

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 6, NUMBER 5
SATURDAY, DECEMBER 1, 1979



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

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1980 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

HOW TO CITE: Cite all material in the *Administrative Register of Kentucky* by Volume number and Page number. Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

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

Administrative Register of Kentucky

(ISSN 0096-1493)

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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$24 per volume of 12 issues, beginning in August and ending with the July issue of the subsequent year.

Second class postage paid at Frankfort, Kentucky.

POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 300, State Capitol, Frankfort, Kentucky 40601.

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Public Hearings Scheduled

DEPARTMENT OF AGRICULTURE

A public hearing will be held at 10 a.m. EST December 17, 1979 in the Conference Room of the Department of Agriculture, Seventh Floor, Capital Plaza Tower, Frankfort, Kentucky on the following regulations:

- 302 KAR 31:005. General provisions. [6 Ky.R. 319]
- 302 KAR 31:015. Certification. [6 Ky.R. 323]
- 302 KAR 31:025. Commercial structural pest control and fumigation. [6 Ky.R. 326]

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 10 a.m. EST December 19, 1979, in Room G-1 of the Capital Plaza Tower, Mero Street, Frankfort, Kentucky on the following regulations:

- 401 KAR 5:010. Certification of wastewater treatment plant operators. [6 Ky.R. 329]
- 401 KAR 6:040. Water treatment plants; water distribution systems; certification of operators. [6 Ky.R. 278]

DEPARTMENT OF INSURANCE

A public hearing will be held at 10 a.m. EST November 30, 1979 in the Hearing Room of the department at 151 Elkhorn Court, Frankfort, Kentucky on the following regulation:

- 806 KAR 39:060. Stickers or emblems. [6 Ky.R. 239]

Emergency Regulations Now In Effect

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-992
October 17, 1979

EMERGENCY REGULATIONS Hazardous Waste Commission

WHEREAS, the problem of uncontrolled hazardous wastes and their disposal creates the serious potential for harm to the Commonwealth of Kentucky and its citizens; and

WHEREAS, due to the complexity and gravity of this situation, the Governor by Executive Order established a Hazardous Waste Commission to study this matter and make recommendations to the Department for Natural Resources and Environmental Protection; and

WHEREAS, the Hazardous Waste Commission has reviewed and revised the proposed hazardous waste regulations; and

WHEREAS, the proposed interim hazardous waste regulations represent a positive, forward looking action to begin to deal effectively with the uncontrolled problem of hazardous waste; and

WHEREAS, the Kentucky Department for Natural

Resources and Environmental Protection has the statutory authority to regulate the generation, transportation, and disposal of hazardous wastes; and

WHEREAS, the Department for Natural Resources and Environmental Protection has recommended that, due to the potential for serious harm to the Commonwealth that exists with the unregulated generation, transportation, and disposal of hazardous wastes, the hazardous waste regulations become effective immediately by action of the Governor; and

WHEREAS, the Department for Natural Resources and Environmental Protection has recommended promulgation of the subject and attached interim hazardous waste regulations, and recommends to the Governor that an emergency exists;

NOW, THEREFORE, I, Julian M. Carroll, Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085, do hereby find that an emergency exists and that the attached regulations shall become effective upon filing with the Legislative Research Commission.

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

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

401 KAR 2:100E. Definitions.

RELATES TO: KRS 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 requires the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the management for hazardous wastes. This regulation defines essential terms used in connection with the hazardous waste regulations.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated by their context, terms in KRS Chapter 224 and in the hazardous waste regulations shall have the meanings given in this regulation.

(1) "Active fault" means a land area which, according to the weight of geological evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste facility would be damaged and thereby pose a threat to human health and the environment.

(2) "Action portion" means any area of a facility where treatment, storage, recycling or disposal operations are being conducted. It includes the treated area of a landfarm and the active face of a landfill. Covered, closed, or inactive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the secretary.

(3) "Aquifer" means any formation of soil, sand, gravel, limestone, sandstone, or other material, or any fracture, crevice, or void in any formation from which underground water is or may be obtained in useable quantities.

(4) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(5) "Cell" means a portion of a landfill which is isolated, usually by means of an approved barrier.

(6) "Container" means any portable enclosure in which a material can be stored, handled, transported, or disposed.

(7) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(8) "Discharge" means the release of any solid or hazardous waste or any constituent thereof into the environment.

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

(10) "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(11) "Final closure of a hazardous waste facility" means the procedures which must be followed by a facility

owner/operator when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage, or disposal on the entire facility.

(12) "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a hazardous waste landfill and is permanently exposed to the natural elements.

(13) "Flash point" means the lowest temperature at which evaporation of a substance produces sufficient vapor to form an ignitable mixture with air, near the surface of the liquid. Ignitable mixture denotes a mixture that, when ignited is capable of the propagation of flame away from the source of ignition. Propagation of flames means the spread of the flame from layer to layer independent of the source of ignition.

(14) "Food chain crops" means a forage or feed grain used to feed animals which are raised for human consumption, used to produce products for human consumption, or also food or tobacco crops for human consumption.

(15) "Generator" means any person, federal agency, or state agency whose act or process produces or accumulates any extremely hazardous waste, any radioactive waste not exempt from these regulations, or hazardous wastes in excess of 1.3 tons annually.

(16) "Generation of hazardous waste" means the act or process by which any person or state or federal agency produces hazardous waste, including hazardous residue from recycling and treatment activities.

(17) "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(18) "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(19) "Hazardous waste" means any waste substance or combination of waste substances, in any form which because of its quantity, concentration, or physical, chemical or biological characteristics may create a threat to public health or to animal, plant and aquatic live forms, and including but not limited to, substances which are toxic, ignitable, corrosive, radioactive, irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means.

(a) "Extremely hazardous waste" means any hazardous waste or mixture of hazardous wastes which, because of the quantity, concentration, or chemical, physical, or biological characteristics, may likely cause death or disabling personal injury or illness should human exposure occur or which would result, according to accepted test methods, in a lethal dose for fifty (50) percent of a tested animal population by oral administration.

(b) "Toxic waste" means a hazardous waste which causes adverse effects at a recognized extract concentration level.

(c) "Ignitable waste" means a waste which has any of the following properties:

1. Any liquid waste which has a flash point of less than 140 degrees Fahrenheit.

2. Any waste, excluding liquid waste in subparagraph 1. above and contained gas, that under conditions incident to its management is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat from manufacturing or processing or to create a hazard during its management when ignited;

3. Any ignitable waste compressed gas;

4. Any waste which is a strong oxidizer.

(d) "Corrosive waste" means a waste which is an aqueous solution having a non-buffered pH less than or equal to three (3) or greater than or equal to twelve (12) and a corrosion rate greater than 0.250 inch per year of steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit.

(e) "Radioactive waste" means any waste that exhibits radioactivity above specified levels in 902 KAR 100:080 or 902 KAR 100:085 and is not subject to the Federal Atomic Energy Act of 1954.

(f) "Incompatible waste" means a waste, including non-ignitable waste compressed gases, unsuitable for commingling with another waste or material, where the commingling might result in uncontrolled:

1. Extreme heat or pressure generation;
2. Fire;
3. Explosion or violent reaction;
4. Formation of substances which are shock-sensitive, friction-sensitive, or otherwise have the potential for reacting violently;
5. Formation or generation of toxic dusts, mists, fumes, gases, or other chemicals in such a manner that the likelihood of contamination of groundwater or escape of the substances into the environment is increased; or
6. Formation of any other hazardous waste as defined in this regulation.

(g) "Reactive hazardous waste" means waste which, of itself, is:

1. Normally unstable and readily undergoes violent chemical change, but does not detonate;
2. Capable of detonation or reaction, but requires a strong initiating source or which must be heated under confinement before initiation, or which reacts explosively with air, water, or soil; or
3. Readily capable of detonation, explosive decomposition or reaction at normal temperatures and pressures.

(20) "Hazardous waste district" means a hazardous waste management area identified by the department.

(21) "Hazardous waste guidelines" means the departmental publication, filed herein by reference, available from the Division of Hazardous Material and Waste Management detailing facility criteria and procedures, financial requirements, testing procedures and specific lists of hazardous wastes and waste sources.

(22) "Hazardous waste regulations" means those regulations relating to and pursuant to KRS 224.890.

(23) "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, recycled, and/or disposed of by landfilling, incineration or any other approved method.

(a) "Disposal facility" means any facility which disposes of hazardous waste by landfilling in a manner approved by the department.

(b) "On site" means on the same or geographically continuous property where hazardous waste generation, treatment, storage, recycling, or disposal occurs. Two (2) or more pieces of property which are divided only by a public or private right-of-way and which are otherwise geographically contiguous are considered a single site.

(c) "Off-site" means that the site at which receiving, treatment, storage, recycling, and/or disposal takes place, is separated from another site where generation, shipment, treatment, storage, recycling, and/or disposal takes place, by more than the width of a public or private right-of-way.

(d) "Storage facility" means any hazardous waste facility which stores hazardous wastes. A generator who stores

his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport off-site is not operating or maintaining a storage facility.

(e) "Treatment facility" means any facility which treats hazardous wastes, except one employing only treatment processes, other than ponds and lagoons, which are connected to a manufacturing process by a pipe or other fixed and enclosed means except as may be determined by the department not to be a treatment facility.

(f) "Recycling facility" means a facility where hazardous waste is recycled.

(g) "Landfill" means an excavated or engineered area where hazardous waste is deposited and covered according to a plan approved by the department.

(24) "Hazardous waste facility personnel" means those agents of the operator/owner who are responsible for performing and/or overseeing operations at a hazardous waste treatment, storage, recycling or disposal facility, and whose acts or failures to act may result in a threat to human health or the environment.

(25) "Hazardous waste permit" means the written document issued by the department to the permittee pursuant to KRS 224.890 and the regulations promulgated thereto, for the act of generation, treatment, storage, recycling, or disposal of hazardous wastes. The permit may be for any of the above acts, and may have conditions attached.

(26) "Incineration" means an engineered process using equipment approved by the department that uses controlled flame combustion or other methods to thermally degrade hazardous waste. Incineration is a method of treatment of hazardous waste.

(27) "Landfarming" means application of hazardous waste onto land and incorporation into the surface soil for the purpose of attenuation. Synonyms include land application, land cultivation, land irrigation, land spreading, soil farming, and soil incorporation.

(28) "Leachate" means a liquid that has percolated through and extracted dissolved or suspended materials from soil, rock, or waste.

(29) "Liner" means a layer of natural or man-made material placed beneath or over a surface impoundment or landfill which serves to restrict the movement of the wastes from within the surface impoundment or the landfill into the soil, rock or water outside of the surface impoundment or landfill.

(30) "Manifest" means the principal document used in a management control system to trace the movement of hazardous wastes from generation to final disposal.

(31) "Monitoring" means the acts of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(32) "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(33) "One-hundred year flood" means a flood that has a one (1) percent or one (1) in 100 chance of recurring in any year, or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(34) "Open burning" means the combustion of any material without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Emission of the combustion products through a stack or vent adequate for both visual monitoring and point source sampling.

(35) "Owner/operator of a hazardous waste facility" means the owner of an on-site or off-site hazardous waste treatment, storage, recycling or disposal facility, as well as any person with whom rests ultimate decision-making authority over the facility.

(36) "Operational plan" means the approved plan of operations filed with the department which describes the method of operation that the permittee will use in the generation, treatment, storage, recycling, and/or disposal of hazardous wastes.

(37) "Permittee" means any person holding a valid permit issued by the department to generate, treat, store, recycle, and/or dispose of hazardous wastes.

(38) "Partial closure of a hazardous waste facility" means the measures which must be taken at a facility when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage or disposal on one (1) portion of the site.

(39) "Post closure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for treatment, storage, or disposal.

(40) "Representative sample" means any sample of waste or groundwater which is equivalent to the total waste or groundwater in composition, and physical, biological, and chemical properties at an accepted level of confidence.

(41) "Run-off" means that portion of precipitation that flows overland before entering a defined stream channel.

(42) "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled.

(43) "Spill" means any accidental discharge into the environment of any substance which meets the definition of hazardous waste.

(44) "Storage of hazardous waste" means the containment of hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such hazardous waste.

(45) "Storage tank" means any non-portable enclosure used for containing hazardous waste.

(46) "Surface impoundment" means a pit, pond, lagoon, concrete basin or other basin such as open mixing tanks, clarifiers, and settling tanks.

(47) "Transport vehicle" means a motor vehicle, rail freight car, air freight carrier, freight container, cargo tank, portable tank, vessel, pipeline or any other mechanism used for the transportation of hazardous waste.

(48) "Transporter" means a person who moves or causes to be moved by any means any hazardous waste regardless of any change of ownership or dominion over any such waste.

(49) "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(50) "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(51) "Wetlands" means those areas that are inundated by surface or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

(52) "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

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

401 KAR 2:110E. General provisions.

RELATES TO: KRS 224.037, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes. This regulation sets forth general provisions which apply to the hazardous waste regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, and severability.

Section 1. Applicability. The hazardous waste regulations shall apply to the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 2:100, 401 KAR 2:150) by all persons and state and federal agencies who engage in the generation, treatment, storage, recycling, or disposal of such wastes, including substances spilled into the environment, thereby meeting the criteria of hazardous waste.

Section 2. Variance. (1) The department may grant a temporary variance from the requirements of the hazardous waste regulations if a hazardous waste is determined by the department to be either:

(a) Insignificant as a potential hazard to public health or the environment because of its small quantity, low concentration, or physical, biological, or chemical characteristics; or

(b) Handled, processed, or disposed of pursuant to regulations of another governmental agency, providing the regulations of other agencies meet the requirements of the hazardous waste regulations.

(2) A request for temporary variance from a requirement of the hazardous waste regulations shall be submitted to the department in a detailed report clearly setting forth the analyses, procedures, controls, and other pertinent data necessary to support the request. The granting of such a request by the department shall be in writing and shall specify appropriate conditions such as duration, limitations, and review procedures.

Section 3. Compatibility with Public Law 94-580. The regulations promulgated pursuant to KRS 224.890 are in-

tended to be compatible with federal regulations adopted pursuant to Public Law 94-580, the "Resource Conservation and Recovery Act of 1976."

Section 4. Conflicting Provisions. The provisions of the hazardous waste regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found to be contradictory, the more stringent provisions shall apply.

Section 5. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pursuant thereto is found to be invalid, the remaining hazardous waste regulations shall not be affected or diminished thereby.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection

Division of Hazardous Material and Waste Management

401 KAR 2:120E. Hazardous waste permits for facilities and generation.

RELATES TO: KRS 224.033, 224.255, 224.855, 224.860, 224.880, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.880 and 224.890 require any person who generates, treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste permit from the Department for Natural Resources and Environmental Protection.

Section 1. Generators determination of hazard and registration.

(1) No person or state or federal agency shall engage in the generation of waste without having made a determination, based upon examination of the definitions, characteristics, and determination guidelines, that the waste is hazardous or non-hazardous; and

(2) If the waste appears to be hazardous, the generator shall register his intent to apply for a hazardous waste permit with the department. Such registration shall be filed within ninety (90) days after the effective date of the hazardous waste regulations and shall include:

(a) Known or anticipated types, potential sources, general characteristics, and weights or volumes of hazardous wastes generated annually; and

(b) The place of generation and the name and address of a contact agent.

Section 2. Permit required. (1) No person or state or federal agency shall engage in the treatment, storage, recycling, or disposal of hazardous waste without having first obtained a permit or a temporary variance from the department or, in the case of generators, having registered with the department.

(2) A permit shall authorize the permittee to engage in the generation, treatment, storage, recycling or disposal of hazardous waste in a manner prescribed by the department for a period of one (1) year from the date of issuance.

(3) All existing authorizations or letters of permission to dispose of hazardous waste issued by the department shall become null and void ninety (90) days after the effective date of the hazardous waste regulations.

(4) Any person or state or federal agency generating hazardous waste or operating an existing hazardous waste site or facility on the effective date of the hazardous waste regulations shall apply to the department for a hazardous waste permit or a temporary variance, or in the case of generators, having registered with the department within ninety (90) days after the effective date of these regulations.

(5) Hazardous waste sites or facilities beginning operations after the effective date of these regulations shall obtain a permit before treating, storing, recycling or disposing of hazardous waste.

(6) The permit shall confer upon the owner/operator a qualified right to generate, treat, store, recycle, or dispose of hazardous waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state, and local laws and regulations.

Section 3. Application for a Hazardous Waste Permit. A person or state or federal agency desiring a hazardous waste permit shall submit to the department:

(1) A complete application on a form provided by the department.

(2) An operational plan addressing:

(a) Known or anticipated types, potential sources, general characteristics and weights or volumes of hazardous wastes generated, received or handled annually.

(b) The designated capacity and expected life of equipment to be used and/or site to be used by the permittee.

(c) A list of operating equipment which the facility will utilize to comply with these regulations.

(d) A general description of the operational procedures to be conducted including procedures that will ensure compliance with KRS Chapter 224, and that will protect public health and the environment.

(e) A general description of procedures for shipping, receiving and identifying hazardous wastes; for deployment of qualified personnel; and for supervision of handling and disposing of hazardous waste.

(f) A description of procedures planned for final or partial closure of any hazardous waste disposal site.

(g) Closure and post-closure monitoring and maintenance cost estimates.

(h) A description of security measures to keep unauthorized persons from entering the site and to prevent unpermitted use.

(3) A contingency plan addressing:

(a) Actions that will be taken in the event of fire, explosion, accidental discharge, or other accident;

(b) The equipment and manpower available to correct effects of an accident or accidental discharge; and

(c) Emergency procedures for evacuating employees and notifying agencies responsible for providing services during emergencies.

(4) Physical information on the proposed site or facility consisting of, but not limited to:

(a) A map drawn to an appropriate scale showing the following:

1. Existing topographical contours of the property;

2. Proposed final elevations of any completed disposal site;
3. Legal boundaries for which clear title or lease is held by the person desiring the permit.
4. Locations of permanent access and permanent internal roads;
5. Location and type of fencing;
6. Locations of waste generation, loading facilities, unloading facilities, storage facilities, equipment cleaning areas and disposal areas;
7. Locations and descriptions of environmental monitoring stations;
8. Locations of structures, equipment or facilities for control of surface or subsurface drainage, leachate or landfill gases; and
9. Locations of power lines, pipelines, and easements through the hazardous waste site or facility.

(b) A geological report of the site including but not limited to:

1. A description of all soils at the site in detail identifying the suitability for the proposed use;
2. A description of the surface and subsurface geology of the site, including an assessment of such geological hazards as: seismic activity, subsidence, or stability;
3. A description of the hydrologic characteristics of the site, including surface and ground water current use, potential use, and flow.

(c) All land uses and zoning contiguous with the location of hazardous waste generation and within one quarter mile of the perimeter of hazardous waste treatment, storage, recycling, or disposal facilities.

(5) A statement of zoning approval for the hazardous waste treatment, storage, recycling, or disposal facility signed by the appropriate authority.

(6) A verified affidavit from the publishing newspaper certifying the time, place, and content of the applicant's advertisement in accordance with KRS 224.855, for a hazardous waste treatment, storage, recycling, or disposal facility.

(7) Proof of financial responsibility and plan for meeting any bonding requirements required by KRS 224.890 and by Section 4.

Section 4. Closing Trust Fund; Post-Closure Trust Fund; Financial Responsibility. Prior to issuance of a hazardous waste permit, the applicant shall establish a trust fund for the amount of the estimated closure cost; establish a trust fund for post-closure monitoring and maintenance which is to be built up over the life of the site or over twenty (20) years, whichever is shorter; and provide evidence to the department of the necessary financial responsibility for injuries to persons or property sustained as a result of an escape or release of hazardous waste.

(1) For each facility, before a permit can be issued, the applicant shall deposit into a closure trust fund as a condition of receiving a permit a cash deposit satisfactory to the department equal to the cost estimate for closure. An acceptable method for determination of this amount is found in the "Hazardous Waste Guidelines," financial requirements.

(2) For each facility, before a permit can be issued, the applicant shall establish a post-closure trust fund. The annual cost of post-closure monitoring and maintenance cost will be determined by the department based on cost estimates provided by the applicant and other sources. The annual post-closure monitoring and maintenance cost will be paid into the post-closure trust fund, at a rate determined in "Hazardous Waste Guidelines," financial re-

quirements, or at some other rate satisfactory to the department which will ensure the availability of the necessary funds for monitoring and maintenance after the facility has closed.

(3) For each facility, before a permit shall be issued, the applicant must show evidence of financial responsibility, in an amount and for a time period specified by the department for the purpose of satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous wastes to the environment.

(4) In the case of generation permits, a bond shall be required in an amount specified by the department. The bond shall be sufficient to provide for the cleanup of spills of hazardous waste at the generating facility or during transport, based on the character, quantity, and routing of the waste. In a particular instance where the circumstances are such as to warrant an exception to this provision, the department may accept other evidence of financial responsibility for spill cleanup.

Section 5. Issuance of hazardous waste permit. (1) After receiving a permit application, operational plan, contingency plan, site information, and proof of financial responsibility, the department shall determine whether this proposed facility is a long-lived hazardous waste disposal site, and if not, the department shall issue a hazardous waste permit, specify modifications that must be made as a prerequisite for issuance of a permit, or deny the permit. If the proposed facility is determined to be a long-lived hazardous waste disposal site, the requirements of KRS 224.855(5) and (6) must be met.

(2) The department may issue a hazardous waste permit upon finding that the person or state or federal agency desiring the permit has met all the requirements for application and has the ability to meet the operational requirements of the hazardous waste regulations. Past performance in related areas will be considered in the review and in the determination of any requirement for specialized permit conditions. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(3) The department shall act on the permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

Section 6. Termination and Renewal of Hazardous Waste Permit. (1) A hazardous waste permit shall automatically terminate at the end of one (1) year. A shorter period may be specified.

(2) A hazardous waste permit may be renewed. Renewal requests shall be made to the division not less than ninety (90) days prior to the permit expiration date.

(3) The department, in issuing a renewal, shall consider:

(a) Whether all conditions of the expiring permit are being met;

(b) Whether any necessary modification of the original permit conditions is being met;

(c) New or updated information required by the department that is necessary for re-evaluating the permit's suitability for re-issuance; and

(d) All information considered in issuance of the original permit.

(4) Approval of any compliance schedule for meeting permit conditions or necessary changes in permit conditions does not constitute a waiver of the department's right

to initiate enforcement action for a permittee's non-compliance with KRS Chapter 224 and the hazardous waste regulations.

Section 7. Conditions of Hazardous Waste Permit. (1) The owner/operator shall comply with the requirements of all applicable state laws and regulations as well as special conditions determined by the department.

(2) The department may issue a permit subject to special conditions which include but are not limited to:

(a) Types of hazardous wastes which may be accepted or disposed;

(b) Special operating conditions;

(c) Schedules of compliance for corrective actions;

(d) Procedures, conditions, and changes necessary to comply with the requirements of the hazardous waste regulations and of KRS Chapter 224; or

(e) The issuance of any other applicable departmental permits.

(3) The owner/operator shall handle a waste as a hazardous waste if the manifest indicates that the waste is hazardous.

Section 8. Display of Hazardous Waste Permit. The hazardous waste permit or notice of temporary variance shall be conspicuously displayed at the hazardous waste facility. In the case of generators, the permit or acknowledgement of registration in accordance with Section 1 shall be displayed at the generator's place of business.

Section 9. Prohibition of Use of Unpermitted Facility. Ninety (90) days after the effective date of the hazardous waste regulations, no person shall deliver hazardous waste to a facility for treatment, storage, recycling, or disposal unless the owner/operator has:

(1) Applied to the department for a hazardous waste permit for a facility in operation at the effective date of the hazardous waste regulations, or

(2) Been granted a hazardous waste permit by the department.

Section 10. Modification of Hazardous Waste Permit to Include New Conditions. The department may at any time modify a permit issued pursuant to these regulations to include new conditions required to comply with the requirements of the hazardous waste regulations, KRS Chapter 224, or any other applicable state statutes or regulations. The modification may include a time schedule for implementing the new conditions.

Section 11. Modification of Processing Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall notify the department in writing of any facility closing anticipated to last one (1) year or longer, or of any proposed significant change of processing, disposal, or method of operation from that described in the operation plan thirty (30) or more days before the proposed date of the closing or change.

(2) The owner/operator shall not proceed with the closing or change without written approval of the department.

(3) The department shall respond to the owner/operator within thirty (30) days of the receipt of the notice of proposed closing or change.

Section 12. Change of Owner/Operator. Hazardous waste permits are non-transferable absent written approval

by the department. Any proposed new owner/operator may be required to submit an application as described in this regulation.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

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

401 KAR 2:130E. Enforcement, inspections, and penalties.

RELATES TO: KRS 224.032, 224.033, 224.071, 224.081, 224.083, 224.890, 224.996

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with KRS Chapter 224 or the regulations promulgated pursuant thereto. KRS 224.996 permits the Department for Natural Resources and Environmental Protection to assess civil and criminal penalties against any person who fails to perform any duties imposed by KRS Chapter 224, the regulations promulgated pursuant to KRS Chapter 224, or any determination or order of the department.

Section 1. Enforcement. The requirements of this regulation shall be enforced by the secretary or any duly authorized representative of the department.

Section 2. Inspections. (1) The secretary or any duly authorized representative of the department upon presentation of proper identification and authority may:

(a) Enter any premises permitted to generate hazardous waste on any permitted hazardous waste facility, inspect the premises, and gather evidence on existing conditions and procedures.

(b) Obtain from any permittee, or from any permitted premises, representative samples of waste.

(c) Conduct tests, analyses and evaluations to determine whether the requirements of the hazardous waste regulations and KRS Chapter 224 are being met.

(d) Obtain samples of any containers and photographs or facsimiles of container labels.

(e) Inspect and copy any pertinent records, reports, information or test results relating to the requirements of this regulation.

(f) Enter and inspect any other premises in accordance with the requirements of KRS 224.033(10).

(2) A report listing any deficiencies found during the inspection shall be prepared by the inspector and shall be kept on file in the department. A copy of the report shall be provided to the owner/operator or his agent upon completion of the inspection.

Section 3. Deficiencies. (1) The department shall notify the owner/operator of any noncompliance with the requirements of these regulations, with guidelines adopted pursuant thereto, or with conditions of the permit.

(2) The owner/operator shall submit to the department a plan of correction to be implemented within a time acceptable to the department.

(3) If the owner/operator fails to accomplish an agreed upon step in the plan of correction within the time period specified, the secretary may take action to modify, suspend, discontinue, or revoke the owner/operator's permit(s).

Section 4. Modification, Suspension and Revocation of a Permit. The department may modify, suspend or revoke a permit issued pursuant to this regulation for: (1) Violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto.

(2) Aiding, abetting or permitting the violation of any provisions of these regulations.

(3) Any action or omission associated with maintenance and operation of the facility that could create a threat to public health or the environment.

(4) Violations of a condition or a variance of the hazardous waste permit.

(5) Misrepresentation or omission of a significant fact by the operator either in the application for the permit or in information subsequently reported to the department.

(6) Failure to comply with an order issued by the department.

Section 5. Hearing. (1) Except for special hearings pursuant to KRS 224.071, any person or state or federal agency aggrieved by the actions of the department may by written notice request that a hearing be conducted by the department. The right to demand such a hearing shall be limited to a period of thirty (30) days after the applicant has had actual notice of the action, or could reasonably have had such notice. Unless the request is frivolous, the department shall schedule a hearing before the department not less than twenty-one (21) days after notice of demand for such a hearing, unless the person complained against waives in writing the twenty-one (21) day period. The notice of hearing shall include a statement of the time, place, and nature of the hearing; the legal authority for the hearing; reference to the statutes and regulations involved; and a short statement of the reason for the granting of the hearing.

(2) Prior to the formal hearing, and upon seven (7) days written notice to all parties, delivered personally or by certified mail with return receipt requested, the hearing officer may hold a pre-hearing conference to consider simplification of the issues, admissions of fact and documents which will avoid unnecessary proof, limitations of the number of witnesses and such other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the pre-hearing conference by stipulation, agreed settlement, consent order, or default for non-appearance.

(3) Administrative hearing procedure:

(a) Any party to a hearing may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. A hearing officer shall preside at the hearing in accordance with reasonable administrative practice.

(b) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain

facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) It will be within the hearing officer's discretion to require official transcripts or to set up other procedures of taking evidence, including but not limited to the use of mechanical recording devices for recording the testimony. The record of such hearing, consisting of all pleadings, motions, rulings, documentary and physical evidence received or considered, a statement of matters officially noticed, questions and offers of proof, objections and rulings thereon, proposed findings and recommended order, and legal briefs, shall be open to public inspection and copies thereof shall be made available to any person upon completion of the hearing process upon payment of the actual cost of reproducing the original except as provided in KRS 224.035. The department may cause the mechanical recording of the testimony to be transcribed. When certified as a true and correct copy of the testimony by the hearing officer, the transcript shall constitute the official transcript of the evidence.

(d) The hearing officer shall within thirty (30) days of the closing of the hearing record, make a report and a recommended order to the secretary. The order shall contain the appropriate findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant a reasonable extension. The hearing officer shall serve a copy of his report and recommended order upon all parties. The parties may file within seven (7) days of service of the hearing officer's report and recommended order exceptions to the recommended order. The secretary shall consider the report and recommended order and exceptions. The secretary may remand to the hearing officer the matter for further deliberation, adopt the opinion of the hearing officer and the department or issue his own written order based on the report and recommended order.

(e) After completion of the hearing and filing of exceptions, the department shall notify the applicant in writing, certified mail with return receipt requested, of the final decision of the department. If any extension of time is granted by the secretary for a hearing officer to complete his report, the department shall notify all parties at the time of the granting of the extension.

(f) The secretary shall not grant extensions of time to the

hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) such extensions shall be granted.

(g) A final order of the department shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the department and the facts and law upon which the decision is based.

(h) There shall be no ex-parte communications between a hearing officer and parties to the action.

(i) Any person aggrieved by a final order of the department may have recourse to the courts as set forth in KRS 224.085.

Section 6. Order for Discontinuance, Abatement, or Alleviation. The secretary may, when he finds after investigation that it would be prejudicial to the interests of the people of the state to delay action, issue an order for discontinuance, abatement, or alleviation of a condition or activity without prior hearing as provided in KRS 224.071.

Section 7. Discontinuance of a Permit. (1) The secretary may order the discontinuance of a permit prior to any hearing when he determines such action is necessary to protect public health and safety and the environment from imminent danger.

(2) The secretary, or his authorized designee, shall notify the owner/operator of the hazardous waste facility of the discontinuance and the effective date thereof and at the same time shall provide the owner/operator with an explanation of the basis of the discontinuance.

(3) The owner/operator shall take prompt action to correct the deficiencies cited by the department.

(4) The suspension shall remain in effect until the deficiencies are corrected to the satisfaction of the department or until the department makes a final determination based on the outcome of a hearing held in accordance with the requirements of KRS 224.071. The determination may result in termination of the order, suspension, or modification of the permit, or revocation of the permit.

Section 8. Petition for Reinstatement. An owner/operator whose permit has been suspended or revoked may petition the department for reinstatement after thirty (30) days or more have elapsed from the effective date of the suspension or revocation or from the date of the denial of a similar petition and after the conditions of Section 7(4) have been met.

Section 9. Penalties. Any person or state or federal agency who violates any of the applicable provisions of KRS 224.890 or who violates any determination, order, or regulation adopted pursuant thereto, shall be subject to civil penalties as set forth in KRS 224.996(5).

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

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

401 KAR 2:140E. Reporting procedures, record keeping and operating standards.

RELATES TO: KRS 224.071, 224.255, 224.890
PURSUANT TO: KRS 13.082, 224.017, 224.890
EFFECTIVE: October 17, 1979
EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.890 requires the Department for Natural Resources and Environmental Protection to promulgate regulations to establish reporting procedures, record keeping procedures and operating standards, for the generation, storage, treatment, recycling and disposal of hazardous wastes.

Section 1. Manifest. (1) A manifest in a form approved by the department shall be utilized for recording information on all liquid, solid, semi-solid or gaseous hazardous wastes transported to hazardous waste handling facilities, storage facilities, treatment facilities, recycling facilities, transfer stations or disposal sites.

(2) All applicable sections of each manifest shall be accurately, completely, and legibly filled out.

(3) The manifest shall be carried by any person who transports hazardous waste on a public road, railroad, water or by any other means.

Section 2. Manifest and Other Procedures for Generators. (1) The generator of any hazardous waste to be disposed of off-site shall complete and sign the generator of waste section of the manifest, and label and placard each shipment.

(2) The generator shall describe the wastes accurately. This description shall include the type of waste, chemical composition, special handling instructions and any other information deemed necessary by the department.

(3) The generator shall indicate on the manifest whether the waste is hazardous or extremely hazardous as delineated in 401 KAR 2:150.

(4) Before any load of hazardous waste is transported on a public road, the generator shall write the proper shipping name on the manifest as required by the Kentucky Department of Transportation in 601 KAR 1:005.

(5) Before any shipment of extremely hazardous waste is transported on a public road, the generator, in addition to completing the manifest as required by this regulation, shall inform the department by a previously agreed upon procedure, such as outlined in "Hazardous Waste Guidelines," records and procedures.

(6) The generator shall have retained the waste generator's copy of the completed manifest prior to removal of the waste from the generator's facility.

(7) The generator shall provide that the manifest, with the generator and transporter sections completed, accompany hazardous waste during transport and be delivered to the hazardous waste site or facility with the waste.

(8) With the manifest sections properly completed, the generator shall submit to the hazardous waste transporter an original and copies of the manifest for shipment of hazardous waste.

(9) The generator of hazardous waste shall submit to the department each week, or on such other schedule as approved by the department, a summary or a legible copy of

each manifest or both issued during the previous week or designated time period, including manifests for shipments to be delivered out of the state.

Section 3. Manifest Procedures for Owner/Operator of Treatment, Storage, Recycling, or Disposal Facility. (1) The owner/operator of an off-site hazardous waste facility shall ensure that hazardous waste delivered to the receiving facility has essentially the same general properties and quantities as identified by the generator on the manifest, except in the case of an on-site facility operated solely for and by a generator.

(2) The owner/operator of a hazardous waste facility shall require that the generator and transporter sections of the manifest be completed before the hazardous waste shall be accepted.

(3) The off-site hazardous waste facility owner/operator shall complete the applicable section of the manifest, retain a copy, and send the completed original to generator of the hazardous waste.

(4) The owner/operator shall send legible copies of all completed hazardous waste manifests or other reports to the department on a current weekly basis, or on such other schedule as approved by the department, including manifests or shipments received from out of state.

Section 4. Personnel Requirements for Facility Operation. (1) The owner/operator of a hazardous waste facility shall maintain such personnel at the facility as are necessary to provide effective and timely action with regard to facility operations, maintenance, environmental controls, records, emergencies, and health or safety.

(2) The owner/operator shall provide at the facility at least one (1) qualified person who is capable of conducting field tests of wastes, at a minimum, for pH and flammability at the time hazardous waste is accepted.

(3) The owner/operator of a hazardous waste facility shall provide adequate supervision to ensure that the operation of the facility and other activities carried out on the premises are in compliance with all applicable laws, regulations, permit conditions and other requirements. The owner/operator shall keep the department, local fire officials, and State Fire Marshal currently advised of the names, addresses, and telephone numbers, including emergency telephone numbers of the owner/operator, manager, and supervisor.

Section 5. Equipment Requirements for Owner/Operator. (1) Hazardous waste facilities shall be designed, equipped and operated to prevent discharge of hazardous wastes outside of areas designated in the operational plan, and to prevent hazards to public health and safety and the environment.

(2) Equipment used to handle, treat, store or dispose of hazardous waste shall be designed to avoid an uncontrolled reaction, fire, explosion, or discharge of hazardous waste.

(3) If an on-site water supply is used for controlling dust and fires, cleaning equipment or other purposes, and does not meet all health standards for drinking water all faucets or taps shall be clearly labeled: "Polluted—Not Safe For Human Use."

(4) If a public water supply is used at the facility, the service connection shall be protected from contamination as specified by the department in 401 KAR 6:015, pertaining to public water supply requirements.

(5) The owner/operator shall provide or otherwise require special equipment such as lifts, ramps, and lines to remove containerized hazardous waste from vehicles and

containers, if necessary to prevent hazards to public health and safety and the environment.

