Administrative Register of Kentucky

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NOTE: The October meeting will be held in Room A, Capitol Annex Basement, Wednesday, October 1, 1980 starting at 10 a.m.

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

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

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

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

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Public Hearings Scheduled

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held from 10 a.m. to 5 p.m. (EDT) October 6 and 7, 1980 in the first floor auditorium, State Office Building, High and Clinton Streets, Frankfort, Kentucky on the following regulations:

401 KAR 50:015. Documents incorporated by reference. [7 Ky.R. 224]
401 KAR 50:036. Permit and exemption fees. [7 Ky.R. 271]
401 KAR 51:010. Attainment status designation. [7 Ky.R. 226]
401 KAR 51:016. Prevention of significant deterioration. [7 Ky.R. 273]
401 KAR 51:051. New source review for non-attainment purposes. [7 Ky.R. 273]
401 KAR 59:015. New indirect heat exchangers. [7 Ky.R. 227]
401 KAR 59:016. New electric utility steam generating units. [7 Ky.R. 273]
401 KAR 59:018. New stationary gas turbines. [7 Ky.R. 280]
401 KAR 59:020. New incinerators. [7 Ky.R. 232]
401 KAR 59:045. New petroleum refineries. [7 Ky.R. 234]
401 KAR 59:175. New service stations. [7 Ky.R. 238]
401 KAR 61:085. Existing service stations. [7 Ky.R. 239]
401 KAR 61:145. Existing petroleum refineries. [7 Ky.R. 240]

A public hearing will be held at 10 a.m. EST October 31, 1980, in the State Office Building Auditorium, Frankfort, Kentucky on the following regulations:

401 KAR 2:070. Recordkeeping, operating standards, and reporting procedures. [7 Ky.R. 315]
401 KAR 2:085. Hazardous waste transportation. [7 Ky.R. 364]

A public hearing will be held from 10 a.m. to 5 p.m. EST November 5 and 6, 1980, in the auditorium of the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky on the following regulations:

401 KAR 59:005. General provisions. [7 Ky.R. 320]
401 KAR 59:048. Leaks from new petroleum refinery equipment. [7 Ky.R. 366]
401 KAR 59:050. New storage vessels for petroleum liquids. [7 Ky.R. 323]
401 KAR 59:125. New primary aluminum reduction plants. [7 Ky.R. 326]
401 KAR 59:185. New solvent metal cleaning equipment. [7 Ky.R. 328]
401 KAR 59:212. New graphic arts facilities using rotogravure flexography. [7 Ky.R. 367]
401 KAR 59:214. New factory surface coating operations of flat wood paneling. [7 Ky.R. 369]
401 KAR 59:225. New miscellaneous metal parts and products surface coating opera tions. [7 Ky.R. 370]
401 KAR 59:230. New synthesized pharmaceutical product manufacturing operations. [7 Ky.R. 372]
401 KAR 59:235. New pneumatic rubber tire manufacturing plants. [7 Ky.R. 373]
401 KAR 59:240. New perchloroethylene dry cleaning systems. [7 Ky.R. 374]
401 KAR 61:005. General provisions. [7 Ky.R. 330]
401 KAR 61:050. Existing storage vessels for petroleum liquids. [7 Ky.R. 335]
401 KAR 61:095. Existing solvent metal cleaning equipment. [7 Ky.R. 337]
401 KAR 61:122. Existing graphic arts facilities using rotogravure flexography. [7 Ky. R. 375]
401 KAR 61:124. Existing factory surface coating operations of flat wood paneling. [7 Ky.R. 376]
401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations. [7 Ky.R. 378]
401 KAR 61:137. Leaks from existing petroleum refinery equipment. [7 Ky.R. 379]
401 KAR 61:150. Existing synthesized pharmaceutical product manufacturing operations. [7 Ky.R. 381]
401 KAR 61:155. Existing pneumatic rubber tire manufacturing plants. [7 Ky.R. 382]
401 KAR 61:160. Existing perchloroethylene dry cleaning systems. [7 Ky.R. 383]
401 KAR 61:165. Existing primary aluminum reduction plants. [7 Ky. R. 384]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-723
August 29, 1980

EMERGENCY REGULATION
Department of Finance

WHEREAS, the Department of Finance is directed and authorized by statute to establish travel expense and reimbursement regulations and is responsible for coordinating and supervising the fiscal affairs and procedures of the Commonwealth of Kentucky; and

WHEREAS, in its continuing effort to clarify and simplify the methods of exercising its responsibilities and duties in a manner intended to ensure an equitable application and enforcement of the procedures adopted pursuant to statutory authorization, the Department of Finance has proposed a travel expense and reimbursement regulation designed to accomplish this end; and

WHEREAS, orderly implementation by all affected agencies requires advance awareness of a date certain on which the new regulation shall be effective, and such a date is stated in the new regulation; and

WHEREAS, it is the recommendation of the Secretary of the Department of Finance that in this time of escalating prices it would be in the best interest of the Commonwealth of Kentucky to implement the proposed regulation promptly, and that an emergency be declared in order that said regulation can be made immediately effective:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of the Secretary of the Department of Finance that an emergency exists, and direct that said regulation with respect to travel expense and reimbursement shall be effective upon filing with the Legislative Research Commission, as provided by Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT OF FINANCE

200 KAR 2:006E. Employees' reimbursement for travel.

RELATES TO: KRS Chapters 42, 44, 45
PURSUANT TO: KRS 13.082, 42.030, 44.060, 45.170, 45.180, 45.300
EFFECTIVE: September 4, 1980
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: The Department of Finance is directed by law to coordinate and supervise the fiscal affairs and procedures of the State and is authorized to adopt regulations for that purpose. The purpose of this regulation is to specify eligibility, requirements, rates and forms for reimbursement of travel expense and other official expenses out of the State Treasury.

Section 1. General. (1) Affected agencies. Except as otherwise provided by law, this regulation shall apply to all departments, agencies, boards, and commissions, and institutions of the Executive Branch of State Government. It shall not apply to the Legislative and Judicial branches and their employees.

(2) Enforcement:

(a) Each agency head is responsible for insuring that all travel expense from that agency is as economical as is feasible.

(b) All persons who travel on official state business shall state on the expense voucher the purpose of each trip, shall maintain records to support their claims and shall provide themselves with sufficient personal funds to defray their travel expense.

(c) 1. The Secretary of the Department of Finance is responsible for insuring that all travel reimbursement conforms to this regulation. He may disallow, reduce or strike from expense vouchers any claims contrary to this regulation. He may also require written justification from agency heads for amounts claimed by their agencies and employees.

2. The Secretary of the Department of Finance may approve exceptions where he finds such exception in the best interest of the Commonwealth.

(3) Eligibility. Except as provided by state law or by this regulation, no reimbursement can be claimed for expenses of any person other than employees, bona fide wards, or other persons in the official service of the Commonwealth. Only necessary expenses of official travel will be reimbursed.

(4) Interpretation. All final interpretations of this regulation shall be made by the Secretary of the Department of Finance, and such determinations shall be final and conclusive.

Section 2. Definitions; Work Station. (1) The official work station of employees assigned to an office is the street address where the office is located.

(2) The official work station of field employees shall be established by the agency head, based solely on the best interests of the Commonwealth, not on employee's convenience. The designation of work station shall not be for the purpose of allowing additional mileage reimbursement for the employee.

(3) If an employee is permanently re-assigned, or is stationed at a new place two (2) months, the new place immediately becomes that employee's official work station concerning travel expense.

Section 3. Authorizations. (1) No travel expense shall be reimbursed unless the travel was authorized in advance as follows:

(a) Travel in Kentucky and within the other forty-nine (49) states and the District of Columbia must be authorized by the agency head or a designated representative. If four (4) or more persons are to travel to the same out-of-state destination the request shall explain the necessity for the number and shall also be authorized by the Secretary of Finance.

(b) Travel to foreign counties must be authorized in advance by the agency head, Secretary of the Department of Finance and Governor, or by their designated representatives.

(2) Requests for the approval of the Secretary of Finance must reach the Department of Finance at least five (5) working days before the intended start of travel. (Form B120-7, Authorization for Travel.)

Section 4. Transportation. (1) Economy required:
(a) State officers, agents, and employees traveling on state business shall use the most economical, standard transportation available and the most direct and usually-traveled routes. Expenses added by use of other transportation or routes must be assumed by the individual.
(b) Round-trip, excursion or other reduced-rate rail or plane fares shall be obtained if practical.
(2) State vehicles. State-owned vehicles with their credit cards should be used for state business travel when available and feasible. No mileage payment shall be claimed when state-owned vehicles are used.
(3) Privately-owned vehicles. Mileage claims for use of privately-owned vehicles may be disallowed if a state vehicle was available and feasible. No reimbursement shall be paid for travel between residence and work station.
(4) Buses, subways. For city travel, employees are encouraged to use buses and subways. Taxi fare may be allowed when more economical transportation is not feasible.
(5) Airline travel. Commercial airline travel shall be coach/tourist class and on this country's airlines. Additional expense for first-class travel will not be reimbursed by the state.
(6) Special transportation:
(a) The cost of hiring cars or other special conveyances in lieu of ordinary transportation will be allowed only with acceptable justification.
(b) Privately-owned aircraft may be used only when it is to the advantage of the state, measured both by travel costs and travel time.

Section 5. Accommodations. (1) Economy required. Lodging costs should be the most economical that are consistent with the state's best interests. Facilities providing special government rates or commercial rates will be used where feasible. Agencies shall contact the department's Division of Accounts travel desk for assistance as needed in obtaining group rates and special state rates.
(2) Location. Cost for lodging within forty (40) miles of the claimant's official work station or home will not be reimbursed.
(3) (a) Group lodging, by contract. State agencies and institutions may contract with hotels, motels and other establishments for four (4) or more employees to use a room or rooms on official business. Group rates must be requested. The contract may also apply to meals and gratuities. The contract rates and the costs of rooms and meals per person shall not exceed limits set by this regulation under "Reimbursement Rates." The agency shall certify that no employee is claiming individual reimbursement or subsistence for the same costs.
(b) For payment, the agency shall forward a receiving report (Authorization for Payment Form B111-9) with the vendor's bill, the names of affected employees and a copy of the contract to the Department of Finance, Division of Accounts. The payment shall not include telephone expenses or personal charges of employees. The state's payment shall be made directly to the hotel, motel, or other establishment.
(4) State parks. A state agency or institution using state park facilities for a group of four (4) or more may pay for rooms and meals by inter-account bill, within the limits of this regulation.

