such utility's service.

(4) "Institutional advertising" means advertising which has as its primary objective the enhancement or preservation of the corporate image of the utility and to present it in a favorable light to the general public, investors, and potential employees.

(5) The terms "political advertising," "promotional advertising," and "institutional advertising" do not include:

(a) Advertising which informs utility customers how they can conserve energy;

(b) Advertising required by law or regulation;

(c) Advertising regarding service interruption, safety measures, or emergency conditions;

(d) Advertising concerning current employment opportunities;

(e) Advertising which promotes the use of energy efficient appliances, equipment, or services.

Section 6. Burden of Proof. The utility shall have the burden of proving that any advertising cost or expenditures proposed for inclusion in its operating expenses for ratemaking purposes within a given test year fall within the categories enumerated in Section 4 or that such advertising is otherwise of material benefit to its ratepayers.

PERRY WHITE, Chairman
ADOPTED: August 3, 1979
APPROVED: JACK B. HALL, Secretary
RECEIVED BY LRC: August 8, 1979 at 10:45 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
As Amended

904 KAR 2:020. Child support.

RELATES TO: KRS 205.795
PURSUANT TO: KRS 13.082
EFFECTIVE: September 5, 1979

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to KRS 205.800 and 205.992. The Department is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving Aid to Families with Dependent Children, hereinafter referred to as AFDC, as a result of desertion or abandonment or due to birth out-of-wedlock and for non-AFDC children on application. KRS 207.795 empowers the Secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

Section 1. Compliance with Federal Regulations. The department shall administer the Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 CFR Sections 301, 302, 303, 304, and 305.

Section 2. Relation to Title IV-A Program. The department shall administer the Kentucky Child Support Program, as the program relates to Title IV-A recipients, in accordance with regulations cited in Section 1 above and Title 45 CFR Sections 205, 232, 233, 234, and 235.

Section 3. Definitions. (1) "Department" shall mean the Department for Human Resources.

(2) "Secretary" shall mean Secretary of the Department for Human Resources.

(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.

(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services from the IV-D agency.

(5) "Duty of support" shall mean any obligation of support imposed or imposable by law or by court order, decree, or judgment whether interlocutory or final, and includes the duty to pay arrearages of support past due.

(6) "Parent" shall mean the natural or adoptive parent of an AFDC or non-AFDC child and includes the father of a child born out-of-wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state.

(7) "AFDC recipient" shall mean a child or caretaker relative who is receiving AFDC as prescribed by Title IV-A of the Social Security Act.

(8) "Cooperation" shall mean the act of providing to the IV-D agency or local law enforcement official any verbal or written information or documentation needed by the IV-D agency or local official for child support activities, and otherwise complying with the requirements of the child support program.

(9) "Good cause" shall mean that the AFDC recipient has a valid and acceptable reason (as determined by the department) for failing to cooperate in activities related to the child support program.

(10) "Non-AFDC recipient" shall mean any child or family who does not receive AFDC, but does receive child support services based on an application filed with the IV-D agency or with a local law enforcement official who has entered into a written agreement with the IV-D agency.

(11) "Local law enforcement official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities.

(12) "Title IV-D agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-D (child support) program.

(13) "Title IV-A agency" shall mean the organizational unit in the state that has responsiblity for administering the Title IV-A (AFDC) program.

(14) "Paternity blood tests" shall mean those tests used in contested paternity actions and shall include ABO and Human Leucocyte Antigen (HLA) tests administered by qualified laboratories or medical personnel.

Section 4. Initiation of Child Support Action. Child support activity shall be initiated *upon* [by] referral of forms from the *Title IV-A agency* [local public assistance office] to the IV-D agency *or upon application of a non-AFDC recipient.* [immediately following approval of an application for a child eligible for public assistance based on the absence of one or both parents due to divorce, desertion, separation, military service, or birth out-of-

wedlock. Referral is also required for all children receiving aid to families with dependent children-foster care (AFDC-FC) unless both parents are dead or parental rights have been terminated. Referral shall not be made when a child is eligible for public assistance based upon death of a parent or upon hospitalization or incarceration, so long as such parent intends to return to the home upon release. The department will determine, in accordance with federal guidelines and state law, instances in which action would not be in the best interest of the child.]

Section 5. Safeguarding Information. Pursuant to *45 CFR 302.18 and consistent with KRS 205.175 and 205.990,* [federal and state laws and regulations,] the department will disclose information regarding recipients of child support services only to public officials or the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the child support program or other federally assisted programs which provide cash benefits or services to needy individuals. *Pursuant to 45 CFR 302.18(b), the IV-D agency may not disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient.*

Section 6. Establishing Paternity. In establishing paternity for children in the child support program pursuant to the Social Security Act, the department may utilize any of the provisions which are contained in Kentucky Revised Statutes related to paternity.

Section 7. Securing and Enforcing Child Support. In securing or enforcing child support for children in the child support program pursuant to the Social Security Act, the department may utilize any of the provisions which are contained in Kentucky Revised Statutes related to child support.

Section 8. Assignment of Child Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, an AFDC recipient assigns to the department the right to all past due and future child support including any voluntary contributions made by the absent parent. These support payments will not be considered as income in the budget for the AFDC recipient. Any support income received by AFDC recipients must be forwarded to the department no later than the tenth (10th) day of the month following receipt. A portion of the assigned support may be returned to the recipient in accordance with normal distribution procedures established by the department pursuant to federal laws and regulations.

(2) Non-AFDC recipients may assign their support rights to the department, but these recipients are not required to make such an assignment.

Section 9. Agency Receipt of Support Payments. (1) When the support payment is made payable to the department, money received is credited to the account of the non-custodial or absent parent.

(2) If the amount of child support collected equals the court ordered amount and exceeds the AFDC grant, *the IV-D agency will notify the IV-A agency, as required by 45 CFR 302.32.* [a redetermination of eligibility for AFDC will be made in compliance with federal regulations. If the income would make the family or child ineligible, action must be taken by the IV-A agency to discontinue benefits for the child or family. In instances where AFDC benefits are discontinued, other benefits which are dependent on eligibility for AFDC may also be discontinued.]

Section 10. Non-AFDC Recipients. *The IV-D agency will provide all services to individuals who are not recipients of AFDC benefits as provided in 45 CFR 302.33(a) and pursuant to 45 CFR 302.33(b), the services will be provided without cost to the applicant except as provided in 45 CFR 302.35(e) and 42 USC 453(e)(2).* [All child support services in the IV-D agency are available for individuals not receiving or applying for AFDC when those individuals make a written application for such services with the IV-D agency or with a local official who has entered into a cooperative agreement with the IV-D agency. The department may at any time elect to impose an application fee for this service, not to exceed twenty dollars ($20). This fee would not be charged retroactiely. Also, the department may, at any time, elect to recover costs in excess of the application fee by deducting such costs from support recovered. If the department elects to recover costs in this manner, non-AFDC applicants and recipients will receive advance written notice of the fact.]

Section 11. Cooperative Agreements. *Pursuant to 45 CFR 302.34, 42 USC 654(7) and KRS 205.800,* an opportunity will be provided to all eligible local law enforcement officials to enter into a written agreement with the department to cooperate in activities relative to the child support program. When law enforcement officials enter into an agreement with the department, federal financial participation (FFP) for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the department. If no agreement is executed, referrals for child support activities will still be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 12. Distribution of Child Support Payments. Distribution of child support payments received by the department are made in accordance with *45 CFR 302.32, 302.38, and 302.51.* [federal laws and regulations. In unusual situations not covered by federal guidelines, the department will make a decision as to distribution in accordance with the general intent and purpose shown in federal laws and regulations. When the department makes a decision in unusual situations, the department will notify, when possible, concerned parties of the proposed distribution to provide an opportunity for comment and/or objection.]

Section 13. Good Cause for Refusal to Cooperate. (1) The IV-D agency must immediately notify the IV-A agency at such time as the AFDC recipient refuses to cooperate in child support enforcement efforts. If the IV-A agency should determine, pursuant to IV-A laws and regulations, that the recipient has a good cause for failing to cooperate and that pursuit of child support action would be detrimental to the best interests of the child, the IV-D agency will not pursue any action in the child's behalf.

(2) If the IV-A agency determines that the recipient has good cause for not cooperating but that additional child support action would not harm the child, the IV-D agency may proceed in the name of the department for the use of

and in behalf of the minor dependent child pursuant to federal laws and regulations.

Section 14. Parent Locator Service. The department *shall* [may] use available services to locate absent parents for children in the child support program in accordance with Kentucky Revised Statutes and applicable federal laws and regulations.

Section 15. Payment for Court Fees, Court Orders and Other Documents. When copies of existing court orders or other required documents cannot be obained free of charge, the providing official may submit a bill for reasonable charges to the department for payment. Local officials may also submit a bill to the department for any reasonable and necessary fees relating to the filing and/or prosecution of a case referred for action by the department on behalf of recipients of AFDC benefits.

Section 16. Paternity Blood Testing. Pursuant to 45 CFR 303.5(c) the IV-D agency shall identify laboratories within the state which perform legally and medically acceptable blood tests, both ABO and HLA tests, which tend to identify or exclude an alleged father in paternity proceedings under KRS Chapter 406. The IV-D agency shall make a list of such laboratories available upon request. In addition, the department shall provide a list of all such laboratories to the Kentucky Bar Association and to the Administrative Office of the Courts for distribution to appropriate agencies and individuals on an annual basis.

JACK F. WADDELL, Commissioner
PETER D. CONN, Secretary
ADOPTED: August 28, 1979
RECEIVED BY LRC: September 4, 1979 at 9:30 a.m.

Proposed Amendments

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

301 KAR 1:015. Boats and outboard motors; size limits.

RELATES TO: KRS 150.025, 150.090, 150.620, 150.625
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: It is necessary to regulate the size of outboard motors and boats on state-owned lakes to minimize the conflict with the primary purposes of the lakes which are the perpetuation of fish or game populations and the associated sports. *The Commissioner, with the concurrence of the Commission, finds it necessary to change the size limit restrictions on motors on Greenbo Lake.*

Section 1. No boat will be permitted on any of the herein named lakes with a centerline exceeding sixteen (16) feet in length as measured on deck or from bow to stern, except canoes which have no length limit and float boats which may have pontoons and decking no longer than twenty-two (22) feet. Lake Malone and Lake Beshear are exceptions; on these lakes, the centerline of boats may be eighteen (18) feet six (6) inches and float boats can have pontoons and decking up to thirty (30) feet in length.

Section 2. No houseboats of any description will be permitted on any of the herein named lakes.

Section 3. No motor of any type is permitted on the following lakes:
(1) Lake Chumley, Lincoln County,
(2) Dennis Gooch Lake, Pulaski County,
(3) Martin County Lake, Martin County,
(4) Kingdom Come Lake, Harlan County.

Section 4. Electric motors only may be used on the following lakes:
(1) Carter Caves Lake, Carter County,
(2) Spurlington Lake, Taylor County,
(3) Marion County Lake, Marion County,
(4) Elliott County Sportsmen's Lake, Elliott County,
(5) Lake Washburn, Ohio County,
(6) Bert Combs Lake, Clay County,
(7) McNeely Lake, Jefferson County,
(8) Lake Mauzy, Union County,
(9) Carpenter Lake and Kingfisher Lakes, Daviess County,
(10) Metcalfe County Lake, Metcalfe County,
(11) Briggs Lake, Logan County.

Section 5. Electric motors only may be used on the following lakes located in Ballard County. These lakes are closed 15 October to 15 March, annually:
(1) Big Turner,
(2) Little Turner,
(3) Shelby,
(4) Mitchell,
(5) Happy Hollow,
(6) Burnt Slough,
(7) Butler.

[Section 6. No motor larger than six (6) hp. may be used on Greenbo Lake located in Greenup County.]

Section *6.* [7.] No motor larger than ten (10) hp. (inboard or outboard) may be used on the following state-owned lakes; however, slow speeds which cause no disturbance or interference with fishing must be exercised at:
(1) Shanty Hollow Lake, Warren County,
(2) Bullock Pen Lake, Grant County,
(3) Lake Boltz, Grant County,
(4) Falmouth Lake, Pendleton County,
(5) Elmer Davis Lake, Owen County,
(6) Beaver Creek Lake, Anderson County,
(7) Herb Smith Lake, Harlan County,
(8) Corinth Lake, Grant County,
(9) Wilgreen Lake, Madison County.
(10) Greenbo Lake, Greenup County.

Section *7.* [8.] No boat motor larger than 150 hp. may be used, and all boat motors used must have an underwater exhaust on the following state-owned lakes:

(1) Guist Creek Lake, Shelby County,
(2) Lake Malone, Todd, Muhlenberg and Logan Counties,
(3) Lake Beshear, Christian and Caldwell Counties.

Section *8.* [9.] All officers and agents of the Department of Fish and Wildlife Resources shall have full authority to enforce the provisions of this regulation. Failure to comply with the rules and specifications set forth in this regulation shall constitute grounds for revocation of the rights and privileges of any person to admittance to and to the use of these public waters.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: August 27, 1979
APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: August 31, 1979 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

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

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

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: August 27, 1979
APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: August 31, 1979 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

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

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

RELATES TO: KRS 150.025, 150.470, 150.990
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: In order to perpetuate and protect the size and well being of fish populations, it is necessary to govern the size and numbers fishermen can harvest. *The Commissioner, with the concurrence of the Commission, finds it consistent with established fish management practices to include hybrids under game fish protection.*

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

Species	Daily Creel Limits	Possession Limits	Size Limits Inches
Black bass (largemouth, smallmouth, Kentucky and *Coosa* bass)	10	20	12
Rock bass (*known as* goggle-eye or redeye)	15	30	None
Walleye *and hybrids* [(jack salmon, pike)]	10	20	15
Sauger [(sand pike, pickerel)]	10	20	None
Muskellunge *and hybrids* [(musky, pike)]	5	10	30
Northern pike	5	10	None
Chain pickerel	5	10	None
White bass *and yellow bass* [(striped bass and yellow bass)]	60	60	None
Rockfish *and hybrids* [(ocean striped bass)]	5	5	15
Crappie	60	60	None
Trout (all species)	8	8	None
[Frogs (]Bull frogs [)]	15	30	None

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

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

301 KAR 1:060. Sport and rough fish.

RELATES TO: KRS 150.010
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: The purpose of this regulation is to limit the taking of certain fishes to angling. It is necessary to protect the fish population.

Section 1. The following fishes are hereby designated sport fishes and may be taken only by angling as described in KRS 150.010(1):
1. Largemouth Bass
2. Smallmouth Bass
3. Kentucky Bass
4. Coosa Bass
5. Rock Bass
6. White Crappie
7. Black Crappie
8. Walleye
9. Sauger
10. Rockfish (Striped Bass)
11. White Bass
12. Yellow Bass
13. Musky
14. Northern Pike
15. Chain Pickerel
16. Trout
17. *Hybrids of any of the above*

Section 2. All species of fishes, except those listed in Section 1, are hereby designated as rough fish and may be harvested by the methods prescribed by any section of KRS

Chapter 150 or by any regulation adopted by the department, including angling.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman
ADOPTED: August 27, 1979
APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: August 31, 1979 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

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

301 KAR 2:085. Seasons and limits for migratory birds.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to the bag limits, possession limits, and seasons for the taking of certain migratory birds, including waterfowl. In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits dictated by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

Section 1. Seasons. (1) Ducks, Coots and Mergansers: November *21* [18] through November *25* [26], *1979* [1978]. December *7* [2] through January *20* [11], *1980* [1979].
(2) Geese: November 12 thrugh January 20, *1980* [1979].
(3) Rails (Sora and Virginia): November 12 through January 20, *1980* [1979].
(4) Gallinules: November 12 through January 20, *1980* [1979].

Section 2. Limits. (1) Ducks:
(a) Bag limits. A point system bag limit is in effect. Point values for species and sexes taken are as follows (either sex unless specified):
1. Canvasback: 100 points;
2. Hen mallard, black duck, wood duck, hooded merganser and redhead: 70 points;
3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, widgeon, gadwall, shoveler, scaup and mergansers (except hooded merganser): 10 points;
4. Drake mallard and all other species of ducks not mentioned above: *25* [35] points;
5. Coots; but limited to 15 daily and 30 in possession: 0 points.
(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points. The maximum number of points possible is 195.
(c) Possession limits. The possession limit is the maximum number of ducks of those species and sexes which could have legally been taken in two (2) days. The maximum number of points possible for the possession limit is 390.
(2) Geese:
(a) Bag limits, statewide. Five (5) (only two (2) Canada or two (2) white-fronted or one (1) of each).
(b) Possession limits, statewide. Five (5) (any combination of Canada, blue, snow or white-fronted geese, not to include more than four (4) Canada and white-fronted in the aggregate, of which not more than two (2) may be white-fronted geese).
(3) Others:
(a) Coots: bag limit 15; possession limit 30;
(b) Rails (Sora and Virginia): bag limit 25 (singly or in the aggregate); possession limit 25 (singly or in the aggregate);
(c) Gallinules: bag limit 15; possession limit 30.

Section 3. Shooting Hours. The basic shooting hours for ducks, geese, coots, mergansers, rails and gallinules shall be one-half (½) hour before sunrise to sunset (prevailing time). The shooting hours for ducks and geese on Ballard County Wildlife Management Area shall be one-half (½) hour before sunrise to twelve (12) o'clock noon prevailing time.

Section 4. Shot Size Restrictions. No shot larger than BBs may be used or possessed for shooting waterfowl.

Section 5. Ballard County Goose Quota Zone. (1) Canada goose quota. Federal regulations limit the harvest of Canada geese to 15,000 in the designated quota zone.
(2) Quota zone boundaries. The Ballard County Canada goose quota zone is 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.
(3) Quota zone permit requirements. All persons hunting geese on commercial waterfowl shooting areas and non-commercial lands and/or waters within the designated quota zone must comply with regulations 301 KAR 2:055 and 301 KAR 3:070.
(4) Closure of quota zone. When it has been determined that the Canada goose quota of 15,000 will have been filled prior to January 20, the season for taking Canada geese in the quota zone will be closed by the Commissioner of the Department of Fish and Wildlife Resources upon giving public notice through the news media at least forty-eight (48) hours in advance of the time and date of closing.

Section 6. Migratory Bird Shipping and Transportation Restrictions. For information on tagging, shipping, transporting and storing migratory game birds, refer to regulation 301 KAR 2:090 *or federal law 50 CFR part 20.* Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the

postal service, or by any person except as the personal baggage of the hunter taking the birds.

Section 7. Methods of Taking. For information on legal methods of taking migratory birds, refer to regulation 301 KAR 2:090 *or federal law 50 CFR part 20.*

Section 8. Waterfowl Seasons on Specified Wildlife Management Areas. (1) Ballard County Wildlife Management Area, located in Ballard County, Kentucky, and described as follows: bounded on the north by the Turner Landing Road, on the west by the Ohio River, on the south by the Terrell Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line; a tract of land known as the Rudy and Haydon tracts bounded on the south by the Turner Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line, on the north by Kentucky Highway 473, then running south along the east bank of Mitchell Lake to the Turner Landing Road; also, open on the north side of the refuge proper a tract of land north of the Clark Line Road including Shelby Lake and west to the Ohio River and continuing north to yellow signs.

(a) Species and seasons:

1. Ducks, Coots and Mergansers: December *7* [2] through January *20* [11], *1980* [1979] (excluding Sundays and Christmas Day *except on Sunday January 20, 1980*);

2. Geese: November *26* [27] through January 20, *1980* [1979] (excluding Sundays and Christmas Day *except on Sunday January 20, 1980*).

(b) There will be an eight (8) shell limit per hunter on the Ballard County Wildlife Management Area when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is permitted in goose hunting areas but shooting geese in duck areas is prohibited. The barrel and magazine of all guns will be checked for ammunition before the hunter enters the check station. No shot larger than BBs may be used or possessed for hunting waterfowl. Any hunter on the management area under the age of eighteen (18) must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Miller Tract, located in Ballard County, Kentucky and consisting of 300 acres, more or less south of the Terrell Landing Road and marked with yellow signs reading "Wildlife Management Area for Public Hunting" is open to waterfowl hunting during the regular statewide season. Pits and blinds must be 100 yards apart and 100 yards from Terrell Landing Road. Both ducks and geese may be taken by hunters occupying a pit or blind. Shooting hours conform to statewide regulations.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties and described as follows: waterfowl hunting is permitted on Kentucky Lake below elevation 359 feet and at higher elevations within twenty-five (25) yards of the 359 feet elevation, Kentucky-Tennessee state line to Barkley Canal in all bays is open to hunting, except Smith and Pisgah Bays which are indicated by signs and are closed to hunting. Duncan Bay is an eagle and waterfowl refuge during the dates designated by signs posted along the boundary. It is closed to all activity. The remainder of Kentucky Lake is open to waterfowl hunting in conformance with statewide regulations. No permits are required.

(3) Lake Barkley Wildlife Management Area:

(a) Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated *in this regulation and on* [by] signs posted along the boundaries. Refuges *and closing dates* are as follows: *November 1 through February 15 within* an area on the west side of the main channel between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light). Boating is allowed but hunting is prohibited *during the period October 1 through February 28* in Crooked Creek Bay; area surrounded by levee and located between river mile 68.4 and river mile 70.4. *The refuge period may be extended through March 31 along the north shore of Fulton Bay only if necessary to protect nesting or roosting eagles.*

(b) Open hunting areas. Hunting will be permitted on the remainder of Lake Barkley with the exception of recreation areas and access points which will be closed and designated by posted signs at the entrace of said areas. Waterfowl hunting along the western shore of the lake will be confined to those areas below the 359 feet contour, and those areas within twenty-five (25) yards of the 359 feet elevation.

(c) Permanent blinds or pits must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Maintenance Shop located at Barkley Dam off U.S. Highway 641-62 on October *1* [2] from 8:00 a.m. to 9:00 a.m. prevailing time. Applicants for permanent blinds or pits will take part in a special drawing to determine the order of blind registration. The drawing, which will close promptly at 9:00 a.m., will be followed by registration in which hunters with the lowest numbers will receive first choice of locations. Hunters who miss out on the special October *1* [2] drawing will be registered on a first come first served basis at the resource manager's office from 8:00 a.m. to 3:00 p.m. (prevailing time) weekdays, except federal holidays, from October *2* [3] through November 30. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. Any waterfowl hunter may occupy any unoccupied blind or pit until claimed by the permittee. All pits and blinds must be *150* [100] yards apart and 200 yards from any refuge as designated by signs. Permanent pits or blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties and including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources as marked by red painted steel boundary posts are open to waterfowl hunting during the regular statewide season with the following exceptions: all recreation areas, operational areas and islands (except Mason Island) are closed to all hunting. Lands under license to the department are open to hunting for all other wildlife species during the regular statewide seasons. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration *and a drawing for permanent blinds* will be conducted at the Barren Lake resource manager's office located near the dam off Kentucky Highway 252, *on* [from] October 2 *from 7:00 a.m. to 9:00 a.m. prevailing*

time. [through December 31, 1978, during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays.] A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(5) Nolin, Rough, Green and Buckhorn Wildlife Management Areas, including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources, and excluding all recreation and park areas, are open to all waterfowl hunting during the regular statewide season. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the resource managers' offices located at or near the dam sites, from October 2 through December 31, *1979* [1978] during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(6) Grassy Pond-Powell's Lake Unit of the Sloughs Wildlife Management Area, located in Henderson and Union Counties and including all lands and waters marked by green steel boundary posts, is open to waterfowl hunting during the regular statewide season.

(a) Only permanent pits or blinds will be allowed for waterfowl hunting. These will be registered on a permit issued by the Department of Fish and Wildlife Resources. Applicants for a permanent pit or blind must show a current Kentucky hunting license before a permit will be issued. Applicants for pits or blinds will take part in a special drawing to determine the order of blind registration. The drawing for numbers will take place on October *11* [10], *1979* [1978], from 7:00 p.m. until 8:00 p.m. prevailing time at the Henderson Community and Youth Center in Atkinson Park, Henderson, Kentucky. The drawing, which will close promptly at 8:00 p.m. will be followed by registration in which hunters with the lowest numbers will receive first choice of pit or blind locations. A nontransferable permit will be issued for each permanent pit or blind and only one (1) permit per hunter will be issued. Permittees will have priority over other users of their registered pits or blinds and may claim ownership by showing their permit. Registered pits or blinds must not be locked to exclude other hunters when not occupied by the permittee. Any waterfowl hunter may occupy any unoccupied pit or blind until claimed by the permittee. Only four (4) hunters may occupy a pit or blind at one time. All blinds and pits must be 100 yards apart. Permit holders who have not constructed their pit or blind at the registered location by November 10, *1979* [1978], will lose their location and the site may be assigned to another hunter.