(6) Hazardous waste facilities shall not be open to public, except by permission of the department. Access roads leading to areas where hazardous wastes are handled, treated, recycled, stored, or disposed shall be clearly marked with notices that are legible from a distance of at least twenty-five (25) feet, and warn of the presence of hazardous wastes. Signs or traffic controllers shall be strategically located to prevent the public from being exposed to hazardous wastes.

Section 6. General Operating Standards for Facilities.

(1) The owner/operator of a hazardous waste facility shall operate the facility in accordance with the requirements of KRS Chapter 224, and the regulations promulgated pursuant thereto, the conditions of the hazardous waste facility permit issued by the department, and the operational plan filed with the department.

(2) Hazardous waste shall be handled, treated, recycled, stored, or disposed of only within the hazardous waste area designated in the operational plan filed with the department unless otherwise specified.

(3) The owner/operator shall ensure that methods used to handle, treat, store, recycle or dispose of hazardous waste at the hazardous waste facility are designed to avoid:

(a) Discharge of hazardous waste outside the designated hazardous waste area;

(b) Movement of hazardous waste to an area outside the hazardous waste area;

(c) Exposure or contamination of a person by hazardous waste; and

(d) Creating a hazard to public health or safety or the environment.

(4) To prevent hazardous waste from being blown by wind, hazardous waste in the form of powder, dust, or a fine solid should be handled, treated, stored and disposed of in covered containers or, if the waste is not water reactive, shall be wetted sufficiently to eliminate airborne dispersal in conformance with other permit requirements.

(5) Hazardous wastes that are capable of releasing hazardous gases, mists or vapors in excess of existing air quality standards or where the emitted hazardous wastes could result in a hazard to public health or safety or the environment shall not be deposited in open pits, ponds, lagoons, storage or disposal areas or containers.

(6) Containers holding hazardous wastes shall not be opened, handled, emptied or disposed of in a manner which may rupture the containers, or cause them to leak unless the precautions taken preclude fires, contamination of persons by hazardous waste, discharge of hazardous waste outside the hazardous waste area or movement of hazardous waste to an area outside the hazardous waste area.

(7) Empty containers contaminated with hazardous materials shall be stored, handled, processed and disposed as hazardous wastes in compliance with hazardous waste regulations.

(8) The owner/operator of a hazardous waste facility shall expedite collection of hazardous waste that is accidentally discharged from designated storage, processing or disposal areas. The owner/operator shall also collect soil contaminated by such discharge. The owner/operator shall handle and dispose of such waste and soil as hazardous wastes in compliance with these regulations and the approved operational plan.

(9) The hazardous waste facility shall be operated in such a manner as to minimize the chance of fire and explo-

sions and with adequate provisions for prompt fire control.

(10) The owner/operator shall make provisions to prevent personnel from wearing clothing that is contaminated with hazardous waste and provide adequate decontamination facilities.

(11) Equipment used at hazardous waste facilities, including but not limited to storage containers, processing equipment, trucks, loaders, dozers, and scrapers, that are contaminated with hazardous waste shall be decontaminated prior to being serviced or used in an area not used for hazardous waste. Contaminated wash water, waste solutions or residues generated from washing or decontaminating the equipment shall be collected and disposed of as hazardous wastes in compliance with these regulations.

(12) Salvaging of hazardous waste shall be permitted only as described in the operational plan, provided that salvaging does not create nuisances or hazards to public health or safety or the environment.

Section 7. Additional Standards for Storage of Hazardous Waste. (1) No person or state or federal agency shall store a hazardous waste without written permission from the department.

(2) Any person who stores a hazardous waste longer than ninety (90) days shall have obtained a permit or temporary variance for storage from the department.

(3) The department may require that hazardous waste stored longer than ninety (90) days be removed and disposed of in a manner acceptable to the department.

(4) Hazardous waste in storage for less than ninety (90) days shall be removed and disposed of in a manner acceptable to the department if so ordered by the secretary pursuant to KRS 224.071.

(5) Storage of water-reactive or water-soluble hazardous wastes as identified by the department shall be in a rain-tight and waterproof area.

(6) Containers used for storing hazardous waste shall be such that containers can be transported, handled, or moved safely, and without spillage.

(7) Storage of hazardous waste shall be in a secure enclosure, including but not limited to, a building, room or fenced area, which shall prevent unauthorized persons from gaining access to the waste and in such a manner that will minimize the possibility of spills and escape from the area of storage. A caution sign shall be posted and shall be visible from any direction of access or view of hazardous waste stored in such enclosure. Wording of caution signs shall be: "Caution—Hazardous Waste Storage Area—Unauthorized Persons Keep Out."

(8) A label shall be maintained on all containers and storage tanks in which hazardous wastes are stored. Labels shall include the following information:

- (a) Identification number;
- (b) Composition and physical state of the waste;
- (c) Special safety recommendations and precautions for handling the waste;
- (d) Statements which call attention to the particular hazardous properties of the waste;
- (e) Name and address of the person generating the waste; and
- (f) Date of acceptance at the storage facility.

(9) Records shall be maintained on all containers and storage tanks during the term of storage. The records shall include the following information:

- (a) An identification number which appears on the label;
- (b) Composition and physical state of the waste;

(c) Amount of waste;

(d) Name and address of the person producing the waste; and

(e) Date of acceptance at the storage facility.

Section 8. Operation Requirements for Owner/Operator of a Disposal Site. (1) Extremely hazardous wastes, flammable wastes, water-reactive wastes and strong oxidizers shall not be applied directly to the working face of a landfill. Such wastes shall be deposited behind the working face in trenches or wells at landfill sites pursuant to the conditions of the hazardous waste permit.

(2) The department may require the owner/operator to remove from the disposal site and properly dispose of any hazardous waste if the disposal of the waste is not consistent with the requirements of this regulation and conditions specified by the department in the hazardous waste permit.

(3) Hazardous waste that has been deposited in a hazardous waste area shall not be excavated, removed or recovered without written approval of the department. All subsequent handling, treatment, storage, recycling, or disposal of such hazardous waste shall be in conformance with this regulation. A complete manifest shall accompany the wastes, if transported to an off-site hazardous waste facility, and applicable permits shall be required pursuant to 401 KAR 2:120.

(4) Burning wastes shall not be deposited within a hazardous waste disposal site.

(5) Forbidden or Class A explosive wastes as defined in Title 49, Code of Federal Regulations, Sections 173.51 and 173.53, or identified by the department, shall not be disposed on land. Such wastes shall be destroyed or used so as not to present a hazard to public health or safety or the environment.

(6) The department may require that any extremely hazardous waste be treated before it is disposed.

(7) Any person or state or federal agency who generates, treats, stores, recycles or disposes of hazardous wastes shall not create a situation where incompatible wastes as defined in 401 KAR 2:100 can come in contact with each other.

(8) Storage and transportation containers holding wastes which might be incompatible shall be separated from each other or protected from each other, in order to prevent the wastes from mixing should the containers break or leak prior to disposal according to the operating plant.

(9) The owner/operator of a hazardous waste facility shall not accept hazardous wastes from generators and transporters not in compliance with applicable state and federal laws and regulations.

Section 9. Records. (1) Hazardous waste facility owner/operators shall maintain at their facility, for a period of not less than three (3) years, the following information:

(a) The names, addresses, and telephone numbers of the waste generator, transporter, processor and disposal site owner/operator of each shipment of hazardous waste transported, received, or stored;

(b) The source, identity, chemical composition, volume, physical state, container type and hazardous properties of each shipment of waste received, transported, or stored at the site;

(c) The method used to process or dispose of each waste; and

(d) The date that each hazardous waste was received for storage or disposal.

(2) Copies of completed manifests may serve the purpose in Section 9(1)(a) through (d).

(3) The owner/operator of a hazardous waste disposal facility shall record on a grid or other suitable map the general disposal locations of hazardous wastes. The hazardous waste types shall be identified on the grid or map by types of waste, including but not limited to acid solution, alkaline solution, pesticides, paint sludge, solvent, tetraethyl lead sludge, tank bottom sediment, contaminated oil and sand and plating waste. The record shall be permanently maintained.

(4) The owner/operator of a hazardous waste disposal facility shall maintain such other permanent summary and special records as required by the department.

Section 10. Weekly Reports by Owner/Operator of Hazardous Waste Disposal Facility. The owner/operator of a hazardous waste disposal facility shall submit a report to the department by the last day of each week, or on such schedule as approved by the department, showing the identity, source, chemical composition, weight or volume, physical state, container type, hazardous properties and method used to dispose of each waste.

Section 11. Accident Reports. Owner/Operators of hazardous waste facilities shall report to the department any incident or accident within two (2) hours of the time of occurrence, which results in or could result in the discharge of hazardous waste. The department may require that a written report of the incident or accident be provided within ten (10) days.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection

Division of Hazardous Material and Waste Management

401 KAR 2:150E. Criteria, identification, and listing of hazardous waste.

RELATES TO: KRS 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.890(2) requires the Department for Natural Resources and Environmental Protection to identify and list hazardous wastes.

Section 1. Hazardous Waste Identification. The potential for any waste to be identified as having a hazardous property shall be determined by:

(1) Toxicity testing, using a recognized toxicant extraction procedure such as shown in the "Hazardous Waste Guidelines," to test a representative sample of waste and comparison of the test results with established toxicity parameters as shown in the "Hazardous Waste Guidelines."

(2) Ignitability testing, using a flash point test apparatus and a recognized procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of

any liquid waste for a flash point of less than 140 degrees Fahrenheit; any waste compressed gas or waste other than liquid, which is considered ignitable either by listing in recognized reference publications or by other tests; or any waste that will oxidize strongly as determined by recognized criteria, such as shown in the "Hazardous Waste Guidelines."

(3) Corrosiveness testing, using a recognized test for pH such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any aqueous waste for a pH of less than three (3) or greater than twelve (12); and, by using a standard testing procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any waste for a corrosion rate greater than 0.250 inches per year of steel (SAE 1020) at a temperature of 130 degrees Fahrenheit.

(4) Radioactivity testing, using an apparatus and recognized procedure as shown in the "Hazardous Waste Guidelines" to test any waste not subject to the Federal Atomic Energy Act of 1954, for any radioactivity above the specified levels contained in 902 KAR 100:080 and 902 KAR 100:085.

(5) Irritation and sensitivity ratings, as published in "Dangerous Properties of Industrial Materials," by N. Irving Sax, Fourth Edition, filed herein by reference, or other recognized references, as listed in the "Hazardous Waste Guidelines."

(6) Pressure generation, incompatibility, or reactivity determination or testing of a representative sample of the waste using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines."

(7) Extreme hazard determination or testing, using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines" from which an oral LD₅₀ is found.

Section 2. Hazardous Waste Lists. A waste that consists of or contains a material cited in the list of chemical names, the list of common names, or is generated by a process or source cited in the list of sources issued by the department in "Hazardous Waste Guidelines" list of hazardous wastes, waste sources, and processes, shall be considered a hazardous waste, and shall be handled and disposed of according to the requirements set forth in the hazardous waste regulations, unless it is shown to the satisfaction of the department that the waste does not meet the definition of hazardous waste presented in 401 KAR 2:100.

Section 3. Hazardous Waste by Definition. A waste that meets the definition of hazardous waste presented in 401 KAR 2:100 shall be considered a hazardous waste whether or not the waste is cited in this regulation or in "Hazardous Waste Guidelines." Such waste shall be handled and disposed of according to the requirements of the hazardous waste regulations.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

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

401 KAR 2:160E. Fees for processing applications for permits to generate, treat, store, recycle, and dispose of hazardous waste.

RELATES TO: KRS 224.033, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.890

EFFECTIVE: October 17, 1979

EXPIRES: February 14, 1980

NECESSITY AND FUNCTION: KRS 224.033(20) provides that the Department for Natural Resources and Environmental Protection may establish, by regulation, a schedule of fees for the cost of processing applications for permits. KRS 224.890 and the hazardous waste regulations require permits for the generation, treatment, storage, recycling, and disposal of hazardous waste.

Section 1. Fees for Annual Permits and Permit Renewals. (1) The fees for annual permits and permit renewals for the generation, treatment, storage, recycling, and disposal of hazardous waste are as follows:

(a) For hazardous waste generation, excluding extremely hazardous waste generation, the permit fee shall be:

1. 1.3 tons to ten (10) tons annually—\$300.
2. From ten (10) tons to 100 tons annually—\$450.
3. From 100 tons and above annually—\$600.

(b) For extremely hazardous waste generation, the permit fee shall be:

1. 1.3 tons to ten (10) tons annually—\$1200.
2. From ten (10) tons to 100 tons annually—\$1800.
3. From 100 tons and above annually—\$2400.

(2) For a disposal facility, the permit fee shall be \$5000.

(3) For the recycling of hazardous waste, the permit fee shall be \$250.

(4) For the treatment or incineration of hazardous waste, the permit fee shall be \$250.

(5) For the storage of hazardous waste, the permit fee shall be \$250.

Section 2. Computation of Annual Tonnage. For the purpose of this regulation, the annual tonnage of hazardous waste generated by a person will be based on the amount of hazardous waste generated by that person during the previous year in the form shipped for disposal or storage including water or other non-hazardous substance co-disposed. If the person did not generate any hazardous waste in the previous year, then the initial tonnage will be estimated by the department based upon reports furnished to the department by the person. On-site recycling or treatment processes by a generator may be considered to be a part of the generation process at the discretion of the department and annual tonnage may be assessed on the quantity of hazardous residue from such on-site recycling or treatment.

Section 3. Permits Required. A separate hazardous waste permit is required for generation, treatment, storage, recycling, or disposal of hazardous waste.

Section 4. Permit Modification Fee. If a permittee desires to increase, by an additional hazardous waste, the number of hazardous wastes he generates, treats, stores, recycles, or disposes, the fee for the processing of such permit modification shall be \$100.

Section 5. Exemption from Fees. The permit or permit modification processing fees shall not apply to any application for an existing or proposed publicly owned facility.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 17, 1979

RECEIVED BY LRC: October 17, 1979 at 3:15 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-1064
November 8, 1979

EMERGENCY REGULATION
State Board for Elementary
and Secondary Education

WHEREAS, the State Board for Elementary and Secondary Education has promulgated a regulation which establishes a maximum interest rate for bond issues of local school districts; and

WHEREAS, the current maximum rate has been exceeded in two recent school district issues, thereby forcing emergency action by the Board to exempt these issues from the regulation to allow the bonds to be sold; and

WHEREAS, the State Board for Elementary and Secondary Education has promulgated an amended regulation to tie maximum interest rates to current indicators and asked the Governor to declare these effective by Emergency Declaration to allow pending issues to be sold:

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 the State Board for Elementary and Secondary Education that an emergency exists and declare that the attached regulation shall be effective upon filing with the Legislative Research Commission.

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

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance

702 KAR 3:020E. Bond issue approval.

RELATES TO: KRS 156.200, 162.060, 162.170, 162.180, 162.300

PURSUANT TO: KRS 13.082, 156.070, 156.160

EFFECTIVE: November 8, 1979

EXPIRES: February 6, 1980

NECESSITY AND FUNCTION: To provide a method for the approval of bond issues.

Section 1. The Superintendent of Public Instruction shall determine the financial soundness of all school revenue bond issues. He shall supervise all phases of school revenue and voted bonds.

Section 2. The Superintendent of Public Instruction shall disapprove any school revenue or school voted bond issue which he deems to be not in accord with State Board for Elementary and Secondary Education regulations or

financially unsound for the district in question. The Superintendent of Public Instruction at the next special or regular meeting of the State Board for Elementary and Secondary Education shall report the terms and conditions of all school revenue or school voted bond sales and certify that such sales were made in accordance with KRS Chapter 162 and the State Board for Elementary and Secondary Education Regulations.

Section 3. The maximum net interest cost for the sale of school revenue bonds established by the State Board for Elementary and Secondary Education shall be a rate no greater than the most current Bond Buyer's 20 - Bond Index plus one point five percent (1.5%). In the event a bid on an issue of bonds exceeds the maximum interest rate the Superintendent of Public Instruction may declare an emergency to exist and request the chairman to convene the State Board for Elementary and Secondary Education for the purpose of approving or disapproving his recommendation that the bonds be sold.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: November 5, 1979

RECEIVED BY LRC: November 8, 1979 at 3 p.m.

JULIAN M. CARROLL, GOVERNOR

Executive Order 79-1042

October 31, 1979

EMERGENCY REGULATION

Public Protection and Regulation Cabinet
Energy Regulatory Commission

WHEREAS, Section 402 of the Federal Power Plant and Industrial Fuel Use Act of 1978 has prohibited the sale and installation of natural gas outdoor lighting; and

WHEREAS, the Act provides for certain exemptions and the Federal Economic Regulatory Administration has delegated to the Kentucky Energy Regulatory Commission its authority to establish criteria and procedures for obtaining the exemptions; and

WHEREAS, KRS 278.040(3), as amended in 1978, provides that the Commission may adopt reasonable regulations to implement the provisions of KRS Chapter 278; and

WHEREAS, the Energy Regulatory Commission has determined that an emergency exists and that there is an immediate need to adopt regulations to carry out the Commission's statutory duties; and

WHEREAS, the Secretary of the Cabinet for Public Protection and Regulation, in conjunction with the Energy Regulatory Commission, pursuant to KRS 13.082 and KRS 278.040, has promulgated the regulations hereinabove referenced:

NOW, THEREFORE, I, Julian M. Carroll, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Energy Regulatory Commission within the Cabinet for Public Protection and Regulation 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

PUBLIC PROTECTION AND REGULATION CABINET Energy Regulatory Commission

807 KAR 50:052E. Natural gas outdoor lighting.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 13.082, 278.040, 278.280(2)

EFFECTIVE: November 5, 1979

EXPIRES: March 4, 1980

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the Commission shall prescribe rules for the performance of any service or the furnishing of any commodity by the utilities. The Federal Power Plant and Industrial Fuel Use Act of 1978 became effective November 9, 1978. Section 402 of the Act directed the Federal Department of Energy (Economic Regulatory Administration) to prohibit by rule, by May 8, 1979, any local distribution company from supplying natural gas for use in outdoor lighting. In addition, the Act prohibits, effective November, 1978, the installation of new outdoor lighting fixtures using natural gas. Under the Act, the Economic Regulatory Administration has used its prerogative to fully delegate responsibility and authority for implementation of Section 402 to appropriate State Regulatory authorities by its rule issued May 3, 1979. The Energy Regulatory Commission is thereby empowered to promulgate regulations, issue orders, establish exemption criteria and procedures, establish enforcement mechanisms, enforce prohibitions and assess civil penalties and investigate.

Section 1. General. The purpose of this regulation is to provide a procedure whereby a party may petition the Energy Regulatory Commission for an exemption from the prohibitions on installation and use of natural gas outdoor lighting as contained in the Federal Power Plant and Industrial Fuel Use Act of 1978.

Section 2. Definitions. The following publications are hereby adopted and filed by reference, as the definitions applicable to various terms when the commission decides whether to grant or deny a request for an exemption. The Energy Regulatory Commission as the appropriate state regulatory authority thereby adopts the "Definitions," Title 10 CFR, Part 516, as published in the Federal Register on May 10, 1979, (44 FR 27608).

Section 3. Exemption Criteria. The following publication is hereby adopted and filed by reference, as the criteria guiding the commission in deciding whether to grant or deny a request for an exemption. The Energy Regulatory Commission, as the appropriate state regulatory authority, hereby adopts the "Guidance and Exemptions," Title 10 CFR Part 516, as published in the Federal Register on May 10, 1979, (44 FR 27609) as the criteria for exemptions. Nothing contained in these standards, however, shall prevent the commission from adopting after due notice and hearing, additional or different criteria for exemptions.

Section 4. Application Procedures. (1) Any person may apply to the commission for an appropriate exemption from the prohibition on natural gas outdoor lighting found in Section 402 of the Power Plant and Industrial Fuel Use Act of 1978.

(2) Each application shall include the following items:

(a) An affidavit of publication from the newspaper in which the required public notice was printed.

(b) A statement specifying the particular exemption for which the applicant is applying and containing such facts,

data, documents or other evidence supporting the application.

(c) In the case of exemptions for historical significance, a certification from the Heritage Commission or other governmental agency that the specifically identified property is on the National Register of Historical Places or is eligible for listing.

(3) A separate application must be completed for each premise for which an applicant seeks an exemption.

(4) If the person filing an application is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his qualified legal representative. If the person filing the application is a corporation, partnership or trust, the filing shall be signed by an authorized official of the corporation, a general partner of the partnership, or the trustee of the trust.

Section 5. Notice. (1) The applicant shall cause to have published notice of his application for an exemption from the prohibition on natural gas outdoor lighting in a newspaper of general circulation in the counties or municipality within which the applicants premise is located. This notice shall contain the following information: the applicant's name and address; the type of exemption for which the applicant has applied; the address of the premise and shall inform the public of the opportunity to request a hearing.

(2) The following form shall be considered a satisfactory notice:

Form of Notice: Application for Exemption

_____ has applied for
(Applicant's Name & Address)

_____ (Type of Exemption)
from the prohibition of natural gas outdoor lighting by the Federal Power Plant and Industrial Fuel Use Act of 1978, for the following location: _____

(Address of Premise)
Any interested person may request a hearing by sending a written notification to the Energy Regulatory Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601, within ten (10) days.

Section 6. Hearings. Within ten (10) days after the notice is published, the applicant and any other interested person may request a hearing on any application by written petition to the Energy Regulatory Commission.

PERRY R. WHITE, JR., Chairman

ADOPTED: October 23, 1979

APPROVED: JACK B. HALL, Secretary

RECEIVED BY LRC: November 5, 1979 at 3:00 p.m.

Amended Regulations Now In Effect

DEPARTMENT OF FINANCE Kentucky Athletic Commission As Amended

201 KAR 27:010. General requirements.

RELATES TO: KRS 229.071(2), 229.171

PURSUANT TO: KRS 229.180

EFFECTIVE: November 7, 1979

NECESSITY AND FUNCTION: KRS 229.071(2) provides that an applicant for a license to conduct professional boxing and wrestling matches must always conduct himself in the best interest of boxing and wrestling generally. KRS 229.171 states that the Commission is given the sole control, authority and jurisdiction over professional boxing and wrestling and all persons who participate therein.

Section 1. Notice of any change in a program or any substitutions in a show must be immediately filed with the commissioner. After receipts of approval of the commissioner for such change or substitution, such changes or substitutions must immediately be publicly announced by the club in a newspaper of general circulation and by such other methods as are available and convenient.

Section 2. Before the beginning of a show, all changes or substitutions shall be announced from the ring, and in addition, notice of any change or substitution must be posted in a conspicuous place at the ticket office. Purchasers of tickets will be entitled, upon request by them, to a refund of the purchase price of such tickets, provided such request is made before the commencement of the show.

Section 3. Promoters shall be held responsible for any betting, wagering or gambling in any form which takes place upon their premises. Each club shall post in four (4) parts of the arena the warning "No Betting Allowed."

Section 4. All promoters shall cause the prompt ejection of any person guilty of any disorderly conduct or drunkenness.

Section 5. Promoters shall not permit drinks to be dispensed on the floor of the arena nor on the premises except in paper cups, and not at all during the actual presentation of the show.

Section 6. The row nearest the ring on all four (4) sides shall be known as "Commission and Press Row" and shall be under the exclusive control of the commission.

Section 7. All applications for permits must reach the commissioner not less than ten (10) days prior to the date of the proposed match or exhibition.

Section 8. The ring specification shall be as follows: (1) All contests shall be held in a roped ring not less than sixteen (16) nor more than twenty (20) feet square inside the ropes; and the floor of the ring shall extend beyond the ropes for a distance of not less than two (2) feet and shall be elevated not more than four (4) feet above the arena floor and shall be provided with steps for the use of those properly entitled to enter the ring.

(2) The ring shall be formed of posts and ropes, said ropes extending in a triple line eighteen (18) inches, thirty-five (35) inches and fifty-two (52) inches above the ring

floor, and said ropes to be not less than one (1) inch in diameter and wrapped in clean, soft material drawn taut. A fourth rope may be used subject to prior approval by the commissioner.

(3) Ring posts shall be made of metal or other strong material not more than three (3) inches in diameter and not nearer the ropes than eighteen (18) inches and shall be wrapped in soft, clean material.

(4) The ring floor shall be padded or cushioned with soft material, to be approved by the commissioner, of not less than one (1) inch in thickness and extending over the edge of the platform, with a covering of canvas or similar material tightly stretched.

Section 9. A gong or horn shall be used by the timekeeper in indicating the time.

Section 10. Buckets, water buckets, stools, powdered resin, fans and such other articles as are necessary in the contest shall be furnished in sufficient number and quantity by the promoter.

Section 11. Boxing decisions shall be rendered as follows: (1) If a contest lasts the scheduled limit, the winner of such contest shall be decided by a majority vote of the judges if three (3) are used, or by a majority vote of the judges and the referee if two (2) judges are used, or by the referee alone if no judges are used.

(2) Decisions shall be based primarily on effectiveness, giving credit for:

(a) Clean, forceful hitting in boxing bouts;

(b) Aggressiveness;

(c) Defensive work; and

(d) Ring generalship and deducting points for an opposite showing.

(3) The winner of a wrestling contest shall be decided by a fall or time limit as may be agreed upon in making the match.

Section 12. Boxing scoring shall be as follows: (1) Each round in boxing is to be accounted for on the score card, using the five (5) point (or ten (10) point at the commissioner's discretion) must system. Score in ratio of merit and demerit, the difference displayed by the contestants.

(2) Score cards must be signed and handed to the announcer in the ring and filed by him with the commissioner or employee of the Kentucky Athletic Commission in attendance. The decision shall then be announced from the ring.

Section 13. No boxing contestant shall take part in any bout until after six (6) days have elapsed since his participation in a bout of ten (10) rounds or more nor until three (3) days have elapsed since his participation in a bout of less than ten (10) rounds.

Section 14. Boxing rounds shall be as follows: (1) Rounds shall be of three (3) minutes duration, with one (1) minute rest period between rounds.

(2) No boxing bout, except championship bouts, shall be of more than twelve (12) rounds.

(3) All main bouts shall be ten (10) rounds or more unless the commissioner in his discretion provides otherwise.

(4) Championship bouts may be more than twelve (12) rounds, but the number of rounds shall be approved by the commissioner.

Section 15. Requirements for boxing gloves shall be as follows: (1) Contestants shall wear boxing gloves, to be furnished by the promoter, of equal weight and not less than six (6) ounces for contestants over the featherweight class and not less than five (5) ounces, in or under, the featherweight class.

(2) Gloves for all main bouts shall be new and shall be put on in the ring subject to the commissioner's discretion. All gloves shall be clean and in a sanitary condition. No breaking, roughing or twisting of gloves shall be permitted. The laces on gloves shall be tied on the back of the wrist and taped.

Section 16. Requirements for bandages shall be as follows: (1) Only soft cotton or linen bandages shall be used for the protection of the boxer's hands. Bandages shall not be more than two (2) inches in width and five (5) yards in length for each hand.

(2) Medical adhesive tape not more than one (1) inch in width may be used to hold bandages in place. Adhesive tape shall not be lapped more than one-eighth (1/8) of one (1) inch. Adhesive tape not to exceed one (1) thickness shall be crossed over the back of the hand for its protection. Three (3) strips of adhesive tape, lapping not to exceed one-eighth (1/8) of one (1) inch, may be used for protection of the knuckles.

Section 17. The boxing count shall be as follows: (1) If a boxer is knocked to the floor by his opponent or falls from weakness or other causes, his opponent shall immediately retire to the farthest corner of the ring and remain there until the referee completes his count or signals a resumption of action. The referee, after the opponent reaches the farthest corner of the ring, shall commence counting off the seconds and indicating the count with a motion of the arm.

(2) If a boxer fails to arise before the count of ten (10), the referee shall declare him the loser by waving both arms to indicate a knockout.

(3) If a boxer who is down arises during the count, the referee may, if he deems it necessary, step between the boxers long enough to assure himself that the boxer just arisen is in condition to continue the bout.

(4) Should a boxer who is down arise before the count of ten (10) is reached and again go down from weakness or the effects of a previous blow, without being struck again, the referee shall resume the count where he left off.

Section 18. A failure to resume a bout shall be as follows: (1) Should a boxer fail to resume the bout for any reason after a rest period, or leave the ring during the rest period and fail to be in the ring when the gong rings to begin the next round, the referee shall count him out the same as if he were down in that round.

(2) If a boxer who has been knocked out of or has fallen out of the ring during a bout fails to return immediately to the ring and be on his feet before the expiration of ten (10) seconds, the referee shall count him out as if he were down.

Section 19. A boxer shall be considered "down" when: (1) Any part of his body other than his feet is on the ring floor; or

(2) He is hanging helplessly over the ropes and in the judgment of the referee, he is unable to stand; or

(3) He is rising from the "down" position.

Section 20. (1) The following shall be considered boxing fouls:

- (a) Hitting below the belt;
 - (b) Hitting an opponent who is down or who is getting up after having been down;
 - (c) Holding an opponent and deliberately maintaining a clinch;
 - (d) Holding an opponent with one hand and hitting with the other;
 - (e) Butting with head or shoulder or using the knee;
 - (f) Hitting with inside or butt of the hand, the wrist, or the elbow, and all backhand blows;
 - (g) Hitting or "flicking" with the glove open or thumbing;
 - (h) Wrestling, or roughing, against the ropes;
 - (i) Purposely going down without having been hit;
 - (j) Deliberately striking at the part of opponent's body over the kidneys;
 - (k) Use of the pivot blow or rabbit punch or any physical action which may injure a contestant;
 - (l) Use of abusive or profane language; or
 - (m) Failure to obey the referee.
- (2) A contestant who commits a foul may be disqualified and the decision awarded to his opponent by the referee. The referee must immediately do so if contestant commits a deliberate and willful foul which incapacitates his opponent.

(3) Any boxer committing a foul may be suspended for any length of time deemed necessary.

(4) If a bout is temporarily stopped by the referee, due to accidental fouling, said referee, with the aid of the physician, if necessary, shall decide whether the contestant who has been fouled is in physical condition to continue the bout. If in their opinion said contestant's chances have not been seriously jeopardized, as a result of the foul, he shall order the bout resumed after a reasonable time, such time to be set by the referee, but in any event not exceeding three (3) minutes.

Section 21. The following shall be prohibited in boxing:

- (1) "Battle Royal;" and
- (2) Use of grease or any other substance which may handicap an opponent.

Section 22. The wrestling canvas ring shall be clean and sanitary and free from grit, dirt, resin, or other foreign substances. The following provisions shall relate to wrestling "falls;"

(1) Both shoulders momentarily pinned to the canvas (for the referee's silent count of three (3) seconds) shall constitute a fall. Flying and rolling falls shall not count.

(2) Conceding a fall, or quitting because of having received punishment from a legitimate hold, constitutes a fall.

(3) Referee shall not place his hands under the shoulders of a contestant unless necessary to determine a fall.

(4) The referee shall slap on the back, or shoulder, a contestant securing a fall.

Section 23. When wrestling contestants roll off the canvas and under the ropes, they shall be ordered to the middle of the ring to resume the contest. If a contestant fails to obey the referee's order to return to the ring before the expiration of ten (10) seconds he shall be counted out and the decision awarded to his opponent.

Section 24. The following shall relate to wrestling holds: (1) Any legitimate holds or methods known to wrestling science may be used by the contestant, but no

deliberate slugging, strangling, gouging, biting, kicking, hair-pulling, spitting, or scratching shall be permitted.

(2) Contestant's fingernails must be trimmed well below the tips of the fingers.

(3) No contestant shall be permitted to grasp or hang on to clothing, canvas, or ropes for support during the progress of a contest.

[(4) The piledriver hold is prohibited.]

(4) [(5)] When a contestant throws an opponent over the ropes he will be automatically disqualified.

(5) [(6)] When a referee orders the contestants to break, they must do so within a three (3) count.

Section 25. For use of foul tactics after warning by the referee, the offending wrestling contestant may be placed on the defensive or disqualified by the referee and the decision awarded to his opponent.

FRANK SGROI, Chairman

ADOPTED: August 29, 1979

RECEIVED BY LRC: August 30, 1979 at 11:45 a.m.

DEPARTMENT OF FINANCE Kentucky Athletic Commission As Amended

201 KAR 27:030. Contestants.

RELATES TO: KRS 229.081, 229.091(1)

PURSUANT TO: KRS 229.180

EFFECTIVE: November 7, 1979

NECESSITY AND FUNCTION: KRS 229.081 provides for all licensing of contestants for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. Contestants shall report to and be under the general supervision of the commissioner or employee of the Kentucky Athletic Commission in attendance at the show, and shall be subject to any reasonable orders given by the commissioner or employee.

Section 2. No contestant shall assume or use the name of another and shall not change his ring name nor be announced by name other than that which appears on his license except upon approval of the commissioner.

Section 3. Contestants must be clean, neatly attired in proper ring attire and trunks of opponents shall be of distinguishing colors.

Section 4. Boxers shall not use white trunks while engaged in a show, and contestants shall not use during a show a belt which contains any metal substance. Such belt as is permissible shall not extend above the waist line of the contestant.

Section 5. Contestants shall wear shoes of soft material during a show, and such shoes shall not be fitted with spikes, cleats, hard soles, or hard heels.

Section 6. Contestants, while engaged in a show, shall wear abdominal guards or protection cups of such a type as have the approval of the commissioner or employee of the Kentucky Athletic Commission in attendance and which, in contestant's own judgment, are sufficient protection to withstand any blow which might injure contestant.

Section 7. Whenever a contest is ended by reason of fouling or failure to give an honest exhibition of skill, the compensation of the contestant so offending shall be withheld by the club and forfeited into the custody of the commissioner. Such forfeit shall be disposed of as may be ordered.

Section 8. The class weights permitted in boxing bouts shall be as follows:

CLASS	WEIGHT
Flyweight	to 112 lbs.
Bantamweight	to 118 lbs.
Jr. Featherweight	to 122 lbs.
Featherweight	to 126 lbs.
Jr. Lightweight	to 130 lbs.
Lightweight	to 135 lbs.
Jr. Welterweight	to 140 lbs.
Welterweight	to 147 lbs.
Jr. Middleweight	to 154 lbs.
Middleweight	to 160 lbs.
Light Heavyweight	to 175 lbs.
Cruiserweight	to 190 lbs.
Heavyweight	over 175 lbs.

Section 9. Contestants in all shows held under the jurisdiction of the Kentucky Athletic Commission shall weigh in stripped, on the day of the contest or at another hour within eight (8) hours prior to entering the ring on the day of the contest, in the presence of his opponent for the bout. The commissioner or an employee of the Kentucky Athletic Commission and a representative of the promoter conducting the bout shall be in attendance.

Section 10. At the time of weighing-in, a physical examination of each opponent shall be made by the official physician. A record of each contestant's weight shall be recorded by the representative of the promoter and such record shall also be filed with the Kentucky Athletic Commission.

Section 11. A contestant shall immediately notify the promoter and the commissioner if, as a result of illness or for any other reason, he is unable to participate in a show, in which he has entered into a contract to engage, and shall immediately file with the commissioner a reputable physician's certificate verifying such injury or illness, or such other verified evidence, as the commissioner may require to establish valid reasons for his failure to participate. The commissioner may require a contestant to submit to an examination if deemed necessary to establish the true facts of the contestant's failure to participate.

Section 12. The foregoing requirements shall not apply to any animal contestant, with the exception that all animal contestants shall be under the general supervision of the

commissioner or employee of the Kentucky Athletic Commission in attendance at the show, and shall be subject to any reasonable orders given by the commissioner or employee.

FRANK SGROI, Chairman

ADOPTED: August 29, 1979

RECEIVED BY LRC: August 30, 1979 at 11:45 a.m.

DEPARTMENT OF FINANCE Kentucky Athletic Commission As Amended

201 KAR 27:055. Physicians.

RELATES TO: KRS 229.081, 229.091(1)

PURSUANT TO: KRS 229.180

EFFECTIVE: November 7, 1979

NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of physicians for professional boxing [and wrestling] matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the Commission prescribes.

Section 1. The physician officiating at a show shall be governed by the law and rules and regulations adopted by the Kentucky Athletic Commission and shall be subject to any reasonable orders given by the commissioner.

Section 2. The physician shall have general supervision over the physical condition of the contestants, and it shall be his duty to make a thorough physical examination of all contestants at weighing-in-time, or within eight (8) hours prior to the time set for their entrance into the ring. He shall deliver a written report to the commissioner or other agent or employee of the Kentucky Athletic Commission, in attendance at the show, stating the physical condition of the contestant prior to the contestant's entrance into the ring.