Section 6. Reimbursement Rates. (1) Lodging plus subsistence and other expenses. Except for the Judicial and Legislative branches, their employees, the Governor, and others listed in subsection (2) below, and except where otherwise provided by law, the reimbursement for official travel expense shall be:
(a) Lodging:
1. If lodging cost is the lowest feasible, a claimant who attaches the hotel's or motel's pre-printed, receipted bill shall be reimbursed within limits for that claimant's actual cost of lodging.
2. Maximum anywhere in the United States shall be thirty-five dollars ($35) per day, plus taxes, except for "high-rate" areas listed by the Secretary of the Department of Finance. Maximum in listed "high-rate" areas shall be fifty-five dollars ($55) per day, plus taxes. The state will not pay for lodging within forty (40) miles of claimant's residence or work station.
(b) Subsistence:
1. Subsistence shall include amounts deemed to have been spent for meals, tax, and tips.
2. To be eligible for subsistence for breakfast or lunch while traveling in Kentucky, a claimant's authorized work must require overnight absence at a destination more than forty (40) miles from both work station and home and must also include absence from work station and home during mealtime. The claimant shall attach to his travel voucher either his lodging receipts or other credible documentation sufficient for audit. Subsistence for dinner in Kentucky and for breakfast, lunch and dinner outside of Kentucky need not require overnight absence.
3. For travel in Kentucky and United States, except "high-rate" areas listed by the Secretary of the Department of Finance, subsistence shall not exceed:
Breakfast (authorized travel must include 6:30 a.m. through 9 a.m.).....$ 3
Lunch (authorized travel must include 11 a.m. through 2 p.m.).....$ 3
Dinner (authorized travel must include 5 p.m. through 8 p.m.).....$ 8
4. For travel to high-rate areas listed by the Secretary of the Department of Finance, subsistence shall not exceed:
Breakfast (authorized travel must include 6:30 a.m. through 9 a.m.).....$ 4
Lunch (authorized travel must include 11 a.m. through 2 p.m.).....$ 5
Dinner (authorized travel must include 5 p.m. through 9 p.m.).....$11
5. A state officer or an employee assigned to attend a function of an organization not under the state officer's control may be reimbursed for actual meal cost charged by the organization, instead of subsistence.
(c) Privately-owned vehicles. Reimbursement for official use of a privately-owned vehicle shall be eighteen (18) cents per mile, and payment shall not exceed airplane coach fare.
(d) Commercial transportation. With receipts actual commercial cost will be reimbursed.
(e) Privately-owned aircraft. Reimbursement for use of privately-owned aircraft shall not exceed the cost of air coach fare.
(f) Camping vehicles. Claimants using camping vehicles for lodging shall be reimbursed not more than four dollars ($4) per night, plus parking or camping charges. A receipt for parking or camping charges must be submitted.

(g) Parking and tolls. Actual parking, bridge and toll charges are reimbursable. Toll receipts are not required for in-state travel by two (2) axle vehicles.

(h) Baggage charges. Reasonable expenses are allowed for baggage handling, for delivery to or from a common carrier or lodging and for storage. Charges for overweight baggage may be allowed if the excess was for official business.

(i) Registration fees. Registration fees required in official travel for admittance to meetings will be allowed. If the fee entitles registrants to meals, claims for subsistence shall be reduced accordingly.

(j) Telephone expenses. Telephone and telegraph costs for necessary official business will be allowed. Calls to agency central offices should be made collect or through the state's toll-free numbers.

(k) Other. Where justified, other necessary miscellaneous expenses of official travel may be allowed by the Secretary of the Department of Finance.

(2) Actual and necessary expense:

(a) With pre-printed receipts for items over two dollars ($2), the actual and necessary cost of official business travel (including lodging, meals, related taxes, gratuities and commercial transportation) may be reimbursed to the following:

1. Governor and Lieutenant Governor, other state-wide elected Constitutional officials, cabinet secretaries, the Governor's staff, state employees traveling on assignment with the Governor or Lieutenant Governor, authorized persons traveling outside the United States and to non-paid members of statutory boards and commissions.

2. Reimbursement for official use of a privately-owned vehicle shall be eighteen (18) cents per mile, and such payment shall not exceed airplane coach fare.

(b) The Governor and cabinet secretaries may be reimbursed for their actual costs of entertaining official business guests and shall certify such costs to the Department of Finance.

(c) With certification by the cabinet head, employees of the Development Cabinet and the Department of Public Information may be reimbursed for their actual costs of entertaining the state's official business guests concerning economic development and industrial and travel promotion.

(d) The Secretary of the Department of Finance may question and reduce claims if amounts appear excessive.

Section 7. (1) Travel expense voucher (Form B120-6):

(a) Use:

1. This form shall be used to claim all reimbursement for travel expense.

2. The voucher shall include the expense of only one (1) person except where an employee pays the expenses for a ward of the Commonwealth or other person for whom the claimant is officially responsible. Such persons' names and status or official relationship to the claimant's agency must be listed on the voucher.

3. A travel voucher shall ordinarily cover one (1) month or one (1) major trip. The purpose of each trip shall be shown on the voucher. If monthly expenses total less than ten dollars ($10), a voucher may cover as much as six (6) months within the same fiscal year.

4. Each travel expense voucher shall show the claimant's social security number.

(b) Preparation:

1. The travel voucher may be either typed or legibly prepared in ink. All receipts shall be stapled to the back at the upper left corner and shall be forwarded to the Department of Finance with the expense voucher.

2. If leave interrupts official travel, the travel voucher shall show the dates of leave.

(c) Computing mileage. Mileage for in-state travel will be based on Department of Transportation official mileage map or on Department of Finance mileage chart if the department if the department issues such. Out-of-state mileage will be based on Rand McNally mileage maps. If point of origin is the claimant's residence, mileage will be paid between residence and travel destination or between work station and travel destination, whichever is shorter, except that commuting mileage between home and work station will not be paid.

(d) Vicinity travel. Vicinity travel and authorized travel within claimant's work station shall be listed on separate lines on the expense voucher.

(e) Signatures. Travel vouchers shall be signed and dated by the employee submitting the claim, the employee's supervisor and the agency head or authorized representative.

(f) Receipts. Except for mileage and subsistence, claimants shall furnish for each expenditure over two dollars ($2) the pre-printed, receipted bill from the hotel, motel, restaurant, or other establishment. The receipt must establish the amount, date, location and essential character of the expenditure.

(2) Authorization for out-of-state travel (Form B120-7). This form shall be used to request authorization for travel to foreign countries and for out-of-state travel by groups of four (4) or more persons.

(3) Contract for rooms and meals (Form B120-16). This form shall be used for group accommodations as described in this regulation under "Accommodations."

GEORGE L. ATKINS, Secretary
ADOPTED: August 28, 1980
RECEIVED BY LRC: September 4, 1980 at 10:25 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-731
September 4, 1980

EMERGENCY REGULATION
Department of Finance

WHEREAS, by Chapter 394, 1980 Acts of the General Assembly (hereinafter, "the Act"), there is established within the Department for Local Government a local government economic assistance program consisting of a system of grants to local governments to improve the environment for new industry and the quality of life for the residents, and to be expended in coal producing and coal impact counties for purposes authorized by Section 2 of the Act (codified: KRS 42.455); and

WHEREAS, there were repealed by the Act various sections of law relating to the Coal Producing County Development Fund (KRS 42.300 and 42.310), the Coal Severance Economic Aid Fund (KRS 42.325 to 42.340), and the Coal Impact Road Fund (KRS 177.970), the unencumbered balances of which funds were transferred to the Local Government Economic Assistance Fund established

in the State Treasury by Section 1 of the Act (codified: KRS 42.450); and

WHEREAS, Section 2(5) of the Act (codified: KRS 42.455(5)) vests the Department of Finance with responsibility for promulgating rules and regulations necessary to implement the grants programs authorized by the Act; and

WHEREAS, grants for the purposes specified in the Act may not be made from the Local Government Economic Assistance Fund to local governments until such implementing regulations have been promulgated, adopted and placed in effect by the Department of Finance; and

WHEREAS, the Department of Finance has promulgated and now proposes to adopt and place into immediate effect such implementing regulations; and

WHEREAS, the Department of Finance has found that an emergency exists with respect to said regulations and the implementation of the local government economic assistance grants program authorized by the Act and, therefore, such regulations should, pursuant to the provisions of law made and provided, be effective immediately upon filing with the Legislative Research Commission;

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge and concur with the finding of emergency by the Department of Finance with respect to the filing of regulations implementing the Local Government Economic Assistance Grants Program established by Chapter 394 of the 1980 Acts of the General Assembly, and hereby direct that said regulation shall be effective upon filing with the Legislative Research Commission, as provided by Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT OF FINANCE
Office for Policy and Management

200 KAR 4:005E. Local government economic assistance fund grants.

RELATES TO: KRS 42.450 to 42.495
PURSUANT TO: KRS 42.455(5)
EFFECTIVE: September 5, 1980
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: As directed by KRS 42.455(5) the Department of Finance, by this regulation, establishes rules and requirements relating to implementation of a system of grants from the Local Government Economic Assistance Fund (hereinafter referred to as the Fund) and, in addition, sets forth procedures for reporting with respect to Fund grants to the Department for Local Government as required by statute.

Section 1. As used in this regulation, the terms "local government," "local government unit," "recipient government," or similar descriptive terms, shall mean the fiscal courts of coal producing, coal impact and mineral producing counties, and the governing bodies of incorporated cities within such counties who may be eligible for fund grants.

Section 2. Proposed Use Hearing. Commencing with fiscal year 1981, each recipient local government shall have at least one (1) public hearing annually to solicit proposals for grants from the fund. At the hearing, citizens of the recipient government shall have the opportunity to provide the executive authority written and/or oral comments and suggestions respecting the possible uses of grants from the fund. From this hearing actual proposed uses will be determined (hereafter referred to as the proposed use hearing).

(1) Each recipient shall notify the Department for Local Government in writing of the date, time and location of each proposed use hearing at least thirty (30) days prior to the date it is held.

(2) Notice of the proposed use hearing shall be published in a newspaper of general circulation and made available to local radio and television stations serving the geographic area of the recipient no later than ten (10) days prior to the scheduled date of the proposed use hearing. This notice may appear concurrently with other legal notices placed by the recipient local government. The notice shall state the date, time and location of the public hearing and the amount of money anticipated from the fund for the fiscal year. The notice shall include a statement that citizens who attend the proposed use hearing have the right to provide written and/or oral comments and to ask questions concerning proposals.

(3) The proposed use hearing may be held concurrently with other meetings for public purposes held by the recipient, provided the notice specifically identifies the fund.

(4) (a) The Department for Local Government may waive the requirement for a proposed use hearing in any year for which the estimated amount to be received from the fund is less than $5,000 or if deemed in the best public interest.

(b) The recipient local government requesting a waiver shall state in writing the reasons for the waiver. The request shall be signed by the chief executive of the recipient government. The waiver shall be granted if it appears to be in the public interest.

Section 3. Budget Hearings. Commencing with fiscal year 1981 each recipient local government that expends money from the fund in any fiscal year shall hold at least one (1) public hearing on specific proposed projects the government intends to fund (hereafter referred to as the budget hearing).

(1) At the budget hearing, all citizens of the recipient local government shall have a reasonable opportunity to provide written and oral comments, and to ask questions concerning the allocation of local government assistance funds.

(2) At least ten (10) days prior to the budget hearing the recipient local government shall make available for public inspection during normal business hours, at the principal office of the local government, a summary of the projects proposed to be funded by the fund. This summary shall be submitted as a part of the county's annual budget to the Department for Local Government. This summary shall identify each project according to eligible categories in the statute and shall contain a narrative description of each project, the amount of money to be allocated to each and the relative priority of each project.

(3) A notice of the budget hearing shall be published in a newspaper of general circulation serving the geographic area of the recipient local government no later than ten (10) days prior to the scheduled date of the hearing. The notice shall contain the following: Date, place and time of the

public budget hearing; a statement of the amount anticipated from the fund for the fiscal year; the amount of such funds to be expended in each eligible category; a statement advising when and where a summary of projects and a summary of the entire budget for all income and expenditures of the recipient government is available for public inspection; a statement that citizens attending the public budget hearing have the right to provide written and/or oral comments and ask questions concerning the allocation of local government economic assistance funds.

(4) The public budget hearing may be held concurrently with budget hearings of the recipient local government provided the notice specifically identifies the fund and includes all information required by subsection (3).

(5) The Department for Local Government may waive the requirement for a budget hearing pursuant to the requirements stated in Section 1(4).

Section 4. Annual Use Report. Each local government that receives grant money from the fund shall file an annual report with the Department for Local Government within sixty (60) days after the end of the fiscal year in which the funds were received.

(1) The annual use report shall be on a part of the annual budget submitted to the Department for Local Government and shall contain the following information: The status of each project funded in whole or in part by a grant from the fund; the amount of money from the fund actually expended on each project during the fiscal year; the manner in which each project affected local and regional plans.