(b) When the Ohio River stage at the Uniontown Lock and Dam reaches a level *that requires boat access to the unit* [of thirty-seven (37) feet, a backwater condition exists. Under this condition], hunting will be allowed from boats, spaced 100 yards apart, without regard to the registered pits or blinds.

Section 9. Wildlife Management and Other Areas Closed or Partially Closed to Hunting of Waterfowl: (1) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. This area is bounded on the north by Kentucky Highway 268 and includes all state-owned lands to the south within the area designated by yellow signs.

(2) Dewey Lake Wildlife Management Area located in Floyd County.

(3) Grayson *Lake* Wildlife Management Area located in Carter and Elliott Counties.

(4) Cave Run Lake located in Bath, Rowan, Menifee and Morgan Counties, is closed only to the hunting of geese on all lands and waters enclosed within a boundary marked by a red painted line and metal posts with green painted tops.

(5) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties.

(6) Cane Creek Wildlife Management Area located in Laurel County.

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

(8) Redbird Wildlife Management Area located in Leslie and Clay Counties.

(9) Mill Creek Wildlife Management Area located in Jackson County.

CARL E. KAYS, Commissioner
MIKE BOATWRIGHT, Chairman

ADOPTED: August 27, 1979
APPROVED: WILLIAM SHORT, Secretary
RECEIVED BY LRC: August 31, 1979 at 2:30 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for 10 a.m. EDT October 16, 1979 in the ground floor auditorium, Room G-1, of Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of written comments, contact Carl E. Kays, Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(Proposed Amendment)

603 KAR 5:096. Highway classifications.

RELATES TO: KRS 189.222
PURSUANT TO: KRS 13.082, 174.050, 189.222
NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight and dimension limits on all highways included in the State Primary Road System. This regulation is adopted to identify those portions of the highway system affected and indicate their classification.

Section 1. The weight and dimension limits set forth in 603 KAR 5:066 and 603 KAR 5:070 for truckway classifications shall apply on all highways in the State Primary Road System as indicated herewithin, unless bridge postings prohibit such weights on any particular segment.

Section 2. The maximum weight limits for the three (3) classifications of highways are as follows: "AAA" System, 80,000 pounds gross weight; "AA" System, 62,000 pounds gross weight; "A" System, 44,000 pounds gross weight. There shall be no tolerances allowed on gross weight, axle weight, or combinations of axle weights on the Interstate and National Defense Highway System only.

Section 3. The classifications for each highway* in the State Primary Road system are as follows:

KY 36
AAA—From s end of Ohio River Bridge at Milton to jct. US 42 at Prestonville near Carrollton; from I-75 southbound ramps at Williamstown Interchange to jct. *Ashbrook Road (CR 1114), 3.1 miles se of* of US 25 *near* [in] Williamstown; from jct. US 27 in Cynthiana to jct. KY 1743, nw of Cynthiana; from jct. US 68, approximately 13 miles ne of Paris to jct. KY 32 in Carlisle; and from jct. US 60 at Owingsville to jct. US 460 at Frenchburg.
AA—From jct. *Ashbrook Road, se* [US 25 south] of Williamstown to jct. KY 1743, nw of Cynthiana; and from jct. KY 1944, 3.3 miles nw of Owingsville to jct. US 60 in Owingsville.
A—From jct. KY 227 near Carrollton to I-75 southbound ramps at Williamstown Interchange; from jct. US 27 in Cynthiana to jct. US 68 near Carlisle; and from jct. KY 32 in Carlisle to jct. KY 1944, 3.3 miles nw of Owingsville.

KY 40
AAA—From jct. US 460 in Salyersville to jct. US 23, nw of Paintsville (Magoffin-Johnson Cos.).
AA—From jct. US 23, *nw of* [at] Paintsville to e end of bridge at West Virginia state line *(Johnson-Martin Cos.).*

KY 94
AAA—From jct. US 641 in Murray to jct. US 68 at Aurora (Calloway-Marshall Cos.).
AA—From the Tennessee state line, via Hickman[,] *and* Water Valley [and Murray] to jct US *641 in Murray* [68 at Aurora].

KY 147
AAA—From jct. US 41, n of Slaughters in Webster Co. to s side of Green River at the McLean Co. line.
A—From *n side of Green River* [jct. US 41 n of Slaughters in Webster Co.] to jct. KY 56 at Beech Grove in McLean Co.
Note: No crossing at Green River.

KY 497
AAA [A]—From jct. KY 94 in Calloway Co., 1.2 miles s of the Marshall Co. line to end of state maintenance at the jct. of *CR 1051, the Ledbetter* [Highland] Road.

KY 519
AAA—From jct. KY 7 near Pomp in Morgan Co. to jct. US 60 at Morehead in Rowan Co.
[AA—From jct. US 60 in Morehead to the Morgan Co. line.]
[A—From Morgan-Rowan Co. line to jct. KY 7 near Pomp, 3.7 miles n of West Liberty.]

KY 567
A—From jct. KY 1031 in Elizabethtown to jct. *Springfield-Younger Creek Rd. (Hardin Co.)* [Kentucky Lincoln Trail at Valley Creek Church].

KY 581
AAA—From jct. KY 40 near the NECL of Paintsville to the Deboards Hollow Road (CR 1005), a distance of 3.630 miles (Johnson Co.).
A—From *the Deboards Hollow Road* [jct. KY 40 near the NECL of Paintsville] to jct. US 23, n of Ulysses in Lawrence Co.

KY 687
A—From jct. KY *472 near Langnau* [638, se of McWhorter] in Laurel Co. to jct. US 421 in Manchester.

KY 688
A—From jct. Crayne-View-Frances Road, 0.3 miles w of KY 91 at Crayne in Crittenden Co. to *the Marion city limits* [a point 950 feet east of the Nipper Road].

[KY 852
A—From beginning of state maintenance near Blackburn Church at jct. Marion-Porters Mill Road in eastern Crittenden Co. to end of state maintenance at Little Piney Creek Bridge.]

KY 1077
A—From jct. KY 506, 1.5 miles w of Piney Fork in Crittenden Co. to *the Caldwell Co. line* [Piney Creek Church, 1.223 miles s of Ky 506].

KY 1230
AAA—From [jct. with US 31W, sw of Louisville at Watson Lane to a point 1650 feet n of Johnsontown Road; and from] Smith Lane *via Lower River Road* to jct. with KY 1934 at the intersection of Cane Run Road and Terry Road *(Jefferson Co.).*
[(Note: Section of KY 1230 from 1650 feet n of Johnsontown Road to Smith Lane is not state maintained.)]

KY 1628
A—From jct. US 45 at 8th St. *and Walnut St.* in Mayfield via Walnut St., *and* 7th St. to *Broadway (KY 80)* [jct. US 45].

[KY 1641
A—From jct. KY 135, 3.0 miles se of Tolu to Hurricane Church (Crittenden Co.).]

KY 1840
AAA—From jct. KY 89 at North Irvine (Estill Co.) to L & N R.R. 1.199 miles *w* [e] of KY 89.

KY 1849
A—From jct. [Lower River Road 1.0 mile w of US 31W to jct.] US 31W *via Moorman and Lower River Roads to a point 1650 feet n of Johnsontown Road* (Jefferson Co.).

KY 2020
A—From jct. *KY 40* [US 460], 0.5 mile ne of Salyersville to *jct. US 460 at* Mashfork (Magoffin Co.).

KY 2421
A—From jct. Court House Square in Barbourville via Knox St. and Cumberland Ave. to jct. *KY 3105* [Old US 25E] near SCL of Barbourville (Knox Co.).

KY 2465
AAA—From jct. KY *542* [452] at Evanston in eastern Breathitt Co. to a point 3.642 miles s of beginning.

[KY2984
A—From a point 0.187 mile w of I-75 via Bacon Creek Road to a point 0.190 mile e of I-75 (Whitley Co.).]

[KY 2989
A—From jct. Tennessee Ave. at w side of I-75 in Corbin extending ne and parallel to I-75 to a point 0.204 mile ne of KY 312 (Whitley Co.).]

[KY 2997
A—From jct. KY 1804 at w side of I-75 extending n and parallel to I-75 for 0.205 mile (Whitley Co.).]

[KY 3003
A—From jct. City Dam Road at w side of I-75 extending n and parallel to I-75 for 1.207 miles (Laurel Co.).]

[KY 3095
A—From jct. US 60, 0.25 mile e of Tygarts Creek Bridge, to a point 0.149 mile s of US 60 (Carter Co.).]

KY 3105
A—From jct. KY 225, se of Barbourville, to the jct. US 25E near the SCL of Barbourville (Knox Co.).

KY 3114
A—From jct. KY 931 near Day, extending nw 0.8 mile (Letcher Co.).

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

CALVIN G. GRAYSON, Secretary
ADOPTED: August 13, 1979
RECEIVED BY LRC: August 27, 1979 at 10 a.m. and September 13, 1979 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Ed W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40622.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:060. Identification, evaluation and placement policy and procedure.

RELATES TO: KRS 157.200 to 157.305
PURSUANT TO: KRS 13.082, 156.070
NECESSITY AND FUNCTION: The Consent Agreement in Kentucky Association for Retarded Children, et.al., v. Kentucky State Department of Education, et.al., Civil Action No. 435, U.S. District Court, Eastern District of Kentucky, specifies that regulations and guidelines be established for the identification and placement of exceptional children in local school districts. 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615, assure that each child, parents and the local school districts will be guaranteed procedural safeguards relative to the identification, evaluation and placement of exceptional children. This manual provides policies and procedures relative to the fulfillment of the Consent Agreement, 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615.

Section 1. The "Due Process Policy and Procedure Manual, *March, 1979,*" copy of which is attached hereto and filed by reference, is hereby approved. This manual fulfills requirements of the Consent Agreement, Civil Action No. 435, 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615, and shall be referred to as the "Due Process Policy and Procedure Manual," for identification, evaluation and placement of exceptional children. Copies may be obtained from the Bureau of Education for Exceptional Children, State Department of Education, Frankfort, Kentucky 40601.

JAMES B. GRAHAM
Superintendent of Public Instruction
ADOPTED: April 26, 1979
RECEIVED BY LRC: September 10, 1979 at 10:15 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Fred Schultz, Secretary, Kentucky State Board of Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:014. Methocarbamol.

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 Methocarbamol pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Methocarbamol Tablet Pharmaceutical Products. The following Methocarbamol tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Methocarbamol 500 mg. Tablet Form:
(a) Methocarbamol: Bolar Pharmaceuticals, Danbury Pharmacal, Generic Pharmaceuticals, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Purepac Pharmaceuticals, Rugby Laboratories, Spencer-Mead, Inc., *Tablicaps, Inc.*, Trust Pharmaceuticals[/Thrift Drug Company], *Vangard Laboratories*, West-ward, Inc., Zenith Laboratories;
(b) Robaxin: A. H. Robins Company.
(2) Methocarbamol 750 mg. Tablet Form:
(a) Methocarbamol: Bolar Pharmaceuticals, Danbury Pharmacal, Generic Pharmaceuticals, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Purepac Pharmaceuticals, Rugby Laboratories, Spencer-Mead, Inc.,

Tablicaps, Inc., Trust Pharmaceuticals, Vangard Laboratories, West-ward, Inc., Zenith Laboratories;
(b) Robaxin: A. H. Robins Company.

E. C. SEELEY, M.D., Chairperson
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:016. Methenamine mandelate.

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 Methenamine Mandelate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Methenamine Mandelate Enteric Coated Tablet Pharmaceutical Products. The following Methenamine Mandelate enteric coated tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Methenamine Mandelate 250 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methenamine Mandelate: Rugby Laboratories.
(2) Methenamine Mandelate 500 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methelate: Chromalloy Pharmaceutical, Inc./ Cooper Drug Company Division;
(c) Methenamine Mandelate: *Geneva Generics,* Murray Drug Corporation, Purepac Pharmaceuticals, Richie Pharmacal Company, Rugby Laboratories, Tablicaps, Inc.
(3) Methenamine Mandelate 1000 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methelate: Chromalloy Pharmaceutical, Inc./ Cooper Drug Company Division;
(c) Methenamine Mandelate: Bioline Laboratories, *Geneva Generics,* Murray Drug Corporation, Parmed Pharmaceuticals, Richie Pharmacal Company, Rugby Laboratories, Tablicaps, Inc.

E. C. SEELEY, M.D., Chairperson
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:075. Prednisone.

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 Prednisone pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Prednisone Tablet Pharmaceutical Products. The following Prednisone tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Prednisone 5 mg. Tablet Form:
(a) Deltasone: Upjohn Company;
(b) Orasone: Rowell Laboratories;
(c) [(b)] Paracort: Parke-Davis and Company; [and]
(d) [(c)] Prednisone: Philips-Roxane Laboratories;
(e) SK-Prednisone: Smith, Kline and French Laboratories.
(2) Prednisone 10 mg. Tablet Form:
(a) Deltasone: Upjohn Company; [and]
(b) Orasone: Rowell Laboratories;
(c) [(b)] Prednisone: Philips-Roxane Laboratories.
(3) Prednisone: 20 mg. Tablet Form:
(a) Deltasone: Upjohn Company; [and]
(b) Orasone: Rowell Laboratories;
(c) [(b)] Prednisone: Philips-Roxane Laboratories.

E. C. SEELEY, M.D., Chairperson
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:085. Isosorbide dinitrate.

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 Isosorbide Dinitrate pharmaceutical products by their generic and brand names that have abeen determined by the council to be therapeutically equivalent.

Section 1. Isosorbide Dinitrate Pharmaceutical Products. The following isosorbide dinitrate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Isosorbide Dinitrate 5mg. Oral Tablet Form:

(a) Isosorbide Dinitrate: *Cooper Drug Company, Danbury Pharmacal, Generix Drug Corporation,* Geneva Generics, *H. L. Moore Drug Exchange,* Lederle Laboratories, *McKesson Laboratories,* Murray Drug Corporation; *Pharmecon, Inc., Richie Pharmacal, Rugby Laboratories, Trust Pharmaceuticals, United Research Laboratories, Zenith Laboratories.*

(b) Isordil: Ives Laboratories, Inc.; [and]

(c) Sorbitrate: Stuart Pharmaceuticals.

(2) Isosorbide Dinitrate 10mg. Oral Tablet Form:

(a) Isosorbide Dinitrate: *Cooper Drug Company, Danbury Pharmacal, Generix Drug Corporation,* Geneva Generics, *H. L. Moore Drug Exchange,* Lederle Laboratories, *McKesson Laboratories,* Murray Drug Corporation, *Pharmecon, Inc., Purepac Pharmaceuticals, Richie Pharmacal, Rugby Laboratories, Trust Pharmaceuticals,* United Research Laboratories, *Zenith Laboratories;*

(b) Isordil: Ives Laboratories, Inc.; [and]

(c) Sorbitrate: Stuart Pharmaceuticals.

(3) Isosorbide Dinitrate 2.5 mg. Sublingual Tablet Form: Danbury Pharmacal, H. L. Moore Drug Exchange, McKesson Laboratories, Murray Drug Corporation, Richie Pharmacal, Trust Pharmaceuticals, United Research Laboratories, Zenith Laboratories.

(4) Isosorbide Dinitrate 5 mg. Sublingual Tablet Form:

(a) Isogard: Vangard Laboratories;

(b) Isosorbide Dinitrate: Danbury Pharmacal, McKesson Laboratories, Murray Drug Corporation, Purepac Pharmaceuticals, Richie Pharmacal, United Research Laboratories, Zenith Laboratories;

(c) Vasotrate: Reid-Provident Laboratories.

E. C. SEELEY, M.D., Chairperson
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:100. Reserpine.

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 0.1 mg. Tablet Form:

(a) Reserpine: Bell Pharmacal, Generix Drug Corporation, Geneva Drugs, Ltd., Geneva Generics, *ICN Pharmaceuticals,* Lederle Laboratories, Murray Drug Corp., Paramount Surgical Supply Corp*oration, Parmed Pharmaceuticals,* Pharmecon, Inc., Purepac Pharmaceuticals, Rexall Drug Company, Richie Pharmacal [Company], Rondex Laboratories, Steri-Med Inc., Walgreens, Zenith Laboratories;

(b) Reserpoid: Upjohn Company;

(c) Serpasil: Ciba Pharmaceutical Company;

(d) V-serp: Vangard Laboratories.

(2) Reserpine 0.25 mg. Tablet Form:

(a) Rau-sed: E. R. Squibb and Sons;

(b) Rausingle: Phillips-Roxane Laboratories;

(c) Resercen: The Central Pharmacal Company;

(d) Reserpine: Bell Pharmacal, Generix Drug Corporation, Geneva Drugs, Ltd., Geneva Generics, Halsey Drug Company, *ICN Pharmaceuticals,* Lederle Laboratories, Murray Drug Corp., Paramount Surgical Supply Corp*oration, Parmed Pharmaceuticals,* Pharmecon, Inc., Philips-Roxane Laboratories, Purepac Pharmaceutical Co., Rexall Drug Company, Richie Pharmacal [Company], Rondex Laboratories, Inc., Rugby Laboratories (Therapeutic equivalence is determined for Rugby Laboratories if manufactured by Chelsa Laboratories.), Steri-Med, Inc., *Trust Pharmaceuticals,* Tutag Pharmaceuticals, Walgreens, Zenith Laboratories;

(e) Reserpoid: Upjohn Company;

(f) Serpanray: Ormont Drug and Chemical Company;

(g) [(f)] Serpasil: Ciba Pharmaceutical Company;

(h) [(g)] V-serp: Vangard Laboratories.

(3) Reserpine 1.0 mg. Tablet Form:

(a) Reserpoid: Upjohn Company;

(b) Serpasil: Ciba Pharmaceutical Company.

Section 2. Reserpine Elixir Pharmaceutical Products. The following Reserpine elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Reserpine 0.25 mg/5 ml Elixir Form:

(1) Reserpoid: Upjohn Company;

(2) Serpasil: Ciba Pharmaceutical Company.

E. C. SEELEY, M.D., Chairperson
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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:125. Trihexyphenidyl hydrochloride.

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 Trihexyphenidyl Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Trihexyphenidyl Hydrochloride Tablet Pharmaceutical Products. The following trihexyphenidyl hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Trihexyphenidyl Hydrochloride 2 mg. Tablet Form:
(a) Artane: Lederle Laboratories;
(b) Trihexy-2: Geneva Generics;
(c) Trihexyphenidyl Hydrochloride: Bolar Pharmaceuticals, Cooper Drug Company, *Danbury Pharmacal,* Generix Drug Corporation, H. L. Moore Drug Exchange, McKesson Laboratories, *Murray Drug Corporation,* Parmed Pharmaceuticals, Pharmecon, Inc., Richie Pharmacal, Rugby Laboratories, Vangard Laboratories.

(2) Trihexyphenidyl Hydrochloride 5 mg. Tablet Form:
(a) Artane: Lederle Laboratories;
(b) Trihexy-5: Geneva Generics;
(c) Trihexyphenidyl Hydrochloride: Bolar Pharmaceuticals, Cooper Drug Company, *Danbury Pharmacal,* Generix Drug Corporation, H. L. Moore Drug Exchange, McKesson Laboratories, *Murray Drug Corporation,* Parmed Pharmaceuticals, Pharmecon, Inc., Richie Pharmacal, Rugby Laboratories, Vangard Laboratories.

E. C. SEELEY, M.D., Chairperson
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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:130. Chlorpromazine hydrochloride.

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 10 mg. Tablet Form:
(a) Chlormead: Spencer-Mead, Inc[orporated].;
(b) Chlor-PZ: USV Pharmaceuticals [Company];
(c) Chlorpromazine Hydrochloride: *Generix Drug Corporation,* Geneva Generics, H. L. Moore Drug Exchange, Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Paramount Surgical Supply Corporation, Pharmecon, Inc[orporated]., *Philips-Roxane Laboratories,* Purepac Pharmaceuticals [Company], Rexall Drug Company, *Richie Pharmacal,* Rondex Laboratories, [Incorporated,] Rugby Laboratories, Theda Corporation, *United Research Laboratories,* Western Research Laboratories, Zenith Laboratories, [Incorporated,];
(d) Marazine: Geneva Drugs, Ltd.;
(e) Proma: Vangard Laboratories;
(f) Promopar: Parke-Davis and Company; [and]
(g) Thorazine: Smith, Kline and French Laboratories.

(2) Chlorpromazine Hydrochloride 25 mg. Tablet Form:
(a) Chlormead: Spencer-Mead, Inc[orporated].;
(b) Chlor-PZ: USV Pharmaceuticals [Company];
(c) Chlorpromazine Hydrochloride: Abbott Laboratories, Bell Pharmacal [Company], *Bioline Laboratories,* Cooper Drug Company, *Generix Drug Corporation,* Geneva Generics, H. L. Moore Drug Exchange, *Interstate Drug Exchange,* Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Paramount Surgical Supply Corporation, Pharmecon, Inc[orporated]., *Philips-Roxane Laboratories,* Purepac Pharmaceuticals [Company], Rachelle Laboratories, Rexall Drug Company, *Richie Pharmacal,* Rogers Wholesalers, Rondex Laboratories, [Incorporated,] Rugby Laboratories, Theda Corporation, Three P Products, United Research Laboratories, Western Research Laboratories, Zenith Laboratories, [Incorporated,];
(d) Marazine: Geneva Drugs, Ltd.;
(e) Proma: Vangard Laboratories;
(f) Promopar: Parke-Davis and Company;
(g) Sonazine: Tutag Pharmaceuticals;
(h) Thorazine: Smith, Kline and French Laboratories.

(3) Chlorpromazine Hydrochloride 50 mg. Tablet Form:
(a) Chlormead: Spencer-Mead, Inc[orporated].;
(b) Chlor-PZ: USV Pharmaceuticals [Company];
(c) Chlorpromazine Hydrochloride: Abbott Laboratories, Bell Pharmacal [Company], *Bioline Laboratories,* Cooper Drug Company, *Generix Drug Corporation,* Geneva Generics, H. L. Moore Drug Exchange, *Interstate Drug Exchange,* Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Paramount Surgical Supply Corporation, Pharmecon, Inc[orporated]., *Philips-Roxane Laboratories,* Purepac Pharmaceuticals [Company], Rachelle Laboratories, Rexall Drug Company, *Richie Pharmacal,* Rogers Wholesalers, Rondex Laboratories, [Incorporated,] Rugby Laboratories, Theda Corporation, Three P Products,

United Research Laboratories, Western Research Laboratories, Zenith Laboratories[, Incorporated];
(d) Marazine: Geneva Drugs, Ltd.;
(e) Proma: Vangard Laboratories;
(f) Promopar: Parke-Davis and Company;
(g) Sonazine: Tutag Pharmaceuticals;
(h) Thorazine: Smith, Kline and French Laboratories.
(4) Chlorpromazine Hydrochloride 100 mg. Tablet Form:
(a) Chlormead: Spencer-Mead, Inc[orporated].;
(b) Chlor-PZ: USV Pharmaceuticals [Company];
(c) Chlorpromazine Hydrochloride: Abbott Laboratories, Cooper Drug Company, *Generix Drug Corporation,* Geneva Generics, H. L. Moore Drug Exchange, *Interstate Drug Exchange,* Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Paramount Surgical Supply Corporation, Pharmecon, Inc[orporated]., *Philips-Roxane Laboratories,* Purepac Pharmaceuticals [Company], Rachelle Laboratories, Rexall Drug Company, *Richie Pharmacal,* Rogers Wholesalers, Rondex Laboratories, [Incorporated,] Rugby Laboratories, Theda Corporation, Three P Products, United Research Laboratories, Western Research Laboratories, Zenith Laboratories[, Incorporated];
(d) Marazine: Geneva Drugs, Ltd.;
(e) Proma: Vangard Laboratories;
(f) Promopar: Parke-Davis and Company;
(g) Thorazine: Smith, Kline and French Laboratories.
(5) Chlorpromazine Hydrochloride 200 mg. Tablet Form:
(a) Chlormead: Spencer-Mead, Inc[orporated].;
(b) Chlor-PZ: USV Pharmaceuticals [Company];
(c) Chlorpromazine Hydrochloride: Abbott Laboratories, *Generix Drug Corporation,* Geneva Generics, H. L. Moore Drug Exchange, *Interstate Drug Exchange,* Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Paramount Surgical Supply Corporation, *Philips-Roxane Laboratories,* Purepac Pharmaceuticals [Company], Rachelle Laboratories, Rexall Drug Company, *Richie Pharmacal,* Rondex Laboratories, [Incorporated,] Rugby Laboratories, Western Research Laboratories, Zenith Laboratories[, Incorporated];
(d) Marazine: Geneva Drugs, Ltd.;
(e) Proma: Vangard Laboratories;
(f) Promopar: Parke-Davis and Company;
(g) Thorazine: Smith, Kline and French Laboratories.