Section 3. The physician shall take his position near the ringside and shall carefully observe the physical condition of the contestants during the bout, and he shall be prepared to administer medical aid should any emergency arise requiring same.

Section 4. The physician shall prohibit any contestant who is physically unfit for competition from entering the ring, and he shall order the referee to stop a bout if he deems such action necessary to prevent serious physical injury to a contestant, official, second, manager, or spectator.

Section 5. The physician shall not enter the ring except in an emergency or unless authorized to do so by the referee or an employee of the Kentucky Athletic Commission in attendance.

FRANK SGROI, Chairman

ADOPTED: August 29, 1979

RECEIVED BY LRC: August 30, 1979 at 11:45 a.m.

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

815 KAR 7:010. Administration and enforcement.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

EFFECTIVE: October 23, 1979

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building Code.

Section 1. Definitions used in Title 815, Chapter 7:

(1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.

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

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

(5) "Industrialized building system" or "building system" means a structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at a building site in Kentucky. "Industrialized building system" includes: a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precut wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.

(6) "KBC" means the Kentucky Building Code as established in this chapter.

(7) "Major structural change" means alterations or repairs made within any period of twelve (12) months, costing in excess of fifty (50) percent of the physical value of the structure, as determined by a comparison of the BOCA chart of construction costs and the value of the structure as established by the tax records of the county in which the property is located.

(8) "Person" means a person, partnership, corporation or other legal entity.

(9) "Single family dwelling" means one (1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(10) "Trade or brand name house" means any single structure made of precut or prefabricated panels, sections or individual pieces that are sold or prefabricated under a name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional homebuilding and electrical and plumbing installation techniques.

Section 2. Scope: This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) Nothing in the KBC shall require historic buildings listed on the state or federal register to conform to new building requirements because of their restoration.

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

Section 3. Applicability: (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 above.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19.

Section 4. Ordinary Repairs: Ordinary repairs to structures may be made without application or notice to the

building official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, or the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement or relocation of any standpipe, water supply, sewer or drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health and general safety.

Section 5. Installation of Service Equipment: When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by the provision of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

Section 6. Existing Structures: (1) The legal use and occupancy of any structure existing on the effective day of this code or for which it had been heretofore approved, may be continued without change, except as may be specified in this regulation.

(2) Existing structures, when altered or repaired, as specified in this section, shall be made to conform with the requirements of the KBC for new structure, only to the extent provided herein.

(3) Alterations: All alterations, repairs, and additions except those "ordinary repairs" as defined in Section 4, shall be made in accordance with the terms of the KBC for new structure.

(4) Remodeling: Any major structural change, or a change to a more restrictive use group shall cause the entire building to be brought into conformity with the KBC requirements for new structures.

(5) Increase in size: If the building is increased in floor area or number of stories, the entire structure shall be made to conform with the requirements of the KBC in respect to life safety.

(6) Part change in use: If a portion of the structure is changed to a new more restrictive use group, and that portion is separated from the remainder of the structure with the required vertical and horizontal fire separation assemblies it shall be made to conform to the requirements for the new use and occupancy and the existing portion shall not be subjected to the requirements of the KBC relating to new structures.

Section 7. Departments of Building Inspection: (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and shall meet the qualifications for the position which may be established by the appointing authority.

(3) Official records shall be kept of all business and activities of the various local building departments or state building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

Section 8. Duties and Powers of the Building Official: The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous or [and] temporary occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as business or mercantile occupancies having a capacity which does not exceed 100 persons, including buildings used for assembly type purposes but having a capacity of less than fifty (50).

(3) All buildings classified as factory or [and] industrial occupancies having a capacity which does not exceed 100 persons.

[(4) All buildings classified as mercantile occupancies having a capacity which does not exceed 100 persons.]

Section 9. Duties and Powers of the Department. (1) It shall be the responsibility of the department to review plans and specifications, issue permits and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification.

(2) Any local government may petition to the department for additional plan review responsibility. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual.

(4) The building official or his authorized representative should carry proper credentials of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board procedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contained in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix B,

"Accepted Engineering Practice," and Appendix C, "Accredited Materials Standards" of the 1978 Edition of BOCA, Inc., filed herein by reference, shall be deemed to represent accepted engineering practice with respect of materials, equipment, system or method construction therein specified, and shall therefore be acceptable.

Section 10. New Materials and Modifications: (1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA, Inc., or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsibility may vary or modify such provision upon application of the owner or his representative only if [that] the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

Section 11. Inspections: (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a permit (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsibility the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local

building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent.

Section 12. Right of Entry: Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

Section 13. Application for Permit Required: (1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except that ordinary repairs, as defined in Section 4, which do not involve any violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the department [building official] may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan: There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished

grades; and it shall be drawn in accordance with an accurate boundary line survey. [In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.]

(7) Engineering details: The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

Section 14. Permits Required: (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or

other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans: The building official shall stamp or endorse in writing both sets of corrected plans approved, and one (1) set of such approved plans shall be retained by him and the other set shall be *available* [kept] at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be *available* [kept] on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

(9) At least twenty-four (24) hours notice of start of work under a building permit shall be given to the building official.]

Section 15. Conditions of Permit. (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the *permit* [application].

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

Section 16. Fees: (1) A permit to begin work for new construction, alteration, removal, [demolition] or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for [the] construction, alteration, [removal or demolition] and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

Section 17. Certificate of Use and Occupancy. (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky Building Code, or assembled or installed in conformance with applicable instructions; except that:

(a) A building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(b) A building for which plans were prepared at least three (3) months prior to the effective date of the KBC and upon which construction was begun prior to the effective date of the KBC in a locality not then requiring a building permit may be completed and occupied without a building permit.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy shall specify the following information from the 1978 edition of the BOCA Basic Building Code: the use group, in accordance with the provisions of Article 2; the fire grading as defined in Article 2 and Table 902; the maximum live load on all floors as prescribed in Article 7; the occupancy load in the building and all parts thereof as defined in Article 2 and Article 6; and any special stipulations and conditions of the building permit.

Section 18. Posting Structures. (1) Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use (use

groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the department [building official], which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

Section 19. Violations and Remedies. (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsible for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) Violation of penalties: Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief: The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

(7) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this code, has a cause of action in any court of competent jurisdiction against the person or party who com-

mitted the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.]

Section 20. Notice to Owner: (1) Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the standards of safety for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:015.

Section 22. Local Board of Appeals. (1) The mayor, chairman of the board of trustees, or county judge executive of a local government which is enforcing the Kentucky Building Code, may, upon approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals of the decisions of the local building official.

(2) Local governments which are enforcing the Kentucky Building Code may cooperate with each other and provide a local appeals board and shall adhere to the provision of KRS Chapter 65 when entering into such cooperative agreements.

(3) No local building official or employee of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has financial interest.

(4) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt.

(5) All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered mail no later than ten (10) days prior to the date of the hearing.

(6) The local appeals board shall render a decision within five (5) working days after the hearing. The board

may uphold, amend or reverse the decision of a local building official, and there shall be no appeal from the decision of the local appeals board other than by appeal to the board.

Section 23. Appeals Procedures. (1) Where a local appeals board exists, a party must first appeal to the local board when aggrieved by a decision of the local building official.

(2) A party aggrieved by a decision of a local building official where no local appeals board exists may appeal directly to the board. The board shall further hear appeals directly from a party aggrieved by the decision of an agent of the department.

(3) Application for appeal may be made when it is claimed in writing that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used, or that the building official has refused to grant a modification to the provisions of this code covering the manner of construction of materials to be used in the erection, alteration or repair of a building or structure.

(4) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct hearings, and those appointed shall act in all matters concerning the appeal for the entire board.

(5) The board may adopt such rules, regulations and by-laws as are necessary to conduct said appeals; and no member of the board or committee may vote on any matter which will result in his direct or indirect financial gain.

(6) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

(7) The commissioner shall immediately notify the board when an appeal is received. The commissioner or a designated employee of the department shall then investigate the evidence pertaining to such an appeal, based upon the results of such investigation, make recommendations to the board or committee on the disposition of the case in question.

(8) No employee of the department shall investigate or make recommendation on an appeal to his own decision, but shall defer in such cases to employees who are not party to the decision which lead to the appeals.

(9) In conducting such investigation, the commissioner or the designated representatives, acting for the department shall have the authority to administer oath and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause disposition to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issue by consent of the parties.

(10) The commissioner shall cause such investigation to be completed and forwarded with written recommendations to the board within thirty (30) days after receiving such an appeal.

Section 24. Action of the Board. (1) Upon receiving the written recommendations of the commissioner, the board

may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its regularly scheduled meeting but no later than thirty (30) days after receipt of such recommendations.

(2) If the board has authorized an appeals committee to hear an appeal, the committee shall act for the board in all matters related to the appeal.

(3) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner. The board may further exercise the same powers of investigation as granted to the commissioner in Section 23. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(4) The board may uphold, amend or reverse the decision of a local appeals board, a local building official or the state building official; and the decision of the board or the appeals committee shall be final.

(5) The chairman of the board shall notify the appropriate building official and he or she shall take immediate action in accordance with the decision of the board.

(6) There shall be no appeal from the board's decision except to the circuit court within whose jurisdiction the property in question is located. Application for review shall be made to the proper court within thirty (30) days following that decision.

Section 25. Construction Control and Responsibilities:

(1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals' affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 26. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 27. Effective Dates for KBC Application. (1) Any building required by Section 9(1) [(2)] to be submitted to the Department of Housing, Buildings and Construction and which has not been submitted and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 8 [9(1)] to be submitted to a local government for plan review and which has not been lawfully approved for construction prior to the following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 28. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained.

Section 29. Day Care Centers. Family child day care homes, group day care homes and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A. Pamphlet #101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

CARL F. SMOAK, Acting Commissioner

ADOPTED: August 14, 1979

RECEIVED BY LRC: August 15, 1979 at 3:45 p.m.

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

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

EFFECTIVE: October 23, 1979

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable

materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1978 Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA Basic Building Code/1978," Seventh Edition, published by and copies available from Building Officials and Code Administrators International, 17926 South Halsted Street, Homewood, Illinois 60430. That code, including all standards listed in Appendices A through N are hereby adopted by reference with the following additions, exceptions and deletions:

(1) Delete Article 1 in its entirety.

(2) Change subsection 201.3 to include the following additional definitions:

(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."

(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."

(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as if appeared at a specific period of time."

(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."

(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."

(f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."

(3) Change subsection 201.3 definitions to read as follows:

(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation."

(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 209.5 to read as follows: "209.5 groups R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One- and Two-Family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures; except that, the

one- and two-family dwelling code is deemed to be an acceptable alternative code book when used in its entirety and may be used to satisfy the requirements for this use group." *or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 7) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission.*"

(5) Change subsection 304.1.1 to read as follows: "304.1.1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Section 6 of 815 KAR 7:010 provided an unlawful change of use is not involved."

(6) Delete Sections 315.1 through 315.11 and substitute the following: "315.1 Requirements for accessibility of the handicapped: Please see 815 KAR 40:010 for construction requirements providing accessibility to the handicapped in public buildings and public accommodations."

(7) Change subsection 316.1 to read as follows: "316.1 Approval: The provisions of this code relating to the reconstruction, restoration, stabilization, rehabilitation, and moving of buildings or structures shall not be mandatory for existing buildings or structures, identified and classified on the National Register of Historic Places or otherwise classified as historic by the Kentucky *Heritage Commission* or the department [of Housing] when such buildings or structures are judged by the department to be safe and in the public interest of health, safety and welfare. The department may require submission of architectural and engineering plans and specifications prior to a determination."

(8) Change subsection 403.2 to read as follows: "403.2 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire officials to insure maintenance of good housekeeping conditions."

(9) Change Section 413.1 to read as follows: "Private garages located beneath a one- and two-family dwelling shall have walls, partitions, floors and ceilings separating the garage space from the dwelling constructed of not less than one (1) hour fire resistance rating. Private garages attached to a one- and two-family dwelling shall be completely separated from the dwelling and its attic area by means of one-half (½) inch gypsum board or equivalent applied to the garage side. In lieu of the required one and three quarter (1¾) inch solid core door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic smoke detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 505 and Section 604 in their entirety.

(11) Change Section 700.0 by creating a new subsection which shall read as follows: "700.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 904.3.2, 904.3.3, 904.3.4 in their entirety.

(13) Change subsection 1100.2 to read as follows: "1100.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two new subsections to Section 1100.0 which shall read as follows:

(a) "1100.3 Unfired Pressure Vessels. All unfired

pressure vessels shall meet the standards set forth in Section VIII of the 1977 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1100.4 Mechanical Code: All mechanical equipment and systems not covered by 1100.2 or 1100.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix B, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1978 including all applicable standards listed within Appendices B through E."

(15) Delete Article Fourteen (14) in its entirety.

(16) Delete subsections 1500.1 through 1506.5 and substitute the following:

(a) "1500.1 Installations and Repairs. All electrical wiring and equipment shall be installed in conformity with the National Electrical Code incorporated by reference in the Kentucky Building Code.

(b) "1500.2 *Electrical Inspections* [Certificate of Approval]. Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010 [and no utility company shall supply electricity until the required certificate of approval has been issued. Nothing in this article shall prohibit the supply or use of necessary electrical services during the construction and testing process]."

(c) "1500.3 *Certificate of Approval*:"

1. *After the Kentucky Building Code becomes effective pursuant to KRS 198B.110 and after a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government.*

2. *Nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.*

(d) [(c)] "Section 1500.4 [1500.3] *Temporary use and Permission*: The building official may in his discretion give temporary permission for a reasonable time to supply and use current in part of an electrical installation before such installation has been fully completed and the final certificate of approval has been issued; provided, that the part covered by the temporary certificate complies with all the requirements specified for lighting, heat or power in the National Electrical Code."

(17) Delete subsections 1700.1 through 1705.43 in their entirety and substitute the following: "1700.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

CARL F. SMOAK, Acting Commissioner

ADOPTED: August 14, 1979

RECEIVED BY LRC: August 15, 1979 at 3:45 p.m.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance As Amended

904 KAR 2:081. Crises oriented program for emergencies (COPE).

RELATES TO: KRS 205.810

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: November 7, 1979

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 205.810 to provide short term assistance to single or married adults in crisis situations (i.e., facing destitution) or in financial need. This regulation sets forth the criteria for eligibility and type and amounts of assistance available under the Crisis Oriented Program for Emergencies, hereinafter referred to as COPE.

Section 1. Application: Each individual or couple requesting assistance will be required to complete an application and provide such information as may be deemed necessary to determine eligibility, in accordance with the procedural requirements prescribed by the department.

Section 2. Definitions: Terms used in the COPE program are defined as follows:

(1) "Destitution, or facing destitution," is that situation in which an individual or couple is deprived or being threatened by deprivation of the basic necessities of shelter, utilities, food, or clothing *when clothing is* [, if] needed due to a loss in a natural disaster.

(a) "Lack of shelter" is the inability to pay rent or mortgage and/or lack of both sleeping and cooking facilities *due to financial need (and destitution is established)*.

(b) "Lack of utilities" is the inability to pay or secure utilities or lack of heat during cold weather *due to financial need (and destitution is established)*. It is also the inability to secure or maintain phone service that has been determined medically necessary.

(c) "Lack of food" is the inability to purchase or obtain sufficient food due to financial need and/or ineligibility for food stamps.

(d) "Lack of clothing" must be the result of a natural disaster. It is the inability to obtain or purchase appropriate garments in order to protect the individual's or couple's health and welfare. A natural disaster is defined as a fire, flood, storm, tornado, or earthquake.

(2) "Financial need" is defined as a situation in which an individual's or couple's income and resources are below the standards prescribed by the department.

(3) "A single individual" is any person age eighteen (18) or over and not married, or if married, not residing with his/her spouse.

(4) "A couple" is any man and woman legally married (or holding out to the community as married) at least one (1) of whom is age eighteen (18) or over.

(5) "Other family" is any of the following: mother, father, daughter, son, brother, or sister (including relatives of the half blood) whose spouse also resides in the same household.

(6) "Needs" are defined as those items identified in Section 2(1)(a), (b), (c) and (d).

Section 3. Eligible Groups: Any single individual or couple (as defined above), who are destitute or in financial need, whose children (if there are any and they are residing with the applicant), are not under twenty-one (21) years of

age, may qualify for COPE unless excluded in accordance with Section 4, below.

Section 4. Exclusion of Specified Groups: The following are excluded from eligibility:

(1) An individual or couple who creates the situation of destitution or financial need by refusal to accept or continue employment, or training for employment without "good cause" in accordance with 45 CFR 233.100(a)(3)(ii) is ineligible for thirty (30) days from the date of refusal. Good cause shall not exist if destitution is due solely to direct participation in a labor dispute. ("Direct participation" exists if the individual is: on strike, whether or not such strike is legal; or not working as a result of honoring or refusing to cross picket lines set up by those who are on strike; or not working due to lack of work resulting from a strike situation if employed in a managerial or supervisory position by the firm/organization whose workers are on strike.)

(a) If employment is no longer available following the thirty (30) day period, the application shall be approved if all other eligibility criteria are met. If employment still remains available at the end of the thirty (30) day period, the applicant is ineligible for as long as the employment remains available for a period of time not to exceed six (6) months.

(b) Any individual/couple fired from a job shall not be automatically precluded from participation in the program.

(2) Any single individual under age twenty-one (21) who has been claimed as a tax dependent within the past year, unless it can be substantiated that he/she will not be claimed as a tax dependent in the current year.

(3) Any individual living with both parents.

(4) Any individual or couple living with other family as defined in Section 2(5). (For example, if a man and his wife were living with his brother and the brother's wife, both couples would be ineligible.)

Section 5. Work Registration: A condition for eligibility shall be work registration unless exempt as specified below:

(1) Any individual over age sixty-five (65).

(2) Students who are enrolled at least half-time (as defined by the institution or program in which they are enrolled) in any accredited school or recognized training program. The exemption continues during regularly scheduled school vacations if attendance will be resumed immediately following such break.

(3) Disabled/incapacitated persons who are physically or mentally unable to engage in gainful employment. Recipients of the following benefits will be considered exempt under this criteria: Supplemental Security Income (SSI); or Retirement Services Disability Insurance (RSDI); or MA only as a blind or disabled individual. In addition those persons who are obviously disabled/incapacitated are exempt, e.g., accident victims in casts and/or bandages, those using wheel chairs or crutches, etc. Other persons claiming exemption due to disability/incapacity are exempt if written documentation from medical sources is provided to or made available to the department.

(4) Persons employed at least thirty (30) hours a week.

(5) Self employed persons, if the self-employment requires activity of at least thirty (30) hours per week on an annual basis. Verification of income received establishes the exemption if it appears consistent with [full-time] employment of at least thirty (30) hours per week on an annual basis.

(6) Narcotic addicts or alcoholics if regularly participating in a nonresidential treatment or rehabilitation program.

Section 6. Recoupment of Payments: Any recipient who subsequently receives retroactive benefits for the same period that a COPE payment has been made shall be responsible for reimbursing the department the full benefit amount up to the amount of the COPE payment.

Section 7. Duration of Assistance: Assistance shall be limited to one (1) period of thirty (30) consecutive days in any twelve (12) consecutive months. *The secretary may waive this limitation as deemed necessary.*

Section 8. Income and Resources Limitations: Income and resources of the individual or couple shall be considered in accordance with the following:

(1) All continuing earned and unearned income and non-continuing income anticipated to be received during the month of approval, shall be considered available to the applicant. Any federal, state, or local benefit which is specifically designated for a special need shall not be considered in computing gross income.

(2) An individual or couple shall be determined ineligible for assistance if monthly gross income determined in accordance with Section 8(1) exceeds \$265 for the individual or \$350 for the couple.

(3) Liquid assets of the individual or couple shall be considered in determining eligibility. Liquid assets include, but are not limited to, cash on hand, checking account(s), savings account(s), stocks, bonds, and certificates of deposit. Total liquid assets in excess of \$500 for the individual or \$750 for the couple shall result in a determination of ineligibility.

Section 9. Treatment of Income: If net income exceeds needs (see Section 2(1)(a), (b), (c) and (d)), the applicant is determined ineligible for needs payments. For any otherwise eligible individual or couple the first \$130 or \$160, as applicable, of net income shall be protected (disregarded) in determining benefit amounts payable under the program. Income in excess of the protected amounts shall be applied to the needs of the applicant or recipient. In no instance shall excess income reduce the payment maximum for needs.

Section 10. Cash Payment Maximum: An otherwise eligible individual or couple shall be entitled to receive such cash payment as may be necessary to bring the total net monthly income up to the respective protected income amounts specified in Section 9 (\$130 for an individual or \$160 for a couple).

Section 11. Needs Payment Maximums: The department shall pay reasonable amounts for food, clothing, and shelter/utilities not to exceed \$160 or \$210 for an individual or couple respectively, in accordance with the following:

(1) Food may be provided up to the value of one (1) month's equivalent *maximum* food stamp *coupon* allotment for the *appropriate household size* [eligible individual or couple].

(2) Clothing, the need for which was the direct result of a natural disaster, may be provided to an eligible individual or couple to ensure a minimum supply of basic apparel in amounts determined necessary by the department.

(3) Shelter needs may be met as necessary to obtain or retain a home or to secure temporary lodging for the destitute individual or couple. The department shall pay more than one (1) month's rent or mortgage payment only if such is determined necessary by the department.

(4) Utility needs including deposits may be met as necessary to obtain or maintain electricity, natural gas, and water. Payments for kerosene and/or bottle gas and coal may be authorized if the living situation requires it.

(5) Payments for phone service deemed medically necessary may include deposit and/or installation charges. Payments for the base rate may not exceed the rate utilized for food stamp households.

Section 12. Right to a Fair Hearing: Any applicant for or recipient of COPE has the right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 13. Agency Determination: Any individual or couple not meeting all eligibility criteria or who do not provide sufficient information necessary to make an eligibility determination shall be found ineligible for benefits under the program. Any individual or couple found to meet all eligibility requirements shall be provided assistance in a timely manner.

Section 14. Effective Dates: The COPE program shall continue throughout each fiscal year after implementation until such time as funds allotted for the program by the legislature have been expended. In the event the Governor, or the Secretary of the Department for Human Resources, makes additional funds available for the continuation or reactivation of the COPE program, the program shall continue or be reactivated under the same terms and conditions as previously set forth.

JACK F. WADDELL, Acting Commissioner
PETER D. CONN, Secretary

ADOPTED: August 27, 1979

RECEIVED BY LRC: September 12, 1979 at 9:20 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
As Amended

904 KAR 2:085. Energy cost assistance program.

RELATES TO: KRS 205.400

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: November 7, 1979

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 205.400 to provide assistance payments to the citizens of the Commonwealth for the purpose of purchasing or supplementing the cost of energy for household use. This regulation sets forth the criteria for eligibility and amounts of assistance available under the Energy Cost Assistance Program, and the method whereby available funds shall be allocated to Area Development Districts to assure that all citizens of the Commonwealth shall have an opportunity to participate in the program.

Section 1. Application. Each household requesting assistance will be required to complete an application and

provide such information as may be deemed necessary to determine eligibility, in accordance with the procedural requirements prescribed by the department.

Section 2. Definitions. Terms used in the energy cost assistance program, hereinafter referred to as ECAP, are defined as follows: (1) Principal residence is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place when absent, he/she intends to return; and such place is identifiable from other residences or commercial establishments.

(2) Aged person is that individual sixty-two (62) years of age or older.

(3) Blind or disabled person is that individual meeting the supplemental security income program's criteria for blindness or permanent and total disability.

(4) Energy is defined as electricity, gas, and any other heating, lighting and cooking fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(5) Winter months for purposes of this program are defined as December, January, February, and March.

(6) Household is defined as one or more persons who share common living arrangements in a principal residence.

Section 3. Period of Assistance. Assistance will be approved to cover the defined winter months, except as specified in Section 6.

Section 4. Consideration of Income and Resources. (1) For purposes of determining eligibility and amount of assistance, continuing earned and unearned gross income anticipated to be received by the household in the month of approval will be considered available. The Supplemental Medical Insurance premium, and any federal, state, or local benefit which is specifically designated for a special purpose or need will be deducted as applicable from gross income. Non-continuing income is considered available during the month received or anticipated to be received.

(2) In addition to income, liquid resources of the household will be considered in determining eligibility. Liquid resources include savings accounts, checking accounts, stocks, bonds, certificates, and cash on hand.

Section 5. Eligibility and Benefit Schedule. (1) Total monthly adjusted gross income of the household is compared to the eligibility and benefit schedule to determine eligibility and the benefit payment.

(a) For fiscal year 1978-79, the following eligibility and benefit schedule is used.

**Household Income Eligibility
and Benefit Schedule**

No. in Household	Income Range to Receive \$80.00	Income Range to Receive \$60.00	Income Range to Receive \$40.00	Maximum Allowable Resource
1	\$0-197	\$198-262	\$263-328	\$1,500
2	\$0-260	\$261-347	\$348-434	\$3,000
3	\$0-324	\$325-432	\$433-540	\$3,050
4	\$0-388	\$389-517	\$518-646	\$3,100
5	\$0-452	\$453-602	\$603-753	\$3,150
6	\$0-515	\$516-687	\$688-859	\$3,200
7	\$0-579	\$580-772	\$773-965	\$3,250
8	\$0-643	\$644-857	\$858-1,071	\$3,300
9	\$0-707	\$708-942	\$943-1,178	\$3,350
10 or more	\$0-770	\$771-1,027	\$1,208-1,284	\$3,400

(b) For fiscal year 1979-80 and thereafter the following eligibility and benefit schedule is used.

**Household Income Eligibility
and Benefit Schedule**

No. in Household	Income Range to Receive \$200	Income Range to Receive \$150	Income Range to Receive \$100	Maximum Allowable Liquid Resource
1	\$0-213	\$214-283	\$284-354	\$5,000
2	\$0-281	\$282-375	\$376-469	\$5,000
3	\$0-350	\$351-467	\$468-584	\$5,000
4	\$0-418	\$419-558	\$559-697	\$5,000
5	\$0-487	\$488-650	\$651-812	\$5,000
6	\$0-556	\$557-742	\$743-927	\$5,000
7	\$0-625	\$626-833	\$834-1,041	\$5,000
8	\$0-694	\$695-925	\$926-1,156	\$5,000
9	\$0-763	\$764-1,017	\$1,018-1,271	\$5,000
10 or more	\$0-831	\$832-1,108	\$1,109-1,385	\$5,000

(2) the secretary may make such supplemental payments as deemed appropriate at the conclusion of the program for each fiscal year to expend the remaining appropriation.

Section 6. Payment Limitations. (1) Households who meet eligibility criteria but have not resided in the state for the defined winter months, shall have their benefit payment prorated.

(2) Any individual who has had the benefit of an ECAP payment during that fiscal year shall not be considered a member of any other household during that same fiscal year.

(3) Payments to eligible individuals will be limited to once during each fiscal year.

Section 7. Payment Methods. Payment may be authorized to one (1) or more providers, at the discretion of the recipient.

(1) If the recipient utilizes a utility provider who has a continuous billing cycle, payment is authorized by a two (2) party check made payable to the provider and recipient; except as specified in subsection (2), below.

(2) A recipient who utilizes energy from suppliers on an irregular or one (1) time basis has the option of authorizing payment utilizing a two (2) party check or receiving a check made payable to the recipient only.

Section 8. Participation Requirements. Any provider who accepts a payment authorized under this program shall:

(1) Reduce the outstanding bill of the appropriate customer by the amount of the payment;

(2) Apply the remaining balance, if any, to future charges; and

(3) Refund to the customer the remaining balance, if any, should the service be terminated.

Section 9. Time Standards. The department shall make an eligibility determination within thirty (30) days of receipt of a completed and signed application.

Section 10. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 11. Effective Dates. Applications will be accepted from December 1 through April 30 of each fiscal year of program operation.

Section 12. Program Termination. The program may be terminated by the secretary when actual and projected program expenditures will deplete the appropriation for that fiscal year.

Section 13. Protection Against Rental or Utility Services Rate Increases. No provider of housing or utility services shall raise the cost to the ECAP recipient, of such housing or utility service solely as a result of the ECAP payment made to or on behalf of the ECAP recipient; except that in the instance of publicly funded housing where the rent and/or utility payment is variable based on income, the appropriate required increase may be made.

Section 14. Method of Allocation. (1) For fiscal year 1978-79 the fiscal year appropriation shall be allocated in the following manner:

(a) [(1)] A base fund of eighty (80) percent of the appropriation shall be allocated to the fifteen (15) area development districts based on the percentage of persons age sixty-five (65) and over in each district when compared to the total state population over age sixty-five (65).

(b) [(2)] The balance of available funds shall be retained for sixty (60) days as reserve against which any district shall draw in the event the district's expenditures exceed its base allocation; and

(c) [(3)] After sixty (60) days of program operation, all unexpended funds shall be available on a statewide basis.

(2) For fiscal 1979-80 and thereafter, the fiscal year appropriation shall be allocated in the following manner:

(a) A base fund of eighty (80) percent of the appropriation shall be allocated to the fifteen (15) area development districts based on the percentage of persons receiving supplemental security income program benefits in each district when compared to the statewide total of persons receiving supplemental security income program benefits;

(b) The balance of available funds shall be retained for sixty (60) days as reserve against which any district shall draw in the event the district's expenditures exceed its base allocation; and

(c) After sixty (60) days of program operation, all unexpended funds shall be available on a statewide basis.

JACK F. WADDELL, Acting Commissioner
J. E. DeSHAZER, Secretary

ADOPTED: October 8, 1979

RECEIVED BY LRC: October 23, 1979 at 2 p.m.

Proposed Amendments

DEPARTMENT OF FINANCE Kentucky Board of Dentistry (Proposed Amendment)

201 KAR 8:140. Continuing education compliance.

RELATES TO: KRS 313.080 (1), (2)

PURSUANT TO: KRS 13.082, 313.080

NECESSITY AND FUNCTION: Sets forth guidelines and schedule of points to be accumulated by each licensed dentist for compliance with the continuing education requirement for relicensure.

Section 1. Each licensed dentist requesting renewal of license must show evidence which is satisfactory to the Kentucky Board of Dentistry that he or she has accumulated ten (10) points of continuing education. The evidence of ten (10) points of continuing education shall be submitted on the "Continuing Education Credit Record" no later than December 31st of each year. The Kentucky Board of Dentistry may be notified as each group of points is earned; however, the final date for filing the "Continuing Education Credit Record" shall be December 31st each year.

Section 2. The following schedule of points rating is adopted: (1) Local dental meetings, 2 points [1 point].

(2) State dental meetings, 5 [4] points.

(3) Regional and national meetings, 5 [4] points. Regional meetings shall be defined as a meeting held within a specific region of the United States, not within a specific region of an individual state.

(4) Dental specialty meetings, 5 [4] points.

(5) Study club dental meetings, 2 points. Study clubs shall be defined as a meeting of no less than two (2) hours duration. They shall be chartered and adopt a constitution and bylaws, such constitution and bylaws to be filed with the Kentucky Board of Dentistry in order to be eligible to fulfill the continuing education requirement. One-half (½) of the meeting time shall be devoted to matters of professional interest.

(6) Continuing education in formally enrolled classes or clinics under the sponsorship of a recognized dental association, dental college or university or specialty license certifying board, 5 points per day. Such courses shall be of six (6) hours or more in duration in order to qualify. [At least one-half (½) of the required ten (10) points shall be earned in any one (1) of the three (3) categories in this subsection.]

(7) Hospital staff meetings, 2 points [1 point]. (Applicable when a scientific session is held.)

Section 3. The Board of Dentistry or the secretary-treasurer of the board may, at its/his discretion, approve for continuing education credit such other courses as may be deemed worthy of fulfilling the requirement as related to continuing education.

JAMES W. HOLLADAY, D.M.D.

ADOPTED: October 13, 1979

RECEIVED BY LRC: November 9, 1979 at 1 p.m.

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

DEVELOPMENT CABINET Department of Agriculture Kentucky Board of Veterinary Examiners (Proposed Amendment)

201 KAR 16:010. Code of conduct.

RELATES TO: KRS 321.350(6), (7)

PURSUANT TO: KRS 321.240

NECESSITY AND FUNCTION: KRS 321.350(6) provides that the board may suspend or revoke a certificate of license for any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth. KRS 321.350(7) provides for the suspension or revocation of a certificate of license for any violation of the code of conduct promulgated by the board. This regulation sets forth certain acts or inaction which shall constitute gross negligence or misconduct in the practice of veterinary medicine and likewise sets forth a code of conduct for each licensed practitioner.

Section 1. The failure on the part of any veterinarian to take the time necessary to attempt to diagnose the condition of the animal which he is attempting to treat shall constitute gross negligence, incompetence and misconduct.

Section 2. The continued failure of a veterinarian to treat the animal which he has undertaken to treat in a manner that a qualified veterinarian would use under the same or similar circumstance shall constitute gross negligence, incompetence and misconduct.

Section 3. The failure of a veterinarian to maintain adequate equipment to treat animals that he is called upon to treat in the practice of veterinary medicine shall constitute gross negligence, incompetence and misconduct in the practice of veterinary medicine.

Section 4. All veterinary offices and clinics, including instruments and equipment contained therein, shall at all times be kept clean and free from any condition or surroundings that will make or tend to make said instruments and equipment unsanitary or unhygienic.

Section 5. Any veterinarian who misrepresents or misstates information on a health certificate or any other document relating to the sale, movement or transportation of animals, or who pre-signs health certificates or other related documents in order that they may be used by some other person or persons, is guilty of misconduct in the practice of veterinary medicine.

Section 6. No veterinarian shall permit, encourage or aid any person or corporation to engage in the unauthorized and illegal practice of veterinary medicine.

Section 7. A veterinarian shall be guilty of misconduct if he sells or offers for sale medicine and drugs at any place other than his office, clinic or hospital or at the place where he is treating animals and the drugs and medicines will be used in the treatment of said animal. No veterinarian shall be permitted to sell or dispense medicine and drugs by mail, except where the veterinarian is treating animals and the drugs and medicines are forwarded to the

owner so that he may follow the veterinarian's advice in seeing that the proper dosages are given to the animal.

Section 8. *Advertising which is informational and not deceptive is permitted, but is limited as follows: [A veterinarian will be guilty of misconduct if he solicits clients by direct personal solicitation, or by advertising of any nature or description, other than specifically permitted herein.]*

(1) *To informing the public of the availability of veterinary services and materials;*

(2) *Such advertisement may be by radio, television or any other medium;*

(3) *If additional charges may be incurred in the rendering of said advertised veterinary services for related services in individual cases, then the advertisement shall so state.*

Section 9. *In the absence of compelling reasons to the contrary, a minimum examination must be performed in all cases.*

(1) *In advertising a price for veterinary services, a minimum examination must be performed for the price stated and the required minimum examination shall include the following:*

(a) *Complete case history from the owner or person requesting the veterinary services;*

(b) *Detailed physical examination of the animal as is necessary to diagnose and treat the complaint or condition.*

(2) *Advertising which is not in the public interest and which is prohibited shall include, but that is not limited to the following:*

(a) *Is false, fraudulent, deceptive, misleading or unfair;*

(b) *Any price advertising veterinary services or materials which are not effective for the period of time prescribed for the advertising of prices under KRS Chapter 367;*

(c) *Any representation that the veterinarian is a specialist in any specialty of veterinary medicine unless that veterinarian has been certified by a certifying board approved by the Kentucky Board of Veterinary Examiners, and has furnished proof of such certification to the board's satisfaction.*

(d) *Represents intimidation or undue pressure;*

(e) *Claiming or using any secret or special method of treatment which the veterinarian refused to divulge to the Kentucky Board of Veterinary Examiners;*

(f) *Using coded or special names for veterinary services of materials that have an established trade name where such coded or special names are deceptive to consumers.*

[A veterinarian is limited in his advertising to his professional card and announcement of the opening of his office, his listing in the telephone directory and identification of his office or clinic by proper signs. He may permit his name to be listed in directories in the same style, type or size used in the directories for the listing of professional groups such as physicians, dentists and lawyers. His listing in the yellow pages of telephone directories should be only under the heading of veterinarians or some other similar title which has long been used in the area of the listing of veterinarians. Newspaper announcements shall only announce the opening of practice or a change of location of the office, clinic or hospital of the veterinarian. Such announcements shall be reasonable in size and display and shall be limited to names, titles, address, office hours and telephone numbers. The inclusion of "practice limited to small animals" or "practice limited to horses" etc. is acceptable. The announcement may be run for a reasonable

time only, but in no case shall said announcement be run for a period of more than thirty (30) days in a daily newspaper or more than four (4) times in a weekly newspaper. The only exception to the above stated number of publications shall be in the case of a beginning practitioner who shall be permitted to have the announcement published until such time as a new telephone directory is printed for the area in which he is practicing. The veterinarian may mail, to his regular clients, letters or cards announcing his movement of his office, clinic or hospital to a new location. Display signs on veterinary hospital, clinics and offices shall be of a reasonable size and in good taste. It shall be misconduct for a veterinarian to advertise or announce special services such as bathing, plucking, clipping and x-ray work. Advertisements of the name of the practitioner or his office, clinic or hospital address on motor vehicles is prohibited.]