(2) The annual use report shall be certified by the chief executive official and contain a statement that the recipient government's general tax effort has not been reduced below the level of fiscal year 1980.

Section 5. Records. Each recipient government shall maintain an official project file for each capital expenditure which shall be subject to inspection by the Department for Local Government, the Department of Finance, the Attorney General or the Auditor of Public Accounts at any time from the date of grant approval and for a period of five (5) years after date of the final expenditure.

(1) The project file shall contain complete records and information including deeds, contracts, change orders; and documents which shall prove that the local government complied with any and all federal and state laws and regulations pertaining to bid advertisement and award, prevailing wage, nondiscrimination, licensing and permits and other such laws and regulations applicable to the expenditure.

(2) The Department of Finance shall establish uniform audit requirements which shall be used by each recipient unit of local government required to submit an audit report under provisions of KRS 42.460.

(3) Each recipient government shall maintain financial records for each expenditure which shall be subject to state initiated audit for a period of five (5) years after date of the final expenditure. Financial records shall include all earnings from investment of funds in accordance with KRS 42.455(4).

(4) No additional funds from the fund shall be transferred to the local government unit after the date required for submission to the Department for Local Government, which is eighteen (18) months after the end of each fiscal year, until an acceptable audit report has been submitted to the Department for Local Government.

(5) Each recipient government shall maintain a separate financial account for the receipt of any funds from the fund. Any expenditures or transfers shall be made from this account.

(6) Any grant proposal that includes a sub-grant to another agency shall include an agreement executed by the recipient and the sub-grantee which provides that:

(a) Thirty (30) days prior to the close of each fiscal year and upon completion of a project, the sub-grantee shall furnish the entitlement recipient a report of all expenditures and all activities of any project funded by the sub-grant.

(b) The sub-grantee shall pay the cost of any audit of the sub-grant required by the entitlement recipient.

Section 6. 200 KAR 4:010 and 200 KAR 4:015 are hereby repealed.

GEORGE L. ATKINS, Secretary
ADOPTED: September 3, 1980
RECEIVED BY LRC: September 5, 1980 at 10 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-748
September 11, 1980

EMERGENCY REGULATIONS
Department for Natural Resources
and Environmental Protection

WHEREAS, Chapter 224 of the Kentucky Revised Statutes states that it is the responsiblity of the Department for Natural Resources and Environmental Protection to preserve existing clean air resources in the Commonwealth of Kentucky while insuring economic growth; and

WHEREAS, the United States Environmental Protection Agency (EPA) has delegated full authority to the Commonwealth of Kentucky to implement and enforce EPA regulations for the Prevention of Significant Deterioration (PSD); and

WHEREAS, the Commonwealth of Kentucky must forfeit control over the PSD program to EPA, if recent revisions in the federal regulations cannot be immediately enforced by the department; and

WHEREAS, it is necessary for the department to have the authority to enforce the current federal regulations until the department has had time to revise and promulgate the state regulations so that the PSD delegation will not be forfeited and the processing of permit applications for the state of Kentucky thereby delayed:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085, do hereby acknowledge the finding of the Secretary of the Department for Natural Resources and Environmental Protection that an emergency exists, and direct that the attached regulations shall become effective immediately upon being filed with the Legislative Research Commission.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 51:016E. Prevention of significant deterioration.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: September 11, 1980
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. The U.S. Environmental Protection Agency delegated the Department for Natural Resources and Environmental Protection the authority to administer the provisions of 40 CFR 52.21 relating to the prevention of significant deterioration of air quality.

Section 1. The Department for Natural Resources and Environmental Protection hereby adopts by reference 40 CFR 52.21, published in 43 FR 26403, June 19, 1978 as amended in 44 FR 27571, May 10, 1979 and 45 FR 52676, August 7, 1980.

Section 2. Copies of the above Code of Federal Regulations or Federal Registers may be obtained from the Government Printing Office, Washington, D.C. 20402.

Section 3. 401 KAR 51:015 is hereby repealed.

JACKIE SWIGART, Secretary
ADOPTED: August 14, 1980
RECEIVED BY LRC: September 11, 1980 at 4 p.m.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 51:051E. New source review for non-attainment purposes.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
EFFECTIVE: September 11, 1980
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation establishes requirements for the construction, modification and reconstruction of stationary sources within areas where the ambient air quality standards have not been attained.

Section 1. The Department for Natural Resources and Environmental Protection hereby adopts by reference Appendix S of 40 CFR 51 published in 44 FR 3282, January 16, 1979 and amended in 45 FR 52741, August 7, 1980.

Section 2. The Department for Natural Resources and Environmental Protection hereby adopts by reference 40 CFR 52.24 published in 44 FR 38473, July 2, 1979 and amended in 45 FR 31312, May 13, 1980 and 45 FR 52746, August 7, 1980.

Section 3. Copies of the above Code of Federal Regulations or Federal Registers may be obtained from the Government Printing Office, Washington, D.C. 20402.

Section 4. 401 KAR 51:050 is hereby repealed.

JACKIE SWIGART, Secretary
ADOPTED: August 14, 1980
RECEIVED BY LRC: September 11, 1980 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-722
August 29, 1980

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating, by regulation, the policies of the Department with respect to the Crisis Oriented Program for Emergencies; and
WHEREAS, the Secretary has found that the current budgetary crisis of the Department requires the termination of the Crisis Oriented Program for Emergencies; and
WHEREAS, the Secretary has promulgated a regulation providing for the repeal of the implementing regulation for the Crisis Oriented Program for Emergencies; and
WHEREAS, the Secretary has found that an emergency exists, with respect to said proposed regulation; and that, therefore, such regulation should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission:
NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulation of the Department for Human Resources (Repeal of 904 KAR 2:081 and 2:081E) and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:082E. Repeals 904 KAR 2:081 and 904 KAR 2:081E.

RELATES TO: KRS 205.810
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: August 29, 1980
EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.
NECESSITY AND FUNCTION: The Department for Human Resources was authorized by KRS 205.810 to provide short term assistance to single or married adults in crisis situations and in financial need. Regulations, 904 KAR 2:081 and 2:081E, were promulgated to set forth eligibility criteria and amounts of assistance available to the Crisis Oriented Program for Emergencies and the effective dates of the program. Due to the shortage of revenues the Commonwealth of Kentucky is facing and under the executive authority the Governor of the state has to alter the Commonwealth's budget to prevent a deficit situation, it is necessary to terminate the Crisis Oriented Program for Emergencies. This regulation acts specifically to repeal the implementing regulations previously referenced.

Section 1. 904 KAR 2:081 and 2:081E are hereby repealed.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: August 28, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: August 29, 1980 at 2:50 p.m.

Amended Regulations Now In Effect

LEGISLATIVE RESEARCH COMMISSION
Personal Service Contracts
As Amended

1 KAR 2:010. Personal Service Contract Review Subcommittee; procedure; records.

RELATES TO: KRS 45.700, 45.705, 45.710, 45.715, 45.720
PURSUANT TO: KRS 7.320(2), 45.720
EFFECTIVE: September 3, 1980
NECESSITY AND FUNCTION: KRS 45.720 requires the Legislative Research Commission to prescribe rules governing the manner and form which personal service contracts are to be reviewed.

Section 1. A permanent subcommittee of the Legislative Research Commission, to be known as the Personal Service Contract Review Subcommittee, shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible.
(1) The Legislative Research Commission shall appoint from the membership of the general assembly as follows:
(a) Four (4) members from the House of Representatives; and
(b) Three (3) members from the Senate.
(2) The personal service contract review subcommittee shall meet monthly at such time and place as selected by the chairman.
(3) A quorum shall require at least *four (4)* [five (5)] members present and the vote shall be by majority.
(4) The members of the subcommittee shall serve for a term of two (2) years, with the chairman being appointed by the subcommittee.
(5) Vacanies which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrance of the vacancy.
(6) The subcommittee shall act on a personal service contract properly submitted to the Legislative Research Commission within thirty (30) days of its submission, except as provided in Section 2(2) of this regulation.

Section 2. No personal service contract made by any contracting body after *March 12, 1980,* [July 1, 1978,] shall become effective until after *three (3)* [seven (7)] copies of the personal service contract are forwarded to the office of the Legislative Research Commission.
(1) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, indexed as follows:
(a) By vendor name (alphabetically);
(b) By state agency (organization); and
(c) By type of service provided.
(2) For a contract to be reviewed by the subcommittee at its next regularly scheduled meeting, it must be submitted to the Legislative Research Commission on or before the *last day* [fifteenth (15th)] of the month *preceeding the meeting.* All documents received after the *end* [fifteenth (15th)] *of the month* will be deferred to the next regularly scheduled meeting.
(3) Each personal service contract and each copy thereof submitted for review will have attached a completed contract review form which at a minimum will include the following information:
(a) A statement which describes, in detail, the need for such services;
(b) A statement which justifies, in detail, the purchase of service as opposed to the provision of service, i.e., unavailability non-feasibility;
(c) A statement which justifies the total projected cost and explains, in detail how the cost was derived;
(d) A statement which justifies the stated duration and explains in detail how the duration was derived;

(e) An affirmative statement attesting to the existence of a thirty (30) day cancellation clause;

(f) A copy of the purchase contract indicating maximum amount of the contract.

(4) Notification of approval will be transmitted back to the contracting body in the form of a stamped contract attesting to such approval, within thirty (30) days of such action.

(5) [Section 3.] If the subcommittee believes that the contract service, except for emergency contracts approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall:

(a) [(1)] Attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and shall return the personal service contract to the *Secretary of Finance* [contracting body].

(b) [(2)] Notice of such objection shall be given by the subcommittee to the Director of the Legislative Research Commission *and agency involved.*

[(3) The contracting body shall file a written report with the subcommittee, within sixty (60) days, in any case where objections were made, stating the contracting bodies position and whether a cancellation or amendment is proposed. A copy of any proposed amendment shall accompany the report.]

Section 3. Payment on a personal service contract shall not be made until after the contract has been approved by the subcommittee except as provided for in Section 4.

Section 4. If the Secretary of Finance determines that the time involved with the normal review procedure would cause a detrimental effect upon the Commonwealth's ability to act or procure services, he may approve an emergency payment after notification and explanation of this action is forwarded to the subcommittee. [The Secretary of Finance shall, within thirty (30) days, notify the Personal Service Contract Review Subcommittee of his action and his reasons for authorizing the emergency payment.]

[Section 4. In the event a contracting body reports to the subcommittee and does not propose action to comply with the objections, the personal service contract shall:]

[(1) Be referred by the Director of the Legislative Research Commission to the appropriations and revenue committees of the House of Representatives and Senate or to the interim committee on appropriations and revenue for review. If during a session of the General Assembly, a personal service contract is referred to the appropriations and revenue committees of the House of Representatives and Senate, each such committee shall act on the contract within fourteen (14) days. If the contract is referred to the interim committee for review, that committee shall act on the contract within sixty (60) days.]

[(a) In the event the standing committees of the House and Senate or the interim committee determines that the contract is acceptable, notice will be forwarded to the contracting body and no further action will be required.]

[(b) In the event the standing committees of the House and Senate or the interim committee determines that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the standing committee or the interim committee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and the director shall send a copy of the objections to the contracting body and to the governor.]

[(2) The contracting body shall file a written report with the standing committees or the interim committee, within thirty (30) days in any case where objections were made, stating the contracting bodies position and whether a cancellation or amendment is proposed. A copy of any proposed amendment shall accompany the report.]

Section 5. (1) Personal service contracts objected to or disapproved by the subcommittee shall be forwarded to the Department of Finance. The secretary of the Department of Finance shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee; or

(b) Shall be cancelled if disapproved by the subcommittee; or

(c) Shall remain effective as originally approved by the Department of Finance.