E. C. SEELEY, M.D., Chairperson
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:318. Dexamethasone elixir.

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 Dexamethasone pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Dexamethasone Elixir Pharmaceutical Products. The following Dexamethasone elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dexamethasone 0.5mg/5ml Elixir Form:
(1) Decadron: Merck, Sharp and Dohme;
(2) Dexamethasone: *Generix Drug Corporation, Henry Schein Inc.,* Murray Drug Corporation, National Pharmaceuticals [Mfg. Co.], Richie Pharmacal [Company], *Three P Products, Vangard Laboratories;*
(3) Hexadrol: Organon, Inc.

Section 2. Due to a total recall by the FDA, 902 KAR 1:013 is hereby repealed.

E. C. SEELEY, M.D., Chairperson
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DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:320. Imipramine hydrochloride tablet.

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 Imipramine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Imipramine Hydrochloride Tablet Pharmaceutical Products. The following Imipramine

Hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

(1) Imipramine Hydrochloride 10 mg. Tablet Form:
(a) Imavate: A. H. Robins Company;
(b) Imipramine Hydrochloride: Bell Pharmacal, Bioline Laboratories, Bolar Pharmaceuticals, Columbia Medical Company, Geneva Generics, H. L. Moore Drug Exchange, Interstate Drug Exchange, Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Philips-Roxane Laboratories, Purepac Pharmaceuticals, Richie Pharmacal [Company], Rogers Wholesalers, Rondex Laboratories, Rugby Laboratories, Theda Corporation, Three P Products Corporation, *Trust Pharmaceuticals,* United Research Laboratories, Vangard Laboratories;
(c) Janimine: Abbott Laboratories;
(d) Presamine: USV Pharmaceuticals;
(e) SK-Pramine: Smith, Kline and French Laboratories;
(f) Tofranil: Geigy Pharmaceuticals.
(2) Imipramine Hydrochloride 25 mg. Tablet Form:
(a) Imavate: A. H. Robins Company;
(b) Imipramine Hydrochloride: Bell Pharmacal, Bioline Laboratories, Bolar Pharmaceuticals, Columbia Medical Company, Geneva Generics, H. L. Moore Drug Exchange, Interstate Drug Exchange, Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Philips-Roxane Laboratories, Purepac Pharmaceuticals, Richie Pharmacal [Company], Rogers Wholesalers, Rondex Laboratories, Rugby Laboratories, Theda Corporation, Three P Products Corporation, *Trust Pharmaceuticals,* United Research Laboratories, Vangard Laboratories;
(c) Janimine: Abbott Laboratories;
(d) Presamine: USV Pharmaceuticals;
(e) SK-Pramine: Smith, Kline and French Laboratories;
(f) Tofranil: Geigy Pharmaceuticals;
(g) W. D. D.: Tutag Pharmaceuticals.
(3) Imipramine Hydrochloride 50 mg. Tablet Form:
(a) Imavate: A. H. Robins Company;
(b) Imipramine Hydrochloride: Bell Pharmacal, Bioline Laboratories, Bolar Pharmaceuticals, Columbia Medical Company, Geneva Generics, H. L. Moore Drug Exchange, Interstate Drug Exchange, Lederle Laboratories, McKesson Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Philips-Roxane Laboratories, Purepac Pharmaceuticals, Richie Pharmacal [Company], Rogers Wholesalers, Rondex Laboratories, Rugby Laboratories, Theda Corporation, Three P Products Corporation, *Trust Pharmaceuticals,* United Research Laboratories, Vangard Laboratories;
(c) Janimine: Abbott Laboratories;
(d) Presamine: USV Pharmaceuticals;
(e) SK-Pramine: Smith, Kline and French Laboratories;
(f) Tofranil: Geigy Pharmaceuticals.

E. C. Seeley, M.D., Chairperson
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DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:105. Ambulatory surgical center services.

RELATES TO: KRS 216.405 to 216.485, 216.990(2)
PURSUANT TO: KRS 13.082, 216.425
NECESSITY AND FUNCTION: This regulation, which relates to the operation and services of Ambulatory Surgical Center Services, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Defintion: Ambulatory Surgical Center Services, General: An ambulatory surgical center means a public or private institution with an organized medical staff that is established, equipped and operated primarily for the purpose of treatment of patients by surgery, whose recovery in the concurring opinions of the surgeon and/or the physician anesthesiologist or physician anesthetist or dentist anesthetist will not require inpatient care.

Section 2. Essential Characteristics of Ambulatory Surgical Center Services: The essential characteristics of ambulatory surgical centers are as follows:

(1) Is operated under the supervision of a staff of physicians.
(2) Surgical procedures shall be permitted to be performed by physicians, dentists, or podiatrists, who at the time, are legally authorized to perform such procedures and are privileged to perform such procedures in at least one (1) hospital in the area.
(3) Requires (in all cases other than those requiring only local infiltration anesthetics) that a qualifed physician anesthesiologist or physician anesthetist or dentist anesthetist (or a registered nurse anesthetist acting under the direction of the operating surgeon) administer the anesthetics and remain present during the surgical procedure and until the patient is fully recovered from the anesthetics.
(4) Provides at least two (2) operating rooms and at least one (1) post-anesthesia recovery room.
(5) Is equipped to perform diagnostic x-ray and laboratory examinations for diagnostic purposes, or has an agreement with a licensed hospital, a licensed radiologist, or a licensed pathologist to provide these services.
(6) Does not provide accommodations for overnight stays.
(7) Provides the full-time services of registered professional nurses for patient care in the operating and post-anesthesia recovery room. A physician is required to be present in the center until all patients have been discharged and have left the center.
(8) Has available the necessary equipment and personnel to handle foreseeable emergencies (including defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood or blood component supply to maintain blood volume).
(9) Maintains a written agreement with one or more licensed hospitals in close proximity for immediate acceptance of patients who develop complications or require postoperative confinement.

(10) Provides for the periodic review of the center and its operations by a utilization review committee or other committee composed as a medical audit team of physicians and/or dentists and podiatrists having no financial interest in the surgical center.

(11) Maintains adequate medical records for each patient.

(12) Provision shall not be made for any obstetrical deliveries.

Section 3. Licensure and Certificate of Need. (1) An ambulatory surgical center, as herein defined, shall not operate without having first obtained a certificate of need from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board unless it was in operation prior to [the effective date of these regulations on] January 1, 1973.

(2) Upon submission of a properly completed license application form together with the prescribed fee an ambulatory surgical center that has been determined through a site inspection to be in compliance with the standards listed herein, may be issued a license by the Certificate of Need and Licensure Board.

(3) The license shall be posted in a public area of the facility in plain view of visitors.

Section 4. Minimum Standards for Operation: The following minimum standards of operation as set forth in this regulation shall apply to all ambulatory surgical centers:

(1) Disclosure of ownership. The ownership of the ambulatory surgical center shall be fully disclosed to the licensure board. This disclosure shall apply equally to individuals, partnerships, the officers and the board of directors of a corporation.

(2) State and local laws. The ambulatory surgical center shall be in compliance with all applicable state and local laws.

(3) Governing body and management. There shall be an organized governing body, or designated persons so functioning, that have overall legal responsibility for the conduct of the surgical center.

(a) Bylaws. Bylaws shall be adopted in accordance with legal requirements. These bylaws shall include but not be limited to:

1. Description of the organization including selection of officers.
2. Committee structures and their responsibilities.
3. Appointment of physician, dentist and podiatrist members and approval of their bylaws, rules and regulations.
4. Responsibilities for providing and maintaining the physical plant.
5. Provision for liaison between the governing body and the medical staff.
6. Frequency of meetings and the maintenance of written minutes of the governing body meetings.

(b) General administration:

1. The governing body shall appoint an administrator whose qualifications, authority and duties shall be defined in writing and adopted by the governing body.
2. The administrator shall act as the executive officer of the governing body and shall provide liaison between the governing body and medical staff, nursing department and other departments of the center.
3. He shall organize day to day operations of the center through appropriate departmentalization and delegation of duties.
4. A qualified individual shall be designated and authorized to act in the absence of the administrator.

(c) Personnel administration:

1. Written personnel policies, practices and procedures shall be developed and be available to all personnel.
2. Job descriptions shall be developed for each level of personnel and shall include the responsibilities and actual work to be performed in each classification.
3. Current employee records shall be maintained and include a resume of each employee's training and experience, evidence of current licensure or registration where required, records of health supervision and reports of all accidents occurring on duty.

Section 5. Medical Staff. There shall be a medical staff organized under bylaws approved by the governing body which shall be responsible for the quality of all medical care provided patients in the surgical center and for the ethical and professional practices of its members. It shall include physicians and may include dentists and podiatrists. Bylaws shall be adopted to govern and enable the medical staff to carry out its responsibilities. The medical staff bylaws, rules and regulations shall include, but not be limited to the following areas:

(1) Description of the medical staff organization including selection of officers, committee structures and responsibilities.

(2) State the necessary qualifications for staff membership.

(3) Procedures for granting and withdrawing staff privileges.

(4) Provision that surgical privileges will be granted only to physicians, dentists, and podiatrists who are privileged to perform such procedures in at least one (1) hospital in the area. It is necessary:

(a) That the medical staff's bylaws, rules and regulations contain specific references governing medical, dental and podiatric services.

(b) *That a medical history and physical examination be performed* [that patient's basic medical appraisal must be performed] and entered into the medical record by a physican, *no more than thirty (30) days* prior to the surgical procedure.

(c) That surgical procedures permitted must be specifically defined.

(d) That surgical procedures permitted must be under the overall supervision of the center's medical audit team.

(e) That a designated physician must be responsible for all nondental and nonpodiatric medical problems.

(5) Mechanism for appeal of adverse decision regarding medical staff membership and privileges.

(6) State specifically those cases or instances in which consultations with other physicians, dentists and podiatrists are required.

(7) *Procedures be established to assure that the patient is examined by a physician immediately prior to surgery, to evaluate the risk of anesthesia and of the procedure to be performed. Preoperative diagnosis shall be recorded.* [Provision for examination of all patients either prior to or upon admission and recording a preoperative diagnosis prior to surgery.]

(8) *Provisions for performance of appropriate laboratory tests, as determined by a physician, requiring that at least a hemoglobin* [Provision that at least a complete blood count and urinalysis] *determination and a dip stick urinalysis* be performed on all patients within forty-eight (48) hours prior to surgery and that the results be

made available to the attending physician, dentist, or podiatrist.

(9) Policy permitting a surgical operation only upon written informed consent of the patient or his legal representative.

(10) Provide that the physician, dentist, or podiatrist in charge of the patient be responsible for seeing that all tissue removed during surgery is delivered to the center's pathologist and that an examination and report is made of such tissue.

(11) A statement that the physicians', dentists' or podiatrists' orders must be in writing and signed by the physician, dentist or podiatrist.

(12) Provision for keeping accurate and complete medical records.

(13) Provision for staff meetings for the purpose of reviewing clinical work performed in the center.

Section 6. Sanitary Environment: The surgical center shall provide a sanitary environment to avoid sources and transmission of infections.

(1) An infection committee composed of members of the medical and nursing staffs shall be established and responsible for controlling and preventing infections within the center.

(2) Written infection control measures shall be established. There shall be written procedures which govern the use of aseptic techniques and procedures in all areas of the center.

(3) All employees shall have a VDRL and chest x-ray or tuberculin skin test prior to employment and at least annually thereafter.

(4) To insure that cleaning procedures are effective, there shall be bacterial colony counts taken periodically in at least the operating rooms and any other high risk areas.

(5) There shall be a method of control used in relation to the sterilization of supplies and water and a written policy requiring nondisposable sterile supplies to be reprocessed no later than every thirty (30) days.

(6) There shall be rigidly enforced policies regarding the disposal of patient waste and any other potentially infectious materials.

(7) There shall be continuing education to all surgical center personnel on the cause, effect, transmission, prevention and elimination of infections.

Section 7. Surgery Department: (1) The operating rooms shall be supervised by a registered nurse.

(2) The operating room supervisor shall have on file a list of all physicians, dentists, and podiatrists with surgical privileges at the center and the privileges assigned to each by the medical staff.

(3) The medical staff shall designate which surgical procedures, if any, that will require the presence of two (2) scrubbed physicians. Assistants at lesser operations may be nurses or technicians designated by the medical staff as having sufficient training to assist in such procedures. A registered nurse shall be available to circulate.

(4) The operating room register shall be complete and up-to-date.

(5) The following equipment shall be available in the operating rooms: cardiac monitor, resuscitator, defibrillator, aspirator, thoracotomy and tracheotomy sets.

(6) There shall be effective policies regarding staff privileges for the administration of anesthetics. A postanesthetic followup note on patients receiving general anesthetics shall be recorded two (2) to six (6) hours following surgery by the anesthetist or surgeon, noting postoperative abnormalties or complication, stating the pulse, respiration, blood pressure, presence or absence of swallowing reflex and cyanosis and general condition of the patient.

(7) Rules and regulations governing the use of the operating rooms shall be posted.

Section 8. Recovery Room: (1) There shall be adequate staff available in the recovery room so that no patient is left alone at any time.

(2) A registered nurse shall be available to the recovery room at all times.

(3) The person(s) staffing this area shall be adequately trained in all aspects of postoperative and postanesthetic care.

(4) Equipment available for emergencies shall include, but not be limited to: suction machine, stethoscope, sphygomanomenter, emergency cart and necessary drugs.

Section 9. Patient Accommodations in Recovery Room(s): (1) The surgical center shall provide suitable accommodations for all its patients. There shall be adequate floor space, furnishings, bed linens, and such other utensils, equipment and supplies as is reasonably required for the proper care of the patients accommodated. There shall be provision for the proper sterilization of supplies, utensils and equipment and for storing them in a clean, convenient and orderly manner. An adequate system for patients to use in calling nurses and attendants shall be maintained.

(2) Bedrails shall be available for any patient when required.

(3) A satisfactory bed and mattress and one (1) or more pillows of at least fifteen (15) inches by twenty (20) inches shall be provided for each patient. There shall be at least one (1) chair per patient.

Section 10. Informed Consent. All surgical operations shall require that the patient or the patient's legal representative sign a written informed consent prior to the surgical operation.

(1) A twenty-four (24) hour waiting period shall be required between the signing of an informed consent and the performance of a voluntary interruption of pregnancy in an ambulatory surgical center, unless an emergency situation presents imminent peril substantially endangering the life of the woman.

(2) An ambulatory surgical center shall comply with the applicable Kentucky statutes concerning the voluntary interruption of pregnancies, including but not limited to KRS 311.710 to 311.990 and any regulations passed pursuant to those statutes.

Section 11. Voluntary Interruption of Pregnancies. Second and third trimester voluntary interruption of pregnancies shall not be performed in an ambulatory surgical center.

Section 12. Pharmaceutical Services: (1) The surgical center may have a licensed pharmacy. If the center does not have a licensed pharmacy, it shall have provision for promptly and conveniently obtaining prescribed drugs and biologicals from licensed community or institutiional pharmacies.

(2) The center shall provide appropriate methods and procedures for storage, control and administering of drugs

and biologicals, developed with the advice of a staff pharmacist, either full-time, part-time, or on a regular consultative basis. Drugs shall be properly labeled by the pharmacist for individual patients. The pharmacist shall have overall control of drugs at the center.

(3) All medications shall be administrered by licensed medical or nursing personnel in accordance with the Medical and Nurse Practice Acts. Each dose administered shall be properly recorded in the medical record.

(4) An emergency medication kit approved by the medical staff shall be readily available and maintained and replacements made by the pharmacist on a regular basis.

(5) Security and storage of all controlled substances shall be in accordance with the Kentucky Controlled Substances Act (KRS Chapter 218A).

(6) A record shall be maintained which lists on separate sheets for each type and strength of controlled substance the following information: date, time administered, name of patient, dose, physician's or dentist's name, signature of person administering dose, and balance. An audit shall be conducted by the pharmacist and a member of the nursing staff weekly.

Section 13. Laboratory Services. A surgical center may have an agreement with a licensed hospital located in close proximity to provide laboratory services; however, if the center provides their own laboratory services, the following regulations shall apply:

(1) There shall be necessary space, facilities and equipment to perform those diagnostic procedures commensurate with the center's needs for its patients.

(2) The laboratory in the surgical center or the contracted laboratory services shall be directed by a pathologist either on a full-time, part-time or regular consultative basis.

(3) There shall be a sufficient number of medical technologists to promptly and proficiently perform the tests in the laboratory.

(4) All equipment shall be in good working order, routinely checked and precise in terms of calibration.

(5) There shall be ongoing quality control programs, including the use of standards, control sera, reference samples, and periodic recalibration of instruments to insure accuracy of laboratory results.

(6) Laboratory examinations shall be made only upon the request of a physician, dentist or podiatrist.

(7) Provision shall be made for tissue pathology and diagnostic cytology examinations in the center's own laboratory or through arrangements with the pathologist director.

(8) All tissue removed from patients at surgery shall be macroscopically and, if necessary, microscopically examined by the center's pathologist.

(9) All laboratory and tissue pathology reports shall be signed and entered into the medical record.

Section 14. Radiology Services. The surgical center may have an agreement with a licensed hospital located in close proximity to provide radiology services; however, if the center provides their own radiology services, the following regulations shall apply:

(1) The surgical center shall maintain or have available, radiology services according to the needs of the center.

(2) The department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(3) Periodic inspection shall be made by state authorities and hazards so identified shall be corrected.

(4) Radiology personnel shall be checked periodically for the amount of radiation exposure by the use of exposure meters or badge tests.

(5) The center shall have a qualified radiologist, either full-time, part-time, or on a consultative basis to supervise the department and to interpret films that require specialized knowledge for accurate reading.

(6) The amount of radiologist and technologist time shall be sufficient to meet the requirements or demands that the medical staff places upon the department.

(7) The use of all x-ray apparatus shall be limited to personnel designated as qualified by the radiologist or by an appropriate committee of the medical staff.

(8) Signed reports shall be promptly entered into the medical record and duplicate copies kept in the department.

(9) X-ray examinations shall be made only upon the request of a physician, dentist or podiatrist.

Section 15. Reports. Each surgical center shall furnish an annual report to the Department for Human Resources on forms supplied by the department for this purpose. This report shall consist of the total number of operations per year, number of operations by clinical category and such other statistical information that is requested.

Section 16. Medical Records: (1) Organization: The responsibility for supervision, filing and indexing of medical records shall be delegated to a responsible employee of the surgical center.

(2) Indexing: Medical records shall be properly indexed and systematically filed for ready access to properly authrorized personnel.

(3) Ownership: Records of patients are the property of the surgical center and shall not be removed from the center's jurisdiction and safekeeping except in accordance with a court order or subpoena. Medical records shall be made available, when requested for inspection by duly authorized representatives of the licensure board.

(4) Content: Adequate and complete medical records shall be prepared for all patients admitted to the surgical center. All notes shall be legibly written or typed and signed. A minimum medical record shall include, but not be limited to the following information:

(a) Name and address of person or agency responsible for patient;

(b) Identification date (name, address, age, sex, martial status);

(c) Date of admission and discharge;

(d) Referring and attending physicians', dentists, and podiatrists names;

(e) History and physical examination record prior to surgery;

(f) Operative consent form signed by patient or his legal representative;

(g) Special examinations, such as consultation, clinical, laboratory, x-ray;

(h) Doctor's orders, dated and signed by the physician, dentist or podiatrist;

(i) Nurses' notes;

(j) Complete medical record signed by the operating surgeon, including anesthesia record, preoperative diagnosis, opertive procedures and findings, postoperative diagnosis and tissue diagnosis by a qualified pathologist on all specimens surgically removed, and postanesthesia follow-up note;

(k) Temperature chart including pulse, respiration and blood pressure;

(l) Discharge note to include condition on discharge and postoperative instructions to patient.

(5) Physician's, dentist's or podiatrist's responsibility: It shall be the responsibility of each attending physician, dentist or podiatrist to complete and sign the medical record of each patient as soon as practicable after discharge, but not to exceed ten (10) days.

(6) Orders for medication: All medical records shall contain the orders for medication and treatment written in ink and signed by the prescribing physician, dentist, or podiatrist and if given verbally, countersigned by him within forty-eight (48) hours except that all records for Schedule II drugs shall be signed immediately. A record of medication administered to the patient shall be included in the record and signed by the person administering the medication.

(7) Retention of records: All medical records shall be retained for a minimum of five (5) years and for such additional time as deemed necessary by the governing body of the facility based upon all relevant factors.

Section 17. Transfer Agreement: (1) Each surgical center shall have a written agreement with one (1) or more licensed hospitals located in close proximity to the center, for the immediate acceptance of patients who develop complications or require postopertive confinement.

(2) It shall be the responsibility of the surgical center to arrange for the transportation of patients who require hospital care and to arrange for their admission.

Section 18. Utilization Review: (1) Each surgical center shall have in effect a plan for utilization review of their services on at least a quarterly basis by a committee of physicians and/or dentists and podiatrists which have no financial interest in the center.

(2) Reviews shall be made of admissions and professional services furnished including utilization of surgical services and tissue reports.

Section 19. Fire control or Disaster Plan. The surgical center shall have a written procedure to be followed in case of fire, explosion or other emergency. It shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for exacuating patients, frequency of fire drills and assignement of specific tasks and responsibilities to the personnel.

(1) The plan shall be developed with the assistance of qualified fire and safety experts.

(2) All personnel shall be trained to perform assigned tasks.

(3) Simulated drills testing the effectiveness of the plan shall be conducted at least three (3) times a year.

(4) The plan shall be posted throughout the facility.

MASON C. RUDD, Chairman

ADOPTED: July 11, 1979

RECEIVED BY LRC: August 24, 1979 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(Proposed Amendment)

902 KAR 105:060. Podiatrist supervision.

RELATES TO: KRS 211.870, 211.890, 211.993

PURSUANT TO: KRS 13.082, 194.050, 211.090

NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.870, 211.890 and 211.993 to regulate operators of sources of radiation other than licensed practitioners of the healing arts, including but not limited to: the classification and certification of operators; examination; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance, renewal, and revocation of certificates; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, certificates, and renewal certificates; and to set such other standards as may be appropriate for the protection of health and safety. The purpose of this regulation is to establish uniform standards for the certification of individuals who operate sources of radiation for human diagnostic radiographic purposes while under the supervision of a podiatrist.

Section 1. Applicability. This regulation applies to individuals who operate sources of radiation for human diagnostic radiographic purposes while under the supervision of a podiatrist.

Section 2. Eligibility for a Limited Certificate. No person shall be eligible for a limited certificate as an operator of a source of radiation for human diagnostic radiographic purposes under the supervision of a podiatrist unless he has:

(1) Satisfactorily completed a four (4) year course of study in a secondary school or passed a standard equivalency test; and

(2) Satisfactorily completed a limited course of study in podiatry radiography approved by the department through either: an institutional study course; or an independent study course:

(a) The approved institutional course of study shall include not less than sixty-five (65) hours of classroom work including the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques; anatomy and physiology, radiation protection, patient positioning, film critique and ethics; and shall include an adequate number of hours but not less than ten (10) to be devoted to clinical experience consisting of demonstrations, discussions, seminars, and supervised practice; or

(b) The approved independent study course shall include but not be limited to the following subjects: x-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, patient positioning, film critique and ethics. Clinical experience shall be obtained by performing a minimum of fifty (50) radiographic examinations of the foot. Such experience shall be obtained at the individuals's place of employment, an alternate facility, or a combination of the two (2). The employer shall be responsible for providing or arranging for the required clinical experience; and

[(2) Satisfactorily completed a limited course of study in podiatric radiography approved by the department. The course of study shall include not less than sixty-five (65) hours of classroom work including the following subjects;

X-ray physics, radiographic techniques, darkroom chemistry and techniques, anatomy and physiology, radiation protection, film critique and ethics; and shall include an adequate number of hours but not less than ten (10) to be devoted to clinical experience consisting of demonstrations, discussions, seminars and supervised practice; and]

(3) Satisfactorily passed an examination conducted or approved by the department.

Section 3. Conditional Certificate. Individuals who have not been certified by an approved credentialing organization shall be issued a conditional certificate. All conditional certificates shall expire effective July 1, 1979, and are non-renewable. Upon successful passage of an appropriate departmental examination, the holder of a conditional certificate shall be issued a general or limited certificate pursuant to these regulations.

Section 4. Temporary Certificate. The department may, upon proper application and upon payment of the appropriate application and certificate fee, issue a temporary certificate to an applicant who has successfully completed an approved course of instruction in podiatric radiography and who meets all of the other requirements of these regulations other than having taken the required examination.

ROBERT SLATON, Commissioner
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 7:010. General provisions.