Section 10. It shall be improper for veterinarians to write testimonials as to the virtue of drugs, medicines, remedies or foods except to report the results of properly controlled experiments or clinical studies to interested veterinary organizations and associations.

Section 11. Every veterinarian engaging in the practice of veterinary medicine, veterinary surgery, and veterinary dentistry in this state shall keep adequate and sufficient records of the examination and treatment of all animals examined and treated so as to afford information relative to these matters to those persons entitled to see such information.

THOMAS O. HARRIS, Chairman

ADOPTED: October 8, 1979

RECEIVED BY LRC: October 23, 1979

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: William E. Johnson, Executive Secretary and Legal Counsel, Kentucky Board of Veterinary Examiners, 326 West Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Sanitary Engineering
(Proposed Amendment)

401 KAR 6:040. *Water treatment plants; water distribution system; certification of [plant] operators.*

RELATES TO: KRS Chapter 223, [KRS 224.135]

PURSUANT TO: KRS 13.082, 224.032(6), 224.033(17)

NECESSITY AND FUNCTION: The secretary is directed to adopt regulations applicable to certification of water [and wastewater] treatment operators. This regulation establishes standards for classification of water treatment plants and [,] water distribution systems [and wastewater treatment plants]; qualifications of applicants; examination procedures; duties of the board; and, provisions relating to the issuance, renewal or revocation of certificates, fee schedule and other provisions necessary for certification of operators.

Section 1. Definitions. The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

(1) "Board" shall be the Kentucky Board of Certification of Water Treatment Plant and [.] Water Distribution System [and Wastewater Treatment Plant] Operators.

(2) "Department" shall be the Kentucky Department for Natural Resources and Environmental Protection.

(3) "Secretary" shall be the Secretary of the Department.

(4) "Certificate" shall mean a certificate of competency issued by the secretary stating that the operator has met all requirements for the specified operator classification as set by this regulation.

(5) "Operator" shall mean the person in responsible charge of the direct operation of a water supply system [or wastewater system] or any portion thereof which may affect the performance of the system, [or] the quality of the water or the effluent produced by such system.

(6) "Responsible charge" shall mean having the authority to conduct or supervise the procedures and practices necessary to insure that the water supply system [or wastewater system] or any portion thereof is operated in accordance with accepted practices, [and] laws and regulations of the Commonwealth.

(7) "Public water system" means any system irrespective of ownership, for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such terms include: the source of supply and all structures and appurtenances used for collection, treatment, storage and distribution facilities under control of the operator of such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a "community water system" or a "non-community water system."

(a) "Community water system" means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

(b) "Non-community water system" means a public water system which serves at least fifteen (15) service connections used by individuals for a period less than year-round or which serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year but less than year-round.

[(7) "Water supply system" shall mean the source of supply and all structures and appurtenances used for the collection, treatment, storage and distribution of water for a public water supply.]

(8) "Semipublic water supply" means any water supply made available for drinking and/or domestic use which serves more than three (3) families but does not qualify as a public water system.

[(8) "Public water supply" means any water supply serving the public irrespective of its ownership or operation and made available for drinking and/or domestic use including all community supplies which serve ten (10) or more homes or forty (40) or more residents; any other supply distributing more than 5,000 gallons per day for drinking and/or domestic use at peak demand.]

(9) "Water treatment plant" shall mean that portion of the water supply system which is designed to alter either the physical, chemical or bacteriological quality of the water.

(10) "Water distribution system" shall mean the portion of the water supply system in which water is conveyed from

the water treatment plant or other supply point to the premises of a consumer.

[(11) "Wastewater system" shall mean the system of pipes, structures, equipment and processes required to collect, carry and treat domestic and/or industrial wastewater, including solids handling.]

[(12) "Wastewater treatment plant" shall mean that portion of the wastewater system used in the treatment of domestic and/or industrial wastewater, including solids handling.]

(11) [(13)]. "Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities (ABC)" shall mean that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of water supply and wastewater systems and state programs, and assists authorities in establishing new certification programs and upgrading existing ones.

Section 2. General Provisions. (1) *Each public water system must be operated under the supervision of an individual holding a current Kentucky operators certificate for at least the class of system he/she supervises. Certified operators are required for the operation of water treatment facilities as well as systems having only water distribution facilities. In the event the operator is not physically present while a plant is operating, he/she must be immediately available.*

(2) *Certified operators are not required for semipublic water systems, but they are expected to be operated by qualified persons.*

Section 3. [2.] Duties of the Board. In carrying out its responsibilities the board shall:

(1) Examine the qualifications of applicants for certification.

(2) Recommend qualified applicants for certification by the department.

(3) Maintain records of operator qualifications, certification and register of certified operators.

Section 4. [3.] Application for Certification. (1) An operator desiring to be certified shall file application with the board, preceding examination, on an application form provided by the board.

(2) The executive secretary and treasurer of the board shall assemble all the information needed by the board to determine eligibility of the applicant for examination and certification.

(3) The board shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify him/her of his/her status.

Section 5. [4.] Examinations. (1) The board and department shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgment of the applicants. The examination questions promulgated by the ABC shall be used as a guideline.

(2) Examinations shall be held at places and times set by the board, with suitable method of advance announcements made by the board. They shall be conducted at least semiannually.

(3) Except in such cases which [as] the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by the department and the applicant notified of the outcome. *Applicants will be required to answer at least seventy (70) percent of the examination items correctly in order to suc-*

cessfully pass the examination. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or department upon request by the applicant.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities of operators, types of facilities[, variations in wastewater quality, conditions of receiving waters] and other pertinent matters.

(5) Applicants who fail to pass an examination may repeat the examination at the subsequent regularly scheduled examination.

Section 6. [5.] Fees. (1) Fees for certification of water treatment plant and water distribution system applicants shall be the following:

- (a) Initial certification with examination: \$10.
 - (b) Certification by reciprocity: \$10.
 - (c) Re-examination for a new certificate or to make-up for failure to pass an examination: \$8.
 - (d) Reinstatement of a lapsed certificate: \$10.
 - (e) Annual renewal of certificate: \$4.
- (2) Fees accompanying applications will not be returned to those who do not qualify for a certificate.
- [3] No fees are required for operators of wastewater systems.]

Section 7. [6.] Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the board of certification, the department shall issue a suitable certificate to the applicant designating his/her competency. This certificate will indicate the classification of the water treatment plant or [,] water distribution system[, or wastewater treatment plant] for which the operator is qualified.

(2) Certificates shall be valid for one (1) year unless revoked for cause or replaced by one of a higher classification. Certificates of operators in good standing will be renewed annually, upon written application and submission of applicable renewal fee, without examination. [No renewal fee is required for operators of wastewater systems.]

(3) Certified operators who desire to become certified in a higher classification must first satisfactorily complete the requirements for the higher classification before a new certificate is issued.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his/her knowledge in the performance of his/her duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) The certificates of operators who terminate their employment at a water treatment plant or [,] water distribution system [or wastewater treatment plant] will be valid for five (5) years providing they are renewed as required by Section 7 [6](2). After five (5) years, the certificate will be automatically invalidated. Operators whose certificates are invalidated may be issued new certificates of like classification provided appropriate proof of competency is presented to the department. Successful completion of an examination may be required at the discretion of the board [department].

(6) Certificates may be issued, without examination, in a comparable classification to any person who holds a certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate

was issued do not conflict with any provisions of KRS Chapter[s] 223 [and 224] and are of a standard not lower than that specified by regulations adopted under said chapter[s]; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(7) Certificates shall be prominently displayed in the office of the operator.

(8) Certificates heretofore issued by the department shall continue in full force and effect, unless revoked for cause, until such time as the department issues new certificates based upon the new classifications provided herein.

Section 8. [7.] Revocation of Certificates. The department may revoke the certificate of an operator, following a hearing before the department or its designated representative, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties; or that the operator is incompetent or unable to properly perform his/her duties.

Section 9. [8.] Classification of Water Treatment Plants and Water Distribution Systems. (1) Classification shall be generally in accordance with the following four (4) classes. However, [except that] the department may make changes in classification in accordance with the needs created by particular complexities of any specific plant or distribution system by reason of special features of design, or by reason of a source of supply that [which] is particularly hazardous[, or which has characteristics that may [which] make operation more difficult than normal, or a combination of such conditions. Due notice of any such change shall be given to the owner of the water treatment plant and/or water distribution system.

(2) *Water treatment plants:*

(a) Class I:

1. (Class IA) All plants using physical treatment and disinfection and serving a population less than 500.

2. (Class IB) All plants using disinfection and serving a population less than 500.

3. (Class IA-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the maintenance of the distribution system and which serves a population less than 500.

4. (Class IB-D) All plants using disinfection wherein the treatment plant operator is also responsible for the maintenance of the distribution system and which serves a population less than 500.

(b) Class II:

1. (Class IIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population less than 3,000.

2. (Class IIB) All plants using physical treatment and disinfection and serving a population equal to or greater than 500 and less than 3,000.

3. (Class IIC) All plants using disinfection and serving a population equal to or greater than 500 and less than 3,000.

4. (Class IIB-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the maintenance of the distribution system and which serves a population equal to or greater than 500 but less than 3,000.

5. (Class IIC-D) All plants using disinfection wherein the treatment plant operator is also responsible for the maintenance of the distribution system and which serves a

population equal to or greater than 500 but less than 3,000.

(c) Class III:

1. (Class IIIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 3,000 and less than 15,000.

2. (Class IIIB) All plants using physical treatment and disinfection and serving a population equal to or greater than 3,000.

3. (Class IIIC) All plants using disinfection and serving a population equal to or greater than 3,000.

(d) Class IV: All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 15,000.

(3) [(2)] Water distribution system:

(a) Class I: All distribution systems serving a population less than or equal to 1,500.

(b) Class II: All distribution systems serving a population greater than 1,500 and less than or equal to 15,000.

(c) Class III: All distribution systems serving a population greater than 15,000 and less than or equal to 50,000.

(d) Class IV: All distribution systems serving a population greater than 50,000.

(4) [(3)] Special designation(s) may be added to any certificate when found necessary to show competency of the operator for a parameter of treatment or operation not covered by the basic requirements for the standard classification contained herein.

[Section 9. Classification of Wastewater Treatment Plants. (1) Wastewater treatment plants shall be classified in one (1) of four (4) classes. These classifications shall be made according to population served, type of work, character and volume of wastes to be treated, and the use and nature of the water resources receiving the plant effluent. Classification shall be based on the population served or for which the plant is designed except that plants may be classified in a group higher than indicated at the discretion of the department by reason of the incorporation in the plant of special features of design or characteristics more difficult to operate than usual, or by reason of conditions of flow or use of the receiving water requiring an unusually high degree of plant operation control, or for combinations of such conditions or circumstances.]

[(a) Class I: Plants serving a population of less than 2,000.]

[(b) Class II: Plants serving a population of between 2,000 and 10,000.]

[(c) Class III: Plants serving a population between 10,000 and 40,000.]

[(d) Class IV: Plants serving a population in excess of 40,000.]

[(2) Classification of any treatment plant may be changed at the discretion of the department by reason of changes in any condition or circumstance on which the original classification was predicated. Due notice of any change shall be given to the owner of the treatment plant.]

[(3) Special designation(s) may be added to any certificate when found necessary to show competency of the operator for a parameter of treatment or operation not covered by the basic requirements of the standard classifications contained herein.]

Section 10. Classification of Water Treatment Plant [, Wastewater Treatment Plant] and Water Distribution

System Operators. Four (4) classes of operators are hereby established and shall range from Class I through Class IV. Each operator classification is intended to relate directly to the corresponding classification of water treatment plant [, wastewater treatment plant] or water distribution system.

Section 11. Operator Qualifications; Experience, Education and Equivalencies. (1) Operators shall be examined by the board as to education, experience, and knowledge as related to the classification of water treatment plants or water distribution systems for which examined. Applicants shall be required further to give evidence of good moral character, dependability, initiative, interest in his/her work, and other pertinent characteristics in relation to operation of the class of water [or wastewater] facility for which certification is being applied. Applicants must pass the required written examinations.

(2) Experience and educational requirements of operators shall be as follows:

(a) Class I:

1. Completion of high school or equivalent; and

2. One (1) year of acceptable operation of applicable treatment plant/distribution system.

(b) Class II:

1. Completion of high school or equivalent; and

2. Three (3) years of acceptable operation of applicable treatment plant/distribution system of Class I or higher.

(c) Class III:

1. Completion of high school or equivalent; and

2. Three (3) years of acceptable operation of applicable treatment plant/distribution system of Class II or higher.

(d) Class IV:

1. A college degree in a standard curriculum in engineering, [or] allied sciences or equivalent; and

2. At least five (5) years of acceptable operation of applicable treatment plant/distribution system of Class III or higher.

(3) In evaluating qualifications of operators and experience/educational equivalencies the board shall be guided by the following:

(a) Experience requiring some technical knowledge of the work and whether or not responsible charge of work was included. In large plants, where responsibility is divided, supervisors of important divisions may be credited with having responsible charge.

(b) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the department or other agencies having appropriate responsibilities for supervising systems and plants.

(c) Partial credit may be given for operating experience in maintenance, laboratories or other work of water [or wastewater] treatment or distribution systems and allied trades such as plumbing.

(d) Where applicable, education may be substituted for a portion of experience requirements as specified below:

1. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of two (2) years of experience or one (1) year of experience with responsible charge.

2. Where education is substituted for experience it shall not exceed an amount which would reduce the requirements of actual operating experience to less than six (6) months for Class I or less than two (2) years for Classes II and III or three (3) years for Class IV.

3. Education applied to the experience requirement cannot also be applied to the education requirement.

(e) Where applicable, experience may be substituted for education requirements as specified below:

1. One (1) year of experience may be considered as equivalent to a maximum of two (2) years of high school.

2. Each year of responsible charge or two (2) years experience in an important phase of operation, other than responsible charge, will be considered equivalent to one (1) year of college.

3. Experience applied to educational requirements may not also be applied to the experience requirement.

(f) Substitutions for formal education may be as follows:

1. Training credits (T.C.) for board approved operator training schools, seminars and technical courses may be substituted for high school and college requirements. One (1) year of college work equals thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board approved courses shall equal one (1) T.C., and forty-five (45) T.C. equals *eighteen (18) semester hours* [one (1) year] of college or *one (1) [two (2)] year[s]* of high school.

2. An acceptable high school equivalency certificate may be used to substitute for graduation from high school.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 29, 1979

RECEIVED BY LRC: October 30, 1979 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for December 19, 1979 from 10 a.m. EST to 5 p.m. EST, in Room G-1 of the Capital Plaza Tower, corner of Mero and Wilkinson Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact Mr. Nick Johnson, Director, Division of Sanitary Engineering, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(Proposed Amendment)

603 KAR 5:025. Fully controlled access highways.

RELATES TO: KRS 177.220, 177.230, 177.300, 189.190, 189.340, 433.750, 433.753

PURSUANT TO: KRS 13.082, 174.080, 175.450(7), 177.230, 177.410(6), 189.231

NECESSITY AND FUNCTION: This regulation repromulgates existing prescriptions and proscriptions deemed necessary for the safe, orderly regulation of traffic for all Kentucky Toll Roads, Interstate Highways and other Fully Controlled Access Highways. The new regulatory material (new section 9) is considered necessary to protect vehicular traffic and pedestrians, whose presence would be brought about by the existence of the prohibited activity, on Fully Controlled Limited Access facilities which are especially designed for through traffic.

Section 1. Unidirectional Nature of Traffic Lanes and Ramps. (1) On multi-lane (four (4) or more lanes) divided

toll roads, interstate highways, and other fully controlled access highways, no vehicle shall be operated or otherwise caused to move in a direction which is against the normal flow of traffic on any traffic lane, deceleration lane, acceleration lane, ramp, shoulder or other traveled way of such highway.

(2) One two (2) lane, two (2) way undivided toll roads, interstate highways, and other fully controlled access highways, no vehicle shall be operated or otherwise caused to move in a direction which is against the normal flow of traffic on any traffic lane where passing is prohibited by signs or markings or on any deceleration lane, acceleration lane, ramp, shoulder or other traveled way of such highway.

Section 2. Prohibition of U-Turns and Left Turns. The making of a U-turn at any point on toll roads, interstate highways, and other fully controlled access highways is prohibited. Excepted from this provision are maintenance, emergency, and police vehicles. The making of a left turn, except where permitted by official signs, is prohibited.

Section 3. Prohibition of Standing, Stopping, or Parking on Shoulders. No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, except that in the case of emergency, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of such vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, or other fully controlled access highway, including ramps thereto, for more than six (6) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

Section 4. Waste and Rubbish. Littering of the right of way of any toll road, interstate highway, or other fully controlled access highway with bottles, cans, paper, garbage, rubbish or other material of any kind or description is prohibited.

Section 5. Damaging of Shrubs or Plants. No person shall cut, mutilate, or remove any trees, shrubs, or plants located within the right of way of any toll road, interstate highway, or other fully controlled access highway.

Section 6. Limitations on Use. Use of toll roads, interstate highways, and other fully controlled access highways by the following is prohibited at all times:

(1) Bicycles or motor scooters. Motor scooters are hereby defined as motor vehicles having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels with a motor which produces five (5) horsepower or less.

(2) Vehicles drawn by animals.

(3) Animals led, ridden, or driven on hoof.

(4) Vehicles with improperly secured loads or loaded with animals not properly confined.

(5) Vehicles with metal treads and vehicles with caterpillar treads.

(6) Farm implements and farm machinery, whether propelled or towed (does not include farm trucks).

(7) Construction equipment other than motor trucks, except by special permit.

(8) "Moped" as defined in KRS 186.010(5).

Section 7. Prohibition of Hitchhiking. The soliciting of rides in vehicles, commonly known as hitchhiking, on any portion of a toll road, interstate highway, or other fully controlled access highway is prohibited.

Section 8. Passing and Following Vehicles; Traffic Lanes (Applicable only to two (2) lane, two (2) way undivided toll roads, interstate highways, and other fully controlled access highways). (1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. No vehicle shall be driven to the left side of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(2) Drivers shall obey the directions of all signs and markings placed to assign traffic lanes, to specify directions or to slow moving traffic in all areas where climbing lanes have been added.

(3) The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway. The operator of any truck, bus, or heavy equipment unit shall not follow within 250 feet of another such vehicle or equipment unit; this will not prevent overtaking and passing, nor shall it apply to any lane designated for use of slow moving traffic.

Section 9. Prohibition of Vending on Shoulders and Right of Way. No vehicle shall be parked, stopped, or allowed to stand on the shoulders or right of way of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto for the purpose of displaying, selling or offering for sale any merchandise, wares, produce, services or other items. Nor shall any person be allowed to engage in the above activities on the above mentioned shoulders or right of ways.

Section 10. (1) "Fully controlled access highways" as used in this regulation shall mean highways which give preference to through traffic and which shall have access only at selected public roads or streets, and which shall have no highway grade crossing or intersection. Such term includes, but is not limited to, interstate highways and toll roads.

(2) "Toll roads" as used in this regulation shall mean any turnpike project constructed under the provisions of KRS Chapter 175 or KRS 177.390 to 177.570.

CALVIN G. GRAYSON, Secretary

ADOPTED: November 2, 1979

RECEIVED BY LRC: November 5, 1979 at 9:15 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 Administration and Finance
(Proposed Amendment)

702 KAR 3:020. Bond issue approval.

RELATES TO: KRS 156.200, 162.060, 162.170, [and] 162.180, 162.300

PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160

NECESSITY AND FUNCTION: To provide a method for the approval of bond issues.

Section 1. The Superintendent of Public Instruction shall determine the financial soundness of all school revenue bond issues. He shall supervise all phases of school revenue and voted bonds.

Section 2. The Superintendent of Public Instruction shall *disapprove* any [approve all] school revenue or [and] school voted bond issue[s] which he deems to be not in accord with State Board for Elementary and Secondary Education regulations or financially unsound for the district in question. The Superintendent of Public Instruction at the next special or regular meeting of the State Board for Elementary and Secondary Education shall report the terms and conditions of all school revenue or school voted bond sales and certify that such sales were made in accordance with KRS Chapter 162 and the State Board for Elementary and Secondary Education regulations [subject to subsequent review by the State Board of Education].

Section 3. The maximum *net* interest cost [rate] for the sale of school revenue bonds established by the State Board for Elementary and Secondary [of] Education shall be a rate no greater than the most current Bond Buyer's 20 - Bond Index plus one point five percent (1.5%) [seven and three-fourths percent (7¾%)]. In the event a bid on an issue of bonds exceeds the maximum interest rate the Superintendent of Public Instruction may declare an emergency to exist and request the chairman to convene the State Board for Elementary and Secondary [of] Education for the purpose of approving or disapproving his recommendation that the bonds be sold.

JAMES B. GRAHAM
Superintendent of Public Instruction

ADOPTED: November 5, 1979

RECEIVED BY LRC: November 8, 1979 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

707 KAR 1:040. Tuition and support programs for deaf-blind children.

RELATES TO: KRS 167.210 to 167.240

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To repromulgate State Board for Elementary and Secondary Education regulations for programs for deaf-blind children.

Section 1. The tuition and support program for deaf-blind children shall be operated pursuant to KRS 167.210 to 167.240, inclusive, and the criteria listed below:

(1) Definition. As used in KRS 167.210 to 167.240, unless the context otherwise requires, "deaf-blind children" includes any child whose combination of handicaps of deafness and blindness prevents him/her from profiting satisfactorily from public educational programs provided for the blind child or the deaf child.

(2) Evaluation. Before placement for deaf-blind children in a facility, school or institution providing a qualified program of education for such children can be considered, appropriate evaluations of the child shall be made by qualified personnel and a copy of the evaluation report forwarded to the Bureau of Education for Exceptional Children.

(a) The Kentucky State Department of Education is authorized to expend available funds for the purpose of providing evaluation and diagnostic services for deaf-blind children. Such funds are administered through the Bureau of Education for Exceptional Children.

(b) Arrangments for evaluations shall be made by contacting the Bureau of Education for Exceptional Children.

(3) Educational placement:

(a) If results of the evaluation indicate that the child should be enrolled in an educational facility for deaf-blind children, application shall be made to an appropriate school.

(b) A statement that the child has been, or will be accepted by the school, must be submitted to the Bureau of Education for Exceptional Children. This bureau in cooperation with the child's parents and other professional personnel shall have the final responsibility for determining if the selected school is appropriate to the special educational needs of the child.

(4) Eligibility. The eligibility of the child for placement in a special educational facility, school or institution for deaf-blind children is based upon the following criteria:

(a) The child has both a vision and hearing loss so severe that he/she cannot make educational progress in existing state residential programs for the deaf or for the blind.

(b) All efforts have been exhausted for provision of educational programs for the child in a public school program for the deaf or for the blind.

(c) All efforts have been exhausted for placement of the child in existing state-supported programs offering special adaptations of standard educational programs and practices.

(d) The parents have followed through on the recommendation made by medical, psychological, and/or educational evaluations.

(5) Transportation: Funds will be provided by the Department of Education for the transportation of the deaf-blind child and one (1) parent or guardian to and

from school at the beginning and end of the academic year, [and] at the beginning and end of Christmas holidays[.] , and at other times during the year when the school is closed and when all students are required to leave campus. If it is necessary for more than one (1) person to accompany the child, requests shall be submitted to the Bureau of Education for Exceptional Children.

(6) Selection. The selection of children to receive aid through this program will be made on the basis of a review of all applications and on the availability of state funds. The Bureau of Education for Exceptional Children shall make this selection.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: October 24, 1979

RECEIVED BY LRC: November 2, 1979 at 11:45 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.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:020. Adoption of 29 CFR Part 1910.

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 regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards for General Industry, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the March 1979 Edition, Copyright Date 1979, These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards 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.

(3) 29 CFR 1910.141(c)(2)(i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(4) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(5) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(6) 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through 1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(7) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the

establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(8) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(9) 29 CFR 1910.1028 "Occupational Exposure to Benzene," Paragraph (a)(2)(iii) and Paragraph (k)(2)(iii) were inadvertently transposed in the printing and shall read as follows: 1910.1028(a)(2)(iii) work operations where the only exposure to Benzene is from liquid mixtures containing 0.5 percent (0.1 percent after June 27, 1981) or less Benzene by volume, or the vapors released from such liquids. 1910.1028(k)(2)(iii) liquid mixtures containing 5.0 percent or less Benzene by volume which were packaged before June 27, 1978.

(10) Amend 29 CFR 1910 by adding the following addition and revision:

1910.20 (b) "Qualified Professional" means any person trained in the field of industrial hygiene, toxicology, epidemiology, nursing, medicine or health physics.

1910.20 (d) Availability of records. Delete the word designee and insert "A designated qualified professional."

(11) 29 CFR 1910.106(a)(3) shall read as follows:

"The term automotive service station, or service station, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(12) Amend 29 CFR 1910.217 Mechanical Power Press Standards to read:

(a) "1910.217(b)(8)(iv) All a.c. control circuits and solenoid coils shall be powered by not more than a nominal 120-volt a.c. supply obtained from a transformer with an an isolated secondary."

(b) 1910.217(d)(3), (d)(5), (d)(9)(i) The references to paragraph (b) shall be changed to paragraph (c).

(13) 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Add Appendices A, B, and C which appeared in the Federal Register Volume 44, Number 206, October 23, 1979, hereby adopted by reference, copy attached hereto.

(b) Paragraph (a)(2) shall read: "This section does not apply to the Construction Industry or to Agricultural operations covered by 29 CFR 1928."

JAMES R. YOCOM, Commissioner

ADOPTED: October 25, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 13, 1979 at 2:45 p.m.

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 Labor
Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:030. Adoption of 29 CFR Part 1926.

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, regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926, the Occupational Safety and Health Standards for the Construction Industry, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the March 1979 Edition, Copyright Date 1979, These standards are hereby adopted by reference with the following additions, exceptions, and deletions:

(1) 29 CFR Part 1926.1 shall read as follows:

The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1926.100 shall read as follows:

(a) Hard hats conforming to specifications of the American National Standards Institute, safety requirements for industrial head protection Z89.1 (1971) shall be worn by all employees at all times while engaged in the type of work covered by the scope of this safety standard.

(b) Helmets for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Institute Z89.2 (1971).

(3) 29 CFR 1926.552(b)(8) of the paragraph on "Material hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(4) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) 29 CFR 1926.400(h)(3)(i), (vii) shall read: "shall be readily available for inspection."

(6) The following paragraphs of 29 CFR 1926, Subpart U, Blasting and the Use of Explosives, which were previously adopted by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap this distance may be modified so long as the modification is adequately designed in compliance with .900(k)(5) to prevent any premature firing of electric blasting caps.

(b) 1926.900(k)(4) Mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, may be left "on" for receiving purposes but may only be used to transmit if in compliance with .900(k)(5).

(c) 1926.900(p) The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(d) 1926.900(r) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) 1926.902(d) Explosives, blasting agents, and blasting supplies shall not be transported with other materials or cargoes. Explosives or blasting agents shall be transported in separate vehicles from detonators unless separated by four (4) inches of hardwood or a type 2 outdoor or type 3 magazine. (Ref. 26 CFR 181, Commerce in Explosives.)

(f) 1926.903(o) Deleted.

(g) 1926.905(h) Machines and all tools not used for drilling, loading, and covering the blast shall be removed from the immediate location of holes before explosives are delivered.

(h) 1926.905(i) No activity of any nature other than that which is required for blasting shall be permitted in a blast area.

(i) 1926.905(k) Holes shall be checked prior to loading to determine depth and conditions. Holes shall not be drilled where there is a danger of intersecting a charged or misfired hole.

(j) 1926.905(n) In underground blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(k) 1926.906(p) The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the direction of the blaster.

(l) 1926.906(q) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or blasters multimeters approved by M.E.S.A. under 30 CFR 18.68.

(m) 1926.906(s) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(n) 1926.907(a) The use of a fuse that has been hammered or injured in any way shall be forbidden.

(o) 1926.910(b) Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and

fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

[(7) Paragraph (e) of 29 CFR 1926.605 is amended to read as follows: "Commercial Diving Operations shall be subject to Subpart T of 29 CFR 1910.401 through 1910.441 as adopted by 803 KAR 2:020."]

(7) [(8)] Revoke paragraph "514—Warning Device" of ANSI B56.1—1969—Safety Standards for Powered Industrial Trucks and adopt paragraph "512—Warning Device" of ANSI B56.1—1975—Low Lift and High Lift Trucks for standard reference as specified in 29 CFR 1926.602(c)(1)(vi); effective July 1, 1979.

(8) 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1 "Manual of Uniform Traffic Control Devices for Streets and Highways" (1978 Edition).

JAMES R. YOCOM, Commissioner

ADOPTED: October 25, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 13, 1979 at 2:45 p.m.

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 **Kentucky State Racing Commission** **(Proposed Amendment)**

810 KAR 1:006. Racing associations.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation outlines the requirements for racing associations.

Section 1. Maintenance of grounds, facilities and uniform track. Each association shall at all times maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of horses there stabled, exercising, or entered to race; and shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

Section 2. Result boards, totalizators required. Each association shall provide and maintain mechanically operated totalizators and electronic boards showing odds, results, and other race information located in plain view of patrons.

Section 3. Starting gate. Each association shall provide and maintain a working starting gate on every day horses

are permitted to exercise on its racing strip. Each association shall have in attendance one or more men qualified to keep said starting gates in good working order whenever said gates are in use, and each association shall provide for periodic inspections of said gates.

Section 4. Stabling. Each association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, and in a clean, and sanitary condition; each barn and each stall shall be numbered in consecutive order for ready ascertainment of location and identification and adequate drainage therefor shall be maintained. The commission shall submit to the stewards prior to the opening of each race meeting a list of locations of approved off-track stabling facilities from which horses may be permitted to race; such locations shall be considered for purposes of these rules "association grounds."

Section 5. Stands for officials. Each association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials, such stands and location thereof to be approved by the commission. Patrol judge stands shall be constructed so the floor thereof shall be at least six (6) feet higher than the track rail.

Section 6. Distance pole markings. Each association shall cause quarter poles to be painted red and white, eighth poles to be painted green and white, and sixteenth poles to be painted black and white.

Section 7. Lighting. Each association shall provide and maintain flood lights so as to insure adequate illumination in the stable area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

Section 8. Facilities for stable employees. Each association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities such as showers, toilets, and wash basins for stable employees. No personnel shall be permitted to sleep in any stall.

Section 9. Facilities for jockeys. Each association shall provide and maintain adequate facilities for jockeys scheduled to ride each day, such facilities to include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales.

Section 10. Facilities for commission. Each association shall provide adequate office space for the commission on association grounds and shall make available to the commission, and mark accordingly, a season box of six (6) to eight (8) seats and appropriate parking places for use of the commission throughout each racing day. Each association shall honor for access to preferred parking facilities and all other areas on association grounds any ring, lapel button, or automobile emblem issued at any time by the commission, or by the National Association of State Racing Commissioners.

Section 11. Sanitary facilities for patrons. Each association shall, on every racing day, provide adequate and sanitary toilets and wash rooms, and furnish free drinking

water for patrons and persons having business at the association.

Section 12. Manure removal. Each association shall provide and maintain adequate manure pits of such size and construction to handle refuse from stalls. The contents of said manure pits shall be removed from the stable areas as promptly as is possible.

Section 13. Photo-finish cameras. Each association shall provide and maintain at the finish line two (2) photo-finish cameras for photographing the finish of races; one (1) camera to be held in reserve. The photo-finish photographer shall promptly furnish to the stewards and placing judges prints of all finishes as may be requested and in such number as may be required for public posting. The association shall maintain a one (1) year file of all such photo-finishes.

Section 14. Patrol films or video tapes. Each association shall at all times during a race meeting provide and maintain personnel and equipment necessary to produce adequate motion pictures or video tapes and record with same each race from start to finish.

(1) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.

(2) Such films and video tapes, shall be retained and secured by the association for not less than one (1) year and shall be available at all times to the commission and stewards. Each visual record of a race involving any questions, dispute, or controversy shall be filed with the commission upon order of the stewards.

(3) Such films, or video tapes, shall be made available for viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed, and to members of the press.

Section 15. Ambulances. Each association shall provide and maintain at least one (1) man-ambulance and at least one (1) horse-ambulance during times horses are permitted to exercise or race. Said ambulances shall be equipped, manned, ready for immediate duty, and shall be located at an entrance to the racing strip.

Section 16. First-aid room. Each association shall equip and maintain adequate first-aid facilities with not less than two (2) beds and attendance of a competent physician and registered nurse during race hours.

Section 17. Track kitchen. Each association shall provide adequate eating facilities within the stable area, maintained in a clean and sanitary manner at all times horses are stabled on association grounds.

Section 18. Communication system. Each association shall install and maintain in good working service communication systems between the stewards' stand and patrol judges, pari-mutuel department, starting gate, public address announcer, and clerk of scales.

Section 19. Fire prevention. Each association shall be responsible for maintaining an adequate program for fire prevention and fire suppression. Each association within fifteen (15) days before commencement of a race meeting shall be inspected by the state or local fire marshal whose certification that the association plant and stable area meet

fire safety requirements is necessary for the commission to approve commencement of the race meeting. Each association shall maintain a fire-fighting unit of trained personnel equipped with high-expansion foam fire extinguishers and other equipment as may be recommended by local fire inspection authority. Each association shall prohibit:

(1) Smoking in stalls, under shed rows, and in feed rooms;

(2) Open fires, oil or gas lamps in stable area; and

(3) Locking of stalls occupied by horses.

Section 20. Telephone restricted. (1) No association shall permit communication by any electrical, mechanical, manual, or visual method from association grounds of any information pertaining to any race conducted by the association until at least thirty (30) minutes after the last race of the day is declared official; excepting from the effect of this rule such information as may be transmitted by duly accredited members of the news media for the benefit of the public at large.

(2) All telephones and telegraph wires on association grounds shall be closed from fifteen (15) minutes before post time of the first race and remain closed until thirty (30) minutes after the finish of the last race is declared official and no calls or wires shall be allowed to be made or received while such telephone and telegraph wires are closed.

(3) Excepted from the effect of this rule shall be the transmission of information pertaining to racing by duly accredited members of the news media, and the ordinary conduct of business as may be transmitted by members of the commission and its staff or association officials.

(4) No association employee shall furnish, other than to authorized persons, any information with respect to entries, scratches, jockey changes, or track conditions for any race.

Section 21. Association police. Each association shall provide and maintain competent police and watchman services, night and day, in and about association grounds, and shall furnish daily to the commission a report on any disturbances, drunkenness, or disorderly conduct committed by any person on association grounds.

Section 22. Security. Each association shall cause to be excluded from association grounds all persons designated by order of the commission or stewards to be excluded. Each association shall take such measures as to maintain security of horses on association grounds so as to protect from injury due to frightening of or tampering with said horses. Each association shall exclude from the paddock area, race strip, and winner's entrance all persons who have no immediate connection with the horses entered except members of the commission, racing officials, and duly accredited members of the news media.

Section 23. Vendors and suppliers. Each association shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who have entry to the stable area. No association by virtue of this rule shall attempt to control or monopolize proper selling to owners, trainers, or stable employees, nor shall an association grant a concession to any vendor of feed, racing supplies, or racing services. Any vendor of horse feeds or medications shall file with the commission veterinarian a list of products which he proposes to sell, including any new prepara-

tion or medication. No association shall permit the sale of any alcoholic beverage, beer excepted, within the stable area.

Section 24. Ejection or exclusion from association grounds. (1) Associations may eject or exclude any persons, licensed or unlicensed, from association grounds or a part thereof solely of its own volition and without any reason or excuse given therefor, provided, however, such ejection or exclusion is not founded on race, creed, color, or national origin.