(2) The Department of Finance shall notify the subcommittee of the action taken on personal service contracts referred to the department by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(3) The subcommittee shall report monthly to the Legislative Research Commission all action taken on personal service contracts by the Department of Finance and the subcommittee.

[Section 5. In the event a contracting body reports to the standing committees or the interim committee and does not propose action to comply with the objections, the personal service contract shall:]

[(1) Be transmitted by the director to the Clerk of the Senate and the Clerk of the House of Representatives on or before the first day of each regular session of the general assembly.]

[(2) Each personal service contract submitted shall be accompanied by notice of objections from:]

[(a) The personal service contract review subcommittee;]

[(b) The standing committees or interim committee; and]

[(c) All other documentation as deemed appropriate by the director.]

[(3) The Clerk of the Senate and the Clerk of the House of Representatives shall lay all such disputed personal service contracts before the Senate and the House of Representatives, respectively, for such action, as the respective legislative bodies may determine to be appropriate.]

VIC HELLARD, JR., Director
ADOPTED: September 4, 1980
RECEIVED BY LRC: September 4, 1980 at 10 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
As Amended

803 KAR 1:005. Employer-employe relationship.

RELATES TO: KRS *Chapter 337* [337.275, 337.285]
PURSUANT TO: KRS 13.082, 337.295
EFFECTIVE: September 3, 1980
NECESSITY AND FUNCTION: KRS 337.010 defines employe as any person employed by or suffered or permitted to work for an employer, *and employer is any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interests of an employer in relation to an employe.* The function of this regulation is to discuss what constitutes an employe-employer relation. This will guide the department in carrying out its responsibilities under the law.

Section 1. The Employment Relation. (1) In order for *KRS Chapter 337* [the [*law*] Act] to apply there must be an employe-employer relation. This requires an employer and employe and the act or condition of employment.

(2) The courts have made it clear that the employment relation under similar laws, such as the Fair Labor Standards Act, is broader than the traditional common law concept of the master and servant relation. The difference between the employment relation in *KRS Chapter 337* [the [*law*] Act] and the common law employment relation arises from the language that employe includes to suffer or permit to work. The courts have indicated that, while "to permit" requires a more positive action than "to suffer," both terms imply much less positive action than required by the common law. Mere knowledge by an employer of work done for him by another is sufficient to create the employment relation under *KRS Chapter 337* [the [*law*] Act].

(3) The fact that no compensation is paid and the worker is dependent entirely on tips does not negate his status as an employe, if other indications of employment are present. If the worker is paid, the fact that he is paid by the piece or by the job or on a percentage or commission basis rather than on the basis of work time does not preclude a determination that he is, on the facts, an employe with respect to the work for which such compensation is received.

Section 2. Religious, charitable and nonprofit organizations, schools, institutions, volunteer workers, members of religious orders. (1) There is no special provision in *KRS Chapter 337* [the [*law*] Act] which precludes an employe-employer relationship between a religious, charitable or nonprofit organization and persons who perform work for such an organization. For example, a church or religious order may operate an establishment to print books, magazines, or other publications and employ a regular staff who do this work as a means of livelihood. In such cases there is an employe-employer relationship for purposes of *KRS Chapter 337* [the [*law*] Act].

(2) Persons such as nuns, monks, lay brothers, deacons, and other members of religious orders who serve pursuant to their religious obligations in the schools, hospitals, and other insitutions operated by their church or religious order shall not be considered to be employes.

(3) In many cases the nature of religious, charitable and similar nonprofit organizations, and schools is such that individuals may volunteer their services in one capacity or another, usually on a part-time basis, not as employes or in contemplation of pay for the services rendered. For example, members of civic organizations may help out in a sheltered workshop; women's organizations may send members or students into hospitals or nursing homes to provide certain personal services for the sick or the elderly; mothers may assist in a school library or cafeteria as a public duty to maintain effective services for their children; or fathers may drive a school bus to carry a football team or band on a trip. Similarly, individuals may volunteer to perform such tasks as driving vehicles or folding bandages for the Red Cross, working with retarded or handicapped children or disadvantaged youth, helping in youth programs as camp counselors, scoutmasters, den mothers, providing child care assistance for needy working mothers, soliciting contributions or participating in benefit programs for such organizations and volunteering other services needed to carry out their charitable educations, or religious programs. The fact that the services are performed under such circumstances is not sufficient to create an employe-employer relationship.

(4) Although the volunteer services (as described in subsection (3) above) are not considered to create an employment relationship, the organizations for which they are performed will generally also have employes performing compensated service whose employement is subject to the standards of *KRS Chapter 337* [the [*law*] Act]. Where such an employment relationship exists, *KRS Chapter 337* [the [*law*] Act] requires payment of not less than the statutory wages for all hours worked in the workweek. However, there are certain circumstances where such an employe may donate services as a volunteer, and the time so spent is not considered to be compensable work. For example, an office employe of a hospital may volunteer to sit with a sick child or elderly person during off-duty hours as an act of charity. The department will not consider that an employe-employer relationship exists with respect to such volunteer time between the establishment and the volunteer or between the volunteer and the person for whose benefit the service is performed. Another example is where an office employe of a church may volunteer to perform nonclerical services in the church preschool during off duty time from his or her office work as an act of charity. Conversely, a preschool employe may volunteer to perform work in some other facets of the church's operations without an employment relationship being formed with respect to such volunteer time. However, this does not mean that a regular office employe of a charitable organization can volunteer services on an uncompensated basis to handle correspondence in connection with a special fund drive or to handle other work arising from exigencies of the operations conducted by the employer.

(5) As part of their overall educational progam, public or private schools and institutions of higher learning may permit or require students to engage in activities in connection with dramatics, student publications, glee clubs, bands, choirs, debating teams, radio stations, intramural and interscholastic athletics and other similar endeavors. Activities of students in such programs, conducted primarily for the benefit of the participants as a part of the educational opportunities provided to the students by the school or institution, are not work of a kind contemplated by *KRS Chapter 337* [the [*law*] Act] and do not result in an employe-employer relationship between the student and the school or institution. Also, the fact that a student may receive a minimal payment for participation in such activities would not necessarily create an employment relationship.

(6) The sole fact that a student helps in a school lunch room or cafeteria for periods of thirty (30) minutes to an hour per day in exchange for his lunch is not considered to be sufficient to make him an employe of the school regardless of whether he performs such work regularly or only on occasion. Also, the fact that students on occasion do some cleaning up of a classroom, serve the school as junior patrol officer or perform minor clerical work in the school office or library for periods of an hour per day or less without contemplation of compensation or in exchange for a meal or for a cash amount reasonably equivalent to the price of a meal or, when a cash amount is given in addition to a meal, it is only a nominal sum, is not considered sufficient in itself to characterize the students as employes of the school. A similar policy will be followed where the students perform such tasks less frequently but for a full day, with an arrangement to perform their academic work for such days at other times. For example, the students may perform full-day cafeteria service four (4) times per year. In such cases, the time devoted to cafeteria work in the aggregate would be less than if the student worked an hour per day. However, if there are other indicia of employment or the students normally devoted more than an hour each day or equivalent to such work, the circumstances of the arrangement will be reviewed carefully.

(7) In the ordinary case, tasks performed as a normal part of a program of treatment, rehabilitation, or vocational training in the following situations will not be considered as work of a kind requiring a hospital patient, school student, institutional inmate, or handicapped client, to be considered an employe of the hospital, school, institution, or sheltered workshop conducting the program, for the purpose of *KRS Chapter 337* [the [*law*] Act]:

(a) Tasks performed by patients in tuberculosis, mental, and other hospitals who are required to remain under treatment for extended periods, when performed as a part of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in the treatment of such patients;

(b) Tasks performed by individuals committed to training schools of a correctional nature, which are required as a part of the correctional program of the institution as a part of the institutional discipline and by reason of their value in providing needed therapy, rehabilitation, or training to help prepare the inmate to become self-sustaining in a lawful occupation after release;

(c) Tasks performed by students in special schools for the mentally handicapped or retarded or for the blind or deaf, as a part of the school program to provide activities of therapeutic value for the handicapped student and to develop such capacities as he may have for doing useful things and, to the extent possible, qualifying for gainful employment; and

(d) Tasks performed by handicapped clients in sheltered workshops, as part of the workshop program, to provide activities of therapeutic, vocational, or training value for the handicapped client and to develop such capacities as he may have for doing useful things and, to the extent possible, qualifying for gainful employment.

(8) The department will not assert that patients under treatment in mental hospitals, or handicapped clients of sheltered workshops are employes when placed in another establishment, such as a private employer, for the performance of tasks which are a continuation of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in their treatment. A different situation prevails, however, after an employment relationship clearly has developed. This shift may occur shortly after the placement or it may occur later. The department will examine the facts of the relationship to determine if an employe-employer relationship exists.

(9) In a program such as described in subsection (8), it is possible that placements may be made with successive employers for short periods of time. It is not expected in the ordinary course that such successive placements will either be very long with a particular employer or that the total time involved with various employers will last for a long period of time. If situations arise where successive placements as part of therapeutic or rehabilitative treatment continue for more than six (6) months, all the facts of the situations will be closely examined.

(10) The department will not assert that mentally retarded and other handicapped individuals' initial participation in a school-work program, or sheltered workshop program constitute an employment relationship if certain conditions are met. However, after an employment relationship has developed, the provisions of *KRS Chapter 337* [the [*law*] Act] will be applicable. The conditions under which an employment relationship initially will not be asserted are:

(a) The activities are basically educational, are conducted primarily for the benefit of the participants, and comprise one of the facets of the educational opportunities provided to the individuals. The individual may receive some payment for his work in order to have a more realistic work situation, or as an incentive to the individual or to insure that the employer will treat the individual as a worker; and

(b) The time in attendance at the school plus the time in attendance at the experience station (either in the school or with an outside employer) does not substantially exceed time the individual would be required to attend school if following a normal academic schedule. Time in excess of one (1) hour beyond the normal school schedule or attendance at the experience station on days when school is not in session would be considered substantial; and

(c) The individual does not displace a regular employe or impair the employment opportunities of others by performing work which would otherwise be performed by regular employes who would be employed by the school or an outside employer.

(11) The shift to an employment relationship may occur shortly after the placement or it may occur later. As a general guide, work for a particular employer, either a private employer or the school, after three (3) months will be assumed by the department to be part of an employment relationship unless the facts indicate that the training situation has not materially changed.

Section 3. Outside work or homework performed by independent contractor. (1) For investigation purposes, it can be assumed that a homeworker is an employe, even though there may be a buying and selling arrangement between the parties.

(2) If the employer asserts his outside work or homework is performed by independent contractors, the following factors will be considered concerning the employe-employer relationship:

(a) Does the employer have the right to control the manner of the performance of the work or the time in which the work is to be done?

(b) Is the employer paying taxes for social security, unemployment, or workmen's compensation insurance?

(c) Has the homeworker ever collected any benefits such as unemployment or workmen's compensation, because of unemployment by the employer?

(d) Does the employer furnish the material or finance directly or indirectly the purchase of the material which the homeworker uses?

(e) When did the practice of buying and selling between the employer and the homeworker begin, and what are the mechanics of the transaction?

(f) Does the homeworker bill the employer for the work done? Are bills of sale prepared? Are sales taxes paid, or are state or local exemptions obtained because of retail purposes? Are payments made in cash or by check?

(g) How does the homeworker's profit under the buying-selling arrangement compare with his or her wages as a homeworker?

(h) Whom does the homeworker consider to be the employer?

(i) Does the homeworker have a license to do business?

(j) What equipment is used, what is its value, and who furnishes it?

Section 4. Test of the employment relation. (1) The principal test for determining whether an employment relation exists is whether the possible employer controls or has the right to control the work to be done by the possible employe to the extent of prescribing how the work shall be performed. Additional considerations are the method of payment and how free the possible employer is to replace the possible employe with another. A determination of the employer-employe relationship cannot be based on isolated factors or upon a single characteristic, but rather upon the circumstances of the whole activity.