RELATES TO: KRS Chapter 217B
PURSUANT TO: KRS 13.082, 217B.050
NECESSITY AND FUNCTION: KRS 217B.050 authorizes the Department for Natural Resources and Environmental Protection to adopt rules and regulations relating to the use and application of pesticides. This regulation sets forth general provisions which apply in this chapter with regard to definitions, compatability, conflicting provisions, severability, recordkeeping, storage and handling of restricted-use pesticides, supervisory requirements, certification denial, suspension, modification, or revocation, and private applicators.

Section 1. Definitions. All terms not defined herein shall have the meaning given them in KRS 217B.040 and 217B.500, or by commonly accepted usage. Unless otherwise specifically defined in this chapter or otherwise clearly indicated by their context, terms in this chapter shall have the following meaning:

(1) "Accident" means an unexpected, undesirable event, caused by the use or presence of a pesticide, that adversely affects man and/or the environment.

(2) "Agricultural commodity" means any plant, or part thereof, or animals, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(3) "Application" means any act of handling or release of a pesticide, or exposure of man or of the environment to a pesticide through acts including but not limited to:

(a) Storage of pesticides and containers;

(b) Disposal of pesticides and containers;

(c) Placing of the pesticide for effect, including mixing and loading and any required supervisory action.

(4) "Calibration of equipment" means measurement of dispersal or output of application equipment and adjustments of such equipment to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(5) "Certification" or "certified" means recognition by the department that a person has demonstrated at least a minimum acceptable level of competence by examination or otherwise, and is authorized to use or supervise the use of restricted-use pesticides in the area of his certification.

(6) "Commercial applicator" means a certified applicator (whether or not the person is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by subsection (27).

(7) "Compatability" means that chemical property of a pesticide which permits use with other chemicals without undesirable results being caused by the combination.

(8) "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsiblity.

(9) "Common exposure route" means a probable manner (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.

(10) "Continuing certification unit" means ten (10) contact instructional hours of fifty (50) minutes each.

(11) "Department," unless otherwise specified, means the Kentucky Department for Natural Resources and Environmental Protection.

(12) "Environment" means water, air, land, plants, man and other animals living therein, and the interrelationships which exist among them.

(13) "Faulty, careless or negligent manner" means any act or omission which has or may have a deleterious effect on any person or property or which any person recommending or applying pesticides knows or should know is unnecessary or will not effectively accomplish the end sought and also means any application or use of pesticides inconsistent with the standards established by this regulation.

(14) "Forest" means a concentration of trees and related vegetation in non-urban areas sparsely inhabited by

and infrequently used by humans, the same being characterized by natural terrain and drainage patterns.

(15) "Fumigation" shall mean the use of poisonous gases for the control of pests in enclosed spaces including but not restricted to structures such as boxcars, warehouses, ships, barges, homes, garages and granaries.

(16) "Fumigation license" means a license originally issued under KRS Chapter 249 to a person to allow that person to engage in the business of using poisonous gases to control pests.

(17) "General pest license" means a license originally issued under KRS Chapter 249 to a person to allow that person to engage in the business of controlling general pests.

(18) "General pests" shall mean any arthropods, mollusks, annelid worms, rodents, or other pestiferous vermin, vertebrate animals, or fungi.

(19) "Hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(20) "Host" means any plant or animal on or in which another lives for nourishment, development or protection.

(21) "Labeling" means the written, printed, or graphic matter on, physically attached to, included with, or reference in any matter accompanying the pesticide, device, or any of its containers or wrappers.

(22) "Non-target organism" means a plant or animal other than the one against which the pesticide is applied.

(23) "Ornamental" means trees, shrubs, and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

(24) "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision and aid, or who recommends the use of specified pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests.

(25) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest.

(26) "Practical knowledge" means the comprehension of and ability to see pertinent facts in dealing with specific problems and situations.

(27) "Private applicator" means a person certified to use or supervise the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(28) "Protective equipment" means clothing or any other materials or devices that shield against unintentional exposure to pesticides.

(29) "Regulated pest" means an organism for which restrictions, regulations, or control procedures are in effect to protect the host, man or the environment.

(30) "Restricted-use pesticide" means a pesticide that is classified for restricted use by the United States Environmental Protection Agency or by the secretary.

(31) "Secretary" means the Secretary of the Kentucky Department for Natural Resources and Environmental Protection.

(32) "Spot fumigation" means fumigation operations performed in special rooms, vaults, chambers, tanks, railroad boxcars, aircraft or other enclosed areas of limited size which are segregated so that the fumigation crews and other persons remain outside and are not exposed to toxic concentrations of the fumigants used.

(33) "Standard" means the level of knowlege and ability which must be demonstrated as a requirement for pesticides certification.

(34) "State" means the Commonwealth of Kentucky.

(35) "Structure" means any building regardless of its design or type of construction, public or private, vacant or occupied.

(36) "Substandard structure" means those structures with less than fourteen (14) inches of clearance between the soil and the bottom of the floor joists in the crawl area, structures with wood-to-soil contact, or any other structures that cannot be treated according to normal standards.

(37) "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(38) "Termite license" means a license originally issued under KRS Chapter 249 to a person to allow that person to engage in the business of controlling wood-destroying organisms.

(39) "Termite pretreatment" means the application of an approved termiticide to a structure under construction prior to backfilling around the foundation.

(40) "Toxicity" means the property of a pesticide that causes any adverse physiological effects on a living organism.

(41) "Under the direct supervision of" means the act or process whereby purchase, use or application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used or applied.

(42) "Wood-destroying organisms" means those organisms that may cause damage to wood.

Section 2. Compatability. The provisions of this chapter are to be construed as compatible with Public Laws 92-516, 94-140, and 95-396, "The Federal Insecticide, Fungicide, and Rodenticide Act as Amended" and the department may amend the regulations of this chapter to achieve conformity and compatibility with said law and federal regulations promulgated pursuant thereto.

Section 3. Conflicting Provisions. The provisions of this chapter are to be construed as being compatible with and complimentary to each other. In the event that provisions within this chapter are found to be contradictory, the more stringent provision shall apply.

Section 4. Severability. In the event that any provision or regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

Section 5. Recordkeeping Requirements. (1) Applicability. The provisions of this section shall not apply to:

(a) Persons conducting laboratory research involving pesticides;

(b) Doctors of medicine and doctors of veterinary medicine applying restricted-use pesticides during the ordinary course of their practice; and

(c) Persons using restricted-use pesticides in their capacity as private applicators.

(2) Dealers. Each pesticides dealer shall maintain the following records with respect to each sale of restricted-use pesticides:

(a) Brand, amount, and type of restricted-use pesticide sold;

(b) Buyer's name and address; and

(c) Certification number under which the restricted-use pesticide was purchased.

(3) Commercial applicators. All commercial applicators who purchase, use or apply restricted-use pesticides shall maintain the following records:

(a) Name and address of person requesting services;

(b) Kind and amounts of pesticides applied;

(c) Date of use or application;

(d) Purpose of application;

(e) Area of land treated, where applicable;

(f) Crop or type of area treated;

(g) Name of person with certification to purchase, use or apply restricted-use pesticides;

(h) Pesticide dealer where restricted-use pesticides were purchased; and

(i) Street address or site of use or application.

(4) Retention. All persons required to maintain records under subsection (2) of this section shall retain the records for a period of two (2) years from the date of sale. All persons required to maintain records under subsection (3) of this section shall retain the records for a period of three (3) years from the date of use or application. Duplicate records need not be maintained. When a use or application of a restricted-use pesticide is made in the name of a person or business entity, then only one (1) set of records for each job or use need be maintained by that person or business entity, even though more than one (1) person may have made the use or application.

(5) Availability. Records required under this section shall be made available to the department upon written request.

Section 6. Storage and Handling of Restricted-use Pesticides.

(1) Applicability. This regulation applies to all persons who have occasion to store restricted-use pesticides.

(2) Standards for storage of restricted-use pesticides:

(a) Sites for the storage of restricted-use pesticides shall be of sufficient size to adequately and neatly store all stocks in designated and segregated areas;

(b) Storage sites shall be cool, dry, airy, or, if possible, have an exhaust installed to reduce concentrations of toxic fumes and to hold down temperatures. Ventilation shall not connect with offices or other areas frequented by people;

(c) Storage sites shall be adequately lighted so that labels and information can be easily read;

(d) Storage sites shall be equipped with fire fighting equipment such as fire extinguishers of Class 10 ABC minimum, sprinkler systems, or alarm systems;

(e) Storage sites shall be kept securely locked at all times other than when authorized personnel are in the area. Entrance to storage sites shall be plainly labeled on the outside with signs containing the words "danger" or "poison" and "pesticide storage area;"

(f) Floor-sweep compound of adsorptic clay, sand, sawdust, hydrated lime or similar materials shall be kept on hand to absorb spills or leaks. The contaminated material shall be disposed of per label directions as an excess pesticide.

Section 7. Supervisory Requirements. When a person purchases, uses, or applies restricted-use pesticides under the direct supervision of a person with certification, the availability of the person with certification shall be directly related to the hazard of the situation. In many situations, the person with certification shall not be required to be physically present at the site of purchase, use or application. In such a case, direct supervision shall include verifiable instruction to a competent person detailing guidance in the proper use and application of the pesticide, and provisions for contacting the person with certification in the event the person is needed. The hazard of the situation or the registered labeling may require the physical presence of a person with certification when restricted-use pesticides are being purchased, used, or applied.

Section 8. Denial, Suspension, Modification, or Revocation of Restricted-use Pesticide Certification. (1) The department shall review for possible denial, suspension, or revocation, the license or certification of any person whenever said licensee or certified person has been convicted or is subject to a final order imposing a civil or criminal penalty pursuant to Section 14 of the Federal Insecticide, Fungicide, Rodenticide Act of 1972, as Amended.

(2) The department may deny, suspend, modify, or revoke certification of any person, including certification as a private applicator or certification incident to a manager's or applicator's license issued under KRS 217B.500 to 217B.585, for any of the following reasons which are also declared to be a violation of these regulations:

(a) Use of any pesticide in a manner inconsistent with the registered labeling, whether or not that pesticide is classified for restricted use.

(b) For license related violations of KRS 217B.010 to 217B.260 or under KRS 217B.500 to 217B.585.

(c) For any other reasons that indicate a person with certification is not safe or competent in the use or application of restricted-use pesticides;

(d) For violation of any of the provisions of this chapter or these regulations;

(e) For the making of any false or misleading statements or omissions in any applications or records required by these regulations or by KRS 217B.010 to 217B.585.

Section 9. Private Applicators. (1) Standards of certification of private applicators. Compliance with the following standards shall qualify a person for certification as a private applicator. A private applicator may purchase, use, or apply restricted-use pesticides in his capacity as a private applicator. As a minimum requirement for certification, a person who desires certification as a private applicator must show that he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operations, including but not limited to, proper storage, use, handling and disposal of the pesticides and containers. This practical knowledge includes ability to:

(a) Recognize common pests to be controlled and damage caused by them;

(b) Read and understand the label and labeling information, including the common name of pesticides the applicator applies, pest(s) to be controlled, timing and

methods of application, safety precautions, any pre-harvest or re-entry restrictions, and specific disposal procedures;

(c) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances, taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation;

(d) Recognize local environmental situations that must be considered during application to avoid contamination;

(e) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident;

(f) Demonstrate knowledge of the standards for the supervision of non-certified persons established by 401 KAR 7:030.

(2) Verification of competence. Competence of private applicators shall be verified by means of a training program administered by county extension agents. Audio-visual training shall be given, accompanied by study of the private applicator training pamphlet. Included in the pamphlet are self-quizzes with answers, to be used by the applicators to assess their own progress. Following completion of training, a certification competency statement shall be signed by the instructor and forwarded to the department. Certification credentials shall then be transmitted to the applicator by the department. Training shall be based on the "Core Manual" published by the United States Environmental Protection Agency. Passage of a written competency test is an alternate means of certification. Private applicators shall be required to be recertified every five (5) years.

(3) Procedures for illiterate private applicators. In any case where a person, at the time of certification, is unable to read a label, the department shall verify his competence by means of an oral questioning process. The applicant shall be tutored by representatives of the department or the cooperative extension service. All aspects of private applicator competence shall be covered. Upon completion of training and oral examination, a certification of competency statement shall be signed by the trainer and forwarded to the department, which will issue certification documents. Certification shall be for single products only. Similar training shall be required for any additional products the trainee desires to use. Primary emphasis shall be placed on knowledge of label information, and questions shall be designed to determine knowledge of the following:

(a) Understanding of the label and labeling information;

(b) Sources of advice and guidance necessary for the safe and proper use of each pesticide for which certification is requested.

C. FRANK HARSCHER, III, Secretary

ADOPTED: September 14, 1979

RECEIVED BY LRC: September 14, 1979 at 3:30 p.m.

PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, November 12, 1979, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 7:020. Certification.

RELATES TO: KRS Chapter 217B

PURSUANT TO: KRS 13.082, 217B.050

NECESSITY AND FUNCTION: KRS 217B.050 authorizes the Department for Natural Resources and Environmental Protection to adopt rules and regulations relating to the use and application of pesticides. This regulation establishes a system of certification for persons who purchase, use, or apply restricted-use pesticides pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended.

Section 1. Applicability. No person may purchase, use or apply restricted-use pesticides unless that person is certified in a category consistent with such purchase, use, or application, as provided in this regulation or is acting under the direct supervision of a person so certified.

Section 2. Certification. Certification under this regulation may be obtained from the department as a private applicator pursuant to 401 KAR 7:010, Section 9, or in the following categories of restricted-use pesticide use or application:

(1) Agricultural pest control. This category includes:

(a) Plant. This category includes persons using or supervising the use of restricted-use pesticides in production of agricultural crops including but not limited to tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, tree fruits and nuts, as well as on grasslands and non-crop agricultural lands.

(b) Animal. This category includes persons using or supervising the use of restricted-use pesticides on animals, including but not limited to beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category.

(2) Forest pest control. This category includes persons using or supervising the use of restricted-use pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and turf pest control. This category includes persons using or supervising the use of restricted-use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

(4) Seed treatment. This category includes persons using or supervising the use of restricted-use pesticides on seeds.

(5) Aquatic pest control. This category includes persons using or supervising the use of any restricted-use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in subsection (8) of this section.

(6) Right-of-way pest control. This category includes persons using or supervising the use of restricted-use pesticides in the maintenance of public roads, electric power-lines, pipelines, railway rights-of-way or other similar areas.

(7) Industrial, institutional, structural, and health-related pest control. This category covers all applicators using or supervising the use of restricted-use pesticides in, on, or around food handling establishments, human dwell-

ings, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products. Industrial, institutional, structural and health-related pest control is divided into the following subcategories:

(a) Structural pest control certification covers the use of restricted-use pesticides in the control of general pests and wood-destroying organisms by all means other than fumigation, and covers all elements of "wood-destroying organism certification" in paragraph (c) of this subsection.

(b) Structural fumigation certification covers the use of restricted-use pesticides in the form of poisonous gases.

(c) Wood-destroying organism certification covers the use of restricted-use pesticides to control wood-destroying organisms only.

(d) General pest certification covers the use of restricted-use pesticides to control general pests only.

(8) Public health pest control. This category includes state, federal or other governmental employees using or supervising the use of restricted-use pesticides in public health programs for the management and control of pests having medical and public health importance.

(9) Regulatory pest control. This category includes state, federal or other governmental employees who use or supervise the use of restricted-use pesticides in the control of regulated pests.

(10) Demonstration and research pest control. This category includes:

(a) Individuals who demonstrate to the public the proper use and techniques of application of restricted-use pesticides or supervise such demonstration. Included in this group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs; and

(b) Persons conducting field research with pesticides, who in so doing, use or supervise the use of restricted-use pesticides. This group includes state, federal, commercial, and other persons conducting field research on or utilizing restricted-use pesticides.

Section 3. General Requirements. To obtain certification, a person shall pay an application fee of twenty-five dollars ($25), submit a completed application form specifying the category or categories in which certification is requested, and satisfactorily demonstrate competence in the use and handling of pesticides in those categories. Competency in the use and handling of pesticides shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon standards set forth below. Such examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which a person desires to be certified.

Section 4. General Standards of Competency. All persons shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides, including standards for the supervision of non-certified persons as established by regulation. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the person's requested certification and the following areas of competency:

(1) Label and labeling comprehension:

(a) The understanding in instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;

(b) Classification of the product, general or restricted;

(c) Necessity for use consistent with the labeling.

(2) Safety factors, including:

(a) Pesticides' toxicity, hazard to man and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicator and other individuals in or near treated areas;

(d) Need for and use of protective clothing and equipment;

(e) Symptoms of pesticide poisoning;

(f) First aid and other procedures to be followed in case of a pesticide accident;

(g) Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers.

(3) The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

(a) Weather and other climatic conditions;

(b) Types of terrain, soil, or other substrata;

(c) Presence of fish, wildlife, and other non-target organisms;

(d) Drainage patterns.

(4) Pest identification, including consideration of the following factors:

(a) Common features of pest organisms and characteristics of damage necessary to facilitate pest recognition;

(b) Pest maturation and development as it may be related to the problem of identification and control.

(5) Pesticides, including consideration of the following factors:

(a) Types of pesticides;

(b) Types of pesticide formulations;

(c) Compatibility, synergism, persistence and animal and plant toxicity of the formulation;

(d) Hazards and residues associated with use;

(e) Factors which influence effectiveness or lead to such problems as resistance to pesticides;

(f) Dilution procedures.

(6) Equipment, including consideration of the following factors:

(a) Types of pesticide application equipment and advantages and limitations of each;

(b) Uses, maintenance and calibration of equipment.

(7) Application techniques; factors including:

(a) Methods used to apply various formulations of pesticides, solutions, and gases together with a knowledge of which technique or application to use in a given situation;

(b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse;

(c) Prevention of drift and pesticide loss into the environment.

(8) Laws and regulations. Knowledge of pertinent aspects of the Federal Environmental Pesticides Control Act, KRS Chapter 217, KRS 217B.010 to 217B.260, and where applicable, KRS 217B.500 to 217B.585, plus regulations promulgated pursuant to those chapters.

Section 5. Specific Standards of Competency. In addition to meeting the requirements of Sections 3 and 4, persons requesting certification for a specific category must demonstrate competence related to that category as follows:

(1) Agricultural. This category is subdivided as follows:

(a) Plant. Persons requesting agricultural plant certification must demonstrate practical knowledge of crops and specific pests of those crops on which they may be using pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural areas.

(b) Animal. Persons requesting agricultural animal certification must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicities and residue potentials, since host animals will frequently be used for food. Further, the person must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(2) Forestry. Persons requesting forest certification shall demonstrate practical knowledge of types of forests, forest nurseries, and seed production in the Commonwealth and the pests involved therein. They should possess practical knowledge of the cyclic occurrence of certain pests and their specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitation and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintentional effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meterological factors and adjacent land use.

(3) Ornamental and turf. Persons requesting ornamental and turf certification shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of appliation methods which will minimize or prevent hazards to humans, pets, and other domestic animals.

(4) Seed treatment. Persons requesting seed certification shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting, and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels as well as proper disposal of unused treated seeds.

(5) Aquatic. Persons requesting aquatic certification shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. They shall also demonstrate practical knowledge of the principles of limited-area application.

(6) Right-of-way. Persons requesting right-of-way certification shall demonstrate practical knowledge of a wide variety of environments, since rights-of-way can traverse may different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage destruction and the ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities upon the adjacent areas and communities.

(7) Industrial, institutional, structural and health-related pest control. This category is subdivided as follows:

(a) Structural pest control certification. Persons requesting certification in this subcategory shall demonstrate practical knowledge of a wide variety of pests including general pests and wood-destroying organisms. This practical knowledge shall include their life cycles, types of formulations appropriate for their control, minimum standards of application and methods of application that avoid contamination of habitat and exposure of people and pets. Since human exposure, including babies, pregnant women, and elderly people, is frequently a potential problem, applicants must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure to the various situations encountered in this category. Because health-related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

(b) Structural fumigation certification. Persons requesting certification in this subcategory shall demonstrate a practical knowledge of those pests for which treatment by fumigation is an appropriate control technique. This practical knowledge shall include their life cycles, fumigants appropriate for their control and alternative control techniques. Because of the potential dangers inherent in the use of fumigant gases, the applicant shall demonstrate knowledge of the dangers involved and the safety precautions established by these regulations and by good operating practice.

(8) Public health. Persons requesting public health certification shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized and appropriate life cycles and habitats be understood as a basis for control strategy. These applicants shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal and drainage.

(9) Regulatory. Persons applying for certification in this category shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend

beyond that required by their immediate duties, since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.

(10) Demonstration and research:

(a) Persons demonstrating the safe and effective use of pesticides to other persons and the public shall meet comprehensive standards reflecting a broad spectrum of pesticide use. Many different pest related problem situations will be encountered in the course of activities associated with demonstration. Practical knowledge of problems, pests, and population levels occurring in each demonstration situation is also required. Further, such persons should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. In general, persons conducting demonstration pest control work shall possess a practical knowledge of all of the standards detailed in this regulation. In addition, they shall meet the specific standards required under subsections (1) through (10) as may be applicable to their particular activities.

(b) Persons conducting field research or method improvement work with pesticides shall be required to demonstrate knowledge of general and specific standards applicable to their particular activities, or alternatively, to meet the more inclusive requirements listed under this subsection.

Section 6. Aerial Certification. Persons desiring to apply restricted-use pesticides using aircraft shall obtain aerial certification in addition to certification in the appropriate category of pesticide use. Additional standards shall include the possession by aerial applicators of special knowledge of aerial application equipment and of particular expertise with regard to calibration of that equipment. Their knowledge shall extend to such areas as spray efficiency testing, field flight patterns, swath marking, turning procedures and subsequent considerations, awareness of obstacles and obstructions, and personal safety of pilot, flagman, and ground crew. Knowledge should also include information that is commonly on pre-flight checklists of spray personnel.

Section 7. License Examination. (1) General. The examination administered by the department for licenses to do business as pesticide applicators, pesticide operators, and public operators shall incorporate the certification requirements for the requested categories. A person obtaining a pesticide applicator, pesticide operator, or public operator license after the effective date of this regulation, shall be certified to purchase, use, or apply restricted-use pesticides in the categories for which the person was tested.

(2) Structural. The examinations administered by the department pursuant to KRS 217B.530 and 401 KAR 7:030 for licenses to do business as structural pest control applicators, structural pest control managers, structural fumigation applicators, and structural fumigation managers shall contain all the requirements for certification to apply restricted-use pesticides under this section. Should a person obtain a license to do business in one or more of the above categories, then that person shall be certified to purchase, use or apply restricted-use pesticides in the appropriate subcategory of industrial, institutional, structural, and health-related pest control.

Section 8. Certification Maintenance. To maintain certification, each person certified to purchase, use or apply restricted-use pesticides, shall, in any three (3) year period, receive two (2) continuing certification units approved by the department in the use and application of pesticides with the exception of seed treatment applicators, which requires one (1) continuing certification unit.

Section 9. Credentials. (1) When a person meets all the requirements to obtain a license to do business under KRS 217B.010 to 217B.260 or under KRS 217B.500 to 217B.585, the department shall issue that person a document signifying that the person is licensed to do business in the category for which a person qualifies.

(2) When a person meets all the requirements to obtain certification to purchase, use or apply restricted-use pesticides, then the department shall issue that person a document signifying that the person is certified to purchase, use or apply restricted-use pesticides in the categories for which the person qualifies.

(3) When a person qualifies for certification incident to qualification for a license to do business, then the department shall issue that person two (2) documents. One (1) document shall be the license to do business. The other document shall be the certification to purchase, use or apply restricted-use pesticides.

(4) A certification to purchase, use or apply restricted-use pesticides issued under this regulation is separate and distinct from any licenses to do business issued under KRS 217B.010 to 217B.260 or under KRS 217B.500 to 217B.585. A certification may be granted or denied, or modified, suspended, or revoked independent of the grant or denial, modification, suspension, or revocation of any license to do business. In a like manner, any license to do business may be modified, suspended, or revoked independent of the grant or denial, modification, suspension, or revocation of any certification.

C. FRANK HARSCHER, III, Secretary

ADOPTED: September 14, 1979

RECEIVED BY LRC: September 14, 1979 at 3:30 p.m.

PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, November 12, 1979, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 7:030. Commercial structural pest control and fumigation.

RELATES TO: KRS Chapter 217B

PURSUANT TO: KRS 13.082, 217B.050

NECESSITY AND FUNCTION: KRS 217B.050 requires the Department for Natural Resources and Environmental Protection to adopt rules and regulations relating to the use and application of pesticides. This regulation sets forth requirements applicable to commercial structural pest control and fumigation.