(2) Associations shall eject or exclude from association grounds all persons believed to be engaged in a bookmaking activity or solicitation of bets or touting, and a report thereof shall be submitted promptly to the commission, to the stewards, and to the local police. Associations shall eject or exclude from association grounds all persons who as a business or for any compensation, shall, directly or indirectly, accept any thing of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise, or participate in any such transmission.

(3) Associations shall eject or exclude from the stable areas on association grounds all persons except those whose presence in the stable area is authorized as:

(a) Persons licensed to conduct an activity, the conduct of which requires the presence of such licensee in the stable area;

(b) Duly accredited members of the news media;

(c) Guests of licensed owner or licensed trainer physically in the company of such owner or trainer;

(d) Persons physically in the company of and under the control and supervision of a racing official, or association security guard, or association public relations department representative.

(4) Reports of all ejections or exclusions from association grounds for any reason shall be made immediately to the commission and the stewards, such reports stating the name of all persons and circumstances involved.

Section 25. Ownership of associations. Each association shall file with the commission a revised list of persons whose identity is required by 810 KAR 1:003, Section 6(2), immediately upon transfer of any beneficial interest or control in the association as from time to time may occur.

Section 26. Plan of association grounds. Each association shall file with the commission existing maps and plans of association grounds, showing all structures, piping, fire hydrants, fixed equipment, racing strip, noting elevation as filled, drained, and gapped, and composition of track base and cushion. Each association shall file revised maps or plans of association grounds upon any material change as may occur from time to time.

Section 27. Attendance report. (1) In addition to filing with the commission a copy of the report required by KRS 138.480 to be filed with the Department of Revenue on admission taxes, each association shall file with the commission daily attendance reports showing a turnstile count of all persons admitted to association grounds where pari-mutuel wagering is conducted; such attendance report shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

(2) On request from the commission, each association shall file with the commission a current badge list showing the names of all persons issued tax exempt admission credentials.

(3) Tax exempt admission credentials shall not be transferable and associations shall exclude or eject from association grounds any person attempting to use such tax exempt admission credentials not issued to him by the association.

Section 28. Financial report. In addition to filing with the commission copies of reports required by KRS 137.180 and 138.530 to be filed with the Department of Revenue on pari-mutuel and license taxes, each association shall furnish to the commission within sixty (60) days after the close of its fiscal year three (3) copies of its balance sheet and of its operating statement for such fiscal year with comparison to prior year, the same to be duly sworn to by the treasurer of the association and certified by a licensed certified public accountant. Such financial report shall be in such form as may be prescribed from time to time by the commission.

Section 29. Horseman's bookkeeper. (1) Each association shall maintain a separate bank account, to be known as the "horsemen's account," with at all times sufficient funds in such account to pay all money owing to horsemen in regard to purses, stakes, rewards, claims, and deposits. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of such account shall be bonded.

(2) All portions of purse money shall be made available to earners thereof within forty-eight (48) hours (Sundays excluded) after the result of the race in which such money was earned has been declared official; except, however, when the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute.

(3) No portion of purse money [other than jockey fees] shall be deducted by the association for itself or for another, unless so requested in writing by the person to whom such purse monies are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing account at the close of each race meeting.

Section 30. Outriders. Each association shall employ at least two (2) outriders to escort starters to the post and to assist in the returning of all horses to the unsaddling area. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or others. Each association shall wear traditional apparel. Outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times horses are permitted on the racing strip for exercising or racing.

Section 31. Association veterinarian. (1) Each association shall employ a graduate veterinarian, licensed in Kentucky, experienced in equine medicine and practice, who shall be responsible for inspecting and reporting all horses entered for racing soundness; maintaining and posting in the racing secretary's office a veterinary list of horses ineligible to race because of sickness or unsoundness; control of communicable equine diseases; insect control; sanitary conditions in the stable area; and observe and report all cruel or inhumane treatment of horses to the stewards.

(2) The association veterinarian shall be attendant on the stewards and the racing secretary at scratch time each day,

and shall examine such horses as such racing officials may request, and shall make reports to such racing officials as promptly as possible.

(3) The association veterinarian shall be responsible for inspecting every horse entered on the day of the race for which such horse is entered. Such inspection shall be for physical fitness, general conditions, and for any noticeable unsoundness or peculiarities that may affect the racing condition of the horse or be considered for scratching a horse on a muddy or sloppy track. Such pre-race examinations shall be recorded on a health record for every starter at the race meeting.

(4) The association veterinarian shall be present in the paddock for saddling, shall accompany each field to the starting post, and observe all horses after the finish of each race. If, in the opinion of the association veterinarian, a horse suffers an injury while in the paddock, during the post parade, or at the starting gate, which injury shall render such horse unfit to race, he shall recommend to the stewards that the horse be excused and placed on the veterinary list. All horses requested to be scratched for physical reasons after scratch time shall be inspected by the association veterinarian who shall report the condition of such horse to the stewards.

(5) No association veterinarian during his employment by an association shall be permitted to engage in private veterinary practice involving thoroughbreds; nor be employed by or receive any compensation directly or indirectly from any licensed owner or trainer; nor sell or buy, for himself or another, any thoroughbred; nor place any wager in any manner on any race run at the association; nor sell any drug supplies; nor sell horse insurance; nor be licensed to participate in racing in any other capacity.

[Section 32. Horse identifier. Each association shall employ one (1) or more persons to be charged with the responsibility of proper identification of all horses entered to be raced. A horse identifier may accompany the association veterinarian on the pre-race examination of all starters. Every starter shall be examined in the paddock by a horse identifier for sex, age, color, markings, and lip tattoo, for comparison with its registration certificate; photographs may be used as an aid in identification. If a horse identifier has any doubt as to the identity of a horse entered to be raced, the horse identifier shall so notify the paddock judge and the stewards.]

Section 32. [33.] Valets. Each association shall employ a sufficient number of persons licensed as valets to attend each individual rider on a day's racing program. Such valets shall be under the immediate supervision and control of the clerk of scales. No rider shall employ a valet or be attended by any person other than the valet assigned to him by the clerk of scales. No valet shall be assigned to the same rider for more than two (2) consecutive racing days. Valets shall be responsible for the care and cleaning of his assigned riders apparel and equipment; shall insure his rider has the proper equipment and colors for each race; shall present the proper equipment and attend the saddling of rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each association shall provide uniform attire for valets who shall wear same at all times while performing their duties within public view.

Section 33. [34.] Minimum purse and stakes values. No association shall program or run any race the purse for which is less than \$2,000 in cash without special permission of the commission. No association shall program or run any stakes race the added value of which is less than \$10,000 in cash added by the association to stakes fees paid by owners. Such minimum cash amounts paid by the association shall be exclusive of nomination, eligibility, entrance, and starting fees, and exclusive of other cash awards, premiums, prizes, or objects of value.

Section 34. [35.] Maximum number of races. No association shall program or run more than nine (9) races on any single racing day without special permission of the commission.

Section 35. [36.] Two-year-old races. Beginning on March 1, of each year, each association shall program in the conditions book at least four (4) two (2) year old races each week.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: November 8, 1979

APPROVED: JACK B. HALL, Acting Secretary

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

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET **Kentucky State Racing Commission** **(Proposed Amendment)**

810 KAR 1:009. Jockeys and apprentices.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for jockeys and apprentice jockeys.

Section 1. Probationary mounts. Any person desiring to participate in this state as a rider and who never previously has ridden in a race may be permitted to ride in three (3) [two (2)] races before applying for a license as a jockey or apprentice jockey; provided, however;

(1) Such person is a licensee with at least one (1) year of service with a racing stable;

(2) A licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be permitted such probationary mounts;

(3) The starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;

(4) The stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of

horses or other riders in such race. No such person shall be permitted to ride in any such probationary race without prior approval of the stewards.

Section 2. Qualifications for license. In addition to rules applicable to licensees under 810 KAR 1:003, a holder of a license as a jockey or apprentice jockey:

(1) Must be an individual person sixteen (16) years of age or older and licensed under his legal name which shall be listed in the daily race program;

(2) Must have served at least one (1) year with a racing stable;

(3) Must have ridden in at least *three (3)* [two (2)] races;

(4) Must, when required by the stewards, provide a medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey.

Section 3. Amateur or provisional jockey. An amateur wishing to ride in races on even terms with professional riders, but without accepting fees or gratuities therefor, must be approved by the stewards as to competency of horsemanship, must be granted a jockey's license, and such amateur status must be duly noted on the daily race program. A licensed owner or licensed trainer, upon approval by the stewards, may be issued a provisional jockey's license to ride his own horse or horse registered in his care as trainer.

Section 4. Apprentice allowance. Any person sixteen (16) years of age or older, who never previously has been licensed as a jockey in any country, and who is qualified under Section 2, may claim in all purse races except handicaps the following weight allowances:

(1) Ten (10) pounds until he has ridden five (5) winners, and seven (7) pounds until he has ridden an additional thirty (30) winners; if he has ridden thirty-five (35) winners prior to the end of one (1) year from the date of riding his fifth (5th) winner, he shall have an allowance of five (5) pounds until the end of that year.

(2) After the completion of conditions in subsection (1) a contracted apprentice for one (1) year may claim three (3) pounds when riding horses owned or trained by his original contract employer; provided, his contract has not been transferred or sold since his first winner. Such original contract employer shall be deemed the party to the contract who was the employer at the time of the apprentice jockey's first winner.

(3) An apprentice jockey may enter into a contract with a licensed owner or licensed trainer qualified under Section 5 for a period not to exceed five (5) years. Such contracts must be approved by the stewards and filed with the racing commission; such contracts shall be binding in all respects on the signatories thereof. An apprentice who is not contracted shall be given an apprentice jockey certificate, on a form furnished by the commission.

(4) In the event an apprentice jockey is unable to ride for a period of fourteen (14) consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, the commission upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may extend the time during which such apprentice weight allowance may be claimed for a period no longer than the period such apprentice rider was unable to ride.

(5) After completion of conditions in subsection (1), such rider must be issued a license as a jockey before accep-

ting subsequent mounts. Under these circumstances, the commission may waive collection of an additional license fee.

Section 5. Rider contracts. All contracts between an employer owner or trainer and employee rider are subject to the rules of racing. All riding contracts for terms longer than thirty (30) days, as well as any amendments thereto, or cancellation, or transfer thereof, must be in writing with signature of parties thereto notarized, must be approved by the stewards and filed with the commission. The stewards may approve a riding contract and permit parties thereto to participate in racing in this state if the stewards find that:

(1) The contract employer is a licensed owner or licensed trainer who owns or trains at least three (3) horses eligible to race at the time of execution of such contract;

(2) The contract employer possesses such character, ability, facilities, and financial responsibility as may be conducive to developing a competent race rider;

(3) Such contracts for apprentice jockeys provide for fair remuneration, adequate medical care, and an option equally available to both employer and apprentice jockey to cancel such contract after two (2) years from date of execution.

Section 6. Restrictions as to contract riders. No rider may: (1) Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

(2) Ride or agree to ride any horse in a race without consent of his contract employer;

(3) Share any money earned from riding with his contract employer;

(4) Accept any present, money, or reward of any kind in connection with his riding of any race except through his contract employer.

Section 7. Calls and engagements. Any rider not so prohibited by prior contract may agree to give first or second call on his race-riding services to any licensed owner or trainer. Such agreements, if for terms of more than thirty (30) days, must be in writing, approved by the stewards, and filed with the commission. Any rider employed by a racing stable on a regular salaried basis may not ride against the stable which so employs him. No owner or trainer shall employ or engage a rider to prevent him from riding another horse.

Section 8. Jockey fee. [(1) The fee to a jockey in all races shall be, in the absence of special agreement, as follows:]

[(a) Purse \$2,000 to \$3,400: Winning mount, ten (10) percent of win purse; Second mount, \$45; Third mount, \$35; Losing mount, \$30.]

[(b) Purse \$3,500 to \$4,900: Winning mount, ten (10) percent of win purse; Second mount, \$50; Third mount, \$40; Losing mount, \$30.]

[(c) Purse \$5,000 and up: Winning mount, ten (10) percent of win purse; Second mount, \$55; Third mount, \$45; Losing mount, \$35.]

(1) [(2)] A jockey fee shall be considered earned by a rider when he is weighed out by the clerk of scales except:

(a) When a rider does not weigh out and ride in a race for which he has been engaged because an owner or trainer engaged more than one (1) rider for the same race; in such case, the owner or trainer shall pay an appropriate fee to each rider engaged for such race.

(b) When such rider capable of riding elects to take

himself off the mount without, in the opinion of the stewards, proper cause therefor.

(c) When such rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by such rider during the time between weighing out and start of the race.

Section 9. Duty to fulfill engagements. Every rider shall fulfill his duly scheduled riding engagements, unless excused by the stewards. No rider shall be forced to ride a horse he believes to be unsound, nor over a racing strip he believes to be unsafe, but if the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the facts and circumstances, such rider may be subject to disciplinary action.

Section 10. Presence in jockey room. (1) Each rider who has been engaged to ride in a race shall by physically present in the jockey room no later than one (1) hour prior to post time for the first race on the day he is scheduled to ride, unless excused by the stewards, or the clerk of scales; and upon arrival shall report to the clerk of scales his engagements. In the event a rider should fail for any reason to arrive in the jockey room prior to one (1) hour before post time of a race in which he is scheduled to ride, the clerk of scales shall so advise the stewards who thereupon may name a substitute rider and shall cause announcement to be made of any such rider substitution prior to opening of wagering on such race.

(2) Each rider reporting to the jockey room shall remain in the jockey room until he has fulfilled all his riding engagements for the day, except to ride in a race, or except to view the running of a race from a location approved by the stewards. Such rider shall have no contact or communication with any person outside the jockey room other than an owner or trainer for whom he is riding, or a racing official, or a representative of the regular news media, until such rider has fulfilled all his riding engagements for the day.

(3) The association shall be responsible for such security of the jockey room as to exclude all persons except riders scheduled to ride on the day's program, valets, authorized attendants, racing officials, duly accredited members of the news media, and persons having special permission of the stewards to enter the jockey room.

(4) Any rider intending to discontinue riding at a race meeting prior to its conclusion shall so notify the stewards after fulfilling his final riding engagement of the day he intends to depart.

Section 11. Weighing out. (1) Each rider engaged to ride in a race shall report to the clerk of scales for weighing out not more than one (1) hour and not less than fifteen (15) minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any.

(2) No rider shall pass the scale with more than one (1) pound overweight, without consent of the owner or trainer of the horse he is engaged to ride; in no event shall a rider pass the scale with more than five (5) pounds overweight.

(3) No horse shall be disqualified because of overweight carried.

(4) Whip, blinkers, number cloth, bridle, and rider's safety helmet shall not be included in a rider's weight.

Section 12. Wagering. No rider shall place a wager, or cause a wager to be placed on his behalf, or accept any

ticket or winnings from a wager on any race except on his own mount, and except through the owner or trainer of the horse he is riding. Such owner or trainer placing wagers for his rider shall maintain a precise and complete record of all such wagers, and such record shall be available for examination by the stewards at all times.

Section 13. Attire. Upon leaving the jockey room to ride in any race, each rider shall be neat and clean in appearance and wear the traditional jockey costume with all jacket buttons and catches fastened. Each jockey shall wear the cap and jacket racing colors registered in the name of the owner of the horse he is to ride, stock tie, white or light breeches, top boots, safety helmet approved by the commission, and a number on his right shoulder corresponding to his mount's number as shown on the saddle cloth and daily racing program. The clerk of scales and attending valet shall be held jointly responsible with a rider for his neat and clean appearance and proper attire.

Section 14. Viewing films or tapes of races. Every rider shall be responsible for checking the film list posted by the stewards in the jockey room the day after riding in a race, the posting of same to be considered as notice to all riders whose names are listed thereon to present themselves at the time designated by the stewards to view the patrol films or video tapes of races. Any rider may be accompanied by a representative of the jockey organization of which he is a member in viewing such films, or with the stewards' permission, be represented at such viewing by his designated representative.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: November 8, 1979

APPROVED: JACK B. HALL, Acting Secretary

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

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Keene Daingerfield, Senior State Steward, Kentucky
State Racing Commission, P.O. Box 1080, Lexington,
Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET **Kentucky State Racing Commission** **(Proposed Amendment)**

810 KAR 1:015. Claiming races.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation relates to the claiming of horses.

Section 1. (1) In claiming races any horse is subject to claim for its entered price by any licensed owner in good standing, or by the holder of a certificate of eligibility to claim. The procedure for obtaining a certificate of eligibility to claim shall be as follows:

(a) Applicant shall, fifteen (15) days prior to entering a claim, submit an application for owners original license, to

be accompanied by a financial statement; a finger print card; the name of a licensed trainer or person eligible to be licensed as trainer, who will assume care and responsibility for the horse claimed; and the requisite fee for owners license.

(b) *This certificate will be valid for the remainder of the calendar year.* [If applicant has not claimed a horse within ninety (90) calendar days after issue of a certificate of eligibility to claim, such certificate will be cancelled, and no other certificate issued during the same calendar year. The fee charged is not refundable. Names of persons who have obtained certificates of eligibility to claim shall be posted in the racing secretary's office together with the dates during which the certificate is valid.]

(2) A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent, and the name of the authorized agent, as well as the name of the owner for whom the claim is being made, shall appear on the claim slip.

(3) No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

(4) No person shall claim more than one (1) horse from any one (1) race. No authorized agent, although representing several owners, shall submit more than one (1) claim for any race. When a stable consists of horses owned by more than one (1) person, trained by the same trainer, not more than one (1) claim may be entered on behalf of such stable in any one (1) race. [An owner who races in a partnership may not claim except in the interest of the partnership, unless he has also started a horse in his own individual interest.]

(5) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed. The day claimed shall not count but the following calendar day shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the thirty-first (31st) calendar day following the claim. This provision shall not apply to starter handicaps, in which the weight to be carried is assigned by the handicapper.

(6) No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No horse shall race elsewhere until after the close of the meeting at which it was claimed, except that the stewards may grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting within the boundaries of the Commonwealth of Kentucky.

(7) Each claim shall be made in writing on a form and in an envelope supplied by the association. Both form and envelope must be filled out completely, and must be accurate in every detail.

(8) Claims must be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have at the time of filing the claim a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.

(9) The stewards, or their designated representative, shall open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the horseman's bookkeeper to ascer-

tain whether the proper credit balance has been established with the association.

(10) If more than one valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11) Any horse that has been claimed shall, after the race has been run, be delivered to the claimant, who must present written authorization for the claim from the racing secretary. Horses which are sent to the detention area for post race testing shall be delivered at that point; others are to be delivered in the paddock. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore the horse in question shall be disqualified from further racing until delivery is made.

(12) Claims are irrevocable. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter, and said claimant shall then become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race, or after it. A claimed horse shall run in the interest of and for the account of the owner from whom claimed.

(13) No person shall offer, or enter into, an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.

(14) Claims which are not made in keeping with the rules shall be void. The stewards may at any time in their discretion require any person filing a claim to make affidavit in writing that he is claiming in accordance with the rules. The stewards shall be the judges of the validity of the claim.

(15) Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the racing secretary and/or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be assumed that none exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: November 8, 1979

APPROVED: DONALD N. RHODY, Secretary

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

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:015. Race officials.

RELATES TO: KRS 230.630(1), (3), 230.640(2), 230.660, 230.700, 230.720

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the required officials, their functions and duties.

Section 1. Officials Required. In every race, there shall be a presiding judge, two (2) associate judges and not less than two (2) patrol judges, a racing secretary, starter, clerk of the course and three (3) timers, or one (1) timer and an approved electric timing device. In the event a patrol car is used, one (1) associate judge may ride in the car, in which case the patrol judges may be eliminated.

Section 2. All officials must be licensed and approved by the commission.

Section 3. Any track permitting an unlicensed person to officiate when a license is required shall be fined not exceeding \$250 for each day such unlicensed person officiates. Any person officiating without being licensed shall be fined not exceeding \$250 for each day he acts as such an official.

Section 4. Officials at Extended Meetings. No presiding judge, associate judge, starter, race secretary, barrier judge, patrol judge, clerk of the course or paddock judge shall be qualified to serve as such at an extended pari-mutuel meeting without a valid commission license. Holders of pari-mutuel licenses are authorized to officiate at all meetings. No official acting as judge at a pari-mutuel meeting shall serve as race secretary or clerk of the course at such meeting. No licensed official shall be qualified to act as such at any pari-mutuel meeting where he is the owner or otherwise interested in the ownership of any horse participating at such meeting. Any refusal to grant a license to a person may be reviewed by the Kentucky Harness Racing Commission.

Section 5. Disqualification to Act as Official. A person under suspension, expulsion or other disqualification, or who has any interest in or any bet on a race or has an interest in any of the horses engaged therein, is disqualified from acting in any official capacity in that race. In the event of such disqualification the management shall be notified by the disqualified person and shall appoint a substitute. Any person who violates this restriction shall be fined, suspended or expelled.

Section 6. Suspension or Revocation of Official's License. An official may be fined, suspended or removed at any time for incompetence, failure to follow or enforce rules, or any conduct detrimental to the sport including drinking within four (4) hours prior to the time he starts work as an official.

Section 7. Ban on Owning or Dealing in Horses. No employee of any track whose duties include the classification of horses shall directly or indirectly be the owner of any horse racing at such meeting, nor shall he participate

financially directly or indirectly in the purchase or sale of any horse racing at such meeting. Any person violating this rule shall be suspended.

Section 8. Location of Judge's Stand. The judge's stand shall be so located and constructed as to afford to the officials an unobstructed view of the entire track and no obstruction shall be permitted upon the track, or the centerfield which shall obscure the officials' vision of any portion of the track during the race. Any violation of this section shall subject the track to a fine not exceeding \$500 and immediate suspension.

Section 9. Judges' Stand Occupants. None but the judges, the clerk of the course, the secretary, starter and timers, official announcer, runner that posts the photo finish, and officials of the commission, shall be allowed in the judges' stand from fifteen (15) minutes before the first race until fifteen (15) minutes after the last race unless authorized by the commission. Any track violating this rule shall be fined not to exceed \$300.

Section 10. Improper Acts by an Official. If any person acting as judge or an official shall be guilty of using insulting language to an owner, driver, or other person, or be guilty of other improper conduct, he shall be fined not exceeding \$500, or be suspended or expelled.

Section 11. Presiding Judge. The presiding judge shall:

- (1) Have supervision to see that the rules of this commission are followed over the following officials:

- (a) Associate Judges,
- (b) Patrol Judges,
- (c) Starters,
- (d) Paddock Judges,
- (e) Finish Wire Judge,
- (f) Clerk of the Course,
- (g) Timers,
- (h) Charters,
- (i) Racing Secretary,
- (j) Official Announcer, and
- (k) Any other licensed personnel directly responsible for conducting the racing program.

- (2) Notify owners, trainers, drivers and grooms of penalties imposed.

- (3) Report in writing to the commission, violations of the rules by a track, its officers or race officials, giving detailed information thereof.

- (4) Make such other reports as required by the commission.

- (5) Sign each sheet of the judges' book, verifying the correctness of the record.

- (6) Be responsible for the maintenance of the records of the meeting and the forwarding thereof to the commission.

- (7) Failure of the presiding judge to see that the rules of the commission are complied with may be grounds for suspension and may be grounds for denial of a license for the subsequent year.

Section 12. Authority and Procedure of Judges. The judges shall have the authority while presiding to:

- (1) Inflict fines and penalties, as prescribed by these rules.

- (2) Determine all questions of fact relating to the race.
- (3) Decide any differences between parties to the race, or any contingent matter which shall arise, such as are not otherwise provided for in these rules.

- (4) Declare pools and bets "off" in case of fraud, no appeal to be allowed from their decision in that respect. All

pools and bets follow the decision of the judges. Such a decision in respect to pools and bets shall be made at the conclusion of the race upon the observation of the judges and upon the facts as an immediate investigation shall develop. A reversal or change of decision after the official placing at the conclusion of the heat or dash shall not affect the distribution of betting pools made upon such official placing. When pools and bets are declared off for fraud, the guilty parties shall be fined, suspended or expelled.

(5) Control the horses, drivers, and assistants and punish by a fine not exceeding \$100 or by suspension or expulsion, any such person who shall fail to obey their orders or the rules. In no case shall there be any compromise or change on the part of the judges or members of punishment prescribed in the rules, but the same shall be strictly enforced. Tracks shall not remove or modify any fine imposed by the judges of a race, review any order of suspension, expulsion, or interfere with the judges performing their duties.

(6) Examine under oath all parties connected with a race as to any wrong or complaint. [Any person required to appear before the judges for a hearing] *The judges may compel by written notice, the appearance of any person whose testimony is necessary to the proper conduct of a hearing. Failure to attend shall be a violation of these rules and shall be penalized as provided above in subsection (5).*

(7) Consider complaints of foul from the patrols, owners, trainers or drivers in the race and no other.

(8) Make such decision in the public interest required by extraordinary circumstances not covered by rules and regulations of the commission.

Section 13. Judges' Duties. It shall be the duty of the judges to: (1) Exclude from the race any horse that in their opinion is improperly equipped, dangerous or unfit to race, which shall include sick, weak and extremely lame horses. No horse shall race with a tube in its throat. No horse shall race unless it has unimpaired vision in at least one (1) eye and no horse infected with Equine Infectious Anemia or a carrier thereof, shall race. Horses that are bleeders may race under recognized medication for said bleeding condition provided that said condition and the type of medication is certified to the *commission* [presiding judge] by the *commission veterinarian or a veterinarian licensed by the commission* [a licensed veterinarian] prior to the race and said horse is approved for racing by the presiding judge. In the event the horse bleeds while being raced under medication, said horse shall not again race with or without medication until it is cured and approved for racing by the *commission* [presiding judge].

(2) Investigate any apparent or possible interference, or other violation of 811 KAR 1:075, Section 1, whether or not complaint has been made by the driver.

(3) Investigate any act of cruelty seen by them or reported to them by any member towards a race horse during a meeting at which they officiate. If the judges find that such an act has been committed, they shall suspend or fine the offending member not to exceed \$500 and submit a written report within ten (10) days of their findings and action to the commission. The chairman of the commission or the designated representative of the commission shall have all the authority conferred upon the judges by this section, and in addition may order an investigation and a hearing and impose a penalty for any act of cruelty or neglect of a horse committed by any member whether on or off the premises of any race track.

(4) Immediately thereafter or on the day of the race conduct an investigation of any accidents to determine the

cause thereof, and the judges shall make all accidents a matter of record in the judges' book and completely fill out an accident report. At the time of the accident, the inquiry sign shall be posted and the race shall not be declared official until the presiding judge has conferred with the patrol judge.

(5) Observe closely performance of the drivers and the horses to ascertain if there are any violations of 811 KAR 1:075, particularly interference, helping, or inconsistent racing and exhaust all means possible to safeguard the contestants and the public.

(6) Grant a hearing at a designated time before a penalty may be imposed upon any party. All three (3) judges should be present if possible, and at least the presiding judge and one (1) associate judge must be present at all judges' hearings. The judges may inflict the penalties prescribed by rules and regulations of the commission.

(a) All penalty notices will carry the exact reason why the penalty has been imposed together with a summary of the rule or regulation violated. All penalties imposed on any driver may be recorded on the reverse side of his driver's license by the presiding judge.

(b) In the event the judges believe that a person has committed a rule or regulation violation and has left the grounds and they are unable to contact him, and hold a hearing thereon, they may make an investigation and send a detailed written report to the commission. The commission may impose a penalty not to exceed ten (10) days without a hearing based upon the report of the judges. No penalty in excess of ten (10) days shall be imposed before a hearing is granted.

(c) It shall be the duty of the judges to submit in writing a complete list of all witnesses questioned by them at any hearing, which list of witnesses, along with the testimony of such witnesses, shall be forwarded to the commission.

(d) The testimony of all witnesses questioned by the judges shall be recorded by one (1) of the following methods: written, signed statements, tape recorders or court reporters' transcript.

(e) No decision shall be made by the judges in such cases until all of the witnesses called by the judges and the person so required to appear before the judges have given their testimony. Any person charged with a rule or regulation violation shall be given at least until 12 noon of the following day to prepare his defense if he so requests.

(7) It shall be the duty of the judges to declare a dash or heat of a race no contest in the event the track is thrown into darkness during the progress of a race by failure of electricity.

Section 14. Judges' Procedure. It shall be the procedure of the judges to: (1) Be in the stand fifteen (15) minutes before the first race and remain in the stand for ten (10) minutes after the last race, and at all times when the horses are upon the track.

(2) Observe the preliminary warming up of horses and scoring, noting behavior of horses, lameness, equipment, conduct of the drivers, changes in odds at pari-mutuel meetings and any unusual incidents pertaining to horses or drivers participating in races.

(3) Have the bell rung or give other notice at least ten (10) minutes before the race or heat. Any driver failing to obey this summons may be punished by a fine not exceeding \$100 and his horse may be ruled out by the judges and considered drawn.

(4) Designate one (1) of their members to lock the pari-mutuel machines immediately upon the horses reaching the official starting point. The presiding judge shall designate

the post time for each race and the horses shall be called at such time as to preclude excessive delay after the completion of two (2) scores.

(5) Be in communication with the patrol judges, by use of patrol phones, from the time the starter picks up the horses until the finish of the race. Any violation or near violation of the rules or regulations shall be reported by the patrol judge witnessing the incident and a written record made of same. At least one (1) judge shall observe the drivers throughout the stretch specifically noting changing course, interference, improper use of whips, breaks, and failure to contest the race to the finish.

(6) Post the objection sign, or inquiry sign, on the odds board in the case of a complaint or possible rule or regulation violation, and immediately notify the announcer of the objection and the horse or horses involved. As soon as the judges have made a decision, the objection sign shall be removed, the correct placing displayed, and the "official" sign flashed. In all instances the judges shall post the order of finish and the "official" sign as soon as they have made their decision.

(7) Display the photo sign if the order of finish among the contending horses is less than half-length or a contending horse is on a break at the finish. After the photo has been examined and a decision made, a copy or copies shall be made, checked by the presiding judge, and posted for public inspection.

(8) *Should a horse fall, run loose and uncontrolled, during warm-up, prior to the race or going to the post, the horse shall be examined by the state veterinarian to determine whether the horse is fit to race. If the veterinarian determines that the horse is unfit the presiding judge shall order the horse scratched.*

Section 15. Patrol Judges. At the discretion of the judges, patrol may be appointed by the track but such patrols shall be approved by the presiding judge and work under his direction. At extended pari-mutuel meetings and at other meetings conducting one (1) or more races with a purse value of \$5,000 or over, at least two (2) patrol judges shall be employed. It shall be their duty to phone or repair to the judge's stand and report all fouls and improper conduct. The result of a heat or dash shall not be announced until sufficient time has elapsed to receive the reports of the patrols. Where there is a patrol car, only one (1) patrol judge shall be required.

Section 16. Incapacitated Official. If any licensed official is absent or incapacitated the track management, subject to commission approval, must appoint a substitute at such meeting. Notice of such temporary appointment shall be given immediately to the office of this commission. If such official acts for more than three (3) days, he shall apply for a commission license in that capacity. This power may only be used in cases of unavoidable emergencies.

Section 17. Starter Appointment. Starter shall be designated by the track, subject to the approval of this commission. Such officials must be licensed as starters by this commission.

Section 18. Starter; Authority. The starter shall be in the stand or starting gate fifteen (15) minutes before the first race. He shall have control over the horses and authority to assess fines and/or suspend drivers for any violation of the rules and regulations from the formation of the parade until the word "go" is given. He may assist

in placing the horses when requested by the judges to do so. He shall notify the judges and the drivers of penalties imposed by him. His services shall be paid for by the track employing him. An assistant starter must be available at all times.

Section 19. Clerk-Duties; Clerk of the Course. The clerk of the course shall:

- (1) At request of judges assist in drawing positions.
- (2) Keep the judges' book and record therein:
 - (a) All horses entered and their eligibility certificate numbers.
 - (b) Names of owners and drivers and drivers' license numbers.
 - (c) The charter lines at pari-mutuel meetings. At all race meetings, the money won by the horse at that track.
 - (d) Note drawn or ruled out horses.
 - (e) Record time in minutes, seconds, and fifths of seconds.
 - (f) Check eligibility certificates before the race, and after the race shall enter all information provided for thereon, including the horse's position in the race if it was charted.
 - (g) Verifying the correctness of the judges' book including race time, placing and money winnings, reasons for disqualification, if any, and see that the book is properly signed.
 - (h) Forward the judges' book charts and marked programs to this commission from all extended pari-mutuel meetings the day following each racing day.
- (i) Notify owners and drivers of penalties assessed by the officials.
- (3) Upon request may assist judges in placing horses.
- (4) After the race, return the eligibility certificate to owner of the horse or his representative when requested.
- (5) Failure to comply with any part of this rule and make the above listed entries legible, clear and accurate, may subject either the clerk or the track, or both, to a fine of not to exceed \$100 for each violation.

Section 20. Timers. (1) At each race there shall be three (3) timers in the judges' or timers' stand except when an electric timing device approved by the commission is used, in which event there shall be one (1) timer. The chief timer shall sign the judges' book for each race verifying the correctness of the record. All time shall be announced and recorded in fifths of seconds. All tracks licensed by the commission shall use an approved electronic or electric timing device.

(2) The timers shall be in the stand fifteen (15) minutes before the first heat or dash is to be contested. They shall start their watches when the first horse leaves the point from which the distance of the race is measured. The time of the leading horse at the quarter, half, three-quarters, and the finish shall be taken. If odd distances are raced, the fractions shall be noted accordingly.

Section 21. Paddock Judge. Under the direction and supervision of the presiding judge, the paddock judge will have complete charge of all paddock activities as outlined in 811 KAR 1:010, Section 10. The paddock judge shall be subject to the approval of this commission. The paddock judge is responsible for:

- (1) Getting the fields on the track for post parades in accordance with the schedule given to him by the presiding judge.
- (2) Inspection of horses for changes in equipment, broken or faulty equipment, head numbers or saddle pads.

- (3) Supervision of paddock gate men.
- (4) Proper check in and check out of horses and drivers. Check the identification of all horses coming into the paddock including the tattoo number.
- (5) Director of the activities of the paddock farrier.
- (6) The paddock judge will immediately notify the presiding judge of anything that could in any way change, delay or otherwise affect the racing program. The paddock judge will report any cruelty to any horse that he observes to the presiding judge.
- (7) The paddock judge will see that only properly authorized persons are permitted in the paddock and any violation of this rule may result in a fine, suspension or expulsion.
- (8) Notify the presiding judge of any change of racing equipment or shoes before the race.
- (9) Inspect and supervise the maintenance of emergency equipment kept in the paddock.
- (10) Notify judges of all trainers and grooms who leave the paddock in an emergency.

Section 22. Identifier. At all extended pari-mutuel meetings the association shall employ an identifier licensed by the commission, whose duty it shall be to check the identification of all horses coming into the paddock, to include the tattoo number, color, and any markings. The identifier shall be under the immediate supervision of the paddock judge and the general supervision of the presiding judge. Any discrepancy detected in the tattoo number, color, or markings of a horse shall be reported immediately to the paddock judge, who shall in turn report same forthwith to the presiding judge.

Section 23. [22.] Program Director. Each extended pari-mutuel track shall designate a program director. Such program director shall be subject to the approval of this commission.

(1) It shall be the responsibility of the program director to furnish complete and accurate past performance information.

(2) No person shall be permitted to act as a program director unless he is capable of furnishing accurate and complete past performance information to the general public.

Section 24. [23.] Duties of Patrol Judges. (1) The patrol judges shall observe all activity on the race track in their area at all times during the racing program. They shall immediately report to the presiding judge:

(a) Any action on the track which could improperly affect the result of a race.

(b) Every violation of the racing rules and regulations.

(c) Every violation of the rules of decorum.

(d) The lameness or unfitness of any horse.

(e) Any lack of proper racing equipment.

(2) The patrol judges shall, furthermore:

(a) Be in constant communication with the judges during the course of every race and shall immediately advise the judges of every rule violation; improper act or unusual happening which occurs at their station.

(b) Submit individual daily reports of their observations of the racing to the presiding judge.

(c) When directed by the presiding judge shall attend hearings or inquiries on violations and testify thereat under oath.

Section 25. [24.] Licensed Charter. (1) At all extended pari-mutuel meetings and grand circuit meetings, the char-

ting of races is mandatory and the track shall employ a licensed charter to fulfill the requirements of this section.