(2) The factors which are considered significant, although no single one is regarded as controlling, are:

(a) The extent to which the services in question are an integral part of the employer's business;

(b) The amount of the alleged contractor's investment in facilities and equipment;

(c) The alleged contractor's opportunities for profit and loss; and

(d) The amount of initiative, judgment, or foresight in open market competition with others required for the success of the claimed independent enterprise.

(3) Where the facts clearly establish that the possible employe is the subordinate party, the relation is one of employment. To determine the amount of control consider:

(a) Whether there are restrictive provisions in the contract between the possible employer and possible employe which require that the work must be satisfactory to the possible employer and detailing, or giving the possible employes the right to detail how the work is to be performed.

(b) Whether the possible employer has control over the business of the person performing work for him even though the possible employer does not control the particular circumstances of the work;

(c) Whether the contract is for an indefinite period or for a relatively long period;

(d) Whether the possible employer may discharge employes of the alleged independent contractor;

(e) Whether the possible employer may cancel the contract at his discretion, and on how much notice;

(f) Whether the work done by the alleged independent contractor is the same or similar to that done by admitted employes.

(4) Since the determination of whether an employment relation exists depends upon the circumstances of the whole activity, particular factors to be considered are:

(a) Is the alleged independent contractor listed on the payroll with the appropriate tax deductions, or are the payments to him charged to the labor and salary account or selling expense account instead of to the account to which attorney's fees, auditor's fees, and the like are charged?

(b) Must employes of the alleged independent contractor be approved by the possible employer?

(c) Does the possible employer keep the books and prepare the payroll for the possible employe?

(d) Is the alleged independent contractor assigned to a particular territory without freedom of movement outside thereof?

(e) Does the alleged independent contractor have an independent economic or other interest in his work, other than increasing his own pay?

(f) How do the respective tax returns of the parties list the remuneration paid?

(g) If the possible employer has control over the manner in which the work is to be performed, the absence of any or all of the factors will not indicate an absence of the employe-employer relation. However, where the element of control cannot be firmly established, they will help in determining whether the relation is one of employer and employe or of independent contractor.

(5) The following factors are immaterial to the determination of whether the relation is one of employer-employe or of independent contractors:

(a) The state or local government grants a license to the alleged independent contractor;

(b) The measurement, method, or designation of compensation;

(c) The fact that no compensation is paid and the alleged independent contractor must rely entirely on tips;

(d) The place where the work is performed; and

(e) The absence of a formal employment agreement.

(6) (a) An employment relation may exist between the parties to a transaction which is nominally a sale. Thus, house-to-house canvassers who sell at retail the products of a particular company are employes of the company, although their contracts with the company are in the form of dealer contracts under which the company purports to sell its products to them at fixed wholesale prices and to recommend retail prices at which the products should be sold where the control exercised by the company over the so-called dealers is not substantially different than that exercised by an employer over his outside salesman.

(b) Likewise, an employe is not converted into an independent contractor by virtue of a fictitious sale of the goods produced by him to an employer, so long as the other indications of the employment relation exist. Homeworkers who sell their products to a manufacturer are his employes where the control exercised by him over the homeworkers through his ability to reject or refuse to buy the product is not essentially different from the control ordinarily exercised by a manufacturer over employes performing work for him at home on a piece rate basis.

(7) The subject matter of the employment relation must be work or its equivalent. The essential elements of work are:

(a) Physical or mental exertion (whether burdensome or not);

(b) Controlled or required by the employer; and

(c) Pursued necessarily and primarily for the benefit of the employer and his business.

(d) Once it is determined that one who is reputedly an in-

dependent contractor, lessee, partner, or the like, is in fact an employe, then all the employes of the so-called independent contractor engaged in the work for the principal employer likewise become the employes of the principal employer, who must guarantee compliance with *KRS Chapter 337* [the [*law*] Act]. Thus, the one who is responsible will be charged with seeing to compliance with *KRS Chapter 337* [the [*law*] Act] and must keep the records of the employes.

Section 5. Trainees and Student-trainees. (1) The Supreme Court has held that the words "to suffer or permit to work, to define employ, do not make all persons employes who, without any express or implied compensation agreement, may work for their own advantage on the premises of another."

(2) Whether trainees or students are employes of an employer under *KRS Chapter 337* [the [*law*] Act] will depend upon all of the circumstances surrounding their activities on the premises of the employer. If all six (6) of the following criteria apply, the trainees or students are not employes within the meaning of *KRS Chapter 337* [the [*law*] Act]:

(a) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

(b) The training is for the benefit of the trainees or students;

(c) The trainees or students do not displace regular employes, but work under their close observation;

(d) The employer that provides the training derives no immediate advantage from the activities of the trainees or students and on occasion his operations may actually be impeded;

(e) The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and

(f) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

EUGENE F. LAND, Commissioner
ADOPTED: August 20, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: August 27, 1980 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
As Amended

803 KAR 1:035. Hearing procedure.

RELATES TO: KRS 337.020 to 337.405
PURSUANT TO: KRS 13.082, 337.295
EFFECTIVE: September 3, 1980
NECESSITY AND FUNCTION: KRS 337.310 requires the Commissioner of Labor to decide all questions of fact arising under KRS 337.020 to 337.405. KRS *13.082 and* 337.295 authorizes the commissioner to issue regulations pertaining to these statutes. The function of this regulation is to set up the procedure to be followed by the Commissioner of Labor in deciding the questions of fact as required by the statute and to insure that the parties to proceedings concerning alleged violations of the statutes are afforded a fair opportunity to present any and all relevant proof on the matter.

Section 1. Procedure. (1) The Commissioner of Labor, or his authorized agent, shall investigate any complaint or routinely inspect records relating to an alleged violation of KRS 337.020 to 337.405.

(2) Where a settlement cannot be reached between the employer and employee and if an investigation reveals that *questions of fact are in issue or* the complaint or routine inspection gives the commissioner, or his authorized agent, good cause to *believe that factual issues need to be resolved* [order a fact-finding hearing], then the commissioner, or his authorized agent, shall *evaluate all proof submitted and render his tentative findings of fact. The proof to be evaluated by the commissioner, or his authorized agent, shall include, but is not limited to: the findings of the investigator, sworn affidavits, contractual agreements, payroll records, and other evidence relating to an alleged violation of KRS 337.020 to 337.405.* [set a hearing date in order to make findings of fact concerning the alleged statutory violation. The parties shall be notified of the hearing date by return receipt mail at least fifteen (15) days prior to the hearing.]

(3) The party suffering adversely from these tentative findings of fact shall have fifteen (15) days from the issuance of the findings to submit a petition for a fact-finding hearing [reconsideration] to the commissioner. [, or his authorized agent, concerning newly discovered evidence or fraudulently concealed evidence which the party applying could not with reasonable diligence have discovered and produced to the commissioner, or his authorized agent, for evaluation prior to the rendering of tentative findings of fact. The other party shall have five (5) days to present rebuttal proof. If the allegations set forth in the petition for reconsideration are of such weight to give the commissioner good cause to order a fact-finding hearing, then] The commissioner, or his authorized agent, shall set a hearing date in order to make final findings of fact concerning the alleged statutory violation. The parties shall be notified of the hearing date by return receipt mail at least fifteen (15) days prior to the hearing. If a petition for a fact-finding hearing is not sought, then the tentative findings of fact shall become a final order fifteen (15) days after the issuance of the tentative order.

(4) [(3)] The commissioner, or his authorized agent, may conduct the hearing in either the Frankfort or Louisville offices of the Department of Labor. However, with unanimous consent of the parties and the commissioner, or his authorized agent, the hearing may be held at a site in the Commonwealth mutually agreeable to the parties and the commissioner, or his authorized agent.

(5) [(4)] The hearings shall not be governed by the rules of evidence prevailing in the courts of the Commonwealth. However, due regard will be had for generally accepted rules of administrative agency hearings in the Commonwealth. A written transcript of the hearing shall be made.

(6) [(5)] Subsequent to the hearing, but within fifteen (15) days of receipt of the hearing transcript, the commissioner, or his authorized agent, shall evaluate the proof and render his *final* [tentative] findings of fact *and order.*

[(6) The party suffering adversely from these tentative findings of fact shall have fifteen (15) days from the issuance of the findings to submit a petition to reopen the

hearing to the commissioner, or his authorized agent, concerning newly discovered evidence which the party applying could not with reasonable diligence have discovered and produced at the hearing, or fraudulently concealed evidence. The other party shall have five (5) days to present rebuttal proof. If the allegations set forth in the petition are of such weight to cause the commissioner to reopen the hearing, he shall do so and the parties shall be notified by return receipt mail at least fifteen (15) days before the hearing is reopened.]

[(7) If the additional evidence, concerning newly discovered evidence or fraudulently concealed evidence, is of such weight to cause the commissioner, or his authorized agent, to alter his tentative findings of fact, he shall do so and enter a final order reflecting such changes within fifteen (15) days from the end of time to present rebuttal evidence.]

[(7)(8) If a petition *for reconsideration* to reopen the hearing is not sought or is denied then the tentative findings of fact shall become a final order fifteen (15) days after the issuance of the tentative order.]

[(9) Either party may seek review of the commissioner's final order in the circuit court that would have jurisdiction to try an action for breach of contract, pursuant to KRS 337.310(1).]

[(10) Review by the circuit court is limited to a determination of whether:]

[(a) The commissioner, or his authorized agent, acted without or in excess of his powers;]

[(b) The order or decision was procured by fraud;]

[(c) The order or decision is not in conformity with the provisions of KRS 337.020 to 337.405; and]

[(d) If findings of fact are in issue, whether they support the order or decision.]

[(11) The circuit court may affirm, modify or set aside the commissioner's order.]

EUGENE F. LAND, Commissioner
ADOPTED: August 26, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: August 27, 1980 at 2 p.m.

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

815 KAR 25:010. Mobile homes.

RELATES TO: KRS 227.570
PURSUANT TO: KRS 13.082, 227.590
EFFECTIVE: September 3, 1980
NECESSITY AND FUNCTION: KRS 227.590 requires the Mobile Home Certification and Licensure Board to establish rules and regulations governing the standards for manufacture, sale, and alteration of mobile homes. These regulations are intended to assure safety for owners and occupiers of mobile homes.

Section 1. Authorization: (1) These rules are authorized by KRS 227.590 and established pursuant to the rule making procedures set forth in KRS Chapter 13, in order to implement, interpret, and carry out the provisions of laws of 1974, as amended in 1976, KRS Chapter 227, relating to mobile homes. In the event that these regulations conflict with the codes promulgated by the National Fire Protection Association NFPA 501 (B) and Title VI of the Federal Housing and Community Development Act of 1974 (Hud Act), the codes or the HUD Act subsequent to the effective enforcement date, shall govern in all cases.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations, the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation, or modification, amendment or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

Section 2. Enforcement: Subject to the provisions of applicable law, the Office of the State Fire Marshal shall administer and enforce all the provisions of the mobile home and recreational vehicle Act. Any officer, agent, or employee of the State Fire Marshal's office is authorized to enter any premises in order to inspect any mobile home for which the office has issued a seal of approval, or to inspect such mobile home's equipment and/or its installations to insure compliance with the Act, the code and/or the HUD Act and these regulations. Upon complaint and request *by the owner or occupant*, a privately owned mobile home bearing a seal may be entered to determine compliance with these regulations. When it becomes necessary to determine compliance he may require that a portion or portions of such mobile homes be removed or exposed in order that a compliance inspection can be made.

Section 3. Definitions: In addition to the definitions contained herein, the definitions of NFPA 501 (B) by the National Fire Protection Association and/or the HUD Act shall apply:

(1) Act: The Mobile Home and Recreational Vehicle Act, KRS 227.550 to 227.660.