Section 1. Applicability. No person shall engage in commercial structural pest control or fumigation without first obtaining a license from the department. A person may apply for a license in one or more of the following categories:

(1) Commercial structural pest control applicator;
(2) Commercial structural pest control manager;
(3) Commercial structural fumigation applicator;
(4) Commercial structural fumigation manager.

Section 2. License Application. (1) All applications for applicator or manager licenses shall contain the following:

(a) Name and address;
(b) Date of birth;
(c) Social security number;
(d) Photograph;
(e) A statement that the applicant has never been convicted of fraud or misrepresentation;
(f) Home telephone number;
(g) Written verification of pesticide work experience;
(h) College transcripts where applicable.

(2) All applications for applicator or manager examinations shall be sworn to and notarized.

(3) All applications for applicator or manager licenses shall be postmarked thirty (30) days prior to the next scheduled testing date. Any application received after the thirty (30) day deadline shall be returned.

(4) Manager license examinations shall be given the second Tuesday of each month at a location specified by the department. If the second Tuesday falls on a holiday, the examination shall be given on the following Tuesday.

(5) The manager's license examination shall be timed and shall be completed within two (2) hours.

(6) Any false or misleading statements made in a license application shall be grounds to deny or revoke the license.

Section 3. License Renewal. (1) Each license shall expire on June 30 of each year.

(2) Failure to submit by July 1 of each year a completed renewal registration form along with a fee of $100 for each place of business maintained in Kentucky shall result in the lapse of said license.

(3) Any license holder who fails to submit a completed renewal registration form and the required fee by July 1 of each year, or whose license has been suspended or revoked, shall be required to take and pass a manager or applicator licensing examination before a new license may be issued.

(4) At the time of license renewal, each company shall submit to the department a list with the following information on each employee:

(a) Name, address, and home telephone number;
(b) Social security number;
(c) Job title.

(5) Within thirty (30) days of the addition or termination of an employee, the company must submit to the department the information required in subsection (4) for each new or terminated employee.

Section 4. Change of Address Notices. Each license holder shall be required to notify the department of any change of address within ten (10) days after such change has been made.

Section 5. Treatment for Wood-Destroying Organisms. Unless the structure is substandard, the following minimum standards shall apply: (1) Treatment measures taken for the preventative control of wood-destroying organisms shall be based upon the types of wood-destroying organisms determined to be present in the structure by an inspection. Treatment for the prevention of wood-destroying organisms shall be based on conditions conducive to infestation, relation to neighboring infestation or by the request of the customer.

(2) Termite treatment measures. The following minimum standards shall apply to the treatment of all structures for the control or prevention of termite infestations:

(a) Remove cellulose debris from beneath structures;
(b) Remove all accessible termite tubes from foundation walls, piers and supports;
(c) In structures with a crawl space, the applicator shall trench, rod or flood to apply approved termiticides to the soil adjacent to the inside and outside of foundation walls, piers and chimneys and other supports. The soil adjacent to the outside of structures with basements and supported slabs shall be treated with an approved termiticide by trenching and/or rodding;
(d) Drill and flood (at not more than eight (8) inch intervals) the cavities in hollow pillars, tile brick, concrete block, other building materials that have cavities, chimneys or any other structures likely to be penetrated by termites by injecting an approved termiticide in accordance with that pesticide's registered labeling. Drilling and flooding should be done above the top of the outside grade level where possible. If foundation walls are uncapped, flooding from the top is acceptable. Rubble stone foundations should be drilled and flooded at intervals of not more than sixteen (16) inches, where possible;
(e) Void, drill (at maximum of eighteen (18) inch intervals) or rod and treat structures, stoops, concrete slabs, patios or driveways that obstruct trenching or rodding of the soil adjacent to the foundation;
(f) In treating structures on a concrete slab on the ground, the soil beneath plumbing, pipes, passing through the slabs, bath trap, expansion joints and other like termite entry points shall be saturated with an approved termiticide by drilling, if necessary, and treating from above or by rodding beneath the slab at no more than eighteen (18) inch intervals;
(g) All the above standards apply to the treatment of structures with finished basements that have poured concrete floors. Poured concrete floors shall be treated according to the standards established for concrete slabs unless the applicator is expressly prohibited by the owner in writing from drilling the poured concrete floor;
(h) The selection and use of termiticides or any other chemicals used for control of wood-destroying organisms shall be in accordance with label instructions approved by the United States Environmental Protection Agency and registered with the department;
(i) Pretreatment of new construction will be carried out in accordance with the registered label instructions of the chemical used;

(3) Powderpost and old house borer treatment measures:

(a) No treatment for the control of powderpost beetle, old house borer infestations, or both shall be made for any structure unless actual notice of the proposed treatment is given to the department at least three (3) days prior to the start of treatment. Actual notice may be given by telephone provided that written confirmation is postmarked within one (1) day of the telephone call;
(b) Treatment for the control of powderpost beetle and/or old house borer infestations may be performed by

spraying or painting infested areas with a pesticide labeled for their control;

(c) Fumigation by licensed fumigators may be used to control powderpost beetle and/or old house borer infestations where other control measures have failed or are inappropriate;

(4) Requirements for prevention and control of wood-destroying fungi. The following are the minimum requirements for control of wood-destroying fungi in crawl space areas of buildings after the buildings have been constructed:

(a) Determine moisture content of joists, sills and subfloor of at least six (6) points in the building. Where moisture content readings above twenty (20) percent are obtained, determine the source of moisture. Wood which has been discolored by stain or mold fungi shall not be treated for decay fungi if its moisture content is less than twenty (20) percent.

(b) Where excess dampness from the soil under a building contributes to high moisture readings, the applicator shall install a vapor barrier over approximately seventy (70) percent of the soil; or install additional ventilation so that there is at least one (1) square foot of vent space per 150 square feet of crawl space area without a vapor barrier, or install vents to give cross ventilation with a vapor barrier; or improve drainage; or waterproof the foundations. One (1) or more of these measures shall be used as appropriate.

(c) The only situation where surface application of fungicides may be used in the control of existing decay problems is when rapid kill of surface fungi is requested. In such instances, moisture control techniques must be used in combination with chemical treatment.

Section 6. Inspections by the Department. At such times as may be necessary, at the discretion of the department, inspector(s) may examine properties treated or to be treated for termites and/or other structural pests for the purpose of determining compliance with KRS 217B.500 to 217B.585 and these regulations.

Section 7. Rodent Control. Since most rodenticides are poisonous to humans and domestic animals, care shall be exercised and precautionary steps taken to avoid accidental poisoning of human beings and domestic animals. Rodenticides shall be used only according to the label directions.

Section 8. Fumigation. (1) Fumigation crews. For purposes of safety, at least two (2) individuals shall compose a crew for the release of any fumigant or fumigants; and no fumigation operation shall be conducted unless and until at least two (2) individuals shall work jointly and concurrently in the release of a fumigant or fumigants. This subsection shall not apply to spot fumigation.

(2) Official notice of fumigation. Each license or certification holder, before performing general fumigation in any structure or enclosed space, must notify, in writing, the fire department and the police department having jurisdiction over the location where the fumigation operation is to be performed. This written information must be given to each fire department and police department no later than three (3) hours prior to the time set forth in the notice for the release of the fumigant. A shorter time for filing written notice of fumigation of vessels, aircraft, boxcars, truck and/or common carriers shall be permitted, and the time for such notification shall only be in advance of the fumigating operation. Such notice shall in each and every case give the following information:

(a) Location of structure or enclosed space to be fumigated as well as its character and use;

(b) The fumigant to be used;

(c) The date and time of release of fumigant and approximate exposure period;

(d) The name of the operator in charge, together with his day and night telephone numbers.

(3) If trucks, boxcars, and/or other common carriers are in transit during the fumigation operation, the carrier and the receiver must be notified that fumigation stated in this section has taken place. Other than the aforementioned carriers, this section shall not apply to spot fumigation.

(4) Structures to be vacant. Neither the structure to be fumigated, nor any part or parts thereof, shall be occupied by human beings or domestic animals during the period of fumigation. In addition, structures or enclosed spaces which are physically joined to or in contact with the structure to be fumigated shall not be occupied by human beings or domestic animals during the period of fumigation. It shall be the duty of the operator in charge, himself, to make a careful examination of all parts of the structure to be fumigated, and structures or enclosed spaces physically joined to or in contact with said structure, to verify that no human beings or domestic animals have remained therein, and that all necessary precautions have been undertaken to safeguard the lives and health of all persons occupying structures or enclosed spaces adjoining the structure in which fumigation operation is to be performed. For the purpose of this section, "operator in charge" means a person certified to apply fumigants and charged with the duty of overseeing the fumigation operation.

(5) Notice of warning must be served upon the occupants of the structure or enclosed space to be fumigated no later than three (3) hours in advance of any fumigation operation, by leaving said notice with a responsible person therein and if not present, by attaching same in a conspicuous manner on the entrance or entrances of such structures or enclosed space occupied by human beings.

(6) The operator in charge must make a personal inspection and examination of the structure or enclosed space to be fumigated.

(7) Danger signs. Prior to releasing the fumigant, suitable warning signs must be posted at the ground level on all doors or entrances as follows:

(Skull and Crossbones) Danger fumigation with (Name of Fumigant) (Skull and Crossbones)
Deadly poison
All persons are warned to keep away

Name of Fumigator_____
Address_____ Telephone_____
Operator in Charge_____
Day Phone_____Night Phone_____

Such signs must be printed in indelible red ink or insoluble paint on a white background. The words "danger" and "deadly poison" shall be in block letters two (2) inches high and all other letters in proportion.

(8) Final pre-fumigation inspection. Immediately before the fumigant is to be released, the operator in charge must then make a final inspection and shall ascertain, himself, the following:

(a) That all preparations have been completed;
(b) That no human beings or domestic animals are present within the structure or enclosed space to be fumigated, or in any adjacent structures or enclosed spaces that were to be vacated because of danger from the fumigation operation;
(c) That no open fires or open flames, pilot lights or oil lamps are burning;
(d) That all personnel engaged in the fumigation operation are outside the structure or enclosed space to be fumigated unless proper application of the fumigant requires personnel to be within the enclosed space at time of application;
(e) That all doors, windows and all other means of access have been locked, barred or guarded. All doors or other entrances which can be opened from the outside must be locked.

(9) Guards and watchmen. During the period of fumigation, and until the structure has been ventilated and declared safe, a capable, alert watchman, or guard, or watchmen and guards, shall remain on duty at the structure or enclosed space being fumigated. One (1) guard or watchman shall be considered sufficient for each fumigation operation unless, in the judgment of the operator in charge, the conditions and circumstances necessitate additional guards or watchmen. It shall be the duty of said individual(s) to prevent the entrance of unauthorized personnel into said structure or enclosed space during the exposure period and while the structure or enclosed space is being ventilated after the exposure period. For the purpose of this subsection, "unauthorized personnel" shall mean any individual or individuals not belonging to or a part of the fumigating crew performing the fumigation operation. Spot fumigation does not require a guard or watchman, unless deemed necessary in the judgment of the operator in charge.

(10) Declaring structure or enclosed space fumigated safe for reoccupancy. The operator in charge shall not permit or allow any unauthorized person to enter the structure or enclosed space fumigated until he has ascertained that it is safe for human occupancy.

(11) Spot fumigation. Spot fumigation may be performed by persons under the full time supervision of a person certified to apply fumigants. Spot fumigation may be performed without the posting of guards as required for general fumigation. This does not relieve the operator in charge from the duty to comply with all other safety precautions and requirements.

(12) The following pesticides shall not be considered fumigants:
(a) Paradichlorobenzene;
(b) Naphthalene;
(c) Calcium cyanide used as labeled to kill rodents in their burrows.

(13) The following procedures shall not be considered fumigation operations where non-restricted-use pesticides are used according to label directions:
(a) Aerosol dispersions;
(b) Any equipment or device which produces a fog, smoke or mist.

Section 9. Termite, General Pest, and Fumigation Licenses. (1) Persons holding termite, general pest, or fumigation licenses issued under the now-repealed sections of KRS Chapter 249, and renewed under Section 3, may continue to do business in those categories of pest control for which they were licensed under KRS Chapter 249. That is, a person holding a termite license or renewal may treat buildings for wood-destroying organisms, a person holding a general pest license or renewal may continue to treat for general pests, and a person holding a fumigation license or renewal may treat for pests using poison gas. A termite, general pest, or fumigation license issued under KRS Chapter 249 and renewed under Section 3 is not a manager's or applicator's license and does not entitle the holder to engage in business in all the categories that a manager or applicator may engage in business.

(2) Licenses issued under KRS Chapter 249 must be renewed under Section 3 by June 30 of each year and are subject to all the terms and conditions of other licenses issued under this regulation. A license issued under KRS Chapter 249 and renewed under Section 3 may be modified, suspended, or revoked for the same reasons, and using the same procedures that a manager's or applicator's license may be modified, suspended, or revoked. A person holding a license issued under KRS Chapter 249 and renewed under Section 3 must meet the application standards and obey the requirements for contracting, recordkeeping, and reporting, established by statute and by 401 KAR 7:010 for persons licensed as applicators or managers.

(3) A person licensed under KRS Chapter 249 for termite, fumigation, or general pest control is, by reason of KRS 217B.180(3), certified to purchase or use restricted-use pesticides as a matter of state law. This does not relieve persons holding termite, fumigation, or general pest control licenses from obtaining certification under the federal law as contained in the Federal Insecticides, Fungicide, and Rodenticide Act of 1972 as amended. The certification of persons certified under KRS 217B.180(3) may be modified, suspended, or revoked pursuant to 401 KAR 7:010. To maintain certification, persons certified pursuant to KRS 217B.180(3) shall meet the requirements of 401 KAR 7:020.

C. FRANK HARSCHER, III, Secretary
ADOPTED: September 14, 1979
RECEIVED BY LRC: September 14, 1979 at 3:30 p.m.
PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, November 12, 1979, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupation Safety and Health

803 KAR 2:027. Adoption of 29 CFR Parts 1915 to 1919, maritime employment.

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established

federal standards and national consensus standards is also given to the Board. The following regulations contain those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of Maritime employment.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR 1915, 1916, 1917, 1918, and 1919, the Occupational Safety and Health Standards for Maritime employment, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the September 1977 edition, copyright date 1977. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR 1915.1, 1916.1, 1917.1, 1918.1, and 1919.1 shall read as follows: "The provisions of this regulation adopt and extend the applicability of established Federal Maritime Standards contained in 29 CFR 1915, 1916, 1917, 1918, and 1919 to all Maritime employers, Maritime employees, and places of Maritime employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1915.2(b), 1916.2(b), 1917.2(b), and 1918.2(b) "Secretary" is changed to read: "Commissioner" means the Commissioner of Labor, Kentucky Department of Labor, Commonwealth of Kentucky, or his authorized representative.

(3) 29 CFR 1919.2(d) "Assistant Secretary" is changed to read: "Commissioner" means the Commissioner of Labor, Kentucky Department of Labor, Commonwealth of Kentucky, or his authorized representative.

(4) 29 CFR 1919.2(e) "Administration" is changed to read: "Program" means the Kentucky Occupational Safety and Health Program, Frankfort, Kentucky.

(5) An employer, required under 29 CFR 1915, 1916, 1917, 1918 or 1919 to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601.

JAMES R. YOCOM, Commissioner
ADOPTED: July 26, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: September 10, 1979 at 12 noon.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Banking and Securities

808 KAR 7:010. Variable-rate mortgages.

RELATES TO: KRS 289.441
PURSUANT TO: KRS 289.702, 289.705
NECESSITY AND FUNCTION: KRS 289.705 permits the Commissioner of Banking to prescribe regulations permitting state-chartered savings and loan associations to make any loans which such associations could make or do if they were operating as federal savings and loan associations at the time such authority is granted, and to place state-chartered savings and loan associations on a substantial, competitive, operating parity with federal savings and loan associations. This regulation permits state-chartered savings and loan associations to make variable-rate mortgages in competition with federal savings and loan associations pursuant to Section 545.6-2(c) of the Federal Regulations for federal savings and loan associations.

Section 1. Alternative Mortgage Instruments; General. State-chartered savings and loan associations making real estate loans pursuant to KRS 289.441 may use alternative mortgage instruments described in this regulation, which allow certain payment and other provisions different from those required in KRS 289.441. A state-chartered savings and loan association using an alternative mortgage instrument shall obtain and retain in the loan application file a certification signed by the prospective borrower indicating the borrower has received the disclosure materials specified in this regulation before electing to take the alternative mortgage instrument.

Section 2. Variable-rate Mortgage. (1) Description. The interest rate of this instrument is tied to an index; thus, actual future payments are not known at the time of loan origination. Except as provided in Section 2, subsection (6), interest rates are subject to adjustment every year.

(2) Authorization:

(a) General. A state-chartered savings and loan association may make, purchase, or participate in variable-rate mortgage loans on real estate if the loans comply with the provisions of this regulation.

(b) Percentage-of-loans limitation. Not more than fifty (50) percent of state-chartered savings and loan association's home-mortgage loans by dollar amount made or purchased in any calendar year shall be in variable-rate mortgages.

(c) "Sunset" provision. Authority to invest in variable-rate mortgages under this regulation will cease as of December 31, 1982, unless renewed or rescinded at an earlier date by the commissioner.

(3) Index: State-chartered savings and loan associations shall use the latest index of national cost of funds to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, as computed by the board and published in the Federal Home Loan Bank Board Journal under the designation "Average Costs of Funds to FSLIC Insured Savings and Loan Associations, All Districts."

(4) Interest-rate adjustments:

(a) Frequency; grace period. Interest-rate adjustments (and loan payment changes resulting from them) may not be made more than once a year, and the first adjustment may not occur less than one (1) year after the date of the first regular monthly payment.

(b) Calculation and timing of adjustments. The state-chartered savings and loan association shall specify the following in the mortgage contract:

1. The month when rate review will take place, basing the new calculation on the most recent index information then available;
2. The date when notification of any adjustment will be made to the borrower; and
3. The annual monthly payment date when any such adjustment shall take effect.

(c) Minimum adjustments. The smallest adjustment (up or down) shall be one-tenth of one percent (0.10%).

(d) Maximum adjustments. The maximum amount of rate adjustments (up or down) shall be one-half of one percent (0.5%) a year, with a maximum net increase of two and one-half (2.5) percent over the life of the loan. Downward adjustments must be made, but increases are at the lender's option. Changes in the index rate which are not taken (either at lender's option in the case of increases or because they are too large, i.e., less than one-tenth of one percent (0.10%) or over one-half of one percent (0.5%) in a given year may be accumulated by the lender in the case of increases, and must be accumulated in the case of decreases, and taken at a later time (but never more than one-half of one percent (0.5%) per year), or used to offset other changes.

(d) Actions relating to rate increases. Upon notification of an increase, the borrower shall have the following options:

1. Not respond to the notice; payments will be adjusted upward to reflect higher interest rate;
2. Request that loan maturity be extended up to a maximum of one-third (⅓) of the original loan term (but not to such an extent that monthly loan payments would be reduced below the original loan payment); or
3. Within ninety (90) days of such notification, repay the loan, either in full or in part, without penalty if the new rate is above the initial loan rate.

(e) Actions relating to rate decreases. Rate decreases shall be applied first to reduction of extended loan maturity (but not below original maturity) and then to reduction of monthly payments; however, loan terms shall not be reduced to such an extent that monthly payments would be increased.

(f) Notification requirements. The borrower shall receive written notification of any rate adjustment at least one (1) month before the date the new rate will take effect. The notification shall include:

1. Current and new rates;
2. Old and new index rates;
3. Accumulated but unused rate changes;
4. Current monthly payment and remaining maturity;
5. For increases, a description of borrower options, including the new payment and maturity if the loan is extended to the maximum; and
6. For decreases, a description of the way the decrease will be applied.

(5) Disclosure. Each prospective borrower shall receive materials explaining in reasonably simple terms the type of variable-rate mortgage offered and a comparable standard mortgage instrument (with a fixed interest rate, level payments, and full amortization). Such materials shall include:

(a) A side-by-side comparison of differing interest rates and other terms;

(b) Payment schedules for both types of instruments, including a "worst case" schedule for the variable-rate mortgage showing every maximum increase at the time it could first occur, the highest possible payment during the loan term, and the total payment in dollars over the full term of each loan (with a notation stating that the total payment for the VRM would be greater in the event of loan extension). If an association includes a payment schedule in its disclosure materials which indicates a decrease in interest rates or a projection in contract to the "worst case" schedule required to be shown pursuant to this provision, it must include a documented ten (10) year history of the national cost-of-funds index;

(c) Information regarding the index used;

(d) A description of borrower's options in the event of an interest-rate increase;

(e) A statement, prominently displayed, that borrowers have the option to elect a standard mortgage instrument; and

(f) A statement that if the prospective borrower has questions regarding the disclosures, the borrower may contact _____ (title, telephone number, and address of officer) at the Federal Home Loan Bank of _____.

(6) Multi-year variable-rate mortgage. Variable-rate mortgages complying with all of the requirements of this regulation may be made with contractual adjustment periods exceeding one (1) year, in multiples of twelve (12) months. Index-rate changes are accumulated over the period, but the increase or decrease made at adjustment time may not exceed the specified maximum annual percent multiplied by the number of years in the adjustment period. Maximum increase is two and one-half (2.5) percent over the life of the loan; there is no maximum decrease. The minimum period for prepayment without penalty shall be 120 days after notification for these instruments.

JOHN L. WILLIAMS, JR., Commissioner
ADOPTED: September 7, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: September 14, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: John L. Williams, Jr., Commissioner, Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention

815 KAR 30:050. Fireworks; approval of exempted novelties.

RELATES TO: KRS Chapters 227, 438
PURSUANT TO: KRS 13.082, 227.300, 438.143
NECESSITY AND FUNCTION: KRS 438.143 requires the State Fire Marshal to review samples of certain novelties exempted from the state fireworks law, approve their compliance with the provisions of KRS 438.100 and issue a certificate of compliance before the sale, offering for sale, possession, storing or use within the state of those exempted novelties. This regulation establishes the requirements necessary for submission and approval of those novelties including enforcement provisions.

Section 1. Submission of Samples and Analysis for Approval by Wholesalers/Distributors. (1) Prior to the sale, offering for sale, possessing, storing or use within this state of any gold star producing sparklers which contain no magnesium or chlorate, toy snakes which contain no mercury, and smoke novelties and party novelties which contain less than twenty-five hundredths (.25) of a grain of explosive mixture, sufficient samples for inspection thereof shall be submitted by the wholesaler or distributor to the

State Fire Marshal, U.S. 127 South, Frankfort, Kentucky 40601, for approval, along with a laboratory report from an approved testing laboratory designating the chemical analysis of each sample item submitted.

(2) The laboratory report of analysis shall specify the quantity of magnesium or chlorate in gold star producing sparklers, the quantity of mercury in toy snakes, and the quantity of explosive mixture or compound in smoke novelties and party novelties, the name given to the item submitted and the name of the manufacturer.

Section 2. Approval or Denial of Certificate of Compliance; Appeal. (1) Within ten (10) days after receiving the samples and laboratory analysis report, the State Fire Marshal or his authorized designee shall determine if the submitted samples comply with KRS 438.100. If so, he shall approve the item and issue a certificate of compliance to the wholesaler or distributor who submitted the samples and report. No items listed in Section 1 shall be sold, offered for sale, possessed, stored or used in this state without such approval and certificate, together with the required label. No other novelties or fireworks shall be sold or offered for sale in this state.

(2) If the samples do not comply with KRS 438.100, the State Fire Marshal shall notify the wholesaler or distributor of the reasons for his refusal to issue a certificate of compliance. Said refusal may be appealed by requesting a hearing before the State Fire Marshal or his appointed hearing officer as authorized by KRS Chapter 227.

Section 3. Labeling Shipping Cartons, Packages and Individual Items. (1) The certificate of compliance shall bear a designation consisting of the letters "SFM" and one or more consecutive arabic numerals. All shipping cases or cartons containing any item listed in Section 1 that are sold, to be sold, offered for sale, possessed, stored or used in Kentucky shall have the name of the item conspicuously printed on it, together with the SFM number designating the State Fire Marshal's approval. The item, name and SFM approval number shall be positioned on all shipping cases or cartons so as to be readily recognized by law enforcement authorities and the general public.

(2) All packages containing unlabeled items, all items shipped, or all items to be sold individually shall have the SFM number designating the State Fire Marshal's approval indelibly and legibly imprinted on them.

Section 4. Penalties; Enforcement. (1) Willful failure of any assembler, manufacturer, wholesaler or distributor to obtain the certificate of compliance, or properly label shipping cases or cartons, packages, or individual items, as required in this regulation shall subject such person, partnership, or corporation to suspension or revocation of the certificate of compliance.