(2) The charter shall be subject to the approval of this commission.

Section 26. [25.] All equipment changes shall be cleared through the paddock judge who will call the judges for the necessary permission.

Section 27. [26.] Duties of the Race Secretary. The race secretary of each association must be licensed and approved by the commission and it shall be his duty:

(1) To receive and keep safe the eligibility certificates of all horses competing at the race track or stabled on grounds owned or cared for by any association and to return same to the owner of a horse or his representative upon their departure from the grounds.

(2) To be familiar with the age, class, and competitive ability of all horses racing at the track.

(3) To classify and reclassify horses in accordance with the rules.

(4) To list horses in the categories for which they qualify and to cause such lists to be kept current and to be properly displayed in the room in which the declaration box is located for examination by horsemen and others.

(5) To provide for the listing of horses in the daily program; to examine all entry blanks and declarations to verify all information set forth therein; to select the horses to start and the also eligible horses from the declarations in accordance with the rules governing these functions.

(6) To examine nominations and declarations in early closing events, late closing and stake events, to verify the eligibility of all declarations and nominations and to compile lists thereof for publication.

Section 28. [27.] Commission Supervisors of Pari-Mutuel Betting. (1) The commission shall employ supervisors with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the Commonwealth, by checking, auditing and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Such daily reports shall show:

(a) For each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any, for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(b) Amount of state pari-mutuel tax due; taxable admissions, tax exempt admissions, total admissions; temperature, weather and track conditions, post time of first race; program purses, distance and conditions of each race; any minus pools resulting with explanation.

(3) The commission supervisors of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and such other information as the commission may require.

(4) The commission supervisors of pari-mutuel betting or their representative shall have access to all association

books, records, and pari-mutuel equipment for checking accuracy of same.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Betty Burton, Acting Executive Secretary, Kentucky
Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:020. Registration and identification of horses.

RELATES TO: KRS 230.630(1), (2), (3), 230.640(2)

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide for the registration, ownership, identification and information concerning horses.

Section 1. Registration. All matters relating to registration of standardbred horses shall be governed by the rules of the United State Trotting Association.

Section 2. Bona Fide Owner or Lessee. Horses not under lease must race in the name of the bona fide owner. Horses under lease must race in the name of the lessee and a copy of the lease must be recorded with the Kentucky Harness Racing Commission. Persons violating this rule may be fined, suspended or expelled.

Section 3. Program Information. (1) A printed program shall be available to the public at all meetings where purses are raced for. All programs shall furnish:

- (a) Horse's name and sex.
- (b) Color and age.
- (c) Sire and dam.
- (d) Owner's name.
- (e) Driver's name and colors.
- (f) Age and weight.

(2) At extended pari-mutuel meetings the following additional information shall be furnished.

(a) In claiming races the price for which the horse is entered to be claimed must be indicated.

(b) At least the last six (6) performance and accurate chart lines. An accurate chart line shall include: date of race, place, size of track if other than a half-mile track, symbol for free-legged pacers, track condition, type of race, distance, the fractional times of the leading horse including race time, post position, position of one quarter ($\frac{1}{4}$), one half ($\frac{1}{2}$), three quarters ($\frac{3}{4}$), stretch with lengths behind leader, finish with lengths behind leader, individual time of the horse, closing dollar odds, name of the driver, names of the horses placed first, second and third by the judges. The standard symbols for breaks and park-outs shall be used, where applicable.

(c) Indicate drivers racing with a provisional license.

(d) Indicate pacers that are racing without hopples.

(e) Summary of starts in purse races, earnings, and best win time for current and preceding year. A horse's best win time may be earned in either a purse or non-purse race.

(f) The name of the trainer.

(g) The consolidated line shall carry date, place, time, driver, finish, track condition and distance, if race is not at one (1) mile.

Section 4. Failure to Furnish Reliable Program Information. May subject the track and/or program director to a fine not to exceed \$500 and the track and/or the program director may be suspended until arrangements are made to provide reliable program information.

Section 5. Inaccurate Information. Owners, drivers, or others found guilty of providing inaccurate information on a horse's performance, or of attempting to have misleading information given on a program may be fined, suspended or expelled.

Section 6. Check on Identity of Horse. Any track official, member of the Kentucky Harness Racing Commission or their agent, or owner, trainer or driver of any horse declared into a race wherein the question arises may call for information concerning the identity and eligibility of any horse on the grounds of a track, and may demand an opportunity to examine such horse with a view to establishing his identity or eligibility. If the owner or party controlling such horse shall refuse to afford such information, or to allow such examination, or fail to give satisfactory identification, the horse and the said owner or party may be barred and suspended or expelled.

Section 7. Frivolous Demand for Identification. Any person demanding the identification of a horse without cause or merely with the intent to embarrass a race, shall be punished by a fine not exceeding \$100 or by suspension or expulsion.

Section 8. Tattoo Requirements. No horse will be permitted to start at an extended pari-mutuel meeting that has not been tattooed unless the permission of the presiding judge is obtained and arrangements are made to have the horse tattooed. Any person refusing to allow a horse to be tattooed may be fined, suspended or expelled.

Section 9. False Chart Lines. Any official, clerk, or person who enters a chart line on an eligibility certificate when the race has not been charted by a licensed charter may be fined, suspended or expelled.

Section 10. Withholding Registration or Eligibility Certificate. Any person withholding an eligibility or registration certificate from the owner or lessee of a horse, after proper demand has been made for the return thereof, may be suspended until such time as the certificate is returned.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Betty Burton, Acting Executive Secretary, Kentucky
Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:030. Eligibility and classification.

RELATES TO: KRS 230.630(1), (3)

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the eligibility and classification of horses for races and medical tests required.

Section 1. Eligibility Certificate. (1) There shall be an automatic fine of ten dollars (\$10) on the owner if a horse is declared in without first possessing a current U.S.T.A. or validated C.T.A. eligibility certificate at the gait the horse is declared to race. The track shall automatically be fined five dollars (\$5) for accepting a declaration without an eligibility certificate for the proper gait and a track may refuse to accept any declaration without the eligibility certificate for the proper gait first being presented. Telegraphic or telephone declarations may be sent and accepted without penalty, provided the declarer furnished adequate program information but the eligibility certificate must be presented when the horse arrives at the track before he races, or the above fines will be imposed.

(2) The race secretary shall check each certificate and certify to the judges as to the eligibility of all the horses.

Section 2. Leased Horses. Any horse under lease must race in the name of the lessee and a copy of such lease must be filed with the Kentucky Harness Racing Commission. No horse shall race under lease without an eligibility certificate issued by the United States Trotting Association in the name of the lessee and unless both lessor and lessee are current members of the commission in good standing. Persons violating this rule may be fined, suspended or expelled.

Section 3. Sale or Lease During Current Year. When a horse is sold or leased after an eligibility certificate is issued for the current year, the seller or his authorized agent shall endorse the eligibility certificate to the new owner or lessee who may use it providing he immediately sends the registration certificate to the United States Trotting Association for a transfer or sends the United States Trotting Association a copy of the lease, the eligibility certificate following the horse. If the eligibility certificate is not endorsed to him, the new owner or lessee must apply to the United States Trotting Association for an eligibility certificate.

Section 4. Information Required From Horses Racing at Canadian Tracks. Prior to the declaration, owners of horses having Canadian eligibility certificates shall furnish the racing secretary with a Canadian eligibility certificate completely filled out for the current year, which has a certificate of validation attached thereto.

Section 5. Tampering With Eligibility Certificates. Persons tampering with eligibility certificates may be fined, suspended or expelled and winnings after such tampering may be ordered forfeited.

Section 6. Denial of Eligibility Certificate. An eligibility certificate may be denied to any person refusing to permit his horse to be tattooed.

Section 7. No eligibility certificate will be issued on a horse coming from a country other than Canada unless the following information certified by the trotting association or governing body of that country from which the horse comes, is furnished:

(1) The number of starts during the preceding year, together with the number of firsts, seconds and thirds for each horse, and the total amount of money won during this period.

(2) The number of races in which the horse has started during the current year, together with the number of firsts, seconds and thirds for each horse and the money won during this period.

(3) A detailed list of the last six (6) starts giving the date, place, track condition, post position or handicap, if it was a handicap race, distance of the race, his position at the finish, the time of the race, the driver's name and the first three (3) horses in the race.

Section 8. Registration of Standard and Non-Standard Bred Horses. All foals of 1937 and thereafter shall be registered in current ownership either as standard or non-standard with the United States Trotting Association. If registration is properly applied for and all fees paid, an eligibility certificate for one (1) year may be issued and marked "registration applied for."

Section 9. Racing Season. For purposes of eligibility, a racing season or racing year shall be the calendar year. In recording winnings, gross winnings will be used and odd cents will be dropped and disregarded.

Section 10. Time Bars. No time records or bars shall be used as an element of eligibility.

Section 11. Date When Eligibility is Determined. (1) Horses must be eligible when entries close but winnings on closing date of eligibility shall not be considered.

(2) In mixed races, trotting and pacing, a horse must be eligible to the class at the gait at which it is stated in the entry the horse will perform.

Section 12. Conflicting Conditions. In the event there are conflicting published conditions and neither is withdrawn by the track, the more favorable to the nominator shall govern.

Section 13. (1) Standards for Overnight Events. The race secretary should prescribe standards to determine whether a horse is qualified to race in overnight events at a meeting. The standards shall be posted at a place in which declarations are made and printed on all condition and qualifying sheets.

(2) *Where time standards are established at a meeting for both trotters and pacers, trotters shall be given a minimum of two (2) seconds allowance in relation to pacers.*

Section 14. Posting of Overnight Conditions. (1) Conditions for overnight events must be posted at least eighteen (18) hours before entries close at meetings other than extended pari-mutuel meetings.

(2) At extended pari-mutuel meetings, condition books will be prepared and races may be divided or substituted races may be used only where regularly scheduled races fail to fill, except where they race less than five (5) days a week. Such books containing at least three (3) days racing programs will be available to horsemen at least twenty-four

(24) hours prior to closing declarations on any race program contained therein.

(3) The race secretary shall forward copies of each condition book and overnight sheet to the commission office as soon as they are available to the horsemen.

Section 15. Types of Races to be Offered. (1) In presenting a program of racing, the racing secretary shall use exclusively the following types of races:

- (a) Stakes and futurities.
- (b) Early closing and late closing events.
- (c) Conditioned races.
- (d) Claiming races.

(e) Preferred races limited to the fastest horses at the meeting. These may be free-for-all races, JFA, or invitationals. Horses to be used in such races shall be posted in the race secretary's office and listed with the presiding judge. Horses so listed shall not be eligible for conditioned overnight races unless the conditions specifically include horses on the preferred list. Twelve (12) such races may be conducted during a six (6) day period of racing at tracks distributing more than \$100,000 in overnight purses during such period and not more than ten (10) such races shall be conducted at other tracks during a six (6) day period of racing, provided that at least two (2) of these races are for three (3) year olds, four (4) year olds, or combined three (3) and four (4) year olds. At tracks which race less than five (5) days per week, not more than ten (10) such races may be conducted during a six (6) day period. Purses offered for such races shall be at least fifteen (15) percent higher than the highest purse offered for a conditioned race programmed the same racing week.

(2) No two (2) year old or three (3) year old will be eligible to be placed on the preferred or invitational list to race against older horses until it has won seven (7) races unless requested by the owner or authorized agent. The owner or authorized agent may withdraw such request at his discretion.

(3) Where a meeting is in progress in December and continues in January of the subsequent year, races and earnings won at that meeting may be computed in determining whether a horse may be placed on the preferred list.

Section 16. Limitation on Conditions. Conditions shall not be written in such a way that any horse is deprived of an opportunity to race in normal preference cycles. Where the word "preferred" is used in a condition it shall not supersede date preference. Not more than two (2) [three (3)] also eligible conditions shall be used in writing the conditions for any overnight event, nor may any multiple conditions be used.

Section 17. Dashes and Heats. Any dash or heat shall be considered as a separate race for the purposes of conditioned racing.

Section 18. Named Races. Named races are not permitted except for preferred races for the fastest horses at a meeting as set forth in Section 15(1)(e) above and invitationals two (2), three (3) or four (4) year old races with a purse at least fifteen (15) percent higher than the highest purse offered for a conditioned race programmed the same racing week.

Section 19. Selection or Drawing of Horses. For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as

provided for in 811 KAR 1:055, Section 5. However, where necessary to fill a card, not more than one (1) race per day may be divided into not more than two (2) divisions after preference has been applied and the divisions may be selected by the racing secretary. For all other overnight races that are divided the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

Section 20. Posting Requirements. (1) Names of all horses at the track ready to race shall be posted by gait in the declaration room, together with all the pertinent information concerning such horse which may be required to determine eligibility of such horse to condition races offered at the track. There shall be a separate posting of two (2), three (3) and four (4) year olds.

(2) Supplemental purse payments made by a track after the termination of a meeting will be charged and credited to the winnings of any horse at the end of the racing year in which they are distributed, and will appear on the eligibility certificate issued for the subsequent year. Such distribution shall not affect the current eligibility until placed on the next eligibility certificate.

Section 21. Rejection of Declaration. (1) The racing secretary may reject the declaration on any horse whose eligibility certificate was not in his possession on the date the condition book is published.

(2) The racing secretary may reject the declaration on any horse whose past performance indicates that he would be below the competitive level of other horses declared, provided the rejection does not result in a race being cancelled.

Section 22. Substitute and Divided Races. (1) Substitute races may be provided for each day's program and shall be so designated. Entries in races not filling shall be posted. A substitute race or a race divided into two (2) divisions shall be used only if regularly scheduled races fail to fill.

(2) If a regular race fills it shall be raced on the day it was offered.

(3) Overnight events and substitutes shall not be carried to the next racing day.

Section 23. Opportunities to Race. A fair and reasonable racing opportunity shall be afforded both trotters and pacers in reasonable proportion from those available and qualified to race. Claiming races may be carded to the proportion of each week's racing program as the number of claiming authorizations on file with the racing secretary bears to the total number of horses on the grounds which are qualified and available for racing.

Section 24. Qualifying Races. A horse qualifying in a qualifying race for which no purse is offered shall not be deprived by reason of such performance of his right to start in any conditioned race.

Section 25. Definition of "Start." The definition of the word "start" in any type of condition unless specifically so stated will include only those performances in a purse race. Qualifying and matinee races are excluded.

Section 26. Sandwiching Races. Not more than five (5) races may be sandwiched.

Section 27. Equine Infectious Anemia. (1) When it is determined that a horse is infected with, and/or is a carrier

of Equine Infectious Anemia by means of the "Gel Immuno-Diffusion" method developed by Dr. Leroy Coggins, hereinafter known as the "Coggins Test" and conducted by an approved laboratory, such horse shall, thereafter, be prohibited from racing and/or being stabled at a licensed track.

(2) A negative "Coggins Test Certificate" properly identifying the horse by tattoo number issued by an approved laboratory, certifying that within the prior six (6) months the horse has been tested negative shall be presented to a track representative before any horse will be allowed entrance to, or allowed to remain upon, the grounds of a track conducting meetings.

(3) Declarations shall not be accepted for any horse to any race unless the declarer has furnished the race secretary with a negative "Coggins Test" written certificate for that horse, as required by subsection (2) above.

(4) No eligibility or validation certificate shall be issued for a horse from which a positive "Coggins Test" has been reported. If an eligibility or validation certificate is issued and it is determined thereafter that the horse for which the certificate has been issued has Equine Infectious Anemia and/or is a carrier thereof, the certificate must be returned immediately by the holder to the United States Trotting Association.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:050. Entries and starters; split races.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate entries and starters; split races.

Section 1. (1) Tracks must specify how many entries are required for overnight events and after the condition is fulfilled, the event must be contested except when declared off as provided in 811 KAR 1:060.

(2) In early closing events, or late closing events, if five (5) or more interests are declared in to start, the race must be contested, except when declared off. Stakes and futurities must be raced if one or more horses are declared in to start except when declared off as provided in 811 KAR 1:060.

(3) In an early closing event, if less horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to all the entrance money and any forfeits from each horse named.

Section 2. Elimination Heats or Two Divisions. (1) In any race where the number of horses declared in to start exceeds twelve (12) on a half-mile track or sixteen (16) on a larger track, the race, at the option of the track conducting same, stated before positions are drawn, may be raced in elimination heats. No more than two (2) tiers of horses, allowing eight (8) feet per horse, will be allowed to start in any race.

(2) (a) Where the race is divided, each division must race for at least seventy-five (75) percent of the advertised purse.

(b) In an added money early closing event the race may be divided and raced in divisions and each division raced for an equal share of the total purse if the advertised conditions so provide; provided, however, extended meetings shall add an additional amount so that each division will race for seventy-five (75) percent of the total of the advertised purse and added money. These provisions shall apply to any stake or early closer with a value of \$20,000 or less.

(3) In any stake race or futurity, where the conditions state that the event shall be raced one (1) dash on a race track of less than a mile at an extended pari-mutuel meeting, and where the number of horses declared in to start exceed twelve (12), the race, at the option of the racing association conducting the same, stated before positions are drawn, may be divided by lot and raced in two (2) elimination divisions with all money winners from both divisions competing in the final. Each division shall race one (1) elimination heat for twenty (20) percent of the total of the purse. The remainder of the purse shall be distributed to the money winners in the final.

Section 3. Elimination Plans. (1) Whenever elimination heats are required, or specified in the published conditions such race shall be raced in the following manner unless conducted under another section of this rule and regulation. That is, the field shall be divided by lot and the first division shall race a qualifying dash for thirty (30) percent of the purse, the second division shall race a qualifying dash for thirty (30) percent of the purse and the horses so qualified shall race in the main event for forty (40) percent of the purse. The winner of the main event shall be the race winner.

(2) In the event there are more horses declared to start than can be accommodated by the two (2) elimination dashes, then there will be added enough elimination dashes to take care of the excess. The percent of the purse raced for each elimination dash will be determined by dividing the number of elimination dashes into sixty (60). The main event will race for forty (40) percent of the purse.

(3) Unless the conditions provide otherwise, if there are two (2) elimination dashes, the first four (4) finishers in each dash qualify for the final; if three (3) or more elimination dashes, not more than three (3) horses will qualify for the final from each qualifying dash.

(4) The judges shall draw the positions in which the horses are to start in the main event; i.e., they shall draw positions to determine which of the dash winners shall have the pole, and which the second position; which of the two (2) horses that have been second shall start in third position; and which in fourth, etc. All elimination dashes and the concluding heat must be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(5) In the event there are three (3) separate heat or dash winners and they alone come back in order to determine the race winner according to the conditions, they will take

post positions according to the order of their finish in the previous heat or dash.

(6) In any race where the number of horses declared in to start exceeds twelve (12) on a half-mile track or sixteen (16) on a mile track, unless other numbers are specified in the conditions, the race, at the option of the track members conducting the same, stated before positions are drawn may be divided by lot and raced in two (2) divisions with all heat winners from both divisions competing in a final heat to determine the race winner. Each division shall race two (2) heats for twenty (20) percent of the purse each heat. The remaining twenty (20) percent of the purse shall go to the winner of the final heat.

(7) Whenever elimination heats are required, or specified in the published conditions of a stake or futurity, such race may be raced on the three (3) heat plan, irrespective of any provisions in the conditions to the contrary, unless such published conditions provide otherwise. That is, the field shall be divided by lot and the first division shall race for thirty (30) percent of the purse, the second division shall race for thirty (30) percent, and the horses qualifying in the first and second divisions shall race the third heat for thirty (30) percent of the purse. If, after the third heat, no horse has won two (2) heats, a fourth heat shall be raced by only the heat winners. The race winner shall receive the remaining ten (10) percent of the purse. The number of horses qualifying to return after each elimination heat will be the same as set out in Section 3 of this regulation.

Section 4. Overnight Events. Not more than eight (8) horses shall be allowed to start on a half-mile track in overnight events and not more than ten (10) horses on larger tracks at extended pari-mutuel meetings *allowing eight (8) feet per horse*. [Trailers are not permitted where the track has room to score all horses abreast.]

Section 5. Qualifying Race for Stake, etc. Where qualifying races are provided in the conditions of an early closing event, stake or futurity, such qualifying race must be held not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
 (Proposed Amendment)

811 KAR 1:055. Declaration to start; drawing horses.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in

Kentucky. The function of this regulation is to regulate declarations to start; drawing horses.

Section 1. Declaration. (1) At extended pari-mutuel meetings. Unless otherwise specified in the conditions, or approved in writing by the commission three (3) days prior to the day of the race omitting Sundays, the declaration time [at extended pari-mutuel meetings] shall be 9 a.m.

(2) Declaration time at other meetings. At all other meetings starters must be declared in at 10 a.m. unless another time is specified in the conditions.

(3) No horse shall be declared to start in more than one (1) race on any one (1) racing day.

(4) Timed used. In order to avoid confusion and misunderstanding, the time when declarations close will be considered to be standard time, except the time in use at an extended pari-mutuel meeting shall govern that meeting.

(5) Declaration box. The management shall provide a locked box with an aperture through which declarations shall be deposited.

(6) Responsibility for declaration box. The presiding judge shall be in charge of the declaration box.

(7) Search for declarations by presiding judge before opening box. Just prior to opening of the box at extended pari-mutuel meetings where futurities, stakes, early closing or late closing events are on the program, the presiding judge shall check with the race secretary to ascertain if any declarations by mail, telegraph, or otherwise, are in the office and not deposited in the entry box, and he shall see that they are declared and drawn in the proper event.

(8) Opening of declaration box. At the time specified the presiding judge shall unlock the box, assort the declarations found therein and immediately draw the positions in the presence of such owners or their representatives, as may appear.

(9) Entry box and drawing of horses at extended pari-mutuel meetings. The entry box shall be opened by the presiding judge at the advertised time and the presiding judge will be responsible to see that at least one (1) horseman or an official representative of the horsemen is present. No owner or agent for a horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the presiding judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened to a definite time.

(10) Drawing of post positions for second heat in races of more than one (1) dash or heat at pari-mutuel meetings. In races of a duration of more than one (1) dash or heat at pari-mutuel meetings, the judges may draw post positions from the stand for succeeding dashes or heats.

(11) Declarations by mail, telegraph or telephone. Declarations by mail, telegraph, or telephone actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. Mail, telephone and telegraph declarations must state the name and address of the owner or lessee; the name, color, sex, sire and dam of the horse; the name of the driver and his colors; the date and place of last start; a current summary, including the number of starts, first, seconds, thirds, earnings and best winning time for the current year; and the event or events in which the horse is to be entered.

(12) Effect of failure to declare on time. When a track requires a horse to be declared at a stated time, failure to

declare as required shall be considered a withdrawal from the event.

(13) Drawings of horses after declaration. After declaration to start has been made no horse shall be drawn except by permission of the judges. A fine, not to exceed \$500, or suspension, may be imposed for drawing a horse without permission, the penalty to apply to both the horse and the party who violates the regulation.

(14) Horses omitted through error. Such drawings shall be final unless there is conclusive evidence that a horse properly declared, other than by telephone, was omitted from the race through error of a track or its agent or employee in which event the horse may be added to this race but given the outside post position. This shall not apply at pari-mutuel meetings unless the error is discovered prior to the publication of the official program.

Section 2. Qualifying Races. At all extended pari-mutuel meetings declarations for overnight events shall be governed by the following:

(1) Within two (2) weeks of being declared in, a horse that has not raced previously at the gait chosen must go a qualifying race under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings and acquire at least one (1) charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths a standard photo finish shall be in use.

(2) A horse that does not show a charted line for the previous season, or a charted line within its last six (6) starts, must go a qualifying race as set forth in subsection (1). Uncharted races contested in heats or more than one (1) dash and consolidated according to subsection (4) will be considered one (1) start.

(3) A horse that has not started at a charted meeting by August 1 of a season must go a qualifying race as set forth in subsection (1).

(4) When a horse has raced at a charted meeting during the current season, then gone to meetings where the races are not charted, the information from the uncharted races may be summarized, including each start, and consolidated in favor of charted lines and the requirements of subsection (2) would then not apply.

(5) The consolidated line shall carry date, place, time, driver, finish, track condition and distance if race is not at one (1) mile.

(6) The judges may require any horse that has been on the steward's list to go a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for that class of horse, he may be required to go a qualifying race.

(7) The judges may permit a fast horse to qualify by means of a timed workout consistent with the time of the races in which he will compete in the event adequate competition is not available for a qualifying race.

(8) To enable a horse to qualify, qualifying races should be held at least one (1) full week prior to the opening of any meeting of ten (10) days or more and shall be scheduled at least twice a week. Qualifying races shall also be scheduled twice a week during the meeting *and through the last week of the meeting.*

(9) Where a race is conducted for the purpose of qualifying drivers and not horses, the race need not be charted, timed or recorded. This subsection is not applicable to races qualifying both drivers and horses.

(10) If a horse takes a win race record in a qualifying race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where, immediately

prior to or following the race, the horse taking the record has been submitted to an approved urine, saliva or blood test. It will be the responsibility of the presiding judge to report the test on the judges' sheet.

(11) Any horse that fails to race at a charted meeting within thirty (30) days after having started in a current year, shall start in a charted race or a qualifying race and meet the standards of the meeting before being allowed to start in a race with pari-mutuel wagering.

Section 3. Coupled Entries. (1) When the starters in a race include two (2) or more horses owned or trained by the same person, or trained in the same stable or by the same management, they shall be coupled as an "entry" and a wager on one (1) horse in the "entry" shall be a wager on all horses in the "entry." Provided, however, that when a trainer enters two (2) or more horses in a stake, early closing, futurity, free-for-all or other special event under bona fide separate ownerships, the said horses may, at the request of the association and with the approval of the commission, be permitted to race as separate betting entries. The fact that such horses are trained by the same person shall be indicated prominently in the program. If the race is split in two (2) or more divisions, horses in an "entry" shall be seeded insofar as possible, first by owners, then by trainers, then by stables; but the divisions in which they compete and their post positions shall be drawn by lot. The above provision shall also apply to elimination heats.

(2) The presiding judge shall be responsible for coupling horses. In addition to the foregoing, horses separately owned or trained may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only. However, where this is done, entries may not be rejected.

(3) *If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.*

Section 4. Also Eligibles. Nor more than two (2) horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one (1) or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list cannot be drawn except by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved into race by 9 a.m. on the day of the race shall be released.

Section 5. Preference. (1) Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The preference date on a horse that has drawn to race and been scratched is the date of the race from which he was scratched.

(2) When a horse is racing for the first time in the current year, the date of the first declaration shall be considered its last race date, and preference applied accordingly.

(3) If an error has been made in determining or posting a preference date and said error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw. If in fact a preference date error has occurred, the race will be redrawn.

Section 6. Steward's List. (1) A horse that is unfit to race because he is dangerous, unmanageable, sick, lame, unable to show a performance to qualify for races at the meeting, or otherwise unfit to race at the meeting may be placed on a "steward's list" by the presiding judge, and declarations on said horse shall be refused, but the owner or trainer shall be notified in writing of such action and the reason as set forth above shall be clearly stated on the notice. When any horse is placed on the steward's list, the clerk of the course shall make a note on the eligibility certificate of such horse, showing the date the horse was put on the steward's list, the reason therefor and the date of removal if the horse has been removed.

(2) No presiding judge or other official at a non-extended meeting shall have the power to remove from the steward's list and accept as an entry any horse which has been placed on a steward's list and not subsequently removed therefrom for the reason that he is a dangerous or unmanageable horse. Such meetings may refuse declarations on any horse that has been placed on the steward's list and has not been removed therefrom.

(3) *A horse scratched from a race because of lameness or sickness may not enter another race for at least three (3) days from the date of the scratch.*

Section 7. Driver. Declarations shall state who shall drive the horse and give the driver's colors. Drivers may be changed until 9 a.m. of the day preceding the race, after which no driver may be changed without permission of the judges and for good cause. When a nominator starts two (2) or more horses, the judges shall approve or disapprove the second and third drivers.

Section 8. (1) It shall be the duty of the presiding judge to call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting for the purpose of their electing a member and an alternate to represent them on matters relating to the withdrawal of horses due to bad track or weather conditions.

(2) In case of questionable track conditions due to weather, the presiding judge shall call a meeting consisting of an agent of the track member, the duly elected representative of the horsemen and himself.

(3) Upon unanimous decision by this committee of three (3) that track conditions are safe for racing, no unpermitted withdrawals may be made.

(4) Any decision other than unanimous by this committee will allow any entrant to scratch his horse or horses after posting ten (10) percent of the purse to be raced for. In the event sufficient withdrawals are received to cause the field to be less than six (6), then the track member shall have the right of postponement of an early closing event or stake and cancellation of an overnight event.

(5) Said money posted shall be forwarded to the commission and shall be retained as a fine, or refunded to the individual upon the decision of the commission as to whether the withdrawal was for good cause.

(6) The above procedure applies only to the withdrawal of horses that have been properly declared in and does not relate to postponement which is covered in 811 KAR 1:060.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Betty Burton, Acting Executive Secretary, Kentucky
Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:065. Starting.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate starting of races.

Section 1. With Starting Gate. (1) Starter's control. The starter shall have control of the horses from the formation of the parade until he gives the word "go."

(2) Scoring. After one (1) or two (2) preliminary warming up scores, the starter shall notify the drivers to fasten their helmet chin straps and come to the starting gate. During or before the parade the drivers must be informed as to the number of scores permitted.

(3) The horses shall be brought to the starting gate as near one-quarter ($\frac{1}{4}$) of a mile before the start as the track will permit.

(4) Speed of gate. Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained:

(a) For the first one-eighth ($\frac{1}{8}$) mile, not less than eleven (11) miles per hour.

(b) For the next one-sixteenth ($\frac{1}{16}$) of a mile not less than eighteen (18) miles per hour.

(c) From that point to the starting point, the speed will be gradually increased to maximum speed.

(5) On mile tracks horses will be brought to the starting gate at the head of the stretch and the relative speeds mentioned in subsection (4) will be maintained.

(6) The starting point will be a point on the inside rail a distance of not less than 200 feet from the first turn. The starter shall give the word "go" at the starting point.

(7) When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

(8) Recall notice. In case of a recall a light plainly visible to the driver shall be flashed and a recall sounded and wherever possible the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. In an emergency, however, the starter shall use his discretion to close the wings of the gate.

(9) There shall be no recall after the word "go" has been given and any horse, regardless of his position or an accident, shall be deemed a starter from the time he entered into the starter's control unless dismissed by the starter.

(10) Breaking horse. The starter shall endeavor to get all horses away in position and on gait but no recall shall be had for a breaking horse except as provided in subsection (11)(e).

(11) Recall; reasons for. The starter may sound a recall only for the following reasons:

- (a) A horse scores ahead of the gate.
 - (b) There is interference.
 - (c) A horse has broken equipment.
 - (d) A horse falls before the word "go" is given.
 - (e) Where a horse refuses to come to the gate or is on a break before the gate reaches the recall pole, *one-eighth (1/8) of a mile before the start*, the field must be turned.
- (12) Penalties. A fine not to exceed \$100 or suspension from driving not to exceed fifteen (15) days, or both, may be applied to any driver, by the starter for:
- (a) Delaying the start.
 - (b) Failure to obey the starter's instructions.
 - (c) Rushing ahead of the inside or outside wing of the gate.
 - (d) Coming to the starting gate out of position.
 - (e) Crossing over before reaching the starting point.
 - (f) Interference with another driver during the start.
 - (g) Failure to come up into position.

(13) Riding in gate. No persons shall be allowed to ride in the starting gate except the starter and his driver or operator, and a patrol judge, unless permission has been granted by the commission.

(14) Loudspeaker. Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.

(15) The penalty for violation of this section shall be a fine of not to exceed \$500 or suspension not to exceed thirty (30) days, after a hearing by the commission. A hearing must be granted before any penalty is imposed.

Section 2. Holding Horses Before Start. Horses may be held on the backstretch not to exceed three (3) minutes awaiting post time, except when delayed by an emergency.

Section 3. Two Tiers. (1) In the event there are two (2) tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

(2) Whenever a horse is drawn from any tier, horses on the outside move in to fill up the vacancy.

Section 4. Starters. The horses shall be deemed to have started when the word "go" is given by the starter and all the horses must go the course except in case of an accident in which it is the opinion of the judges that it is impossible to go the course.

Section 5. Unmanageable Horse. (1) If, in the opinion of the judges or the starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn. When this action is taken, the starter will notify the judges who will in turn notify the public.

(2) A horse shall be considered unmanageable if such horse causes more than one (1) recall in the same dash or

heat and such horse may be excused by the starter and sent to the barn.

Section 6. Bad Acting Horse. At meetings where there is no wagering, the starter may place a bad acting horse on the outside at his discretion. At pari-mutuel meetings such action may be taken only where there is time for the starter to notify the judges who will in turn notify the public prior to the sale of tickets on such race. If tickets have been sold, the bad acting horse must be scratched under the provisions of Section 5.

Section 7. Post Positions; Heat Racing. The horse winning heat shall take the pole (or inside position) the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed the last heat. When two (2) or more horses shall have made a dead heat, their positions shall be settled by lot.

Section 8. Shield. The arms of all starting gates shall be provided with a screen or a shield in front of the position for each horse, and such arms shall be perpendicular to the rail.

Section 9. Malfunction of the Gate. Every licensed starter is required to check his starting gate for malfunctions before commencing any meeting and to practice the procedure to be followed in the event of a malfunction. Both the starter and the driver of the gate must know and practice emergency procedures, and the starter is responsible for the training of drivers in such procedures.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:075. Racing and track rules.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate racing, track rules and proper conduct.

Section 1. Although a leading horse is entitled to any part of the track, except after selecting his position in the home stretch, neither the driver of the first horse or any other driver in the race shall do any of the following things, which shall be considered violation of driving rules:

(1) Change either to the right or left during any part of the race when another horse is so near him that in altering

his position he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull him out of his stride.

(2) Jostle, strike, hook wheels, or interfere with another horse or driver.

(3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers.

(4) Swerve in and out or pull up quickly.

(5) Crowd a horse or driver by "putting a wheel under him."

(6) "Carry a horse out" or "sit down in front of him," take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act which constitutes what is popularly known as helping.

(7) Let a horse pass inside needlessly.

(8) Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed.

(9) Commit any act which shall impede the progress of another horse or cause him to "break."

(10) Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in such manner as to interfere with another horse or cause him to change course or take back.

(11) To drive in a careless or reckless manner.

(12) Whipping under the arch of the sulky, the penalty for which shall be no more than ten (10) days suspension.

(13) Drivers must set or maintain a pace comparable to the class in which they are racing. Failure to do so by going an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race will be considered a violation of this section and the judges may impose a penalty which can be a fine, suspension, or both.

Section 2. Complaints, Reports of Interference. (1) Complaints. All complaints by drivers of any foul driving or other misconduct during the heat must be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of the rules, must before dismounting indicate to the judges or barrier judge his desire to enter such claim or complaint and forthwith upon dismounting shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until such claim, objection, or complaint shall have been entered and considered.

(2) Report of interference. It is the duty of every driver to report to the official designated for such purpose as promptly after the conclusion of a race in which he has participated as possible, any material interference to himself or his horse by another horse or driver during a race. [Failure to report such interference may be the subject of disciplinary action.]

Section 3. If any of the above violations are committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if, in their opinion, the violation may have affected the finish of the race. Otherwise, penalties may be applied individually to the drivers of any entry.

Section 4. In case of interference, collision, or violation of any of the above restrictions, the offending horse may be placed back one (1) or more positions in that heat or

dash, and in the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings; and the driver may be fined not to exceed the amount of the purse or stake contended for, or may be suspended or expelled. In the event a horse is set back, under the provisions hereof, he must be placed behind the horse with whom he interfered.

Section 5. Unsatisfactory Drive; Fraud. (1) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or has been driven, with design to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver and anyone in concert with him, to so affect the outcome of the race or races, may be fined, suspended or expelled. The judges may substitute a competent and reliable driver at any time. The substitute driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(2) In the event a drive is unsatisfactory due to lack of effort or carelessness, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive they may impose a penalty under this subsection not to exceed ten (10) days suspension or a \$100 fine.

Section 6. If, in the opinion of the judges, a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or is reckless in his conduct and endangers the safety of horses or other drivers in the race, he may be removed and another driver substituted at any time after the positions have been assigned in a race, and the offending driver shall be fined, suspended or expelled. The substitute driver shall be properly compensated.

Section 7. If, for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out.