(2) HUD Act: Title VI of the "Housing and Community Development Act of 1974—National Mobile Home Construction and Safety Standards."

(3) Agency, testing: An outside organization which is:

(a) Primarily interested in testing and evaluating equipment and installations;

(b) Qualified and equipped for, or to observe experimental testing to approved standards;

(c) Not under the jurisdiction or control of any manufacturer or supplier of any industry;

(d) Makes available a published report in which specific information is included stating that the equipment and installations listed or labeled have been tested and found safe for use in a specific manner; and

(e) Approved by the board.

(4) Alteration or conversion: The replacement, addition, modification or removal of any equipment or installations which may affect the body and frame design and construction, plumbing, heat-producing or electrical systems or the functioning thereof of mobile homes subject to these rules

is an alteration or conversion unless excluded by these rules. The above equipment must be installed in accordance with manufacturer's specifications.

(5) Board: Mobile Home Certification and Licensure Board.

(6) Certificate of acceptablility: The certificate provided to the manufacturer signifying the manufacturer's ability to manufacture, import, or sell mobile homes within the state.

(7) Class "A" seal: A device or insignia issued by the office to indicate compliance with the standards, established by the office, or rules and regulations established by the board for new mobile homes not covered by the HUD Act and manufactured after the effective date of the Act.

(8) Class "B" seal: A device or insignia issued by the office to indicate compliance with the standards[,] established by the office *or* [,] rules and regulations established by the board for used mobile homes.

(9) Dealer: Any person, other than a manufacturer, as defined herein, who sells or offers for sale three (3) or more mobile homes in any consecutive twelve (12) month period.

(10) Established place of business: A fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a mobile home dealer, which shall include the books, records, files and equipment necessary to properly conduct such business or a building having sufficient space therein to properly show and display the mobile homes being sold and in which the functional duties of a mobile home dealer may be performed. The place of business shall not consist of residence, tent, temporary stand or open lot. It shall display a suitable sign identifying the dealer and his business.

(11) Hard surfaced lot: An area open to the public during business hours with a surface of concrete, asphalt/macadam, compacted gravel and/or stone, or other material of similar characteristics.

(12) Manufacturer: Any person who manufactures mobile homes and sells to dealers.

(13) Manufactured housing: Mobile homes, recreational vehicles, mobile office or commercial units, add-a-rooms, or cabanas.

(14) [(13)] Mobile home: For purposes of the scope of the Act and regulations this means a *structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.* [movable or portable unit constructed to be moved from place to place on the public streets or highways and designed to permit the permanent or temporary occupancy therein for the purpose of use] *It may be used* as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and [which can be connected to electric, water, gas, sewage, and telephone facilities. It] may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure. It shall include house trailers which are regulated as to length, width and registration by KRS Chapter 186. "Add-a-room" units are not considered an integral part of a mobile home. A new mobile home used or intended to be used as a single family dwelling is covered by the HUD Act and is excluded from these regulations.

(15) NFPA 501 (A): That section of the National Fire Code adopted by the National Fire Protection Association that pertains to mobile home installation.

(16) [(14)] NFPA ~~501~~ (B): That section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for mobile homes not covered by the HUD Act.

(17) [(15)] Office: The Office of the State Fire Marshal.

(18) [(16)] Person: This means a person, partnership, corporation or other legal entity.

(19) Secretary: The Secretary of the U.S. Department of Housing and Urban Development.

(20) [(17)] Suitable sign: A sign with the dealership name and type of dealership in letters of a minimum height of six (6) inches and minimum width of one and one-half (1½) inches.

Section 4. Scope and Purpose of the Act and Regulations: (1) Except to the extent otherwise stated in the Act and these regulations and in other laws of the Commonwealth which are not inconsistent with or superseded by the Act and these regulations, these regulations govern the design, manufacture and sale of mobile homes not covered by the HUD Act, which are manufactured, sold or leased for use within or outside of the Commonwealth. These regulations apply to mobile homes manufactured in manufacturing facilities located within or outside the Commonwealth. Mobile homes brought into this state for exhibition use only and which will not be sold in this state may be excluded from the coverage of this Act and regulations if inspections reveal no condition hazardous to health or safety.

(2) The state legislature has enacted the mobile home and recreational vehicle Act to protect the health and safety of the owner, occupiers, and all other persons from malmanufactured mobile homes. The office has been given authority to carry out the purpose of the Act. The Act sets out the minimum standards for design and manufacture. Dealers are encouraged to maintain ethical business standards beyond non-fraudulent minimums.

Section 5. Standards for Vehicles in Manufacturers' or Dealers' Possession: (1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes not covered by the HUD Act, as it determines are reasonably necessary to protect the health and safety of the occupants and the public.

(2) The office shall also enforce such standards and requirements for the body and frame design and construction of mobile homes as are reasonably necessary in order to protect the health and safety of the occupants and the public.

(3) All mobile homes not covered by the HUD Act, manufactured for sale within the Commonwealth of Kentucky shall be constructed in accordance with NFPA 501 (B), 1977 edition, herein adopted by reference.

(4) On all used mobile homes [without a seal], said standards shall be that the dealer shall certify that the electric, heating, [and] plumbing systems *doors, windows, structural integrity of the unit, smoke detection equipment and all exterior holes have been sealed to prevent the entrance of rodents,* [have been checked,] and repaired if necessary, and found to be in safe working condition and thus be in

conformity with the intent of the Act to protect the health and safety of the occupants and general public.

(5) All mobile homes taken in trade must be reinspected and certified. The existing Class "A" or Class "B" seal may be removed or a new seal may be applied over the existing seal. When a new mobile home purchased under the provision of the HUD Act is resold, it becomes a used mobile home and subject to the provisions of this section. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public.

(6) All new mobile homes shall be installed per manufacturers instructions or NFPA 501 (A), 1977 edition when manufacturers defer to local jurisdiction. All used mobile homes shall be installed in accordance with NFPA 501 (A), 1977 edition.

(7) [(6)] All new mobile homes purchased outside the Commonwealth of Kentucky not bearing a Class "A" seal of approval or a HUD label and all used mobile homes purchased outside the Commonwealth of Kentucky, regardless of the type seal or label affixed, shall be inspected by a certified Kentucky dealer and a Class "B" seal of approval affixed prior to registration of the home. This inspection shall consist of the following:

(a) Inspection of the plumbing and waste systems.

(b) Inspection of the heating unit to determine adequacy of systems.

(c) Inspection of the electrical systems including the main circuit box and all outlets/switches to detect any damaged coverings, lost screws, or improper installations.

(8) [(7)] Any licensed Kentucky mobile home dealer that maintains the capability to perform minor maintenance of plumbing, heating and electrical systems of mobile homes shall be permitted to inspect and certify those mobile homes purchased in another state for use within the Commonwealth of Kentucky. Any dealer desiring to perform this service shall make application to the Office of the State Fire Marshal for appropriate certification.

(9) [(8)] Any unit found to be in non-compliance with the requirements of Section 5*(7)*[(6)] of this regulation shall be corrected prior to the dealer certifying the unit. All units requiring repairs or correction prior to unit certification shall be reported to the office specifying the repairs required to correct the deficiencies. Appropriate reporting forms shall be made available to qualified dealers performing inspection.

(10) [(9)] The fee for the inspection of mobile homes shall be *twenty dollars ($20)* [fifteen dollars ($15)] per hour plus mileage as required and a *twenty-five dollar ($25)* [twenty dollar ($20)] seal fee.

Section 6. Applicability and Interpretation of Code and Regulation Provisions. Any questions regarding the applicability or interpretation of any provisions or code or regulation adopted shall be submitted in writing by any interested person to the office for resolution. It is the policy of the office that with respect to questions regarding NFPA 501 (B), any such questions shall whenever feasible be submitted to the NFPA in accordance with the established procedures of the organization. The decision of the office shall be in writing.

Section 7. Certificate of acceptability: (1) No manufacturer may manufacture, import, or sell any mobile home [not covered by the HUD Act,] in this state after the effective date of this Act, unless he has procured a certificate of acceptability from the board. Compliance shall be enforced through KRS 227.992. Mobile homes not covered by the HUD Act, manufactured in this state and designed for delivery to and for sale in a state that has a code that is inconsistent with NFPA 501 (B) need not comply with this provision.

(2) Requirements for issuance:

(a) The manufacturer must submit and the office must approve inplant quality control systems.

(b) A $400 fee must accompany the application. The fee shall be paid by check or money order and shall be made payable to: Kentucky State Treasurer. [Said fee shall be prorated on a calendar year basis if it is a new license.]

(c) The manufacturer must furnish and maintain with the office proof of general liability insurance to include lot and completed operations insurance in the minimum amount of $100,000 bodily injury or death for each person, $300,000 bodily injury or death for each accident, and $50,000 property damage.

(3) To obtain in-plant quality control approval, a manufacturer shall submit a system for in-plant control pursuant to paragraph (b) of this subsection and submit to inspection by the office for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain the following:

(a) A certified copy of the plans and specifications of a model or model-group for body *and* frame design, [and] contruction, [and] electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half inches by eleven inches (8½" x 11") and the maximum possible size of which is twenty-four inches by thirty inches (24" x 30"). The manufacturer shall certify that the aforementioned systems comply with NFPA 501 (B).

(b) Also a copy of the procedure which will direct the manufacturer to construct mobile homes in accordance with the plans, specifying:

1. Scope and purpose.
2. Receiving and inspection procedure for basic materials.
3. Material storage and stock rotation procedure.
4. Types and frequency of product inspection
5. Sample of inspection control form used.
6. Responsibility for quality control programs, indicating personnel, their assignments, experience and qualifications.
7. Test equipment.
8. Control of drawings and material specifications.
9. Test procedures.

(4) A unit certification format certifying compliance with the Act and regulations shall be submitted to the office no later than the end of the first week of each month for those units manufactured under the state code and not bearing a federal label, i.e., mobile offices, add-a-rooms, duplex units, etc. The unit certification format shall contain the information in the format of Appendix A.

(5) [(4)] No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

(6) [(5)] If the manufacturer is also a dealer, he must also comply with dealer licensing provisions.

(7) [(6)] Should the applicant not conform with these regulations, the applicant shall be no notified in writing by the office within ten (10) working days of the date received. Should the applicant fail to submit a corrected application in accordance with the information supplied on the application correction notice, the application will be deemed abandoned and twenty (20) percent of fees due will be forfeited to the office. Any additional submission shall be processed as new application.

(8) [(7)] Manufacturers shall notify the office in writing within thirty (30) days of any of the following occurrences:

(a) The corporate name is changed;

(b) The main address of the company is changed;

(c) There is a change in twenty-five (25) percent or more of the ownership interest of the company within a twelve (12) month period;

(d) The location of any manufacturing facility is changed;

(e) A new manufacturing facility is established; or

(f) There are changes in the principal officers of the firm.

(9) [(8)] Any information relating to building systems or in-plant quality control systems which the manufacturer considers proprietary shall be so designated by him at the time of its submission, and shall be so held by the office, and by the inspection, evaluation, and local enforcement agencies unless the board determines in each case that disclosure is necessary to carry out the purposes of the Act.

(10) [(9)] The office may determine that the standards for mobile homes established by a state or a recognized body or agency of the federal government *or other independent third party* are at least equal to NFPA 501 (B). If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such mobile homes.

(11) [(10)] A certificate of acceptability may be denied, suspended, or revoked on the following grounds:

(a) Evidence of insolvency;

(b) Material misstatement in application for certificate of acceptability;

(c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willfully defrauding any buyer;

(e) Willful failure to perform any written agreement with any buyer or dealer;

(f) Failure to furnish or maintain the required liability insurance;

(g) A fraudulent sale, transaction, or repossession;

(h) Violation of any law relating to the sale or financing of mobile homes.