(2) Any person, partnership or corporation who shall sell at retail, or offer, advertise or expose for sale at retail or use or explode any prohibited fireworks; any person, partnership or corporation who shall sell at retail, or offer, advertise or expose for sale at retail any device containing explosive substance without the shipping cartons, packages and individual items properly labeled in accordance with this regulation; or any person, partnership or corporation who knowingly induce another to violate any provision of this regulation, upon conviction thereof, shall be fined not less than twenty-five dollars ($25) nor more than $1,000, or confined in the county jail for not more than sixty (60) days, or both. Each day such violation exists shall, in the discretion of the court, be considered a separate offense.

(3) The State Fire Marshal or his authorized designee may exercise any power or authority he has under KRS Chapter 227 that he deems necessary or desirable in order to properly enforce and administer this regulation.

CARL F. SMOAK, Acting Commissioner
ADOPTED: September 7, 1979
APPROVED: DONALD N. RHODY, Deputy Secretary
RECEIVED BY LRC: September 11, 1979 at 12:15 p.m.
PUBLIC HEARING: A public hearing will be held at 10 a.m., EST, on November 1, 1979 in the Conference Room of the Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 45:020. Commission meetings and proceedings.

RELATES TO: KRS 95A.040, 95A.050(1)
PURSUANT TO: KRS 13.082, 95A.050(1), (3)
NECESSITY AND FUNCTION: This regulation sets forth definitions to be used in this chapter as well as rules and procedures governing the manner and form of meetings and proceedings initiated and conducted by the commission.

Section 1. Definitions. As used in this chapter unless the context requires otherwise: (1) "Commission" means the Commission on Fire Protection Personnel Standard and Education.

(2) "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.

(3) "Department" means the Department of Housing, Buildings and Construction.

(4) "Division" means the Division of Fire Prevention, State Fire Marshal's Office.

(5) "Fire department" means and includes a fire department organized under KRS Chapter 75, a fire protection district, a volunteer fire department, or a municipal, county or urban-government fire department.

(6) "Fire protection personnel" means and includes, but is not limited to, any employee of a "fire department" as defined in subsection (5) above, whether paid or unpaid, who is engaged in: fire prevention; inspecting buildings for compliance with building, fire, energy and life-safety codes and the Architectural Barriers Act; fire suppression; fire and arson investigation; fire-related emergency medical and rescue work; and other allied fields.

(7) "Fire protection instructor" or "fire service training officer" means any person certified, pursuant to KRS 95A.040(2)(b) as qualified to instruct fire protection personnel.

Section 2. Meetings, Procedures, Powers. (1) Organizational meetings; election of officials; ex officio members. The commission shall elect a chairman, vice-chairman and secretary from among the appointed members at its first meeting and thereafter from succeeding new appoint-

ments, to fill regular terms for such periods as it may determine are proper. Five (5) members shall constitute a quorum. The Governor shall summon the commission to its first meeting. The Superintendent of Public Instruction and the State Fire Marshal shall serve as ex officio members of the commission and they may delegate that function to an employee of their department.

(2) Meetings; how called. The commission may meet at such times and places in the State of Kentucky as it deems proper. Meetings shall be called by the chairman upon his own motion, or upon written request of five (5) members, and written notice thereof shall be given to all members not less than ten (10) days in advance.

(3) Voting on reports, recommendations, and contracts. Whenever the commission is requested, or decides, to recommend regulations to the commissioner pursuant to KRS 95A.050(3) to establish procedures for certification that training and education programs meet minimum standards pursuant to KRS 95A.040(2)(a); to enter into contracts with other agencies or persons pursuant to KRS 95A.040(2); to recommend to the commissioner regulations prescribing the qualifications and certification procedures for fire protection instructors pursuant to KRS 95A.040(2)(b); or to make studies, recommendations and reports to the Governor or legislature pursuant to KRS 95A.040(1), at least six (6) appointed members of the commission shall have cast affirmative votes for any such decision or action.

(4) Public meetings. It shall be the policy of the commission that all its proceedings shall be open to the public and to the press and other news media representatives, unless forbidden by law. This policy likewise governs the proceedings of any subcommittee of the commission.

(5) Parliamentary rules. The commission shall adopt from time to time such rules for the orderly conduct of commission or subcommittee meetings as they may deem proper.

(6) Complaints; advisory opinions. At any regular meeting, the commission may receive complaints, render decisions, deliver advisory opinions, or authorize or request studies and reports by personnel in the State Fire Marshal's Office for any of the purposes set forth in KRS 95A.040, 95A.050, and any regulation adopted thereunder.

(7) Subcommittees. The commission may establish and govern such subcommittees of its members as it may deem advisable or desirable for the orderly conduct of its business.

Section 3. Administrative Support for Commission. (1) Staff services. Personnel of the division shall provide administrative and technical services to the commission as the commissioner deems necessary or desirable, upon the request of the commission.

(2) Training services. The commission may contract with the Department for Occupational Education to develop curricula and training delivery plans, in conjunction with that department's advisory committee, for the entire range of local fire department duties, technology and activities. In addition, the Department for Occupational Education may furnish school facilities in and among the vocational and technical schools under its jurisdiction for such training. The Department for Occupational Education may be awarded a sum from the commission's budgeted funds in order to pay the salary of a clerk to assist the Department for Occupational Education with maintenance of records and files and the performance of other clerical tasks associated with training of fire protection personnel and instructors and the certification of fire protection personnel, instructors and training programs.

(3) Codes enforcement. The commission may contract with the division to provide training to fire protection personnel in building, fire and life-safety codes enforcement, energy code enforcement, Architectural Barriers Act enforcement, and the legal and administrative aspects of fire safety and building inspections.

Section 4. Coordination Among Agencies. Upon approval by the commission, the Department for Occupational Education may provide on-job field training and classroom training of instructors and fire protection personnel and may be reimbursed by the commission for such functions as may be permitted by law. Jefferson Community College, Northern Kentucky University, Eastern Kentucky University, and any other qualified person or agency, may provide faculty or educational services, lodging, meals or other administrative support for the training of instructors and fire protection personnel, and may be reimbursed therefore in accordance with a contract entered into by the commissioner pursuant to KRS 95A.050(2) and in furtherance of any purpose assigned by the law to the commissioner, the department, or the commission relating to the training or provision of technical assistance to fire protection personnel.

CARL SMOAK, Acting Commissioner
ADOPTED: August 29, 1979
APPROVED: JACK HALL, Acting Secretary
RECEIVED BY LRC: August 29, 1979 at 9:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Bob G. Estep, State Fire Marshal, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 45:030. Fire protection instructors' qualifications and certification.

RELATES TO: KRS 95A.040(2)(b)
PURSUANT TO: KRS 13.082, 95A.050(3)
NECESSITY AND FUNCTION: KRS 95.040(b) authorizes the commission to certify fire protection instructors. This regulation sets forth the prerequisite for and justification of those instructors.

Section 1. Definitions. The definitions of terms set forth in 815 KAR 45:020 shall apply to this regulation, unless otherwise stated.

Section 2. Requirements for Certification of Fire Protection Instructors. Any employee of a fire department or the State Fire Marshal's Office may be certified by the commission as a fire protection instructor if satisfactory written evidence is provided to the commission that he or she:

(1) Holds a valid teaching certificate issued by the Kentucky Department of Education;

(2) Is a full-time instructor or other faculty member of an institution of higher education teaching in a fire science or fire technology curriculum;

(3) Is a chief training officer, drill master or assistant

drill master in a fire department who was serving in such capacity as of July 1, 1978 and was still on active service in such capacity as of January 1, 1979.

(4) Is presently certified as an instructor by the commission or by the Department for Occupational Education who was serving in such capacity as of July 1, 1978 and was still on active service in such capacity as of January 1, 1979;

(5) Has successfully completed a fire service instructor training course meeting the teaching-level performance standards set forth in Section 4 and conducted by the Department for Occupational Education, any person certified under subsections (1) and (2) of this section, or any fire service training officer qualified under NFPA Standard No. 1041, or the educational methodology instructor's handbook published by the National Fire Academy; or

(6) Has successfully completed any college or university courses in instructional methodology specified and approved by the commission as substantially meeting the instructor performance standards set forth in Section 4.

Section 3. Certification Term, Revocation, Renewal. (1) Certification of an instructor shall be made for a period of five (5) years, unless the commission determines sooner that the certification should be revoked.

(2) The commission may revoke a certification if it finds, after giving the holder an opportunity to be heard, that there was a material misstatement or misrepresentation in any document furnished the commission to obtain the issuance or renewal of a certification, that the holder has not engaged in fire service training and instruction activities for one (1) year, or that the holder has not been in active service in any fire department for a period exceeding six (6) months.

(3) The commission may issue a five (5) year renewal certification for any instructor who continues to meet the requirements of Section 2.

Section 4. Instructor Performance Standards. (1) Any person who successfully completes a fire service instructor training course or courses that substantially meets the teaching-level performance standards set forth in this section and that was conducted by any college or university, or by any person or group listed in Section 2(5) may be certified as a fire protection instructor by the commission.

(2) These standards are based on the National Fire Protection Association Standard N. 1041, "Standard for Fire Service Instructor Qualifications." This standard was developed by the Joint Council of National Fire Service Organizations-National Professional Qualifications Board for the Fire Service, and adopted by the National Fire Protection Association on May 19, 1976. The standard identifies performance objectives for four (4) levels of fire service instructor responsibility: (i) teaching, (ii) program material development; (iii) instructional staff and program supervision, and (iv) training program management. The state's instructor training standards are focused on the first, or teaching, level identified in Standard No. 1041. The commission has reviewed NFPA, Standard No. 1041, and has identified the following key objectives and standards to be met in an approved instructor training program.

(3) Communications:

(a) The instructor shall demonstrate ability to speak extemporaneously, from notes, and from a prepared lesson outline in an easily understood, conversational manner that has the following characteristics: (i) a pleasing, forceful and clear voice that is effectively pitched and well-modulated; (ii) speech that is reasonably free from language errors, with efforts directed towards correct pronunciation and enunciation; and (iii) no personal mannerisms that materially detract from the teaching effort.

(b) The instructor shall describe how to listen to a speaker in order to gain the most information from the presentation.

(4) Concepts of learning:

(a) The instructor shall explain how the following factors influence the teaching-learning process: (i) The instructor's experience, attitude, knowledge, personal philosophy, and teaching ability; (ii) The student's personality, attitude, experience, adaptability, education, and needs; (iii) The instructional materials type, quality, and validity; and (iv) The physical environment of the classroom and drill ground.

(b) The instructor shall describe some of the basic laws that govern the learning process. For example: The law of readiness; the law of effect; and the law of exercise.

(c) The instructor shall demonstrate knowledge of the learning process by explaining the following statements: (i) There is considerable value in involving more than one (1) of the physical senses in the teaching effort. (ii) There is value in teaching only useful information and skills. (iii) It is important for an instructor to keep students fully informed of their progress. (iv) Fatigue and other factors influence a person's ability to learn. (v) Motivation plays an extremely important role in learning.

(5) Human factors in the teaching-learning environment. Given a list of characteristics, the instructor shall identify and describe those that typify a superior instructor and a poor instructor.

(6) Methods of teaching. The instructor shall describe each of the following methods of teaching, explaining when each method should be used and describing the relative value of each method to a fire service instructional activity: the demonstration method; the illustration method; the lecture method; the discussion method; and the conference method.

(7) Instructional materials. The instructor shall demonstrate ability to properly position, make ready, and operate the audio-visual equipment, teaching aids and demonstration devices generally employed in training programs conducted by the authority having jurisdiction, including the following:

(a) Audio-visual equipment: overhead projector; slide projector; motion picture film projector; and portable projection screen.

(b) Projectable instructional materials: transparencies; slides; and motion picture film.

(c) Nonprojectable instructional materials: chalkboard; duplicated materials; diagrams; charts; models; and mock-ups.

(8) Organizing the learning environment:

(a) The instructor shall demonstrate the procedure for creating an optimum learning environment by organizing a classroom or other indoor facility with regard to: freedom from distraction; adequate lighting; noise control; heating, cooking and ventilation; seating; use of audio-visual equipment and teaching aids; and use of existing classroom facilities such as the chalkboard and bulletin board.

(b) The instructor shall demonstrate the procedure for creating an optimum learning environment by organizing a drillground or other outdoor facility with regard for: audible and visual distractions; note-taking limitations; visual aid limitations; ability for learners to see and hear all of the instructional effort; and inclement weather.

(9) The lesson plan. The instructor shall demonstrate comprehension of an approved lesson plan by identifying and explaining the following components of the plan: job title or topic; level of instruction; student performance objectives; materials needed; references; motivational step; presentation step; application step; lesson summary; evaluation step; and assignment.

(10) The teaching technique: The instructor, given the assignment to teach a fire service subject to fire service personnel, shall demonstrate ability to effect changes in student behavior by utilizing a prepared lesson plan and a technique that employs at least the following four (4) steps: preparation (motivation); presentation; application; and testing.

(11) Performance evaluation:

(a) The instructor shall demonstrate the procedure for evaluating self-performance during an instructional activity, using a check list or other approved form.

(b) The instructor shall demonstrate ability to determine from test grades and other evaluative procedures the probable causes for failure of students to meet certain performance objectives, such as lesson plan deficiency, lack of instructional materials, deficient testing procedures, invalid tests, problems with class discipline, and substandard instructor or student performance, and the instructor shall describe the procedure for submitting a report on deficiencies to higher authority.

Section 5. Methods of Instruction Course. (1) The required Methods of Instruction (MOI) Course shall encompass seventeen (17) participant contact hours, and will cover the following topics:

Proposed Methods of Instruction (MOI) Course Content

Topic	Student Hours	Instructor Hours
Communication	2	2
Teaching/Learning Process	4	4
Methods of Instruction	4	4
Instructional Materials	3	3
Lesson Planning	3	3
Evaluation and Testing	2	2
Practice Teaching Exercises	2	10
Total Hours	20	28

(2) The course is based on materials developed by the National Fire Academy. The MOI Course content is correlated with the National Fire Academy Educational Methodology 1 Course outline and the NFPA Standard No. 1041 objectives set forth in Section 4 as follows:

NFPA 1041 Objectives	EMI Lesson	
Section 4(3)	12, 13	Communication
Section 4(4)(a)	3, 10	Teaching/Learning Process
Section 4(4)(b)	3	Teaching/Learning Process
Section 4(4)(c)	3, 10 Throughout	Teaching/Learning Process
Section 4(5)	Throughout	Teaching/Learning Process
Section 4(6)	6	Method of Instruction
Section 4(7)	7, 8	Instructional Materials
Section 4(8)	10, 6	Teaching/Learning Process
Section 4(9)	5, 9	Lesson Planning
Section 4(10)	3, 10	Methods of Instruction
Section 4(11)	10, 16, 17	Testing and Evaluation
All Objectives	14, 15, 18, 19	Practice Teaching

CARL SMOAK, Acting Commissioner
ADOPTED: August 29, 1979
APPROVED: JACK HALL, Acting Secretary
RECEIVED BY LRC: August 29, 1979 at 9:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Bob G. Estep, State Fire Marshal, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Administrative Services
Fiscal Services

900 KAR 1:005. Social security reports.

RELATES TO: KRS 61.490
PURSUANT TO: KRS 61.490, 194.050
NECESSITY AND FUNCTION: The state agency for social security finds it necessary, due to federal regulation, to set the due dates for social security contributions and quarterly reports for all state agencies and political subdivisions.

Section 1. The due date for social security contributions, to be filed by all state agencies and political subdivisions, shall be on or before the fifth (5th) day of the month next following the close of the month.

Section 2. The due date for the quarterly report of wages paid, to be filed by all state agencies and political subdivisions, shall be the tenth (10th) day of the month next following the close of the calendar quarter.

HOWARD C. LAWSON, JR., Executive Director
PETER D. CONN, Secretary
ADOPTED: August 22, 1979
RECEIVED BY LRC: August 23, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:061. Minocycline hydrochloride.

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 Minocycline Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Minocycline Hydrochloride Syrup Pharmaceutical Products. The following Minocycline Hydrochloride syrup pharmaceutical products are determined to be therapeutically equivalent, in each respective

dosage: Minocycline Hydrochloride 50 mg/5 ml. Syrup Form:
(1) Minocin: Lederle Laboratories;
(2) Vectrin: Parke-Davis and Company.

Section 2. Minocycline Hydrochloride Capsule Pharmaceutical Products. The following Minocycline Hydrochloride capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Minocycline Hydrochloride 50 mg. Capsule Form:
(a) Minocin: Lederle Laboratories;
(b) Vectrin: Parke-Davis and Company.
(2) Minocycline Hydrochloride 100 mg. Capsule Form:
(a) Minocin: Lederle Laboratories;
(b) Vectrin: Parke-Davis and Company.

E. C. SEELEY, M.D., Chairperson
ADOPTED: August 28, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services

902 KAR 100:017. Calibration requirements for teletherapy licensees.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)
PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.840 to regulate the possession or use of any source of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. The purpose of this regulation is to specify the calibration requirements for teletherapy licensees.

Section 1. Applicability. This regulation establishes calibration requirements for all teletherapy licensees.

Section 2. Requirements for Full Calibration Measurements of Teletherapy Units. Any licensee authorized under these regulations to use teletherapy units for treating humans shall cause full calibration measurements to be performed on each teletherapy unit:
(1) Prior to the first use of the unit for treating humans;
(2) Prior to treating humans:
(a) Whenever spot-check measurements indicate that the output value differs by more than five (5) percent from the value obtained at the last full calibration corrected mathematically for physical decay;
(b) Following replacement of the radiation source or following reinstallation of the teletherapy unit in a new location;
(c) Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
(3) At intervals not exceeding one (1) year.
(4) Full calibration measurements required by this section shall include determination of:
(a) The exposure rate or dose rate to an accuracy within plus or minus three (3) percent for the range of field sizes and for the range of distances (or for the axis distance) used in radiation therapy;
(b) The congruence between the radiation field and the field indicated by the light beam localizing device;
(c) The uniformity of the radiation field and its dependence upon the orientation of the useful beam;
(d) Timer accuracy; and
(e) The accuracy of all distance measuring devices used for treating humans.
(5) Full calibration measurements shall be made in accordance with the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine, "Physics in Medicine and Biology," Volume 16, No. 3, 1971, pp. 379-396, filed herein by reference.
(6) The exposure rate or dose rate values determined in this section shall be corrected mathematically for physical decay for intervals not exceeding one (1) month.
(7) Full calibration measurements required by this section and physical decay corrections required by this section shall be performed by an expert qualified by training and experience in accordance with these regulations.

Section 3. Requirements for Periodic Spot-Check Measurements of Teletherapy Units. (1) Any licensee authorized to use teletherapy units for treating humans shall cause spot-check measurements to be performed on each teletherapy unit at intervals not exceeding one (1) month.
(2) Spot-check measurements required by this section shall include determination of:
(a) Timer accuracy;
(b) The congruence between the radiation field and the field indicated by the light beam localizing device;
(c) The accuracy of all distance measuring devices used for treating humans;
(d) The exposure rate, dose rate, or a quantity relating in a known manner to these rates for one (1) typical set of operating conditions; and
(e) The difference between the measurement made in this section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).
(3) Spot-check measurements required by this section shall be performed in accordance with procedures established by an expert qualified by training and experience in accordance with these regulations. A qualified expert need not actually perform the spot-check measurements. If a qualified expert does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a qualified expert within fifteen (15) days.

Section 4. Requirements for Calibration of Instruments Used for Full Calibration and Spot-Check Measurements. (1) Full calibration measurements required shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a regional calibration laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous two (2) years and after any servicing that may have affected system calibration.

(2) Spot-check measurements required shall be performed using a dosimetry system that has been calibrated in accordance with subsection (1) of this section. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with subsection (1) of this section. This alternative calibration method shall have been performed within the previous one (1) year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for calibration measurements.

Section 5. Minimum Requirements for Qualified Expert for Teletherapy Calibrations. The licensee shall determine if a person is an expert qualified by training and experience to calibrate a teletherapy unit and establish procedures for and review the results of spot-check measurements. The licensee shall determine that the qualified expert:

(1) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, roentgen-ray and gamma-ray physics, or x-ray and radium physics; or

(2) Has the following minimum training and experience:

(a) A master's or doctor's degree in physics, biophysics, radiological physics or health physics;

(b) One (1) year of full-time training in therapeutic radiological physics; and

(c) One (1) year of full-time experience in a radiotherapy facility including personal calibration and spot-check of at least one (1) teletherapy unit.

(3) Licensees that have their teletherapy units calibrated by persons who do not meet these criteria for minimum training and experience may request a license amendment excepting them from the requirements of this section. The request shall include the name of the proposed qualified expert, a description of his training and experience including information similar to that specified in subsection (2) of this section, reports of at least one (1) calibration and spot-check program based on measurements personally made by the proposed expert within the last ten (10) years.

Section 6. Records. The licensee shall maintain, for inspection by the department, records of the measurements, tests, corrective actions, and instrument calibrations, and records of the licensee's evaluation of the qualified expert's training and experience.

(1) Records of full calibration measurements and calibration of the instruments used to make these measurements shall be preserved for five (5) years after completion of the full calibration.

(2) Records of spot-check measurements and corrective actions, and calibration of instruments used to make spot-check measurements, shall be preserved for two (2) years after completion of the spot-check measurements and corrective actions.

(3) Records of the licensee's evaluation of the qualified expert's training and experience shall be preserved for five (5) years after the qualified expert's last performance of a full calibration on the licensee's teletherapy unit.

ROBERT SLATON, Commissioner

ADOPTED: June 11, 1979

APPROVED: PETER D. CONN, Secretary

RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services

902 KAR 100:051. Specific licenses for human use.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)

PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.844

NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.840 to regulate the possession or use of any source of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. The purpose of this regulation is to provide for the issuance of specific licenses for the possession, use and transfer of radioactive material for human use.

Section 1. Applicability. This regulation establishes requirements for specific licensees to possess, use or transfer radioactive material for human uses.

Section 2. Specific License Requirements for Human Use of Radioactive Material in Institutions. An application by an institution for a specific license for human use of radioactive material shall be issued only if:

(1) The applicant satisfies the general requirements specified in these regulations;

(2) The applicant has appointed a radiation safety committee to coordinate the use of radioactive material throughout that institution and to maintain surveillance over the institution's radiation safety program. Membership of the committee shall include a specialist (where applicable a physician) from each department where radioactive material is used, a represnetative of the nursing staff, a representative of the institution's management, and a person trained in radiation safety.

(3) The applicant possesses adequate facilities for the clinical care of patients;

(4) The physician designated on the application as the individual user has substantial experience in the proposed use, the handling and administration of radioisotopes and where applicable, the clinical management of radioactive patients; and

(5) If the application is for a license to use unspecified quantities or multiple types of radioactive material, the applicant has previously received a reasonable number of licenses for a variety of radioactive materials for a variety of human uses.

Section 3. Specific License Requirements for Individual Physicians for Human Use of Radioactive Material. (1) An application by an individual physician or groups of physicians for a specific license for human use of radioactive material shall be issued only if:

(a) The applicant satisfies the general requirements specified in these regulations;

(b) The application is for use in the applicant's practice in an office(s) outside a medical institution;

(c) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable; and

(d) The applicant has extensive experience in the proposed use, the handling and administration of radioisotopes and where applicable, the clinical management of radioactive patients. The physician(s) shall furnish suitable evidence of such experience with the application. A statement from the radiation safety committee in the institution where the applicant acquired experience, indicating its

amount and nature, may be submitted as evidence of such experience.

(2) An application by an individual physician or group of physicians for a specific license to receive, possess, or use radioactive material on the premises of a medical institution shall be issued only if:

(a) The applicant satisfies the general requirements specified in these regulations;

(b) The use of radioactive material is limited to:

1. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

2. The performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;

3. The performance of in vitro diagnostic studies; or

4. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, and diagnostic instrumentation.

(c) The physician brings the radioactive material with him and removes the radioactive material when he departs. The institution cannot receive, possess or store radioactive material other than the amount of material remaining in the patient; and

(d) The medical institution does not hold a radioactive material license under these regulations.

Section 4. Specific License Requirements for Human Use of Radioactive Material in Sealed Sources. An application for a specific license for use of a sealed source for human use shall be issued only if:

(1) The applicant satisfies the general requirements specified in these regulations; and

(2) The applicant or, if the application is made by an institution, the individual user:

(a) Has specialized training in the therapeutic use of the radioactive device considered (teletherapy unit, beta applicator, etc.) or has experience equivalent to such training; and

(b) Is a physician.