Section 8. Loud shouting or other improper conduct is forbidden in a race. After the word "go" is given, both feet must be kept in the stirrups until after the finish of the race.

Section 9. Drivers will be allowed whips not to exceed four (4) feet eight (8) inches, plus a snapper not longer than eight (8) inches.

Section 10. The use of any goading device, chain or mechanical devices or appliances, other than the ordinary whip or crop upon any horse in any race shall constitute a violation of this rule.

Section 11. The brutal use of a whip or crop or excessive or indiscriminate use of the whip or crop shall be considered a violation and shall be punished by a fine of not to exceed \$100 or suspension. A driver may use a whip only in the conventional manner. Welts, cuts, or whip marks on a horse resulting from whipping shall constitute a prima facie violation of this section. Drivers are prohibited from whipping under the arch of the sulky, kicking, punching or jabbing a horse, or using the whip so as to interfere with or cause disturbance to any other horse or driver in a race.

Violation of this rule shall be punished by a fine not to exceed \$100 or suspension.

Section 12. No horse shall wear hobbles in a race unless he starts in the same in the first heat, and having so started, he shall continue to wear them to the finish of the race, and any person found guilty of removing or altering a horse's hobbles during a race, or between races, for the purpose of fraud, shall be suspended or expelled. Any horse habitually wearing hobbles shall not be permitted to start in a race without them except by permission of the judges. Any horse habitually racing free legged shall not be permitted to wear hobbles in a race except with the permission of the judges. No horse shall be permitted to wear a head pole protruding more than ten (10) inches beyond its nose.

Section 13. Breaking. (1) When any horse or horses break from their gait in trotting or pacing, their drivers shall at once where clearance exists, take such horse to the outside and pull it to its gait.

(2) The following shall be considered violation of subsection (1) above:

(a) Failure to properly attempt to pull the horse to its gait.

(b) Failure to take to the outside where clearance exists.

(c) Failure to lose ground by the break.

(3) If there has been no failure on the part of the driver in complying with subsection (2) above, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish.

(4) The judges may set any horse back one (1) or more places if, in their judgment, any of the above violations have been committed.

Section 14. If, in the opinion of the judges, a driver allows his horse to break for the purpose of fraudulently losing a heat, he shall be liable to the penalties elsewhere provided for fraud and fouls.

Section 15. To assist in determining the matters contained in Sections 13 and 14, it shall be the duty of one (1) of the judges to call out every break made, and the clerk shall at once note the break and character of it in writing.

Section 16. The time between separate heats of a single race shall be no less than forty (40) minutes. No heat shall be called after sunset where the track is not lighted for night racing. The time between races shall not exceed thirty (30) minutes.

Section 17. Horses called for a race shall have the exclusive right of the course, and all other horses shall vacate the track at once, unless permitted to remain by the judges.

Section 18. In the case of accidents, only so much time shall be allowed as the judges may deem necessary and proper.

Section 19. A driver must be mounted in his sulky at the finish of the race or the horse must be placed as not finishing.

Section 20. It shall be the responsibility of the owner and trainer to provide every sulky used in a race with uni-colored or colorless wheel discs on the inside and outside of the wheel of a type approved by the commission. In his discretion, the presiding judge may order the use of mud guards.

Section 21. Sulky. Only sulkies of the conventional dual-shaft and dual-hitch type as hereinafter described shall be permitted to be used in any races. A conventional type sulky is one having two (2) shafts which must be parallel to, and securely hitched on each side of the horse. No point of hitch or any part of a shaft shall be above a horizontal level equal to the lowest point of the horse's back.

Section 22. Repeated Violations. Repeated rule violations shall be considered grounds for refusal to grant or grounds for revocation of any driver's license.

Section 23. Any violation of any sections of this regulation, unless otherwise provided, may be punished by a fine or suspension, or both, or by expulsion.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: November 2, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET **Kentucky Harness Racing Commission** **(Proposed Amendment)**

811 KAR 1:090. Stimulants and drugs.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.700

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide for the testing of horses for stimulants and drugs and the regulation of stimulants and drugs.

Section 1. (1) At every meeting except as stated herein where pari-mutuel wagering is permitted, the winning horse in every heat and/or race and the winning horse and second place horse in every perfecta race shall be subjected to a urine test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant, or medicine. In addition, the judges at any meeting may order any other horse in any heat or race to be subjected to the urine test or any other test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant or medicine. Also, the judges may order any horse in a race to be subjected to a urine, blood and/or saliva test. At all extended pari-mutuel meetings at least fifty (50) percent of the horses subjected to a urine test shall be given a blood test. Such horses to be selected by the presiding judge by lot. Such tests shall be made only by qualified veterinarians and by laboratories designated by the commission. In addition to the above, the winning horse and second horse in every heat or dash of a race at any track with a total purse in excess of \$5,000 shall be subjected to both blood and a urine test. However, such blood

test shall be counted in determining the fifty (50) percent required above.

(2) The commission may, in its discretion, or at the request of a member, authorize or direct a saliva, blood, urine or other test of any horse racing at any meeting.

Section 2. (1) During the taking of the blood and/or urine sample by the veterinarian, the owner, trainer or authorized agent may be present at all times. Samples so taken shall be placed in two (2) containers and shall immediately be sealed and the evidence of such sealing indicated thereon by the signature of the representative of the owner or trainer. One (1) part of the sample is to be placed in a depository under the supervision of the presiding judge and/or any other agency the commission may designate to be safeguarded until such time as the report on the chemical analysis of the other portion of the split sample is received.

(2) Should a positive report be received, an owner or trainer shall have the right to have the other portion of the split sample inserted in with a subsequent group being sent for testing or may demand that it be sent to another chemist for analysis, the cost of which will be paid by the party requesting the test.

Section 3. (1) Whenever there is a positive test finding the presence of any drug, stimulant, sedative or depressant present, in the post-race test, the laboratory shall immediately notify the presiding judge who shall immediately report such findings to the commission.

(2) When a positive report is received from the laboratory by the presiding judge, the persons held responsible shall be notified and a thorough investigation shall be conducted by or on behalf of the judges. A time shall be set by the judges for a hearing to dispose of the matter. The time set for the hearing shall not exceed four (4) racing days after the responsible persons were notified. The hearing may be continued, if in the opinion of the judges, circumstances justify such action.

(3) Should the chemical analysis of saliva, blood, urine or other sample of the post-race test taken from a horse indicate the presence of a forbidden narcotic, stimulant, depressant, or local anesthetic, it shall be considered prima facie evidence that such has been administered to the horse.

(4) Upon receipt of written notification of a positive test finding, the judges shall cause the immediate suspension of the horse from further participation in racing pending the outcome of a hearing.

Section 4. Any person or persons who shall administer or influence or conspire with any other person or persons to administer to any horse any drug, medicament, stimulant, depressant, narcotic or hypnotic to such horse within forty-eight (48) hours of his race, shall be subject to penalties provided in this rule.

Section 5. Whenever the post-race test or tests prescribed in Section 1 disclose the presence in any horse of any drug, stimulant, depressant or sedative, in any amount whatsoever, it shall be presumed that the same was administered by the person or persons having control and/or care and/or custody of such horse with the intent thereby to affect the speed or condition of such horse and the result of the race in which it participated.

Section 6. A trainer shall be responsible at all times for the condition of all horses trained by him. No trainer shall

start a horse or permit a horse in his custody to be started if he knows, or if by the exercise of reasonable care he might have known or have cause to believe, that the horse has received any drug, stimulant, sedative, depressant, medicine or other substance that could result in a positive test. Every trainer must guard or cause to be guarded each horse trained by him in such manner and for such period of time prior to racing the horse so as to prevent any person not employed by or connected with the owner or trainer from administering any drug, stimulant, sedative, depressant, or other substance resulting in a post-race positive test.

Section 7. Any owner, trainer, driver or agent of the owner, having the care, custody and/or control of any horse who shall refuse to submit such horse to a saliva test or other tests as herein provided or ordered by the judges shall be guilty of a violation of this rule. Any horse that refuses to submit to a pre-race blood test shall be required to submit to a post-race saliva and urine test regardless of its finish.

Section 8. Any horse in which an offense was detected under any section of this rule shall be placed last in the order of finish and all winnings of such horse shall be forfeited and paid over to the commission for redistribution among the remaining horses in the race entitled to same. No such forfeiture and redistribution of winnings shall effect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, when such distribution of pools is made upon the official placing at the conclusion of the heat or dash.

Section 9. Pre-Race Blood Test. Where there is a pre-race blood test which shows that there is an element present in the blood indicative of a stimulant, depressant or any unapproved medicament, the horse shall immediately be scratched from the race and an investigation conducted by the officials to determine if there was a violation of Section 4.

Section 10. Hypodermic Syringe Prohibited. No person except a licensed veterinarian approved by the commission shall have within the grounds of a licensed harness race track in or upon the premises which he occupies, or has a right to occupy, or in his personal property or effects any hypodermic syringe, hypodermic needle, or other devices which can be used for the injection or other infusion into a horse of a drug, stimulant or narcotic. Every licensed harness racing association upon the grounds of which horses are lodged or kept, is required to use all reasonable effort to prevent violation of this rule.

Section 11. (1) All veterinarians practicing on the grounds of an extended pari-mutuel meeting shall keep a log of their activities on a form provided by the commission and shall submit a copy of it to the commission office of the track each day of a race meeting. The log shall include:

- (a) Name of horse.
- (b) Nature of ailment.
- (c) Type of treatment.
- (d) Date and hour of treatment.

(2) It shall be the responsibility of the veterinarian to report to the presiding judge any internal medication given by him by injection or orally to any horse after he has been declared to start in any race.

Section 12. (1) Any veterinarian practicing veterinary medicine on a race track where a race meeting is in progress or any other person using a needle or syringe shall use only one-time disposable type needles and a disposable needle shall not be reused. The disposable needles shall be kept in his possession until disposed of by him off the track.

(2) No veterinarian, assistant veterinarian or employee of same shall leave a needle or syringe with anyone on a race track where a race meeting is in progress except upon written authorization from the commission.

Section 13. (1) *The commission veterinarian or a practicing veterinarian, licensed by the Kentucky Harness Racing Commission, may prescribe the use of lasix for a bleeder, providing the veterinarian actually sees said horse bleed.*

(2) *The aforementioned horse shall be treated and shall perform in a qualifying race and meet the standards of the meeting before being entered to race again.*

(3) *A lasix use form (blue) must be submitted to the commission office at the track for approval of the use of lasix.*

(4) *Each time the horse treated with lasix races, a form (yellow) must be submitted to the commission office at the track.*

(5) *If a trainer no longer wishes to use lasix, a form (white) must be submitted to the commission office at the track. Said horse may again race on lasix, but must race with lasix the balance of the meeting.*

(6) *Horses racing on lasix at one (1) meeting in Kentucky and racing at another meeting in Kentucky need not qualify, but will have to submit the necessary forms to the commission office.*

(7) *It is the responsibility of the trainer to submit all necessary forms.*

(8) *The horse may be treated with lasix orally or systemically.*

(9) *Lasix found in the chemical test of a horse not registered to race with lasix shall be judged a positive.*

Section 14. [13] The penalty for violation of any sections of this rule, unless otherwise provided, shall be a fine of not to exceed \$5,000, suspension for a fixed or indeterminate time, or both; or expulsion.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:125. Pari-mutuel rules.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.690, 230.710

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in

Kentucky. The function of this regulation is to provide and regulate pari-mutuel wagering at race meetings.

Section 1. Equipment. (1) The commission considers it desirable for licensees to use vending machines for the sale of pari-mutuel tickets. All licensees will be required to employ the use of totalizator equipment or its equivalent of a type approved by the commission.

(2) The controls necessary to operate the odds board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead heat, time or race) are to be located in the judge's stand and controlled only by the presiding judge, or one associate judge designated to do so.

Section 2. Definitions for Pari-Mutuel Rules. (1) For the purpose of pari-mutuel betting, every heat or dash shall be a separate and distinct race.

(2) Where the term "race" is used throughout the following rules, it shall not be considered to apply as if the term "heat" had been used. Wagering shall be prohibited on more than ten (10) races, heats excluded, during the course of a single racing program, provided that the commission may extend the number of races authorized.

Section 3. Tax. Each day's tax imposed by KRS Chapter 138 shall be remitted to the Kentucky Department of Revenue by the licensee by check or bank draft within twenty-four (24) hours after the close of the racing program. Such remittance shall be accompanied by a tax return executed by the licensee on a form furnished by the Kentucky Department of Revenue. A copy of said form will be filed daily with the commission.

Section 4. Sale of Pari-Mutuel Tickets. (1) Only one (1) method of selling pari-mutuel tickets shall be used for the sale of tickets on individual races during any racing day.

(2) Unless prior commission approval has been obtained no pari-mutuel tickets shall be sold except through regular ticket windows properly designated by signs showing type of tickets sold at that particular window.

(3) No pari-mutuel tickets shall be sold on any race prior to thirty (30) minutes before scheduled off-time of that race, except daily double, perfecta, double perfecta, quinella, double quinella and trifecta tickets may be sold one (1) hour before scheduled off-time except that on stake races whose purse value exceeds \$100,000, tickets may be sold up to sixty (60) hours prior to the scheduled off time with approval of the commission.

(4) Book making or betting other than pari-mutuel betting is strictly prohibited.

(5) No minor shall be allowed to bet and no mutuel employee shall sell or pay a wager to a minor.

(6) All wagering shall stop as soon as the word "go" shall be given by record or by voice of the starter. Vending machines for the sale of pari-mutuel tickets shall be electrically locked by the presiding judge from the judge's stand.

(7) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished and has been declared official, unless an objection imposes a delay in which case the sale of pari-mutuel tickets for the next succeeding race may be begun without waiting for the race to be declared official.

(8) Without approval of the commission, no pari-mutuel ticket shall be sold for less than two dollars (\$2). Without approval of the commission, no pari-mutuel ticket combin-

ing win and place, win and show, or place and show, shall be sold for less than four dollars (\$4). Without approval of the commission, no pari-mutuel ticket combining win, place, and show shall be sold for less than six dollars (\$6). Without approval of the commission, no pari-mutuel tickets for perfecta, double perfecta, quinella or double quinella combinations shall be sold for less than two dollars (\$2).

(9) The method of selling pari-mutuel tickets shall be approved by the commission.

(10) The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race.

(11) At meetings of more than ten (10) days, if less than six (6) interests qualify to start in a race, the manager of the pari-mutuel department, with the consent of the representative of the commission, shall be permitted to prohibit show wagering on that race.

(12) At meetings of more than ten (10) days, if less than five (5) interests qualify horses to start in a race, the said manager, with the consent of the representative of the Kentucky Harness Racing Commission shall be permitted to prohibit both place and show wagering on that race.

(13) At meetings of more than ten (10) days, if less than three (3) interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission shall be permitted to prohibit wagering on that race.

(14) At meetings of more than ten (10) days, the said manager with the consent of the representative of the commission, may prohibit wagering on any particular horse or entry in any race. Such consent shall be sought by the manager of the pari-mutuel department from the representative of the commission. Such exclusions, if consented to by the representative of the commission, shall be clearly indicated on the program or score card or announced and horses excluded shall be numbered so as to in no way infer that they are coupled in "the field." Horses once excluded from the the betting shall remain excluded during the day or race in which they are scheduled to start.

(15) When more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one (1) less than the total number of post positions on the infield tote board shall be grouped in the betting as the "field."

(16) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before said horse has become a starter in the race under the rules, unless such horse is part of an entry, and one (1) or more of said entry starts.

Section 5. Payments. (1) Payments due on all wagers shall be made in conformity with well established practice of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full plus the profits. In all cases of a winning mutuel pool each licensee must redistribute not less than one dollar and ten cents (\$1.10) on each one dollar (\$1) wager and two dollars and twenty cents (\$2.20) on each two dollars (\$2) wager.

(2) At the end of each race, the judges shall advise the manager of the pari-mutuel department by the use of the tote equipment or by telephone of the official placement of

the horses, and no payoffs shall be made until the receipt of such notice.

(3) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders or the place tickets on that horse, if any, otherwise among holders of the show tickets.

(4) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(5) If no money has been wagered to show on a horse which has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race.

(6) In the event that only two (2) horses finish in any one (1) race, the show pool shall be figured the same as the place pool and monies apportioned to the holders of show tickets on the two (2) finishing horses. In the event only one (1) horse finishes in any one (1) race all three (3) pools shall be figured separately as straight pools and all the monies shall be awarded to the ticket holders of the finishing horse. In the event no horse finishes the race, then the entire pool shall be refunded to all ticket holders.

(7) If two (2) horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two (2) dead-heaters according to their proportionate shares in the pool.

(8) If two (2) horses finish in a dead heat for second place, the division is made as follows: There shall be allotted to the pool of the winner of the race one-half ($\frac{1}{2}$) of the place pool and the two (2) dead-heaters one-half ($\frac{1}{2}$) each of the remaining half of the place pool.

(9) If two (2) horses coupled in the betting as an "entry" or "the field" finish first and second, first and third, or second and third, two-thirds ($\frac{2}{3}$) of the net show pool shall be allotted to the pool of the entry and the balance one-third ($\frac{1}{3}$) to the other horse.

(10) In the event that one (1) horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half ($\frac{1}{2}$) of the net show pool shall be allotted to the pool of the entry, one-third ($\frac{1}{3}$) to the non-entry horse not involved in the dead heat, and one-sixth ($\frac{1}{6}$) to the non-entry horse finishing in the dead heat.

(11) If the entry or field horses should finish first, second and third, the entire money in each pool goes to the entry or field tickets, no other tickets participating.

(12) No mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall be accepted for payment.

(13) No claims for lost pari-mutuel tickets shall be considered.

(14) In the event an error is made in calculation resulting in a price being too high, the association shall lose such amount between the proper price and the one paid. If the error in calculation results in a price being too low, such amount between proper price and price paid shall be added to the net pool of the same position in the following race on the same day or if it is the last race of the day then it shall be added to the net pool of the same position in the same race on the following day. If such an error occurs causing underpayment on the last race of the entire racing meeting, the underpayment shall be paid to the Kentucky Department of Revenue.

Section 6. Daily Doubles. (1) Positively no exchange of daily double tickets after purchaser thereof has left the sales window.

(2) The daily double is not a parlay, and has no connection with or relation to the "tote" betting. All tickets on the daily double will be calculated in an entirely separate pool. Without prior commission approval, only one (1) daily double will be permitted during any single program.

(3) All tickets will be to win (straight) only. Entries and the field run as one (1) horse in the daily double. If two (2) or more horses in a race are coupled on the same totalizator ticket, there shall be no refunds, unless all of the horses so coupled are excused before off time.

(4) Selections are to be made of one (1) horse for each of two (2) races in the daily double by "tote" program numbers.

(5) If no ticket is sold combining the two (2) winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the second race of the daily double. Likewise, if no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the daily double.

(7) If a dead heat to win should result in either the first or second race of the daily double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the daily double, the posting of payoff prices will be made after winner of second race of the daily double is official.

(8) Should no ticket be sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing next to the winners.

(9) In the event any horse or horses in the first half of the daily double should be excused by the judges after the horses shall have left the paddock for the post, or after the betting on the daily double has been closed, or should any horse or horses in the first half of the daily double be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(10) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half, but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(11) The possible payoff prices shall be posted or announced to the public before the start of the last race of the daily double, and as soon as possible after the horses in the race of the last half of the daily double have entered upon the track on the way to the post.

(12) If for any reason the second race of the daily double is cancelled or declared "no race" by the judges after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(13) If a daily double is scheduled to be held, subsections (1) to (12) of this section shall be printed in conspicuous places in the grandstand area and an abbreviated version shall be printed on the day's racing program, and notice printed on said program as follows: "Retain Your Tickets Until The Result Of the Daily Double Has Been Posted."

Section 7. Perfecta Wagering. (1) The "perfecta" (also known as exacta or correct) is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The perfecta is not a "parlay" and has no connection with or relation to the win, place or show betting and will be calculated as an entirely separate pool.

(3) If no ticket is sold on the winning combination of a perfecta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(4) If no ticket is sold that would require distribution of a perfecta pool to winner as above defined, the association shall make a complete and full refund of perfecta pool.

(5) In case of a dead heat between two (2) horses for first place the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combination(s). In case of a dead heat between two (2) horses for second place, the perfecta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(6) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(7) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 8. Quinella Wagering. (1) The "quinella" is a form of a pari-mutuel wagering consisting of selecting the first two (2) horses to finish, irrespective of their place of finish.

(2) The quinella is not a "parlay" and has no connection with or relations to the win, place or show betting and will be calculated as an entirely separate pool.

(3) In case of a dead heat between two (2) horses for first place, the combination shall be the winner of the quinella

pool. In case of a dead heat between two (2) horses for second place, the quinella pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(4) In the event of a dead heat for second place, if no ticket is sold on one (1) of the winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses; however, if any tickets combine both horses in the dead heat for place, the net pool shall be calculated and distributed as a win pool to holders of such tickets.

(5) If no ticket is sold on the winning combination of a quinella pool, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold that would require distribution of a quinella pool to a winner as above defined, the association shall make a complete and full refund of the quinella pool.

(7) If a perfecta and/or quinella is scheduled to be held, each association shall print an abbreviated version of this rule on the day's racing program.

(8) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 9. Double Perfecta Wagering. (1) the double perfecta is a form of pari-mutuel wagering in which the bettor selects the two (2) horses that will finish first and second in each of two (2) consecutive races in the exact order as officially posted.

(2) Double perfecta tickets shall be sold only at double perfecta windows and only from automatic double issue machines.

(3) Each bettor purchasing double perfecta tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first of two (2) consecutive races.

(4) After the official declaration of the first two (2) horses to finish in the first race of the double perfecta, each bettor holding a ticket combining the first two (2) horses in the exact order of finish must, prior to the running of the second double perfecta race exchange ticket at the double perfecta window and at such time shall select the two (2) horses to finish in the second race of the double perfecta in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(5) No double perfecta exchange ticket upon the second race shall be issued except upon the surrender of the double perfecta ticket from the first race as described in these rules. The double perfecta pool obtained from the sales of double perfecta tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the double perfecta exchange tickets, subject to those rules to the contrary. Double perfecta windows shall be open for the purpose of making the exchange as described only after the first race has been declared official.

(6) If a winning double perfecta ticket from the first race is not presented for exchange within the time provided the

bettor forfeits all rights to any distribution or refund except in the event the second half of the double perfecta is cancelled or declared "no race."

(7) If a horse is scratched in the first race of the double perfecta races, all double perfecta tickets on the scratched horse will be refunded.

(8) If a horse is scratched in the second race of the double perfecta, after the first race of the double perfecta has been declared official, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net double perfecta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the double perfecta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the double perfecta. The entire consolation pool (number of eligible tickets times the consolation price) shall be deducted from the net double perfecta pool.

(9) If no double perfecta ticket is sold as a winning combination in the first race of the double perfecta, the double perfecta pool shall be divided among those having tickets including the horse finishing first and those having tickets including the horse finishing second and such distributions shall be calculated and made as a place pool. In such an instance the double perfecta race shall end and the pool be closed for the day.

(10) If no double perfecta exchange ticket is sold on the winning combination the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(11) If a double perfecta exchange ticket combines only one (1) of the two (2) winners and no double perfecta exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(12) If no exchange ticket includes either the first or second horse of the second half of the double perfecta the entire net pool shall be distributed as a straight pool to all holders of exchange tickets.

(13) In the event of a dead heat for place in the first race of the double perfecta races, all double perfecta tickets combining the first horse and either of the place horses shall be eligible for exchange for double perfecta exchange tickets.

(14) In the event of a dead heat for place in the second race of the double perfecta, the double perfecta pool shall be divided, calculated and distributed as a place pool to the holders of double perfecta exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having the winning horses shall be declared the winner. If no exchange tickets combining the winning horse with either of the place horses in the dead heat, the double perfecta pool shall be calculated and distributed as a win pool to holders of tickets representing any interest in the net pool.

(15) If for any reason the second of the double perfecta races is cancelled or declared "no race," the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses of the first race of the double perfecta otherwise eligible for double perfecta exchange tickets and also distributed to holders of the double perfecta exchange tickets.

(16) If there is a dead heat for the winning horse in either

of the two (2) consecutive races for the double perfecta, such calculation of distribution of the double perfecta pool shall be made in the manner in which any ordinary perfecta pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(17) The purchase of double perfecta tickets other than through pari-mutuel machines and the sale of double perfecta tickets from one (1) individual to another shall be deemed illegal and is prohibited.

Section 10. Big "Q" Rules (1) Each operator wishing to conduct Big "Q" wagering must first petition the commission for permission to do so.

(2) Each operator shall either print in the daily program or prominently post at all areas where Big Q wagering is conducted the complete rules for Big Q wagering as set forth in the following sections:

(a) The Big Q consists of selecting the quinella (the first two (2) horses to finish) of each of two (2) consecutive races. Pari-mutuel wagering tickets are to be sold upon the first race of the two (2) races only. The division of the pool shall be calculated as in a straight pool, subject to provisions of these rules to the contrary.

(b) No entries or field horses shall be allowed to start in any race comprising the Big Q.

(c) Tickets shall be sold only at Big Q windows and only from automatic double issuing machines.

(d) Each bettor purchasing tickets shall designate his two (2) selections as the first two (2) horses to finish in the first race of the two (2) races.

(e) After the official declaration of the first two (2) horses to finish the first of the Big Q races, each bettor holding a ticket combining the said two (2) horses to finish must, prior to the running of the second race, exchange such winning ticket for a Big Q exchange ticket at the Big Q windows and at such time the said holder shall select the first two (2) horses to finish in the second race of the Big Q. No further money shall be required of the holder of the ticket in order to make the exchange.

(f) No Big Q exchange ticket upon the second race shall be issued except upon the surrender of the Big Q ticket from the first race as described in these sections. The Big Q pool obtained from the sales of the Big Q tickets upon the first race shall be held subject to these sections, and divided among the winning tickets of the Big Q exchange tickets, subject to these sections to the contrary. Big Q windows shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at post time at the start of the second race of the Big Q races.

(g) If a winning Big Q ticket from the first race is not presented for exchange within the time provided, the bettor forfeits all rights to any distribution or refund except in the event the second half of the Big Q is cancelled or declared "no race" or if no exchange ticket includes either the first or second horse of the second half of the Big Q.

(h) If a horse is scratched in the first race, all Big Q tickets on the scratched horse will be refunded. If a horse is scratched in the second race, the holders of tickets on the scratched horse will be entitled to exchange their tickets for another selection. In the event of a late scratch, after the exchange windows have been closed, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net Big Q pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winnings of the first race of the

Big Q. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the Big Q. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net Big Q pool.

(i) If no ticket is sold as a winning combination in the first race of the Big Q, the Big Q pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool. In such an instance, the Big Q race shall end and the pool be closed for the day.

(j) If no Big Q exchange ticket is sold on the winning combination, the net pool shall be apportioned equally between those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(k) If a Big Q exchange ticket combines only one (1) of the winners and no Big Q exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(l) If no exchange ticket includes either the first or second horse of the second half of the Big Q, the entire net pool will be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(m) In the event of a dead heat for place in the first race of the Big Q races all Big Q tickets combining the first horse and either of the place horses shall be eligible for exchange for Big Q exchange tickets.

(n) In the event of a dead heat for place in the second race of the Big Q races the pool will be divided, calculated and distributed as a place pool to the holders of Big Q exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having winning horses shall be declared the winner.

(o) If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the Big Q pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses, however if any exchange tickets combine both horses in the dead heat for place, the Big Q pool shall be calculated and distributed as a place pool to holders of such tickets.

(p) If for any reason the first race of the Big Q races is cancelled or declared "no race" full and complete refund shall be made from the Big Q pool.

(q) If for any reason, the second of the Big Q races is cancelled or declared "no race" the pool shall be calculated as a straight pool and shall be distributed among the holders of tickets combining the first two (2) horses of the first race of the Big Q otherwise eligible for Big Q exchange tickets and also distributed to holders of the Big Q exchange tickets.

(r) If there is a dead heat for the winning horses in either of the two (2) consecutive races for the Big Q such calculation of distribution of the Big Q pool shall be made in the manner in which any ordinary quinella pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(s) In the event that an incorrect exchange ticket is issued during the second half of the Big Q pool, such incorrect exchange ticket must be turned in to the State Auditor prior to the running of the second half. Said tickets shall be deducted from both exchange and individual combination totals. The ticket shall be voided and filed with the per-

formance worksheets and a report including the seller's name and license number, shall be made to the *commission* [board] of the complete incident.

Section 11. Trifecta Wagering. (1) The "Trifecta" is a contract by the purchaser of a ticket combining three (3) horses in a single race, selecting the three (3) horses that will subsequently finish first, second and third in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The "Trifecta" is not a parlay and has no connection with or relation to the Win, Place and Show betting and will be calculated as an entirely separate pool.

(3) Trifecta tickets shall be sold in not less than two dollars (\$2) denominations.

(4) If no ticket is sold on the winning combination of a Trifecta Pool, the net pool shall be distributed to the holders of tickets selecting the win and place finishers in that order. If no ticket is sold combining the win and place finish, the net pool will be distributed to the holders of tickets selecting the winner.

(5) If no ticket is sold that would require distribution of the net Trifecta Pool to a winner as above defined, the association shall make a full refund of the Trifecta Pool.

(6) In the event of a dead heat or dead heats, all Trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets. The payoff will be calculated as a place pool.

(7) In the event of a scratch in the Trifecta no exchanges will be made. All tickets which include the scratched horse are eliminated from further participation in the Trifecta Pool and will be refunded.

(8) No entries or field horses shall be allowed in any race that the Trifecta is being sold.

(9) Trifecta tickets shall be sold only by the licensee through pari-mutuel machines programmed to print all selections on one (1) ticket. Resale of such tickets from one (1) individual to another is prohibited and shall be grounds for ejection.

(10) Each association shall print in heavy type in a conspicuous place in its printed program all the provisions of this section and post printed copies of this section about the track in such places as it may deem advisable.

(11) *For the purpose of trifecta wagering the trifecta race shall be drawn to consist of ten (10) starters and two (2) also eligibles.*

Section 12. Types of Wagering Allowed. The following types of wagering shall be permitted at all tracks given racing dates by the commission:

(1) Normal win, place and show betting on each race.

(2) A daily double on the first and second races.

(3) Any other methods of betting approved in advance by the commission.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: September 14, 1979

APPROVED: DONALD N. RHODY, Secretary

RECEIVED BY LRC: November 14, 1979 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

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

902 KAR 1:032. Meperidine 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 to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation list Meperidine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

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

(1) Meperidine Hydrochloride 50 mg. Tablet Form:

(a) *Demerol: Winthrop Laboratories;*

(b) [(a)] Meperidine Hydrochloride: Spencer-Mead, Inc.;

(c) [(b)] Pethadol: Halsey Drug Company.

(2) Meperidine Hydrochloride: 100 mg. Tablet Form:

(a) *Demerol: Winthrop Laboratories;*

(b) [(a)] Meperidine Hydrochloride: Spencer-Mead, Inc.;

(c) [(b)] Pethadol: Halsey Drug Company. (6 Ky.R. 106; eff. 9-5-79.)

E. C. SEELEY, M.D., Chairperson

ADOPTED: September 18, 1979

APPROVED: J. E. DeSHAZER, Secretary

RECEIVED BY LRC: October 23, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 175 East Main Street, Frankfort, Kentucky 40601.

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

902 KAR 4:030. [PKU] Tests for inborn errors of metabolism.

RELATES TO: KRS 214.155

PURSUANT TO: KRS 13.082, 194.050, 211.090

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 214.155 to require infants to be tested for inborn errors of metabolism. The purpose of this regulation is to require infants to be tested for phenylketonuria (PKU), *galactosemia*, and *hypothyroidism*, which are [is an] inborn errors of metabolism.

Section 1. [PKU] Tests [of] for Inborn Errors of Metabolism for Newborn Babies. (1) Except as otherwise

provided in KRS 214.155(2), the administrative officer, or other person in charge of the hospital or other institution caring for infants twenty-eight (28) days or less of age and the attending physician or midwife shall cause to have administered to every such infant in its or his care a blood test to detect phenylketonuria [PKU], galactosemia, and hypothyroidism. In the event a baby is not born in a hospital or institution, the attending physician or midwife shall be solely responsible for causing such tests to be administered.

(2) Hospitals and institutions may submit blood samples to the Department for Human Resources, Bureau for Health Services, Laboratory Services, 275 East Main Street, Frankfort, Kentucky 40601, where tests shall be performed without charge or in lieu thereof conduct their own testing program, in which event the department shall be notified and the laboratory procedures approved. A private laboratory shall be required by the department to demonstrate its proficiency in the performance of such [the] tests. Positive results of such tests shall be reported within twenty-four (24) hours to the department and to the attending physician.

ROBERT SLATON, Commissioner

ADOPTED: October 22, 1979

APPROVED: J. E. DeSHAZER, Secretary

RECEIVED BY LRC: October 23, 1979 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 2:005. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2), (3)

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, [and] work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40. Citizenship is determined in accordance with 45 CFR 233.50. [To be eligible for AFDC, a child shall be domiciled in Kentucky.]

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental

support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. *A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.*

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, military service or deportation. *A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.*

(3) Incapacity defined. Incapacity is any condition of mind or body which makes a parent physically or mentally unable to provide the necessities of life for his needy child. The condition must be anticipated to continue for at least thirty (30) days beyond the date of application and may be presumed to continue during a period in which the parent is undergoing diagnostic studies and/or evaluation of rehabilitation potential.

(a) Incapacity of the father must prevent him from working in an occupation in which he previously engaged, or another job for which he is equipped and which is accessible in the county or community where he normally resides. If a job opportunity exists in the community or county, it shall be considered accessible regardless of its immediate availability. Scarcity of work does not establish incapacity unless there is a causal [casual] relationship between the father's unemployment and actual physical or mental disability.

(b) Incapacity of the mother must prevent her from engaging in a useful occupation including performance of homemaking and child care functions.

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(4) *Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.* [An exception to the requirement of living in the home of a relative specified above is made in the case of a child placed in foster care

following a judicial determination that remaining in the home of the relative would be hazardous to his welfare, providing the child was receiving AFDC as of the month in which court action was initiated, or if not, would have received AFDC if application had been made; or if not living with a relative at the time of court action, did live with such relative within six (6) months prior to the month of initiation of court action and was eligible or would have been eligible for AFDC if application has been made.]

(5) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

(6) A child placed in foster care is not required to be living in the home of a relative to be eligible to receive AFDC-FC in his foster home.

Section 4. Age and School Attendance. A child may be eligible for AFDC from birth to age twenty-one (21); provided, however, that the child eighteen (18) to twenty-one (21) is regularly attending a school or training course leading to a certificate, diploma or degree in accordance with 45 CFR Section 233.10 and further provided that the eighteen (18) to twenty-one (21) year old attending school less than full-time is either regularly employed or available for and seeking employment unless precluded therefrom by a physical handicap. Full- and part-time is defined in accordance with 45 CFR 233.90. A child is considered in regular attendance in months in which he is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he has indicated an intention not to re-enter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Work Registration. (1) Unless exempt under the criteria, as specified in Title VI of the Social Security Act and 45 CFR Section 224.20(b) [233.11] needs of an individual for whom application has been made may not be included in the AFDC assistance grant if he refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause.

(2) Individuals exempt from WIN registration are as follows:

(a) A child under age sixteen (16).

(b) A child age sixteen (16) to twenty-one (21) if enrolled as a full-time student.

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days.

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days.

(e) An individual age sixty-five (65) or over.

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible.

(g) A mother or other caretaker relative of a child under six (6).

(h) A person so far remote from a work incentive project that his effective participation is precluded.

Section 7. Cooperation in Child Support Activities. (1) Inclusion of the specified relative in the AFDC budget is

dependent upon cooperation in child support activities pursuant to 45 CFR 232.12 and refusal, except for "good cause," results in removal of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.

(3) Pursuant to 45 CFR part 232.13, the Department for Human Resources will provide written notice to the applicant or recipient that he may claim good cause for refusing to cooperate.

(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicants's/recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation.

(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 8. Potential Entitlement for Other Programs. All applicants/recipients must apply for any statutory benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 9. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 10. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Department for Human Resources of any child support owed for the child up to the amount of AFDC payments made to the recipient.