(12) [(11)] If a certificate holder is a firm or corporation, it shall be sufficient cause for denial, suspension or revocation of a certificate that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a certificate to such party as an individual. Each certificate holder shall be responsible for any or all of his salesmen while acting as his agent while the agent is acting within the scope of his authority.

(13) [(12)] Procedure for denial, revocation or suspension:

(a) The office may deny the application for a certificate of acceptability by written notice to the applicant, stating the grounds for such denial.

(b) No certificate of acceptability shall be suspended or revoked by the office except after a hearing thereon. The office shall give the certificate holder at least thirty (30) days notice of the time and place of the hearing and of the charges to be heard.

(c) Any manufacturer who violates or fails to comply with this Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within *twenty (20)* [sixty (60)] days. Should the manufacturer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any certificate of acceptability if it finds that:

1. The manufacturer has failed to pay the fees authorized by the Act; or that

2. The manufacturer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

3. The manufacturer has shipped or imported into this state a mobile home to any person other than to a duly licensed dealer.

(14) [(13)] Any person aggrieved by any ruling of the office denying a certificate of acceptability within fifteen (15) days after any such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that any applicant is not qualified to receive a certificate of acceptability, no certificate shall be granted. If the board shall determine that the certificate holder was willfully or through gross negligence been guilty of a violation of any of the provisions of the Act, his certificate may be suspended or revoked.

(15) [(14)] Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

(16) [(15)] Under proceedings for the suspension of a certificate of acceptability for any of the violations enumerated in the Act, the holder of a certificate of acceptability may have the alternative subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day.

Section 8. Serial Numbers, Model Numbers, Date Manufactured: A clearly designated serial number, model number, and date manufactured shall be stamped into the mobile home tongue, or front cross member of the frame at the lower left hand side (while facing the unit), and if there is no such tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

Section 9. Dealer License: (1) No dealer of mobile homes shall engage in business as such in this state without a license issued by the office upon application.

(2) Application must contain the following information:

(a) Name and address of the chief managing officer;

(b) Location of each and every established place of business;

(c) Social security number and date of birth of chief managing officer;

(d) Affidavit certifying compliance with the Act and regulations;

(e) Names of offices if dealership in corporate form;

(f) Names of partners if dealership in partnership form;

(g) Any other information the office deems commensurate with safe-guarding of the public interest in the locality of the proposed business.

(3) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(4) The license fee shall be fifty dollars ($50). The fee

shall be paid by check or money order and shall be made payable to Kentucky State Treasurer.

(5) The license must be conspicuously displayed at the established place of business. In case such location be changed, the office shall endorse the change of location on the license wihout charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(6) The dealer must furnish and maintain with the office proof of liability insurance in the minimum amount of $50,000 bodily injury or death for each person, $100,000 bodily injury or death for each accident, and $25,000 property damage.

(7) Dealers shall maintain a record of all units sold, new and used, to include serial numbers, Kentucky seal numbers ("A" or "B"), date manufactured, make, and the name and address of the purchaser. This report shall be in the format depicted in Appendix B. The report shall be made available to the field inspector on a monthly basis.

(8) No dealer shall have the authority to alter any mobile home manufactured under the federal code without the express permission of the manufacturer. Any dealer altering a mobile home shall be guilty of a federal violation and shall be subject to the penalties provided in KRS 227.990. Alteration of a mobile home shall include but is not limited to: Addition/deletion of windows, doors, or partitions; conversion of a heat producing appliance from one (1) fuel to another, i.e., electric to gas or gas to electric or oil; addition of an electrical circuit to accommodate a washer or dryer; addition of central air conditioning when the unit is not designed for that purpose; improper or improperly listed materials for the repair of a unit; installing an unlisted heat producing appliance, etc. The following does not constitute an alteration or conversion; replacement of equipment in kind, i.e., gas furnace with gas furnace; replacement or changing or furniture to accommodate the consumer and any other cosmetic repairs.

(9) [(7)] Notification of a change in the application information must be made within thirty (30) days of any of the following occurrences:

(a) Dealership name is changed;

(b) Established place of business is changed;

(c) There is a change in twenty-five (25) percent or more of the ownership interest of the dealership within a twelve (12) month period; or

(d) There are changes in the principal officers of the firm.

(10) [(8)] A license may be denied, suspended or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application;

(c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willful failure to perform any written agreement with the buyer;

(e) Willfully defrauding any buyer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required liability insurance;

(h) Making a fraudulent sale, transaction or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure of a dealer to put the title to a mobile home in his name after said dealer has acquired ownership of the mobile home by trade or otherwise;

(k) Violation of any law relating to the sale or financing of mobile homes.

(11) [(9)] If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or amy member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while said agent is acting within the scope of his authority.

(12) [(10)] Upon proceedings for the suspension of a license for any of the violations enumerated in the Act, the licensee may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the usm of fifty dollars ($50) per day.

(13) [(11)] Procedure for denial, revocation, or suspension:

(a) The office may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(b) No license shall be suspended or revoked by the office except after a hearing thereon. The office shall give the licensee at least thirty (30) days notice of the time and place of hearing and of the charges to be heard.

(c) Any dealer who violates or fails to comply with the Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation, and instructed to correct the violation within *twenty (20)* [sixty (60)] days. Should the dealer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any license if it finds that:

1. The dealer has failed to pay the fees authorized by the Act; or [that]

2. The dealer either knowlingly or without the exercise of due care to prevent the same, has violated any provision of the Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

(14) [(12)] Any person aggrieved by any ruling of the office denying, suspending or revoking a license, within fifteen (15) days after such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine that the licensee has willfully or through gross negligence been guilty of a violation of any of the provisions of the Act, his license may be suspended or revoked.

(15) [(13)] Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

Section 10. Temporary Licenses. (1) Any dealer other than one duly licensed in Kentucky wishing to show and offer mobile homes within the Commonwealth of Kentucky for the express purpose of retailing said units to the general public, shall be required to purchase from the Office of the State Fire Marshal a temporary license. Said license shall not exceed fifteen (15) days duration and the license fee shall be *fifteen dollars ($15)* [twelve dollars and fifty cents ($12.50)] for each authorized event.

(2) Applicant shall meet the following requirements before a temporary license is granted:

(a) Be a duly licensed dealer in a state other than Kentucky.

(b) Must certify to the office that the dealership has proper liability insurance in the minimum amount of $50,000 bodily injury or death for each person, $100,000 bodily injury or death for each accident, and $25,000 property damage.

(c) Provide satisfactory assurance to the office *by way of a physical inspection by an authorized representative of this office, that each new unit not covered by the federal Act the dealer intends to display, show or offer for sale, bears a Kentucky Class "A" seal of approval. Used mobile homes are not permitted to be shown or offered for sale within the Commonwealth of Kentucky by non-resident dealers at any time;* [that all new units sold to Kentucky consumers bear the Kentucky Class "A" seal affixed on the unit by the manufacturer.]

(d) Provide all other information as may be required by the office.

(3) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business.

(4) Temporary licenses shall not be required for those dealers attending a mobile home show within the Commonwealth of Kentucky provided they do not sell or offer for sale to the general public new or used mobile homes.

Section 11. Seals: (1) No manufacturer who has received a certificate of acceptability from the office shall sell or offer for sale to Kentucky dealers in this state mobile homes not covered by the HUD Act, unless they bear a Class "A" seal of approval issued by and purchased from the office. This provision shall not apply to vehicles sold or offered for sale for shipment out of state.

(2) No dealer who has received a license from the office shall sell a mobile home unless it has a seal. Any dealer who has acquired a used mobile home without a seal shall apply to the office for a Class "B" seal by submitting an affidavit certifying either that all electrical, heating, and plumbing equipment has been checked, and if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(a) Acquistion of seal:

1. Any manufacturer, except one altering a new mobile home not covered by the HUD Act, bearing a seal, may qualify for acquisition of a Class "A" seal by obtaining a certificate of acceptability pursuant to KRS 227.580 and Section 7 of this regulation.

2. Any dealer, except one altering a mobile home bearing a seal, may qualify for acquistion of a Class "B" seal by giving an affidavit certifying either that all electrical, heating, and plumbing equipment has been checked, if necessary, repaired, and is now in safe working condition or that the unit meets the applicable code.

(b) Application for seals:

1. Any person who has met the applicable requirements of Sections 7 or 9 of this regulation shall apply for seals in the form prescribed by the office. The application shall be accompanied by the seal fee of twenty dollars ($20) for each Class "A" seal or twenty dollars ($20) for each Class "B" seal.

2. If the applicant has qualified to apply for seals pursuant to the in-plant quality control approval method, the seal application shall include the certificate of acceptability number.

(c) Alteration or conversion of a unit bearing a seal:

1. Any alteration of the construction, plumbing, heat-producing equipment, electrical equipment [or] installations or fire safety in a mobile home not covered by the HUD Act, which bears a seal, shall void such approval and the seal shall be returned to the office.

2. The following shall not constitute an alteration or conversion for those mobile homes not covered by the HUD Act:

a. Repairs with approved component parts.

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing.

c. Adjustment and maintenance of equipment.

d. Replacement of equipment in kind.

e. Any change that does not affect those areas covered by NFPA 501 (B).

3. Any dealer proposing an alteration to a mobile home not covered by the HUD Act, bearing a seal shall make application to the office. Such application shall include:

a. Make and model of mobile home.

b. Serial number.

c. State seal number.

d. A complete description of the work to be performed together with plans and specifications when required.

e. Location of the mobile home where work is to be performed.

f. Name and address of the owner of the mobile home.

4. Upon completion of the alteration, the applicant shall request the office to make an inspection.

5. The applicant may purchase a replacement seal, based on inspection of the alteration for a fee of two dollars ($2).

(d) Denial and repossession of seals: Should inspection reveal that a manufacturer is not costructing mobile homes not covered by the HUD Act, according to NFPA 501 (B) and such manufacturer, after having been served with a notice setting forth in what respect the provisions of these rules and the code have been violated, continues to manufacture mobile homes in violation of these rules and the code, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated and credit given. Upon satisfactory proof of compliance, such manufacturer may resubmit an application for seal.

(e) Seal removal: In the event that any mobile home not covered by the HUD Act, bearing the seal is found to be in violation of these rules, the office shall attach to the vehicle a notice of non-compliance and furnish the manufacturer or dealer a copy of same. The office, dealer or manufacturer shall not remove the non-compliance tag until corrections have been made, and the owner or his agent has requested an inspection in writing to the office or given an affidavit certifying compliance.

(f) Placement of seals:

1. Each seal shall be assigned and affixed to a specific mobile home not covered by the HUD Act. Assigned seals are not transferable and are void when not affixed as assigned, and all such seals shall be returned to or may be confiscated by the office. The seal shall remain the property of the office and may be seized by the office in the event of violation of the Act or regulations.

2. The seal shall be securely affixed by the door on the handle side at approximately handle height.

3. No other seal, stamp, cover, or other marking may be placed within two (2) inches of the seal.

(g) Lost or damaged seals:

1. When a seal becomes lost or damaged, the office shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the mobile home serial number, and when possible, the seal number.

2. All damaged seals shall be promptly returned. Damaged and lost seals shall be replaced by the office with a replacement seal on payment of the replacement seal fee of two dollars ($2).

APPENDIX A

UNIT CERTIFICATION FORMAT

_____

Name of Manufacturer

_____

Mailing Address County

_____, _____

City State Zip Code

I hereby certify that the mobile homes described hereon have been constructed in compliance with NFPA 501 B.

No.	Serial #	KY Seal #	Date Mfg.	Model	Size	Dealer
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						

This form must be used in reporting units to the Office of the State Fire Marshal. The form should be completed in duplicate with the original to be sent to the Office of the State Fire Marshal, and the copy retained by the manufacturer. This form should be mailed to the Office of the State Fire Marshal when the last entry has been filled or not later than the first week of each month.