Section 5. 902 KAR 100:055 is hereby repealed.

ROBERT SLATON, Commissioner
ADOPTED: June 11, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services

902 KAR 100:052. Broad scope licenses.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)
PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.840 to regulate the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to prescribe requirements for the issuance of specific licenses of broad scope for radioactive material.

Section 1. Applicability. This regulation establishes requirements for specific licensees to possess, use or transfer radioactive material for licenses of broad scope.

Section 2. Types of Specific Licenses of Broad Scope. (1) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquistion, ownership, possession, use and transfer of any chemical or physical form of the radioative material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the multicurie range.

(2) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquistion, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 902 KAR 100:090, relating to broad license quantities for any authorized purpose. The possession limit for a Type B broad license, if only one (1) radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Column I of the table in Section 2 of 902 KAR 100:090. If two (2) or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Column I of the table in Section 2 of 902 KAR 100:090 for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(3) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquistion, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 902 KAR 100:090, relating to broad licensed quantities, for any authorized purpose. The possession limit for a Type C broad license, if only one (1) radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Column II of the table in Section 2 of 902 KAR 100:090. If two (2) or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each radionuclide determine the ratio of the quantity possessed to the applicable quantity specified in Column II of the table in Section 2 of 902 KAR 100:090 for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

Section 3. Requirements for the Issuance of a Type A Specific License of Broad Scope. An application for a Type A specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in these regulations;

(2) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(3) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(a) The establishment of a radiation safety committee composed of such persons as a radiological safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive materials;

(b) The appointment of a radiological safety officer who is qualified by training and experienced in radiation protection, and who is available for advice and assistance on radiological safety matters; and

(c) The establishment of appropriate administrative procedures to assure control of procurement and use of radioactive material; completion of safety evaluation of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.

Section 4. Requirements for the Issuance of a Type B Specific License of Broad Scope. An application for a Type B specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in these regulations; and

(2) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(a) The appointment of a radiological safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiological safety matters; and

(b) The establishment of appropriate administrative procedures to assure control of procurement and use of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and review, approval and recording by the radiological safety officer of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.

Section 5. Requirements for the Issuance of a Type C Specific License of Broad Scope. An application for a Type C specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in these regulations;

(2) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:

(a) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(b) At least forty (40) hours of training and experience in the safe handling of radioactive materials, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

(3) The applicant has established administrative controls and provisions relating to procurement or radioactive material, procedures, record keeping, material control and accounting, and management review necessary to assure safe operations.

Section 6. Prohibited Acts and Conditions for Specific Licenses of Broad Scope. (1) Unless otherwise specifically authorized, persons licensed pursuant to these regulations shall not:

(a) Conduct tracer studies in the environment involving direct release of radioactive material;

(b) Receive, acquire, own, possess, use, transfer, or import devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(c) Conduct activities for which a specific license issued by the department is required; or

(d) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other produce designed for ingestion or inhalation by or application to, a human being.

(2) Each Type A specific license of broad scope issued under this section shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(3) Each Type B specific license of broad scope issued under this section shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiological safety officer.

(4) Each Type C specific license of broad scope issued under this section shall be subject to the condition that radioactive material possessed under this license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of Section 5.

ROBERT SLATON, Commissioner
ADOPTED: June 11, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services

902 KAR 100:057. In vitro and general medical license.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)
PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.840 to regulate the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to prescribe requirements for the issuance of specific licenses for the manufacture and distribution of radioactive material for medical use, and in vitro clinical and laboratory testing under a general license.

Section 1. Applicability. This regulation establishes requirements for specific licensees to possess, use or transfer radioactive material used in the manufacture and distribution of radioactive material for medical use, and in vitro clinical and laboratory testing under a general license.

Section 2. Manufacture and Distribution of Radioactive Materials for Medical Use Under a General License. An application for a specific license to distribute radioactive material for use by physicians under the general license of these regulations will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040 of these regulations; and

(2) The applicant submits evidence that the radioactive material is to be manufactured, labeled and packaged in accordance with a new drug application which the Commissioner of Food and Drug Administration has approved, or in accordance with a license for a biologic product issued by the Secretary, Department of Health, Education and Welfare;

(3) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on the label affixed to the container or appears in the leaflet or brochure which accompanies the package:

> "This radioactive drug may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or the equivalent of the United States Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.
>
> _____"
> (Name of Manufacturer)

Section 3. Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License. Application for a specific license to manufacture or distribute radioactive material for use under the general license of these regulations will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040 of these regulations;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding ten (10) microcuries each.

(b) Iodine-131 in units not exceeding ten (10) microcuries each.

(c) Carbon-14 in units not exceeding ten (10) microcuries each.

(d) Hydrogen-3 (tritium) in units not exceeding fifty (50) microcuries each.

(e) Iron-59 in units not exceeding twenty (20) microcuries each.

(f) Selenium-75 in units not exceeding ten (10) microcuries each.

(g) Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed ten (10) microcuries of iodine-131, iodine-125, selenium-75, or carbon-14; fifty (50) microcuries of hydrogen-3 (tritium); twenty (20) microcuries of iron-59; or Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each; and

(b) Displaying the radiation caution symbol and the words, "Caution, Radioactive Material," and "Not for Internal or External Use in Humans or Animals."

(4) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

> "This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license or the equivalent of the United States Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.
>
> _____"
> (Name of Manufacturer)

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements set out in these regulations.

ROBERT SLATON, Commissioner
ADOPTED: June 11, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services

902 KAR 100:058. Sale or distribution to persons exempted from licensing.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)
PURSUANT TO: KRS 13.082, 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Department for Human Resources is empowered by KRS 211.840 to regulate the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to prescribe requirements for the issuance of specific licenses to persons who manufacture items containing radioactive material for sale or distribution to persons exempted from licensing requirements of these regulations or persons generally licensed under these regulations.

Section 1. Applicability. The requirements in this regulation apply to all licensees who manufacture items containing radioactive material for sale or distribution to persons exempted from licensing requirements of these

regulations or persons generally licensed under these regulations.

Section 2. Introduction of Radioactive Material in Exempt Concentrations into Products or Materials. An application for a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt shall be issued only if:

(1) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material and estimated concentrations of the radioactive material in the product or material at the time of transfer by the licensee; and

(2) The applicant provides reasonable assurance that the concentrations of the radioactive material at the time of transfer will not exceed the concentrations in 902 KAR 100:085, relating to concentrations of certain radionuclides, and that reconcentration of the radioactive material in concentrations exceeding those in 902 KAR 100:085 is not likely, and that the product or material is not likely to be inhaled or ingested and that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(3) Each person licensed under this regulation shall file an annual report with the department which shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at the time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to this regulation during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty (30) days thereafter.

Section 3. Distribution of Devices Containing Radioactive Material to Persons Generally Licensed. An application for a specific license to distribute certain devices containing radioactive material shall be issued only if:

(1) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling, proposed uses, and potential hazards of the device to provide reasonable assurance that:

(a) The radioactive material contained in the device will not be lost;

(b) No individual will receive a radiation exposure to a major portion of his body in excess of 0.5 rem in a year under ordinary circumstances of use;

(c) The device can be safely operated by individuals not having training in radiological protection; and

(d) The radioactive material within the device will not be accessible to unauthorized individuals.

(2) In describing the label or labels and contents thereon to be affixed to the device, the applicant shall separately indicate those instructions and precautions which are necessary to assure safe operation of the device. Such instructions and precautions must be contained on labels bearing the statement, "removal of this label is prohibited."

(3) In the event the applicant desires that the device be tested for proper operation of the on-off mechanism and indicator, if any, and for leakage of radioactive material, subsequent to the initial tests required by these regulations at intervals longer than six (6) months but not exceeding three (3) years, he shall include in his application sufficient information to demonstrate that such longer interval is justified by performance characterisitics of the device or similar devices, and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device. In determining the acceptable interval for test of leakage of radioactive material, the department will consider information on particulars which include, but are not necessarily limited to:

(a) Primary containment (source capsule);
(b) Protection of primary containment;
(c) Method of sealing containment;
(d) Containment construction materials;
(e) Form of contained radioactive materials;
(f) Maximum temperature withstood during prototype tests;
(g) Maximum pressure withstood during prototype tests;
(h) Maximum quantity of contained radioactive material;
(i) Radiotoxicity of contained radioactive material; and
(j) Operating experience with identical devices or similarly designed and constructed devices.

ROBERT SLATON, Commissioner
ADOPTED: June 11, 1979
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:021. Skilled nursing and intermediate care facility service payments.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for skilled nursing care facility services and intermediate care facility services.

Section 1. Skilled Nursing and Intermediate Care Facilities. Payment to participating facilities shall be made in accordance with this regulation.

Section 2. Specified Skilled Nursing Care Facilities. A skilled nursing facility participating in the Title XIX program as of November 30, 1979 shall be reimbursed in accordance with this section until such time as the facility begins a new fiscal year on December 2, 1979 or thereafter. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316 and the following:

(1) Payment shall be made on the basis of reasonable cost.

(2) Reasonable cost is determined by application of the reimbursement principles by which the Title XVIII-A reimbursement amounts are determined.

(3) Total payment for skilled nursing facility services shall not exceed customary charges which are reasonable, or the rate paid by Title XVIII-A for comparable services on a facility by facility basis.

(4) A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A and the rate established by the Title XVIII-A rate setting authority shall be used.

(5) The following definitions apply in the determination of skilled nursing facility rates:

(a) "Customary charges," means those charges made to the general public for the same services.

(b) "Which are reasonable" means those charges made which reasonably relate to the provision of skilled nursing services to the patient, and which are allowable in determining cost.

Section 3. Specified Intermediate Care Facilities. A facility participating in the Title XIX program as of November 30, 1979 shall be reimbursed in accordance with Sections 3 through 8 until such time as the facility begins a new fiscal year on December 2, 1979 or thereafter. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316.

Section 4. Basic Principles of Reimbursement. (1) Payment shall be made on a reasonable cost related basis.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 5. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A principles of reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services, reasonably related to costs, shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of intermediate facility care. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing intermediate care facility services. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing, the principal of which will generally be repaid within one (1) year; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost.

(c) For both paragraphs (a) and (b), above, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. "Necessary func-

tion" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, and intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(9) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(10) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for intermediate facility care. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(11) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(12) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(13) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(14) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(15) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 6. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost.

(2) The allowable prior year cost will then be increased by a percentage based on the percent of change in the Consumer Price Index. Such percentage increase shall be known as an inflation factor.

(3) The basic per diem cost (defined as the allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-five (95) percent of licensed bed days (or ninety-five (95) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of licensed bed days for facilities with less than ninety (90) percent licensed bed occupancy. The department may im-

pose a lower occupancy rate for newly constructed or opened facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. Such reduction in the minimum occupancy rate, whether for a newly constructed or opened facility or for an existing facility, shall be granted for not more than one (1) year or for such lesser time as may be required for the facility to reach the minimum occupancy rate.

(4) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$19.99 & below*	—	—
20.00 - 20.99	$1.38	$ .87
21.00 - 21.99	1.29	.75
22.00 - 22.99	1.18	.62
23.00 - 23.99	1.06	.47
24.00 - 24.99	.92	.31
25.00 - 25.99	.76	.13
26.00 - 26.99	.53	—

Maximum Payment $27.00

* For a basic per diem of $19.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$25.99 & below*	—	—
26.00 - 27.99	$1.45	$ .91
28.00 - 29.99	1.35	.79
30.00 - 31.99	1.23	.65
32.00 - 33.99	1.10	.49
34.00 - 35.99	.96	.32
36.00 - 37.99	.79	.13
38.00 - 39.99	.55	—

Maximum Payment $78.00

* For a basic per diem of $25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.45 and the incentive amount will be equal to 5.0 percent, but not to exceed $.91.

(5) The prospective rate is then compared with the maximum payment. This shall be twenty-seven dollars ($27) per patient per day for routine services for the period beginning 1/1/79 for general intermediate care facilities; and seventy-eight dollars ($78) per patient per day for routine services for the period beginning 1/1/79 for intermediate care facilities for the mentally retarded. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount.

Section 7. Rate Review and Appeal. Participating facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be received within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 8. Definitions. For purposes of Sections 3 through 8, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of intermediate care facility services and the cost incurred by the facility is within cost limits established by the department; i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made. Ancillary services are limited to the following:

(a) Legend drugs.

(b) Drugs (legend or non-legend) provided through a "unit dosage" system.

(c) Physical, occupational and speech therapy.

(d) Laboratory procedures.

(e) X-ray.

(f) Oxygen and other related oxygen supplies.

(g) Psychological and psychiatric therapy (IC/MR only).

(3) "Inflation factor" means the comparison of allowable prior year routine service costs with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs yields projected current year allowable costs.

(4) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(5) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to

arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(6) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(7) "Maximum payment" means the maximum amount the department will reimburse, on a facility by facility basis, for routine services.

(8) "Occupancy factor" means the comparison of the occupancy rate with projected current year costs to arrive at basic per diem cost for routine services.

(9) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(10) "Reasonable cost related basis" means the payment to the facility shall be based on the reasonable cost experienced by the facility, and that such reimbursement may include amounts to encourage investment and the availability of services, and to reward cost containment and efficiency.

(11) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, paper tissues, water pitchers, basins, bed pans, deodorants, and mouthwashes.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids, non-legend antacids, aspirin (and other non-legend drugs ordinarily kept on hand), suppositories and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing an intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services; including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs, effective with any facility fiscal year ending after December 1, 1978.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services.

Section 9. Skilled nursing and intermediate care facilities not being reimbursed in accordance with Sections 2 and 3. A skilled nursing or intermediate care facility whose Title XIX program participation begins on December 1, 1979, or thereafter, and skilled nursing or intermediate care facilities participating in the Title XIX program on November 30, 1979 who have had a new fiscal year begin on December 2, 1979, or thereafter, shall be reimbursed in accordance with Sections 9 through 14. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 10. Basic Principles of Reimbursement. (1) Payment shall be made on a reasonable cost related basis.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 11. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A principles of reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components, or principles:

(1) Prospective payment rates for routine services, reasonably related to costs, shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relate to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost.

(c) For both paragraphs (a) and (b), above, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, and intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to August 1, 1979, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(9) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(10) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(11) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(12) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(13) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(14) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities

determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(15) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 12. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following: (1) Determine allowable prior year cost.

(2) The allowable prior year cost will then be increased by a percentage based on the percent of change in the Consumer Price Index. Such percentage increase shall be known as an inflation factor.

(3) The basic per diem cost (defined as the allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-five (95) percent of certified bed days (or ninety-five (95) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The department may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The department may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to nonprofit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$19.99 & below*	—	—
20.00 - 20.99	$1.38	$ .87
21.00 - 21.99	1.29	.75
22.00 - 22.99	1.18	.62
23.00 - 23.99	1.06	.47
24.00 - 24.99	.92	.31
25.00 - 25.99	.76	.13
26.00 - 26.99	.53	—

Maximum Payment $27.00

* For a basic per diem of $19.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$25.99 & below*	—	—
26.00 - 27.99	$1.45	$ .91
28.00 - 29.99	1.35	.79
30.00 - 31.99	1.23	.65
32.00 - 33.99	1.10	.49
34.00 - 35.99	.96	.32
36.00 - 37.99	.79	.13
38.00 - 39.99	.55	—

Maximum Payment $78.00

* For a basic per diem of $25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.45 and the incentive amount will be equal to 5.0 percent, but not to exceed $.91.

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 12-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$25.99 & below*	—	—
26.00 - 27.99	$1.50	$1.00
28.00 - 29.99	1.35	.90
30.00 - 31.99	1.22	.81
32.00 - 33.99	1.09	.73
34.00 - 35.99	.98	.66
36.00 - 37.99	.89	.59
38.00 - 39.99	.80	.47
40.00 - 41.99	.64	.37
42.00 - 44.99	.52	—

Maximum Payment $45.00* *

* For a basic per diem of $25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.50 and the incentive amount will be equal to 5.0 percent, but not to exceed $1.00.

* *The maximum payment for hospital based skilled nursing facilities is initially set at $80.00, such amount to be adjusted as shown in Section 12(5).

(5) The prospective rate is then compared with the maximum payment. This shall be twenty-seven dollars ($27) per patient per day for routine services for the period beginning 1/1/79 for general intermediate care facilities; seventy-eight dollars ($78) per patient per day for routine services for the period beginning 1/1/79 for intermediate care facilities for the mentally retarded; and forty-five dollars ($45) per patient per day for routine services for the period beginning 12-1-79 for non-hospital based skilled

nursing facilities. The maximum payment shall be eighty dollars ($80) per patient per day for routine services for the period beginning 12/1/79 for hospital based skilled nursing facilities, the rate to be adjusted proportionately in relation to the non-hospital based skilled nursing facility maximum payment so that the rates will be identical after five (5) years. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount.

Section 13. Rate Review and Appeal. Participating facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 14. Definitions. For purposes of Sections 9 through 14, the following definitions shall prevail unless the specific context dictates otherwise:

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the department; i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including catheters, irrigation supplies and solutions.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies.

(f) Psychological and psychiatric therapy (IC/MR only).

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) "Inflation factor" means the comparison of allowable prior year routine service costs with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs yields projected current year allowable costs.

(5) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(6) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(7) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(8) "Maximum payment" means the maximum amount the department will reimburse, on a facility by facility basis, for routine services.

(9) "Occupancy factor" means the comparison of the occupancy rate with projected current year costs to arrive at basic per diem cost for routine services.

(10) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(11) "Reasonable cost related basis" means the payment to the facility shall be based on the reasonable cost experienced by the facility, and that such reimbursement may include amounts to encourage investment and the availability of services, and to reward cost containment and efficiency.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing an intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services; including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance service costs).

Section 15. General Information. Pursuant to 42 CFR 447.205, the general public is hereby advised as follows:

(1) The payment mechanism for skilled nursing facilities is being changed from one whereby those facilities are paid based on allowable cost on a retrospective basis to a system which provides for reimbursement which is cost related and on a prospective basis. In contrast to a system which reimburses on the basis of allowable cost, a cost related system may be designed so as to exclude or limit costs which are excessive, unnecessary or unreasonable (even though allowable) and to provide incentives for facilities to provide services economically and efficiently so as to maximize the return to the facilities. These essential ingredients have been included in the cost related reimbursement system depicted in this regulation.

(2) Annual aggregate expenditures for skilled nursing and intermediate care facility services, subject to normal growth changes, are expected to remain the same for the twelve (12) month period following implementation.

(3) The department is changing the reimbursement methodology as a cost containment measure which will begin to show results in the second year of implementation, and to provide for administrative efficiency by conforming the skilled nursing facility payment mechanism to that currently existing for intermediate care facilities.

Section 16. 904 KAR 1:023 and 904 KAR 1:041 are hereby repealed.

JACK F. WADDELL, Commissioner
ADOPTED: September 10,1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of September 5, 1979 Meeting

(Subject to subcommittee approval at the October 3, 1979 Meeting.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, September 5, 1979, at 10 a.m., in Room 327 of the Capitol. The minutes of the August meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman, and Representative Albert L. Robinson.

Guests: Ked Fitzpatrick, Joyce Bell, W. O. Hubbard, Leon Townsend, Omar Greeman, and John Godfrey, Department for Human Resources; Michael L. Judy, Board of Optometric Examiners; Ellyn Crutcher and William Sawyer, Public Service Commissions; Rose Ashcraft, Kentucky Occupational Safety and Health Review Commission; Dr. Dan W. Hanke and Andy Naff, Drug Formulary; Don Coffman and Eugene Robinson, Department of Education; Jerry W. Hammond, Department of Labor; Judith Walden and Russell Groves, Department of Housing, Buildings and Construction; Earl B. Sargent and Daniel C. Wilson, Department of Revenue; Thomas C. Dawson, Disabled in Action, Inc.; Bruce F. Clark, Optical Corporation of America; T. Kennedy Helm, III and Douglass Farnsley, Southern Optical Company; Len Mills, Home Builders Association of Kentucky; Laura L. Murrell, P. J. Lucier and H. Brutton, Banks-Baldwin Law Publishing Company.

LRC Staff: Mabel D. Robertson, Garnett Evins, Deborah Herd, Joe Hood and Steve Armbrust.

Press: Maria Braden, AP; Winnie McConnell, UPI; Vicki Dennis, Department of Public Information.

Chairman Brinkley said that an Attorney General's Opinion had been requested relating to the proposed regulations for the Kentucky Building Code and that the subcommittee was deferring consideration of those regulations until the October meeting.

The following regulations were deferred until the October 3, 1979 meeting on motion of Representative Robinson, seconded by Chairman Brinkley.

REGISTRY OF ELECTION FINANCE
Reports and Forms
801 KAR 1:007. Committees; definition, responsibilities.

OCCUPATIONS AND PROFESSIONS
Board of Optometric Examiners
201 KAR 5:037. Advertising.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
Kentucky Building Code
815 KAR 7:010. Administration and enforcement.
815 KAR 7:020. Building code.
815 KAR 7:030. Energy code.

DEPARTMENT FOR HUMAN RESOURCES
Medical Assistance
904 KAR 1:002. Definitions.
904 KAR 1:009. Physicians' services.

On motion of Representative Robinson, seconded by Chairman Brinkley, the following regulations were approved and ordered filed:

COUNCIL ON HIGHER EDUCATION
Public Educational Institutions
13 KAR 2:010. Residency classification for participation in contract programs.

DEPARTMENT OF REVENUE
Selective Excise Tax—Cigarettes
103 KAR 41:040. Subjobbers, vending machine operators and unclassified acquirers.

DEPARTMENT OF EDUCATION
Bureau of Instruction
Textbooks, Library and Instructional Materials
704 KAR 2:011. Repeal of 704 KAR 2:010.
704 KAR 2:020. Textbook program plan.
Elementary and Secondary Education Act
704 KAR 10:022. Elementary, middle and secondary schools standards.

DEPARTMENT OF VOCATIONAL EDUCATION

Administration
705 KAR 1:010. Annual program plan.

DEPARTMENT OF LABOR

Labor Standards; Wages and Hours
803 KAR 1:100. Child labor. (As amended.)
Kentucky Occupational Safety and Health Review Commission
803 KAR 50:010. Hearings; procedure, disposition.

PUBLIC SERVICE COMMISSIONS

Utility Regulatory Commission
807 KAR 25:025. Advertising. (As amended.)
Energy Regulatory Commission
807 KAR 50:020. Advertising. (As amended.)

DEPARTMENT FOR HUMAN RESOURCES

Vital Statistics
901 KAR 5:100. Cadavers.

Bureau for Health Services

Drug Formulary
902 KAR 1:015. Tripelennamine hydrochloride.
902 KAR 1:017. Amoxicillin trihydrate.
902 KAR 1:020. Ampicillin.
902 KAR 1:027. Dicyclomine hydrochloride.
902 KAR 1:032. Meperidine hydrochloride.
902 KAR 1:037. Griseofulvin.
902 KAR 1:042. Piperazine citrate.
902 KAR 1:047. Theophylline.
902 KAR 1:052. Pilocarpine hydrochloride.
902 KAR 1:055. Meclizine hydrochloride.
902 KAR 1:057. Potassium chloride.
902 KAR 1:060. Sodium pentobarbital.
902 KAR 1:090. Trisulfapyrimidine.
902 KAR 1:110. Diphenhydramine hydrochloride.
902 KAR 1:180. Tetracycline hydrochloride.
902 KAR 1:190. Meprobamate tablet.
902 KAR 1:260. Isoniazid tablet.
902 KAR 1:280. Chloral hydrate.
902 KAR 1:300. Dioctyl sodium sulfosuccinate.
902 KAR 1:326. Glutethimide.
902 KAR 1:328. Chlordiazepoxide hydrochloride.
Regional Mental Health—Mental Retardation Boards
902 KAR 6:020. Personnel rules of local board.
902 KAR 6:030. Board structure and operation; eligibility for state grants.
902 KAR 6:050. Formula for allocation of funds.
Milk and Milk Products
902 KAR 50:030. Farm manufacturing requirements.

Bureau for Social Insurance

Medical Assistance
904 KAR 1:026. Dental services.
Public Assistance
904 KAR 2:020. Child support. (As amended.)

The meeting was adjourned at 11:35 a.m., to meet again on October 3, 1979, at 10 a.m., in Room 327 of the Capitol.