Section 11. Eligibility Criteria for Foster Care. To be eligible for foster care, the child must meet the technical requirements of the regular AFDC program as set forth in this regulation. In addition, the child must have been:

(1) Removed from the home after April 30, 1961; and

(2) Committed to the department by a judicial determination under the authority of KRS 208.200 or 208.080 specifying that the child is delinquent, neglected, needy, or dependent (as stated in KRS 208.020), or if prior to June 1976, KRS 205.430, that continuance in or return to the home of a relative would be contrary to his/her welfare; and

(3) Receiving AFDC as of the month in which court action was initiated, or if not, would have received AFDC if application had been made; or if not living with a relative at the time of court action, did live with such relative within six (6) months prior to the month of initiation of court action and was eligible or would have been eligible for AFDC if application had been made.

JACK F. WADDELL, Commissioner

ADOPTED: November 5, 1979

APPROVED:

J. E. DeSHAZER

RECEIVED BY LRC: November 7, 1979 at 11 a.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
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 2:010. AFDC; standards for need and amount.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 13.082, 205.200(2)

NECESSITY AND FUNCTION: The Department for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Resource Limitations: An applicant for or recipient of AFDC is permitted to retain:

(1) A homestead, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity in non-homestead, income producing property, not to exceed \$5,000;

(3) Equity in non-income producing non-homestead property not to exceed \$1,000;

(4) Other assets are limited to:

(a) Savings, stocks or bonds: \$500 for child living with relative other than parent; \$1,000 for one (1) child and one (1) parent; \$1,500 for two (2) or more children and one (1) or two (2) parents or one (1) child and two (2) parents.

(b) Cash surrender value of life insurance not to exceed \$1,000 for each parent or \$500 for each child.

(5) Non-continuing income which, whenever added to other resources, does not exceed resource maximums.

Section 2. Countable Income: To determine if a specified relative may be included in the AFDC grant when a stepparent is also in the home, a test budget is completed. Gross income of the stepparent and any of his/her minor children in the home is adjusted by deducting work expenses, child care and fixed and measurable medical expenses. The adjusted income is compared to the income allowed for that family size (the stepparent and his/her children) in accordance with the medical assistance income scale contained in 904 KAR 1:004. Any excess is then applied to the needs of the specified relative. If the specified relative's needs are met, the specified relative may not be included in the AFDC grant and none of the stepparent's income is included in the budget unless it is actually made available to the children included in the grant. If the specified relative's needs are not met, the specified relative may be included in the AFDC grant and the excess income of the stepparent is counted in the grant determination. In determining initial eligibility for AFDC and the amount of the assistance payment, all continuing income of persons for whom application is made or assistance received is deducted from the assistance standard except those amounts or from those sources for which a disregard is required by 45 CFR 233.20 as follows:

(1) Standard work expense deductions in accordance with the following scale or verified actual work expenses if verification is provided by the client. This scale covers all work expenses except child care. [First thirty dollars (\$30) and one-third ($\frac{1}{3}$) of the remainder of the total combined earned income of all the members of the assistance group, but only following determination of initial eligibility without consideration of this disregard.]

Work Expense Standard Deduction Scale
(Excluded Work-Related Child Care)

Gross Monthly Earned Income	Standard Monthly Deduction
\$ 2.00- 49.99	\$ 6.00
50.00- 99.99	19.00
100.00-149.99	31.00
150.00-199.99	44.00
200.00-249.99	56.00
250.00-299.99	69.00
300.00-349.99	81.00
350.00-399.99	94.00
400.00-449.99	106.00
450.00-499.99	119.00
500.00-549.99	131.00
550.00-599.99	144.00
600.00-649.99	156.00
650.00-699.99	169.00
700.00-749.99	181.00
750.00-799.99	194.00

(2) Earnings of a child under age fourteen (14). [Actual work expenses.]

(3) Work Incentive Program (WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments. [Earnings of a child under age fourteen (14).]

(4) Reimbursement for training-related expenses made by a manpower agency to applicants in institutional and work experience training. [Earnings of a child in full-time school attendance or in half-time school attendance, if not working full-time.]

(5) Value of food coupons. [Work Incentive Program]

(WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments.]

(6) *Emergency assistance program payments pursuant to 904 KAR 2:008.* [Reimbursement for training-related expenses made by a manpower agency to clients in institutional and work experience training.]

(7) *Non-emergency medical transportation payments.* [Bonus value of food coupons.]

(8) *Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion.* [Emergency assistance payments.]

(9) *Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education.* [Non-Emergency medical transportation payments.]

(10) *The amount of statutory benefits, paid to or for a minor child and with the condition that the child be in regular school attendance, which is used for tuition, registration fees, and other school-related expenses.* [Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion.]

(11) *Highway relocation assistance.* [Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education.]

(12) *Urban renewal assistance.* [The amount of statutory benefits, paid to or for a minor child and with the condition that the child be in regular school attendance, which is used for tuition, registration fees, and other school-related expenses.]

(13) *Federal disaster assistance and state disaster grants.* [Highway relocation assistance.]

(14) *Home produce for household consumption.* [Urban renewal assistance.]

(15) *Proceeds from the sale of homestead property provided the family intends to reinvest in another homestead within six (6) months.* [Federal disaster assistance and state disaster grants.]

(16) *Income/resources of a step-parent are considered only in relation to the eligibility of the parent as specified relative.* [Home produce for household consumption.]

(17) *Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conversation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP).*

(18) *Earnings received from participation in Job Corps.*

(19) *Experimental housing allowance program payment made under annual contributions contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended; and HUD Section 8 payments for existing housing under Title 24 part 882.*

(20) *Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975.*

(21) *Compensation provided to volunteers under Vista/Action or other programs established under Title VI of the Older American's Act of 1965, as amended.*

(22) *Earned income credit provided under the Revenue Act of 1978.*

Section 3. *Additional disregards: After initial eligibility is established, the following income is also disregarded:*

[Assistance Standard: The AFDC assistance standard including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment is as follows:]

[Number of Eligible Persons]	Monthly Standard
1 Child	\$ 75
2 Persons	\$135
3 Persons	\$185
4 Persons	\$235
5 Persons	\$275
6 Persons	\$310
7 or more Persons	\$345]

[The actual cost of child care may be added to the standard if the relative with whom the child lives is in a training program for which no wage or allowance is received.]

(1) *First thirty dollars (\$30) and one-third (1/3) of the remainder of the total combined earned income of all the members of the assistance group.*

(2) *Earnings of a child in full-time school attendance or in half-time school attendance, if working full-time.*

Section 4. *Members of Assistance Group: (1) The assistance group is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:005, Section 3. The incapacitated natural or adoptive parent of the child(ren) who is living in the home and legally married to the specified relative may be included as second parent if the technical eligibility factors are met.*

(2) *The decision regarding application for or continued inclusion of an individual child rests with the parent or other specified relative.*

Section 5. *Assistance Standard. The AFDC assistance standard including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment is as follows:*

Number of Eligible Persons	Monthly Standard
1 Child	\$ 75
2 Persons	\$135
3 Persons	\$185
4 Persons	\$235
5 Persons	\$275
6 Persons	\$310
7 or more Persons	\$345

(1) *The actual cost of child care shall be added to the standard if the relative with whom the child lives requests a child care payment and is in a training program for which no wage or allowance is received.*

(2) *A special requirement shall be added to the standard of assistance for child care or to include special needs related to participation in the Community Work Experience Program (CWEP) under the following conditions:*

(a) *The specified relative, included in the grant is pursuing a course of training and the children require purchased care during the absence of the relative.*

(b) *The payee, other than the parent, is not included in*

the budget but must pay child care in order to retain employment.

(c) A specified relative or child is participating in CWEP.

Section 6. Payment Rates for Foster Care. Payment rates are based on the Department for Human Resources per diem payment rates. The department's rates are based on the age and needs of the child.

(1) A child in foster family care who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):

Age	Regular	Special	Extraordinary
0-5	\$144	\$167	\$228
6-12	160	183	228
13-over	175	198	228

(2) A child in a private child caring institution who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment as (determined by the Bureau for Social Services):

Age	Regular	Special
0-5	\$151	\$212
6-12	175	212
13-over	192	212

JACK F. WADDELL, Commissioner

ADOPTED: November 5, 1979

APPROVED: J. E. DeSHAZER, Secretary

RECEIVED BY LRC: November 7, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

SECRETARY OF THE CABINET Crime Victims Compensation Board

107 KAR 1:010. Financial hardship standards.

RELATES TO: KRS 346.040

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 346.140(3) provides that the Crime Victims Compensation Board shall establish specific standards by rule for determining serious financial hardships. This regulation provides the basis for determining financial hardship of claimants.

Section 1. In determining financial hardship the board or board member shall consider all the financial resources of the claimant except those items specifically exempted by this regulation.

Section 2. All claimants are therefore required to submit a financial statement under oath on forms supplied by this board in order to be eligible for a final award.

Section 3. If a claimant refuses to submit a financial statement, the board member to whom the claim has been assigned shall refuse to make any award in the claim until the claimant furnishes the required statement.

Section 4. In determining financial hardship, the board and its members shall exempt and not take into consideration the following:

- (1) A home and whatever real estate it is located on;
- (2) Personal property consisting of clothing and strictly personal effects, except jewelry;
- (3) Tools and equipment necessary for claimant's trade, occupation or business;
- (4) Household furniture, appliances and equipment, except antiques;

- (5) Family automobiles;
- (6) Life insurance in death claims, in the face amount of \$1,000 for the claimant and similar sum of \$1,000 for the claimant's spouse and for each dependent;
- (7) Savings or valuables or additional property in an amount equal to the claimant's annual net income.

EARL OSBORN, Chairman

ADOPTED: September 20, 1979

APPROVED: JACK B. HALL, Secretary

RECEIVED BY LRC: November 5, 1979 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Cattie Lou Miller, Executive Director, Crime Victims Compensation Board, 113 E. Third Street, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT Department of Agriculture

302 KAR 31:005. General provisions.

RELATES TO: KRS Chapter 217B

PURSUANT TO: KRS 13.082, 217B.050, Executive Order No. 79-1065

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, compatibility, conflicting provisions, severability, recordkeeping, storage and handling of restricted-use pesticides, supervisory re-

quirements, certification denial, suspension, modification, or revocation, and private applicators. By Executive Order 79-1065, Governor Julian M. Carroll transferred the pesticide control program including regulatory authority to the Department of Agriculture.

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 (28).
- (7) "Commissioner" means the Commissioner of Agriculture.
- (8) "Compatability" means that chemical property of a pesticide which permits use with other chemicals without undesirable results being caused by the combination.
- (9) "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 responsibility.
- (10) "Common exposure route" means a probable manner (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.
- (11) "Continuing certification unit" means ten (10) contact instructional hours of fifty (50) minutes each.
- (12) "Department," unless otherwise specified, means the Kentucky Department of Agriculture.
- (13) "Environment" means water, air, land, plants, man and other animals living therein, and the interrelationships which exist among them.
- (14) "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.
- (15) "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.
- (16) "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.
- (17) "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.
- (18) "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.
- (19) "General pests" shall mean any arthropods, mollusks, annelid worms, rodents, or other pestiferous vermin, vertebrate animals, or fungi.
- (20) "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.
- (21) "Host" means any plant or animal on or in which another lives for nourishment, development or protection.
- (22) "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.
- (23) "Non-target organism" means a plant or animal other than the one against which the pesticide is applied.
- (24) "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.
- (25) "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.
- (26) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest.
- (27) "Practical knowledge" means the comprehension of and ability to see pertinent facts in dealing with specific problems and situations.
- (28) "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.
- (29) "Protective equipment" means clothing or any other materials or devices that shield against unintentional exposure to pesticides.
- (30) "Regulated pest" means an organism for which restrictions, regulations, or control procedures are in effect to protect the host, man or the environment.
- (31) "Restricted-use pesticide" means a pesticide that is classified for restricted use by the United States Environmental Protection Agency or by the commissioner.

(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 knowledge 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. Compatibility. 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 adsorptive 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 302 KAR 31:025.

(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.

THOMAS O. HARRIS, Commissioner

ADOPTED: November 15, 1979

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: November 15, 1979 at 3:30 p.m.

PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, December 17, 1979, at 10 a.m., EST, in the Conference Room of the Kentucky Department of Agriculture, Seventh Floor, Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Thomas O. Harris, Commissioner, Kentucky Department of Agriculture, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT
Department of Agriculture

302 KAR 31:015. Certification.

RELATES TO: KRS Chapter 217B

PURSUANT TO: KRS 13.082, 217B.050, Executive Order No. 79-1065

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. By Executive Order 79-1065, Governor Julian M. Carroll transferred the pesticide control program including regulatory authority to the Department of Agriculture.

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 302 KAR 31:005, 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 dwellings, 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 meteorological 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 application 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 many 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 302 KAR 31:025 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, other than a private applicator, shall in any five (5) year period, attend at least two (2) training programs approved by the department in the use and application of pesticides, with the exception of seed treatment applicators who shall attend one (1) training course. Training received before the promulgation of these

rules and regulations will be eligible for retroactive credit toward certification maintenance.

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.

THOMAS O. HARRIS, Commissioner

ADOPTED: November 15, 1979

APPROVED: WILLIAM L. SHORT, Secretary

RECEIVED BY LRC: November 15, 1979 at 3:30 p.m.

PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, December 17, 1979, at 10 a.m., EST, in the Conference Room of the Kentucky Department of Agriculture, Seventh Floor, Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Thomas O. Harris, Commissioner, Kentucky Department of Agriculture, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT Department of Agriculture

302 KAR 31:025. Commercial structural pest control and fumigation.

RELATES TO: KRS Chapter 217B

PURSUANT TO: KRS 13.082, 217B.050, Executive Order No. 79-1065

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. By Executive

Order 79-1065, Governor Julian M. Carroll transferred the pesticide control program including regulatory authority to the Department of Agriculture.

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, box-cars, 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) Deadly poison	(Skull and Crossbones)
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. If a warning agent is used, the above subsection does not apply, unless specified by the label.

(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 302 KAR 31:005 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 302 KAR 31:005. To maintain certification, persons certified pursuant to KRS 217B.180(3) shall meet the requirements of 302 KAR 31:015.

THOMAS O. HARRIS, Commissioner

ADOPTED: November 15, 1979

APPROVED: WILLIAM L. SHORT, Secretary
RECEIVED BY LRC: November 15, 1979 at 3:30 p.m.

PUBLIC HEARING: A public hearing on these regulations is scheduled for Monday, December 17, 1979, at 10 a.m., EST, in the Conference Room of the Kentucky Department of Agriculture, Seventh Floor, Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Thomas O. Harris, Commissioner, Kentucky Department of Agriculture, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection
Division of Water Quality

401 KAR 5:010. Certification of wastewater treatment plant operators.

RELATES TO: KRS 224.135

PURSUANT TO: KRS 13.082, 224.032, 224.033(17)

NECESSITY AND FUNCTION: The Secretary is directed to adopt regulations applicable to certification of wastewater treatment plant operators. This regulation

establishes standards for classification of wastewater treatment plants; qualifications of applicants; examination procedures; duties of the board; and, provisions relating to the issuance, renewal or revocation of certificates, fee schedule and other provisions necessary for certification of operators.

Section 1. Definitions. The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

(1) "Board" means the Kentucky Board of Certification of Wastewater Treatment Plant Operators.

(2) "Department" means the Kentucky Department for Natural Resources and Environmental Protection.

(3) "Secretary" means the secretary of the department.

(4) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met all requirements for the specified operator classification as set by this regulation.

(5) "Division" means the Division of Water Quality, Department for Natural Resources and Environmental Protection.

(6) "Operator" means the person in charge of the direct operation of a wastewater system or any portion thereof which may affect the performance of the system or the effluent produced by such a system.

(7) "Responsible charge" means having the authority to conduct or supervise the procedures and practices necessary to insure that the wastewater system or any portion thereof is operated in accordance with accepted practices, laws and regulations of the Commonwealth.

(8) "Wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry and treat domestic and/or industrial wastewater, including solids handling.

(9) "Wastewater treatment plant" means that portion of the wastewater system used in treatment of domestic and/or industrial wastewater, including solids handling.

(10) "Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities (ABC)" means that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of water supply and wastewater systems and state programs, and assists authorities in establishing new certification programs and upgrading existing ones.

Section 2. Membership and Compensation of the Board. Members of the board will be appointed by the Secretary of the Department for Natural Resources and Environmental Protection or his designee. The board shall consist of the following: Four (4) members who are currently employed as wastewater plant operators holding valid certificates. (One (1) of these members will be an industrial operator and a single treatment facility may only have one (1) member); one (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university or professional school whose major field is related to wastewater treatment; and one (1) ex-officio member representing the Department for Natural Resources and Environmental Protection. Board members shall serve for a four (4) year term, except for the first board to which two (2) operators will be appointed for four (4) years and two (2) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4)

years. The department's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

Section 3. General Provisions. Each wastewater system must be operated under the supervision of an individual holding a current Kentucky operators certificate for at least the class of system he/she supervises. Certified operators are required for the operation of wastewater treatment facilities. In the event the operator is not physically present while a plant is operating, he/she must be immediately available.

Section 4. Duties of the Board. In carrying out its responsibilities the board shall:

(1) Examine the qualifications of applicants for certification.

(2) Recommend qualified applicants for certification by the department.

(3) Maintain records of operator qualifications, certification and register of certified operators.

Section 5. Application for Certification. (1) An operator desiring to be certified shall file application with the board preceding examination on an application form provided by the board.

(2) The executive secretary and treasurer of the board shall assemble all the information needed by the board to determine eligibility of the applicant for examination and certification.

(3) The board shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify him/her of his/her status.

Section 6. Examinations. (1) The board and the department shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgment of the applicants. The examination questions promulgated by the ABC shall be used as a guideline.

(2) Examinations shall be held at places and times set by the board, with suitable method of advance announcements made by the board. They shall be conducted at least semiannually.

(3) Except in cases which the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by the department and the applicant notified of the outcome. Applicants will be required to answer at least seventy (70) percent of the examination items correctly in order to successfully pass the examination. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or department upon request by the applicant.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities of operators, types of facilities, variations in wastewater quality, conditions of receiving waters and other pertinent matters.

(5) Applicants who fail to pass an examination may repeat the examination at the subsequent regularly scheduled examination.

Section 7. Fees. (1) Fees for certification examination of wastewater treatment plant systems applicants shall be the following:

(a) Examination: \$10.

(b) Annual renewal of certificate: \$4.

(2) Fees accompanying applications will not be returned to those who do not qualify for a certificate.

Section 8. Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the board of certification, the department shall issue a suitable certificate to the applicant designating his/her competency. This certificate will indicate the classification of the wastewater treatment plant for which the operator is qualified.

(2) Certificates shall be valid for one (1) year unless revoked for cause or replaced by one of a higher classification. Certificates of operators in good standing will be renewed annually, upon written application and submission of applicable renewal fee, without examination.

(3) Certified operators who desire to become certified in a higher classification must first satisfactorily complete the requirements for the higher classification before a new certificate is issued.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his knowledge in the performance of his duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) The certificates of operators who terminate their employment at a wastewater treatment plant will be valid for five (5) years providing they are renewed as required by subsection 2 of this section. After five (5) years, the certificate will be automatically invalidated. Operators whose certificates are invalidated may be issued new certificates of like classification provided appropriate proof of competency is presented to the department. Successful completion of an examination may be required at the discretion of the board.

(6) Certificates may be issued, without examination, in a comparable classification to any person who holds a certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate was issued do not conflict with any provisions of KRS Chapter 224 and are of a standard not lower than specified by regulations adopted under said chapter; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(7) Certificates shall be prominently displayed in the office of the operator.

(8) Certificates heretofore issued by the department shall continue in full force and effect, unless revoked for cause, until such time as the department issues new certificates based upon the new classifications provided herein.

(9) Operators will be required to have accumulated a total of twelve (12) hours of appropriate board approved classroom study for annual renewal of their certificate. Classroom hours accumulated in any given year in excess of the renewal requirement may be carried forward for a period of up to two (2) years. Classroom hours used for annual renewal will not apply to subsequent certificate renewals.

Section 9. Revocation of Certificates. The department may revoke the certificate of an operator, following a hearing before the department or its designated representative, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties; or that the operator is incompetent or unable to properly perform his/her duties.

Section 10. Classification of Wastewater Treatment Plants. Wastewater treatment plants shall be classified in one (1) of four (4) classes. These classifications shall be made according to population served, type of work, character and volume of wastes to be treated, and the use and nature of the water resources receiving the plant effluent. Classification shall be based on the population served or for which the plant is designed except that plants may be classified in a group higher than indicated at the discretion of the department by reason of the incorporation in the plant of special features of design or characteristics more difficult to operate than usual, or by reason of conditions of flow or use of the receiving water requiring an unusually high degree of plant operation control, or for combinations of such conditions or circumstances.

(1) Class I: Plants serving a population of less than 2,000.

(2) Class II: Plants serving a population between 2,000 and 10,000.

(3) Class III: Plants serving a population between 10,000 and 40,000.

(4) Class IV: Plants serving a population in excess of 40,000.

Section 11. Classification of Wastewater Treatment Plant Operators. Four (4) classes of operators are hereby established and shall range from Class I through Class IV. Each operator classification is intended to relate directly to the corresponding classification of wastewater treatment plant.

Section 12. Operator Qualifications: Experience, Education and Equivalencies. (1) Operators shall be examined by the board or division as to education, experience, and knowledge as related to the classification of wastewater treatment plants for which examined. Applicants shall be required further to give evidence of good moral character, dependability, initiative, interest in his/her work, and other pertinent characteristics in relation to operation of the class of wastewater facility for which certification is being applied. Applicants must pass the required written examination.

(2) Experience and educational requirements of operators shall be as follows:

(a) Class I:

1. Completion of high school or equivalent; and
2. One (1) year of acceptable operation of applicable treatment plant.

(b) Class II:

1. Completion of high school or equivalent; and
2. Three (3) years of acceptable operation of applicable treatment plant of Class I or higher.

(c) Class III:

1. Completion of high school or equivalent; and
2. Three (3) years of acceptable operation of applicable treatment plant of Class II or higher.

(d) Class IV:

1. A college degree in a standard curriculum in engineering, allied sciences or equivalent; and
2. At least five (5) years of acceptable operation of applicable treatment plant of Class III or higher.

(3) In evaluating qualifications of operators and experience/educational equivalencies the board shall be guided by the following:

(a) Experience requiring some technical knowledge of the work and whether or not responsible charge of work was included. In large plants, where responsibility is divid-

ed, supervisors of important divisions may be credited with having responsible charge.

(b) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the department or other agencies having appropriate responsibilities for supervising systems and plants.

(c) Partial credit may be given for operating experience in maintenance laboratories or other work of wastewater treatment systems and allied trades such as plumbing.

(d) Where applicable, education may be substituted for a portion of experience requirements as specified below:

1. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of two (2) years of experience or one (1) year of experience with responsible charge.

2. Where education is substituted for experience it shall not exceed an amount which would reduce the requirements of actual operating experience to less than six (6) months for Class I or less than two (2) years for Classes II and III or three (3) years for Class IV.

3. Education applied to the experience requirement cannot also be applied to the education requirement.

(e) Where applicable, experience may be substituted for education requirements as specified below:

1. One (1) year of experience may be considered as equivalent to a maximum of two (2) years of high school.

2. Each year of responsible charge or two (2) years experience in an important phase of operation, other than responsible charge, will be considered equivalent to one (1) year of college.

3. Experience applied to educational requirements may not also be applied to the experience requirement.

(f) Substitutions for formal education may be as follows:

1. Training credits (T.C.) for board approved operators training schools, seminars and technical courses may be substituted for high school and college requirements. One (1) year of college work equals thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board approved courses shall equal one (1) T.C., and forty-five (45) T.C. equals eighteen (18) semester hours of college or one (1) year of high school.

2. An acceptable high school equivalency certificate may be used to substitute for graduation from high school.

C. FRANK HARSCHER, III, Secretary

ADOPTED: October 15, 1979

RECEIVED BY LRC: October 16, 1979 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for December 19, 1979 for 10 a.m. EST to 5 p.m. EST in Room G-1 of the Capital Plaza Tower, corner of Mero and Wilkinson Street, Frankfort, Kentucky 40601. For additional information or submission of comments, please contact Dr. Robert Blanz, Director, Division of Water Quality, Department for Natural Resources and Environmental Protection, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

704 KAR 20:132. School nurse.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 156.160

NECESSITY AND FUNCTION: This regulation establishes the standard for the issuance of a certificate for the position of school nurse.

Section 1. (1) The provisional certificate for school nurse shall be issued in accordance with the pertinent Kentucky statutes and regulations of the State Board for Elementary and Secondary Education to an applicant who is licensed as a registered nurse by the Kentucky Board of Nursing Education and Nurse Registration and 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) Registered nurses serving in an approved position of school nurse during the 1978-79 or the 1979-80 school year may be issued the provisional certificate for school nurse for a duration period of five (5) years and renewable for subsequent five (5) year periods upon completion of three (3) years experience as a school nurse during each five (5) year period.

(3) The provisional certificate for school nurse issued after the 1979-80 school year shall be issued for a duration period of five (5) years and shall require the completion of the fifteen (15) semester hour curriculum for school nurses for the first renewal. Subsequent renewals shall require the completion of fifteen (15) semester hours additional credit toward the completion of the bachelor's degree. Upon completion of the bachelor's degree, the certificate may be renewed on three (3) years experience as a school nurse during each five (5) year renewal period.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: October 24, 1979

RECEIVED BY LRC: November 2, 1979 at 11:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET
Energy Regulatory Commission**

807 KAR 50:052. Natural gas outdoor lighting.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 13.082, 278.040, 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the Commission shall prescribe rules for the performance of any service or the furnishing of any commodi-

ty by the utilities. The Federal Power Plant and Industrial Fuel Use Act of 1978 became effective November 9, 1978. Section 402 of the Act directed the Federal Department of Energy (Economic Regulatory Administration) to prohibit by rule, by May 8, 1979, any local distribution company from supplying natural gas for use in outdoor lighting. In addition, the Act prohibits, effective November, 1978, the installation of new outdoor lighting fixtures using natural gas. Under the Act, the Economic Regulatory Administration has used its prerogative to fully delegate responsibility and authority for implementation of Section 402 to appropriate State Regulatory authorities by its rule issued May 3, 1979. The Energy Regulatory Commission is thereby empowered to promulgate regulations, issue orders, establish exemption criteria and procedures, establish enforcement mechanisms, enforce prohibitions and assess civil penalties and investigate.

Section 1. General. The purpose of this regulation is to provide a procedure whereby a party may petition the Energy Regulatory Commission for an exemption from the prohibitions on installation and use of natural gas outdoor lighting as contained in the Federal Power Plant and Industrial Fuel Use Act of 1978.

Section 2. Definitions. The following publications are hereby adopted and filed by reference, as the definitions applicable to various terms when the commission decides whether to grant or deny a request for an exemption. The Energy Regulatory Commission as the appropriate state regulatory authority thereby adopts the "Definitions," Title 10 CFR, Part 516, as published in the Federal Register on May 10, 1979, (44 FR 27608).

Section 3. Exemption Criteria. The following publication is hereby adopted and filed by reference, as the criteria guiding the commission in deciding whether to grant or deny a request for an exemption. The Energy Regulatory Commission, as the appropriate state regulatory authority, hereby adopts the "Guidance and Exemptions," Title 10 CFR Part 516, as published in the Federal Register on May 10, 1979, (44 FR 27609) as the criteria for exemptions. Nothing contained in these standards, however, shall prevent the commission from adopting after due notice and hearing, additional or different criteria for exemptions.

Section 4. Application Procedures. (1) Any person may apply to the commission for an appropriate exemption from the prohibition on natural gas outdoor lighting found in Section 402 of the Power Plant and Industrial Fuel Use Act of 1978.

(2) Each application shall include the following items:

(a) An affidavit of publication from the newspaper in which the required public notice was printed.

(b) A statement specifying the particular exemption for which the applicant is applying and containing such facts, data, documents or other evidence supporting the application.

(c) In the case of exemptions for historical significance, a certification from the Heritage Commission or other governmental agency that the specifically identified property is on the National Register of Historical Places or is eligible for listing.

(3) A separate application must be completed for each premise for which an applicant seeks an exemption.

(4) If the person filing an application is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his qualified

legal representative. If the person filing the application is a corporation, partnership or trust, the filing shall be signed by an authorized official of the corporation, a general partner of the partnership, or the trustee of the trust.

Section 5. Notice. (1) The applicant shall cause to have published notice of his application for an exemption from the prohibition on natural gas outdoor lighting in a newspaper of general circulation in the counties or municipality within which the applicants premise is located. This notice shall contain the following information: the applicant's name and address; the type of exemption for which the applicant has applied; the address of the premise and shall inform the public of the opportunity to request a hearing.

(2) The following form shall be considered a satisfactory notice:

Form of Notice: Application for Exemption

_____ has applied for
(Applicant's Name & Address)

(Type of Exemption)
from the prohibition of natural gas outdoor lighting by
the Federal Power Plant and Industrial Fuel Use Act of
1978, for the following location: _____
(Address of Premise)

Any interested person may request a hearing by sending a written notification to the Energy Regulatory Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601, within ten (10) days.

Section 6. Hearings. Within ten (10) days after the notice is published, the applicant and any other interested person may request a hearing on any application by written petition to the Energy Regulatory Commission.

PERRY R. WHITE, JR., Chairman

ADOPTED: October 23, 1979

APPROVED: JACK B. HALL, Secretary

RECEIVED BY LRC: November 5, 1979 at 3:00 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary, Energy Regulatory Commission, 730
Schenkel Lane, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the November 7, 1979 Meeting

(Subject to subcommittee approval at its next meeting on December 5, 1979.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, November 7, 1979 at 10 a.m., in Room 327 of the Capitol. The minutes of the October 3, 1979 meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman, and Representative Albert L. Robinson.

Guests: Don McCormick and Joe Bruna, Department of Fish and Wildlife Resources; Dr. Dan W. Hanke and Andy Naff, Drug Formulary Council; William E. Johnson, Board of Optometric Examiners; Darlene W. Eakin, Kentucky Optometric Association; Charles Henry, Department of Transportation; Joyce Bell, Donald A. Flater, H. Doyle Mills, Ray Osborne, Roy Butler, John Cubine, James B. Gooding, Ked R. Fitzpatrick, Martha Belwood and J. W. Perry, Department for Human Resources; Greg Lawther, Certificate of Need and Licensure Board; Robert Harrison, Department of Labor; Donald Campbell, Frank Hackathorn and Lloyd F. Moody, Department of Banking and Securities; Judith G. Walden, Department of Housing, Buildings, and Construction; James R. Villines and George Risk, Department for Natural Resources and Environmental Protection; Joseph D. Hudson and James H. Moore III, Department of Insurance; Joseph R. Johnson and

Frank Sgroi, Kentucky Athletic Commission; Kenneth L. Anderson, American General Insurance Company; T. Kennedy Helm III, Southern Optical Company; R. Van Young, Albert Giddings, Jr., Al Rostal and Ray Hatfield, Kentucky Outdoor Advertising Association; Janet and Danny Yaste, G. and Y. Wrestling Promotions; Edward F. Prichard, Jr. and George W. Breathitt; Earl R. McDaniel, Governor's Commission on Firemen Training; Bill K. Caylor, Kentucky Coal Association; John Snyder, Dandridge Walton and David Wren, K.H.C.F.A.; George J. Pogan III, Governor's Council on Medical Assistance; Jay G. Coberly, Kentucky Hospital Association; Col Owens, Office of Kentucky Legal Services Programs; Woody Blakemore, Public Information.

LRC Staff: Mabel D. Robertson, Deborah Herd, Garnett Evins, Joe Hood and Bob Sherman.

On motion of Representative Robinson, seconded by Chairman Brinkley, the following regulations were deferred until the December meeting:

DEPARTMENT OF FINANCE
Occupations and Professions
Board of Hairdressers and Cosmetologists
201 KAR 12:105. School Districts. (Deferred at the request of the issuing agency.)

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

**Bureau of Surface Mining
Reclamation and Enforcement**

Strip Mining of Coal

405 KAR 1:260. Contemporaneous reclamation.
(Deferred at the request of the issuing agency.)

DEPARTMENT OF TRANSPORTATION

Bureau of Highways

Maintenance

603 KAR 3:020. Advertising devices on federal aid primary system. (Deferred on motion of Representative Robinson for further study.)

DEPARTMENT OF EDUCATION

Bureau of Instruction

Elementary and Secondary Education Act

704 KAR 10:005. Summary hearings. (Deferred because Counsel for the department was unable to be present.)

REGISTRY OF ELECTION FINANCE

Reports and Forms

801 KAR 1:007. Committees; definitions, responsibilities. (Deferred because a representative from the Registry was not present.)

DEPARTMENT OF INSURANCE

Domestic Stock and Mutual Insurers

806 KAR 24:021. Acquisition of controlling stock.
(Deferred for further study.)

On motion of Representative Robinson, seconded by Chairman Brinkley, the following regulations were approved and ordered filed.

DEPARTMENT OF FINANCE

Purchasing

200 KAR 5:317. Cost principles.

Board of Optometric Examiners

201 KAR 5:037. Advertising.

Kentucky Athletic Commission

201 KAR 27:005. Definitions.

201 KAR 27:010. General requirements.

201 KAR 27:015. Prompt payment of fees, fines and forfeitures required.

201 KAR 27:020. Tickets.

201 KAR 27:025. Identification cards.

201 KAR 27:030. Contestants.

201 KAR 27:035. Seconds.

201 KAR 27:040. Managers.

201 KAR 27:045. Judges.

201 KAR 27:050. Announcers.

201 KAR 27:055. Physicians.

201 KAR 27:060. Referees.

201 KAR 27:065. Doorman.

201 KAR 27:070. Timekeeper.

DEPARTMENT OF FISH AND WILDLIFE RESOURCES

Fish

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

301 KAR 1:060. Sport and rough fish.

Game

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

**DEPARTMENT FOR NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION**

**Bureau of Surface Mining Reclamation
and Enforcement**

Strip Mining of Coal

405 KAR 1:141. Disposal of excess spoil.

Surface Effects of Underground Coal Mining

405 KAR 3:111. Disposal of excess rock and earth.

DEPARTMENT OF TRANSPORTATION

Bureau of Highways

Traffic

603 KAR 5:096. Highway classifications.

DEPARTMENT OF LABOR

Occupational Safety and Health

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

DEPARTMENT OF BANKING AND SECURITIES

Savings and Loans

808 KAR 7:010. Variable-rate mortgages.

**DEPARTMENT OF HOUSING, BUILDINGS
AND CONSTRUCTION**

Plumbing

815 KAR 20:110. Traps and cleanouts.

Local Fire Departments

815 KAR 45:020. Commission meetings and proceedings.

815 KAR 45:030. Fire protection instructors' qualifications and certification.

DEPARTMENT FOR HUMAN RESOURCES

Administration

900 KAR 1:005. Social security reports.

Bureau for Health Services

Drug Formulary

902 KAR 1:014. Methocarbamol.

902 KAR 1:016. Methenamine mandelate.

902 KAR 1:061. Minocycline hydrochloride.

902 KAR 1:075. Prednisone.

902 KAR 1:085. Isosorbide dinitrate.

902 KAR 1:100. Reserpine.

902 KAR 1:125. Trihexyphenidyl hydrochloride.

902 KAR 1:130. Chlorpromazine hydrochloride.

902 KAR 1:318. Dexamethasone elixir.

902 KAR 1:320. Imipramine hydrochloride tablet.

Certificate of Need and Licensure Board

902 KAR 20:105. Ambulatory surgical center services.

Radiology

902 KAR 100:017. Calibration requirements for teletherapy licensees.

Radiation Operators Certification

902 KAR 105:060. Podiatrist supervision.

Bureau for Social Insurance

Medical Assistance

904 KAR 1:021. Skilled nursing and intermediate care facility service payments.

Public Assistance

904 KAR 2:081. Crisis oriented program for emergencies (COPE).

904 KAR 2:085. Energy cost assistance program.

On motion of Representative Robinson, seconded by Chairman Brinkley, the October 3, 1979 filing of 704 KAR 20:235, Department of Education, was made null and void. The department had received request for hearing on September 30; however, notification had not reached the compiler's office prior to the meeting. The hearing has been held, affirmative consideration submitted, and the regulation will be considered at the December 5 meeting.

The meeting adjourned at 1 p.m., to meet again on Wednesday, December 5, 1979, at 10 a.m., in Room 327 of the Capitol.

Administrative Register ^{of} *kentucky*

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