Administrative Register of kentucky

Cumulative Supplement

Regulation Locator—Effective Dates

Volume 5

Regulation	5 Ky.R. Page No.	Effective Date
101 KAR 1:050 Amended	923	7-17-79
103 KAR 41:040 Amended	1070	9-5-79
103 KAR 41:050 Amended	1070	8-1-79
106 KAR 1:030 Amended	1071	8-1-79
200 KAR 5:300	943	7-17-79
200 KAR 5:301	943	7-17-79
200 KAR 5:304	944	7-17-79
200 KAR 5:305	945	7-17-79
200 KAR 5:306	946	7-17-79
200 KAR 5:307	947	7-17-79
200 KAR 5:308	948	7-17-79
200 KAR 5:309	949	7-17-79
200 KAR 5:311	950	7-17-79
200 KAR 5:312	951	7-17-79
200 KAR 5:313	951	7-17-79
200 KAR 5:314	952	7-17-79
200 KAR 5:316	953	7-17-79
201 KAR 5:010 Amended	927	8-1-79
201 KAR 5:040 Amended	927	8-1-79
201 KAR 6:010 Amended	1072	8-1-79
201 KAR 9:040 Amended	1075	8-1-79
201 KAR 9:085	1101	8-1-79
201 KAR 12:105 Amended	1075	
Withdrawn		7-16-79
201 KAR 12:130 Amended	1076	8-1-79
301 KAR 1:115 Amended	1077	8-1-79
301 KAR 1:120 Amended	1077	8-1-79
301 KAR 1:140 Amended	1078	8-1-79
301 KAR 1:155 Amended	1078	8-1-79
301 KAR 2:040 Amended	1079	8-1-79
301 KAR 2:120 Amended	1081	8-1-79
603 KAR 5:040 Amended	928	7-17-79
603 KAR 5:096 Amended	929	7-17-79
702 KAR 1:020 Amended	1081	8-1-79
702 KAR 3:050 Amended	1082	8-1-79
703 KAR 2:010 Amended	1082	8-1-79
704 KAR 3:010 Amended	1083	8-1-79
704 KAR 3:011	1110	8-1-79
704 KAR 3:025	1110	8-1-79
704 KAR 3:030 Amended	1084	8-1-79
704 KAR 3:040 Repealed	1110	8-1-79
704 KAR 3:050 Repealed	1110	8-1-79
704 KAR 3:055 Repealed	1110	8-1-79
704 KAR 3:060 Repealed	1110	8-1-79
704 KAR 3:070 Repealed	1110	8-1-79
704 KAR 3:080 Repealed	1110	8-1-79
704 KAR 3:090 Repealed	1110	8-1-79
704 KAR 3:100 Repealed	1110	8-1-79
704 KAR 3:110 Repealed	1110	8-1-79
704 KAR 3:120 Repealed	1110	8-1-79
704 KAR 3:130 Repealed	1110	8-1-79
704 KAR 3:140 Repealed	1110	8-1-79
704 KAR 3:150 Repealed	1110	8-1-79
704 KAR 3:160 Repealed	1110	8-1-79
704 KAR 3:170 Repealed	1110	8-1-79
704 KAR 3:180 Repealed	1110	8-1-79
704 KAR 3:190 Repealed	1110	8-1-79
704 KAR 3:200 Repealed	1110	8-1-79
704 KAR 3:210 Repealed	1110	8-1-79
704 KAR 3:220 Repealed	1110	8-1-79
704 KAR 3:230 Repealed	1110	8-1-79
704 KAR 3:240 Repealed	1110	8-1-79
704 KAR 3:250 Repealed	1110	8-1-79
704 KAR 3:260 Repealed	1110	8-1-79
704 KAR 3:270 Repealed	1110	8-1-79
704 KAR 3:280 Amended	1085	8-1-79
704 KAR 4:010 Amended	1086	8-1-79
704 KAR 4:015	1112	8-1-79
704 KAR 4:020 Amended	1086	8-1-79
704 KAR 5:010 Amended	1088	8-1-79
704 KAR 5:050 Amended	1090	8-1-79
704 KAR 10:050 Amended	707	8-1-79
705 KAR 7:050 Amended	1090	8-1-79
723 KAR 1:005	955	7-17-79
723 KAR 1:010	1113	8-1-79
723 KAR 1:015	956	7-17-79
723 KAR 1:025	956	7-17-79
723 KAR 1:035	957	7-17-79
723 KAR 1:045	957	7-17-79
723 KAR 1:055	957	7-17-79
804 KAR 2:015 Amended	1095	8-1-79
804 KAR 4:030 Amended	1095	8-1-79
804 KAR 4:130 Amended	1096	8-1-79
804 KAR 4:140 Amended	1097	8-1-79
804 KAR 4:160 Amended	1097	8-1-79
804 KAR 4:170 Amended	1098	8-1-79
804 KAR 4:180 Amended	1098	8-1-79
804 KAR 4:200 Amended	1098	8-1-79
804 KAR 5:030 Amended	1099	8-1-79
804 KAR 8:060 Amended	1099	8-1-79
804 KAR 12:010 Repealed	1113	8-1-79
804 KAR 12:020 Repealed	1113	8-1-79
804 KAR 12:011	1113	8-1-79
807 KAR 25:040	849	8-1-79
807 KAR 25:060	859	7-17-79
807 KAR 50:085	900	7-17-79
811 KAR 1:200 Amended	1100	8-1-79
815 KAR 30:040	1121	8-1-79
901 KAR 1:025 Amended	932	7-17-79
902 KAR 1:011	958	7-17-79
902 KAR 1:012	958	7-17-79
902 KAR 1:013	958	7-17-79
902 KAR 1:014	959	7-17-79
902 KAR 1:016	959	7-17-79
902 KAR 1:018	959	7-17-79
902 KAR 1:019	960	7-17-79
902 KAR 1:021	960	7-17-79
902 KAR 1:291	961	7-17-79
902 KAR 1:301	961	7-17-79
902 KAR 2:060 Amended	933	7-17-79
902 KAR 10:040 Amended	933	7-17-79
904 KAR 1:041 Amended	937	7-17-79
904 KAR 2:015 Amended	942	7-17-79
904 KAR 5:190 Repealed	963	7-17-79
904 KAR 5:191	963	7-17-79

Volume 6

Emergency Regulation	6 Ky.R. Page No.	Effective Date
301 KAR 2:028E	175	8-21-79
Expires		12-19-79
301 KAR 2:106E	176	9-5-79
Expires		11-12-79
405 KAR 1:141E	2	6-26-79
Expires		10-24-79
405 KAR 1:260E	5	6-26-79
Expires		10-24-79
405 KAR 3:111E	6	6-26-79
Expires		10-24-79
704 KAR 10:005E	177	8-21-79
Expires		12-19-79
704 KAR 20:235E	178	8-21-79
Expires		12-19-79

Regulation	6 Ky.R. Page No.	Effective Date
13 KAR 2:010	94	9-5-79
109 KAR 5:010		
Amended	9	7-17-79
200 KAR 5:302	10	7-17-79
200 KAR 5:303	10	7-17-79
200 KAR 5:310	10	7-17-79
200 KAR 5:315	11	7-17-79
200 KAR 5:317	162	
201 KAR 1:061	95	
201 KAR 12:105		
Amended	123	
201 KAR 20:011		
Amended	123	
201 KAR 20:095	162	
201 KAR 21:005	163	
201 KAR 21:015	163	
201 KAR 21:025	164	
201 KAR 21:031	164	
201 KAR 21:035	165	
201 KAR 21:041	165	
201 KAR 21:045	167	
201 KAR 21:055	167	
201 KAR 21:060	168	
201 KAR 21:065	168	
301 KAR 1:015		
Amended	185	
301 KAR 1:055		
Amended	186	
301 KAR 1:060		
Amended	186	
301 KAR 2:060		
Amended	124	
301 KAR 2:085		
Amended	187	
401 KAR 7:010	201	
401 KAR 7:020	204	
401 KAR 7:030	207	
401 KAR 59:046	12	6-29-79
401 KAR 59:050	12	6-29-79
401 KAR 59:095	14	6-29-79
401 KAR 59:100	14	6-29-79
401 KAR 59:101	15	6-29-79
401 KAR 59:180	16	6-29-79
401 KAR 59:185	18	6-29-79
401 KAR 59:190	20	6-29-79
401 KAR 59:195	21	6-29-79
401 KAR 59:200	22	6-29-79
401 KAR 59:210	23	6-29-79
401 KAR 59:215	25	6-29-79
401 KAR 59:220	26	6-29-79
401 KAR 61:005	27	6-29-79
401 KAR 61:045	31	6-29-79
401 KAR 61:050	32	6-29-79
401 KAR 61:055	34	6-29-79
401 KAR 61:056	35	6-29-79
401 KAR 61:060	36	6-29-79
401 KAR 61:090	37	6-29-79
401 KAR 61:095	39	6-29-79

Regulation	6 Ky.R. Page No.	Effective Date
401 KAR 61:100	41	6-29-79
401 KAR 61:105	43	6-29-79
401 KAR 61:110	44	6-29-79
401 KAR 61:120	45	6-29-79
401 KAR 61:125	47	6-29-79
401 KAR 61:130	48	6-29-79
401 KAR 61:135	49	6-29-79
401 KAR 63:010	50	6-29-79
405 KAR 1:140		
Repealed	2	6-26-79
405 KAR 1:141	96	
405 KAR 1:260	99	
405 KAR 3:110		
Repealed	6	6-26-79
405 KAR 3:111	99	
602 KAR 1:020		
Amended	125	
603 KAR 3:020		
Amended	55	
603 KAR 3:050		
Repealed	51	7-17-79
603 KAR 3:051	51	7-17-79
603 KAR 5:050		
Amended	53	7-17-79
603 KAR 5:096		
Amended	189	
704 KAR 2:011	102	9-5-79
704 KAR 2:020		
Amended	60	9-5-79
704 KAR 3:305	53	7-17-79
704 KAR 10:005	169	
704 KAR 10:022		
Amended	60	9-5-79
704 KAR 20:235		
Amended	126	
705 KAR 1:010		
Amended	61	9-5-79
706 KAR 1:010		
Amended	127	
707 KAR 1:060		
Amended	191	
803 KAR 1:020		
Withdrawn		7-24-79
803 KAR 1:100		
Amended	61	
Amended	179	9-5-79
803 KAR 2:020		
Amended	111	8-1-79
Amended	127	
803 KAR 2:027	210	
803 KAR 2:030		
Amended	130	
803 KAR 50:010		
Amended	62	9-5-79
806 KAR 24:021	102	
807 KAR 25:025	181	9-5-79
807 KAR 50:015	113	8-1-79
807 KAR 50:020	182	9-5-79
807 KAR 50:075	54	7-17-79
808 KAR 7:010	211	
810 KAR 1:004		
Amended	131	
815 KAR 20:060		
Amended	133	
815 KAR 20:090		
Amended	134	
815 KAR 20:110		
Amended	138	
815 KAR 20:120		
Amended	139	
Withdrawn		9-18-79
815 KAR 30:050	212	
815 KAR 45:020	213	
815 KAR 45:030	214	
900 KAR 1:005	216	
901 KAR 5:100	104	9-5-79
902 KAR 1:014		
Amended	191	

Regulation	5 Ky.R. Page No.	Effective Date
902 KAR 1:015		
Amended	70	9-5-79
902 KAR 1:016		
Amended	192	
902 KAR 1:017		
Amended	70	9-5-79
902 KAR 1:020		
Amended	71	9-5-79
902 KAR 1:025		
Amended	140	
902 KAR 1:027	105	9-5-79
902 KAR 1:030		
Amended	141	
902 KAR 1:032	106	9-5-79
902 KAR 1:035		
Amended	141	
902 KAR 1:037	106	9-5-79
902 KAR 1:040		
Amended	142	
902 KAR 1:042	106	9-5-79
902 KAR 1:047	107	9-5-79
902 KAR 1:052	107	9-5-79
902 KAR 1:055		
Amended	72	9-5-79
902 KAR 1:057	107	9-5-79
902 KAR 1:060		
Amended	73	9-5-79
902 KAR 1:061	216	
902 KAR 1:075		
Amended	192	
902 KAR 1:080		
Amended	143	
902 KAR 1:081		
Amended	144	
902 KAR 1:085		
Amended	192	
902 KAR 1:090		
Amended	73	9-5-79
902 KAR 1:100		
Amended	193	
902 KAR 1:110		
Amended	74	9-5-79
902 KAR 1:125		
Amended	194	
902 KAR 1:130		
Amended	194	
902 KAR 1:140		
Amended	144	
902 KAR 1:180		
Amended	74	9-5-79
902 KAR 1:190		
Amended	76	9-5-79
902 KAR 1:210		
Amended	145	
902 KAR 1:260		
Amended	76	9-5-79
902 KAR 1:270		
Amended	145	
902 KAR 1:280		
Amended	77	9-5-79
902 KAR 1:290		
Amended	145	
902 KAR 1:300		
Amended	77	9-5-79
902 KAR 1:318		
Amended	195	
902 KAR 1:320		
Amended	195	
902 KAR 1:322		
Amended	146	
902 KAR 1:324		
Amended	147	
902 KAR 1:326		
Amended	78	9-5-79
902 KAR 1:328		
Amended	78	9-5-79
902 KAR 4:020		
Amended	147	

Regulation	6 Ky.R. Page No.	Effective Date
902 KAR 6:020 Amended	79	9-5-79
902 KAR 6:030 Amended	80	9-5-79
902 KAR 6:050 Amended	83	9-5-79
902 KAR 20:040 Amended	148	
902 KAR 20:060	169	
902 KAR 20:105 Amended	196	
902 KAR 50:030 Amended	84	9-5-79
902 KAR 100:017	217	
902 KAR 100:051	218	
902 KAR 100:052	219	
902 KAR 100:057	220	
902 KAR 100:058	221	
902 KAR 105:060 Amended	200	
904 KAR 1:002 Amended	90	
904 KAR 1:009 Amended	91	
904 KAR 1:010 Amended	150	
904 KAR 1:021	222	
904 KAR 1:026 Amended	92	9-5-79
904 KAR 1:034 Amended	93	
904 KAR 2:008	119	8-1-79
904 KAR 2:015 Amended	151	
904 KAR 2:020	183	9-5-79
904 KAR 2:055 Amended	152	
904 KAR 3:010 Amended	154	
904 KAR 3:020 Amended	156	
904 KAR 3:030 Amended	158	
904 KAR 3:035	171	
904 KAR 3:040 Amended	160	
904 KAR 3:050 Amended	161	

KRS Sections Related to KAR

KRS Section	Regulation
Chapter 45A	200 KAR 5:302
	200 KAR 5:303
	200 KAR 5:310
	200 KAR 5:315
	200 KAR 5:317
61.490	900 KAR 1:005
95A.040	815 KAR 45:020
	815 KAR 45:030
95A.050	815 KAR 45:020
138.130	103 KAR 41:040
	103 KAR 41:050
138.195	103 KAR 41:040
	103 KAR 41:050
Chapter 147A	109 KAR 5:010
150.010	301 KAR 1:060
	301 KAR 1:155
150.025	301 KAR 1:015
	301 KAR 1:055
	301 KAR 1:155
	301 KAR 2:040
	301 KAR 2:085
	301 KAR 2:106
150.090	301 KAR 1:015
150.170	301 KAR 1:155
	301 KAR 2:040
	301 KAR 2:085
150.175	301 KAR 1:155
	301 KAR 2:040
	301 KAR 2:085
150.180	301 KAR 1:120
150.190	301 KAR 1:140
150.235	301 KAR 1:120
	301 KAR 2:085
150.240	301 KAR 2:040
150.280	301 KAR 2:060
150.290	301 KAR 1:060
150.300	301 KAR 2:028
	301 KAR 2:106
150.305	301 KAR 2:028
	301 KAR 2:085
150.330	301 KAR 2:028
	301 KAR 2:040
	301 KAR 2:085
150.340	301 KAR 2:028
	301 KAR 2:085
150.360	301 KAR 2:028
	301 KAR 2:085
150.390	301 KAR 2:106
150.445	301 KAR 1:155
150.470	301 KAR 1:055
150.620	301 KAR 1:015
150.625	301 KAR 1:015
150.990	301 KAR 1:055
156.070	704 KAR 4:015
156.095	704 KAR 3:280
156.132	704 KAR 10:005
156.160	704 KAR 3:010
	704 KAR 3:011
	704 KAR 3:305
	704 KAR 4:010
	704 KAR 4:020
	704 KAR 10:022
	704 KAR 10:050
156.400 156.476	704 KAR 2:020
157.100 157.190	704 KAR 2:020
157.200 157.305	707 KAR 1:060
157.312	704 KAR 5:050
157.315	704 KAR 5:050
157.360	704 KAR 3:010
	704 KAR 3:011
	704 KAR 3:025
	704 KAR 3:030
	704 KAR 5:050
157.390	702 KAR 1:020
157.820	723 KAR 1:010
157.855	723 KAR 1:010
158.060	703 KAR 2:010
158.070	703 KAR 2:010
	704 KAR 5:050
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
160.550	702 KAR 3:050
161.020	704 KAR 20:235
161.025	704 KAR 20:235
161.030	704 KAR 20:235
163.020	705 KAR 1:010
	705 KAR 7:050
163.030	705 KAR 1:010
	705 KAR 7:050
163.110	706 KAR 1:010
163.120	706 KAR 1:010
163.130	706 KAR 1:010
163.140	706 KAR 1:010
163.160	706 KAR 1:010
163.170	706 KAR 1:010
163.180	706 KAR 1:010
164.020	13 KAR 2:010
164.530	13 KAR 2:010
164.540	13 KAR 2:010
176.050	603 KAR 1:020
177.106	603 KAR 1:020
177.830-177.890	603 KAR 3:020
177.905-177.950	603 KAR 3:051
189.222	603 KAR 5:096
189.337	603 KAR 5:050
194.050	904 KAR 3:010
	904 KAR 3:020
	904 KAR 3:030
	904 KAR 3:035
	904 KAR 3:040
	904 KAR 3:050
205.215	904 KAR 2:008
205.231	904 KAR 2:055
205.245	904 KAR 2:015
205.520	904 KAR 1:002
	904 KAR 1:009
	904 KAR 1:021
	904 KAR 1:026
	904 KAR 1:034
205.550	904 KAR 1:010
205.560	904 KAR 1:010
205.795	904 KAR 2:020
210.120	902 KAR 6:020
210.370	902 KAR 6:020
210.400	902 KAR 6:030
210.410	902 KAR 6:030
210.420	902 KAR 6:050
210.440	902 KAR 6:050
210.450	902 KAR 6:020
	902 KAR 6:030
211.180	902 KAR 4:020
211.840-211.852	902 KAR 100:017
	902 KAR 100:051
	902 KAR 100:052
	902 KAR 100:057
	902 KAR 100:058
211.870	902 KAR 105:060
211.890	902 KAR 105:060
211.990	902 KAR 100:017
	902 KAR 100:051
	902 KAR 100:052
	902 KAR 100:057
	902 KAR 100:058
211.993	902 KAR 105:060
Chapter 213	901 KAR 5:100
216.405-216.485	902 KAR 20:040
	902 KAR 20:060
	902 KAR 20:105
216.990	902 KAR 20:040
	902 KAR 20:060
	902 KAR 20:105
Chapter 216A	201 KAR 6:010
217.814-217.826	902 KAR 1:014
	902 KAR 1:015
	902 KAR 1:016
	902 KAR 1:017
	902 KAR 1:020
	902 KAR 1:025
	902 KAR 1:027
	902 KAR 1:030
	902 KAR 1:032
	902 KAR 1:035
	902 KAR 1:037
	902 KAR 1:040
	902 KAR 1:042
	902 KAR 1:047
	902 KAR 1:052
	902 KAR 1:055
	902 KAR 1:057
	902 KAR 1:060
	902 KAR 1:061
	902 KAR 1:075
	902 KAR 1:080
	902 KAR 1:081
	902 KAR 1:085
	902 KAR 1:090
	902 KAR 1:100
	902 KAR 1:110
	902 KAR 1:125
	902 KAR 1:130
	902 KAR 1:140
	902 KAR 1:180
	902 KAR 1:190
	902 KAR 1:210
	902 KAR 1:260
	902 KAR 1:270
	902 KAR 1:280
	902 KAR 1:290
	902 KAR 1:300
	902 KAR 1:318
	902 KAR 1:320
	902 KAR 1:322
	902 KAR 1:324
	902 KAR 1:326
	902 KAR 1:328
217.990	902 KAR 1:014
	902 KAR 1:015
	902 KAR 1:016
	902 KAR 1:017
	902 KAR 1:020
	902 KAR 1:025
	902 KAR 1:027
	902 KAR 1:030
	902 KAR 1:032
	902 KAR 1:035
	902 KAR 1:037
	902 KAR 1:040
	902 KAR 1:042
	902 KAR 1:047
	902 KAR 1:052
	902 KAR 1:055
	902 KAR 1:057
	902 KAR 1:060
	902 KAR 1:061
	902 KAR 1:075
	902 KAR 1:080
	902 KAR 1:081
	902 KAR 1:085
	902 KAR 1:090

KRS Section	Regulation
217.990	902 KAR 1:100
	902 KAR 1:110
	902 KAR 1:125
	902 KAR 1:130
	902 KAR 1:140
	902 KAR 1:180
	902 KAR 1:190
	902 KAR 1:210
	902 KAR 1:260
	902 KAR 1:270
	902 KAR 1:280
	902 KAR 1:290
	902 KAR 1:300
	902 KAR 1:318
	902 KAR 1:320
	902 KAR 1:322
	902 KAR 1:324
	902 KAR 1:326
	902 KAR 1:328
Chapter 217B	401 KAR 7:010
	401 KAR 7:020
	401 KAR 7:030
217C.010-217C.990	902 KAR 50:030
Chapter 224	401 KAR 59:046
	401 KAR 59:050
	401 KAR 59:095
	401 KAR 59:100
	401 KAR 59:101
	401 KAR 59:180
	401 KAR 59:185
	401 KAR 59:190
	401 KAR 59:195
	401 KAR 59:200
	401 KAR 59:210
	401 KAR 59:215
	401 KAR 59:220
	401 KAR 61:005
	401 KAR 61:045
	401 KAR 61:050
	401 KAR 61:055
	401 KAR 61:056
	401 KAR 61:060
	401 KAR 61:090
	401 KAR 61:095
	401 KAR 61:100
	401 KAR 61:105
	401 KAR 61:110
	401 KAR 61:120
	401 KAR 61:125
	401 KAR 61:130
	401 KAR 61:135
	401 KAR 63:010
Chapter 227	815 KAR 30:050
230.210-230.360	810 KAR 1:004
230.770	811 KAR 1:200
243.030	804 KAR 4:030
	804 KAR 4:170
	804 KAR 4:180
	804 KAR 4:200
243.040	804 KAR 4:130
	804 KAR 4:140
	804 KAR 4:160
	804 KAR 4:190
243.110	804 KAR 8:060
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
	804 KAR 8:060
243.250	804 KAR 12:011
243.300	804 KAR 12:011
243.720	804 KAR 12:011
244.090	804 KAR 5:030
244.130	804 KAR 2:015
244.260	804 KAR 12:011
244.310	804 KAR 12:011
244.340	804 KAR 12:011
Chapter 278	807 KAR 25:025
	807 KAR 50:015
	807 KAR 50:020
	807 KAR 50:075
289.441	808 KAR 7:010
304.24-410	806 KAR 24:021
311.530-311.620	201 KAR 9:040
	201 KAR 9:085
311.990	201 KAR 9:040
	201 KAR 9:085
312.015	201 KAR 21:065
312.019	201 KAR 21:005
	201 KAR 21:015
	201 KAR 21:025
	201 KAR 21:031
	201 KAR 21:035
	201 KAR 21:045
	201 KAR 21:055
	201 KAR 21:060
312.021	201 KAR 21:065
312.055	201 KAR 21:025
312.065	201 KAR 21:031
312.085	201 KAR 21:041
	201 KAR 21:055
312.095	201 KAR 21:041
312.105	201 KAR 21:041
312.115	201 KAR 21:041
312.991	201 KAR 21:065
314.011	201 KAR 20:011
314.041	201 KAR 20:095
314.051	201 KAR 20:095
314.111	201 KAR 20:011
317A.060	201 KAR 12:105
	201 KAR 12:130
Chapter 318	815 KAR 20:060
	815 KAR 20:090
	815 KAR 20:110
	815 KAR 20:120
320.220	201 KAR 5:010
320.250	201 KAR 5:010
320.270	201 KAR 5:010
320.310	201 KAR 5:040
325.261	201 KAR 1:061
325.265	201 KAR 1:061
325.270	201 KAR 1:061
325.280	201 KAR 1:061
Chapter 338	803 KAR 2:020
	803 KAR 2:027
	803 KAR 2:030
	803 KAR 50:010
339.210-339.450	803 KAR 1:100
350.093	405 KAR 1:260
350.100	405 KAR 1:260
350.151	405 KAR 3:111
350.440	405 KAR 1:141
Chapter 438	815 KAR 30:050

Subject Index