_____, _____ BY _____

DATE PERSON AUTHORIZED TO CERTIFY THESE UNITS

APPENDIX B

Name of Dealer

Mailing Address

County

City

State

Zip Code

I hereby certify that the used units described hereon have been inspected and are in compliance with the standards as required by KRS 227.550 thru KRS 227.660 and regulations thereto and that the new mobile homes described hereon have the appropriate HUD label.

NO.	SERIAL #	HUD LABEL #/ KY SEAL #	DATE MFG.	MAKE	PURCHASER & ADDRESS

This form must be used in reporting units to the field inspector.

DATE

SIGNATURE

APPROVED: JOHN R. GROVES, JR., Commissioner
H. FOSTER PETTIT, Secretary

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
As Amended

904 KAR 2:035. Right to apply and reapply.

RELATES TO: KRS 205.200(1), 205.245, 205.520(3)
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: September 3, 1980
NECESSITY AND FUNCTION: The Department for Human Resources has the responsibility of administering public assistance programs under Titles IV-A, XVI and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, Mandatory and Optional Supplementation of the aged, blind and disabled, hereinafter referred to as MS and OS, and Medical Assistance, hereinafter referred to as MA. This regulation sets forth the procedure by which an application for assistance under these titles is made.

Section 1. Right to Apply or Reapply: Each individual wishing to do so shall have the opportunity to apply or reapply for any assistance program administered by the Department for Human Resources through the Bureau for Social Insurance. An individual eligible for a money payment [either] from the bureau or *eligible* [from the federal Bureau] for supplemental security income *through the Social Security Administration* is eligible for MA without a separate application. Denial of assistance by the *Social Security Administration* [Bureau] for supplemental security income for technical reasons is also considered a denial of MA.

Section 2. Application Process: An application will be considered to have been made when the individual or his representative has signed, under penalty of perjury, the application form prescribed by the Bureau for Social Insurance or the *Social Security Administration, for supplemental security income,* [Federal Bureau for Supplemental Insurance] and such application has been received at *the appropriate* [an] office [of the bureau].

Section 3. Who May Sign an Application: (1) An application for AFDC shall be signed by the relative with whom a needy child lives[, the parent or natural guardian of the relative,] or the legally appointed committee of the relative.

(2) An application for MA shall be signed by the individual requesting assistance, the relative with whom the child lives, or an interested party acting in behalf of the applicant.

(3) An application for AFDC-FC (foster care) or MA for children in foster care or private child caring institutions shall be signed by the representative of the agency to which the child is committed or the institution in which the child is placed.

(4) An application for state supplementation shall be signed by the aged, blind or disabled individual, *an interested party,* his legally appointed committee or the representative payee receiving the supplemental security income benefit.

Section 4. Where Applications are Filed: *(1)* Applications are to be filed in the office of the Bureau for Social Insurance in the county in which the applicant resides except that a concurrent application for supplemental security income and MA is filed in the service area office of the Social Security Administration.

(2) [Applications may be made by a] When a Kentucky resident is [while] temporarily out-of-state, [by] a letter from the applicant, [by] an interested party [in the state,] or [by] an out-of-state agency will be accepted as the initiation of the application process when[;]

[(a)] An emergency arises from accident or sudden illness, [;]

[(b)] Care and services are needed immediately, [;] and

[(c)] Health would be endangered if he undertook to return to the state. In this situation, the official application form will be forwarded to the initiating party.

Section 5. Action on Applications: A decision shall be made on each application *and a check mailed* with reasonable promptness, that is within five (5) days for emergency assistance, forty-five (45) days for AFDC or MA for families and/or children, or sixty (60) days for MA or OS determinations in which permanent and total disability must be established. Exception to the above time standard may be made *when the applicant is cooperating but is unable to obtain necessary verification for an eligibility decision to be made or* in instances in which delay is beyond the control of the bureau, that is failure or delay on the part of the applicant or examining physician or because of some administrative or other emergency that could not be controlled by the bureau[, in which instances the case record shall show the cause for the delay]. *When the above time standards are not met, the case record shall document the cause for the delay.* Failure to process an application within the above time frame shall not be used as the basis for denial.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: August 28, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: September, 3, 1980 at 10 a.m.

Amended After Hearing

(Republished prior to Subcommittee consideration as required by KRS 13.085(4).)

DEPARTMENT OF FINANCE
Divisions of Occupations and Professions
Board of Nursing
Amended After Hearing

201 KAR 20:056. Advanced registered nurse practitioner.

RELATES TO: KRS 314.011
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: The 1978 revision of the Nurse Practice Act provides for the registration of advanced registered nurse practitioner. It is necessary to define the qualifications of those to be registered.

Section 1. The Kentucky Board of Nursing shall register as advanced registered nurse practitioners pursuant to KRS 314.131 those who:
(1) Are currently licensed to practice as a registered nurse in Kentucky;
(2) Have completed an organized post-basic program of study and clinical experience recognized by the board and one (1) of the following national organizations: American Nurses' Association, American College of Nurse Midwives, American Association of Nurse Anesthetists, National Board of Pediatric Nurse Practitioners/Associates, Nurses' Association of the American College of Obstetricians and Gynecologists, or other national organizations as designated by the board through amendment to this regulation and in collaboration with the Nurse Practice Council; and
(3) Are currently certified by one (1) of the following national organizations: American Nurses' Association as practitioners and clinical specialists, American College of Nurse Midwives as nurse midwives, Council on Certification/Recertification of Nurse Anesthetists (or their predecessor, American Association of Nurse Anesthetists) as nurse anesthetists, National Board of Pediatric Nurse Practitioners/Associates as practitioners, Nurses' Association of the American College of Obstetricians and Gynecologists as practitioners, or other national organizations as designated by the board through amendment to this regulation and in collaboration with the Nurse Practice Council.

Section 2. A nurse who meets the qualifications of Section 1 shall be issued an advanced registered nurse practitioner number and shall have the advanced registered nurse practitioner designation on the registered nurse license.

Section 3. Registration will be granted each year at the time of the renewal of the registered nurse license upon verification of the requirement of Section 1(1) and (3).

Section 4. A nurse who meets the requirements of Section 1(1) and (2) and who is eligible for and has applied for initial certification by one (1) of the national organizations specified in Section 1(3) may practice under the supervision of a certified advanced registered nurse practitioner of the same specialty or a licensed physician until results of the certification examination have been received or for a period not to exceed one (1) year beyond the practice requirement for certification.

Section 5. An advanced registered nurse practitioner who has applied for recertification by one (1) of the national organizations specified in Section 1(3) may practice as an advanced registered nurse practitioner until the results of the recertification have been received.

Section 6. (1) A nurse who fails to attain certification from one (1) of the national organizations specified in Section 1(3) will not be registered as an advanced registered nurse practitioner and may not practice or use the title of advanced registered nurse practitioner until the requirements of Section 1 have been met.
(2) An advanced registered nurse practitioner who fails to attain recertification as required by the appropriate national organization will be notified that his/her advanced registered nurse practitioner number is void and he/she may not practice as or use the title of advanced registered nurse practitioner until recertification has been achieved.
(3) An advanced registered nurse practitioner who is decertified by the appropriate national organization shall notify the board of that fact and he/she shall not practice as or use the title of advanced registered nurse practitioner during the period of decertification.

Section 7. The requirements of this regulation do not prohibit the supervised practice of nurses enrolled in post-basic educational programs for preparation in advanced registered nursing practice.

Section 8. Any registered nurse, and those registered nurses who hold themselves out as clinical specialists or are known as such, whose practice does not include the performance of procedures which are normally construed as the practice of medicine, shall not be included under the requirements of this regulation.

Section *9.* [8.] No nurse shall practice as an advanced registered nurse practitioner or use any words or letters to indicate the nurse is an advanced registered nurse practitioner unless registered by the Kentucky Board of Nursing.

Section *10.* [9.] Any nurse practicing as an advanced registered nurse practitioner who is not registered as such by the board or any advanced registered nurse practitioner whose practice is inconsistent with the specialty to which he/she has been designated, may be subject to the disciplinary procedures set in KRS 314.091.

Section *11.* [10.] 201 KAR 20:055 is hereby repealed.

SHARON M. WEISENBECK, R.N., Executive Director
ADOPTED: August 14, 1980
RECEIVED BY LRC: September 8, 1980 at 11:50 a.m.

Proposed Amendments

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:010. *Objective of physical therapy* [Definitions].

RELATES TO: KRS 327.010
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The practice of physical therapy is rapidly evolving and changing in purpose and scope. The purpose of this regulation is to clearly define the desired goals of physical therapy and the permissible means of achieving these goals. In this manner, standards of physical therapy practice are clearly established and may be used to evaluate particular treatments which have been used or which may later evolve.

Section 1. Goals of the patient-physical therapy unit include maintaining health, preserving functional capacity, and in the presence of impairment, developing or re-establishing function through carefully planned and implemented programs. In order to reach these objectives, the physical therapist evaluates patients, identifies problems, plans programs, and provides direct treatment.

Section 2. Patient Management. Adequate, effective, and efficient patient care is the ultimate goal of physical therapy. The physical therapist evaluates each patient, and determines those ways in which he can contribute to total health management. With consent from referring physician, *podiatrist* or dentist he then plans and implements a treatment program, re-evaluating and making modifications as necessary.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:020. *Method of applying* [Application] for licensure.

RELATES TO: KRS 327.050
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: Describes the criteria for eligibility, methods, and procedures of applying for a license to practice physical therapy in Kentucky.

Section 1. To be eligible for licensure *by* examination, the applicant must have successfully completed the academic and clinical requirements of the *program* [curriculum] and have been granted certification of completion. All physical therapy *programs* [schools and colleges] approved by the American Physical Therapy Association and the Council on *Allied Health Education and Accreditation* [Medical Education] of the American Medical Association are periodically reviewed and updated for approval by the Kentucky State Board of Physical Therapy.

Section 2. A person desiring to practice as a physical therapist in Kentucky must apply to the Kentucky State Board of Physical Therapy. An application form will be sent to the applicant by the *executive* secretary of the board. When the [applicant shall return the completed form accompanied by] *completed application, certification of completion of academic and clinical portions of an approved physical therapy program and* a money order, *cashier's* or certified check for seventy-five dollars ($75) made payable to the Kentucky State Treasurer, *have been received, the applicant* [he] becomes an official candidate for licensure. At the request of the applicant, the board shall determine the necessity of conducting a hearing regarding licensure qualifications of said applicant.

Section 3. *Three (3)* [Four (4)] types of candidates will be accepted for licensure:
(1) Examination,
[(2) Reciprocity,]
(2) [(3)] Endorsement, and
(3) [(4)] Reinstatement.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:070. Requirements for foreign-trained *physical* therapists.

RELATES TO: KRS 327.060
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: This regulation establishes the requirements of a foreign-trained physical therapist to permit *the therapist* [him] to become licensed in the State of Kentucky. Because of variances in curriculums of foreign countries, specific requirements are needed to assure that the applicant possesses adequate educational and clinical preparation.

Section 1. The following [are] requirements for a

foreign-trained physical therapist to *become licensed must be fulfilled* [sit for the license examination]:

(1) [To] Furnish the [state] board *a report of an appropriate credentialing agency for educational status. The board, may have these reports reviewed* [documentation of educational requirements and certificate of good health].

(2) [To] Present oneself for an interview by the state board and demonstrate during the interview proficiency with the use of the English language.

(3) [To] Furnish the board evidence of *legal* [immigrant or citizenship] status in this country.

[(4) Board to be furnished with evidence of completion of highest level of secondary education offered in the country of that education, or the equivalence of it.]

[(5) Graduation since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located, and in which there is a member organization of the World Confederation for Physical Therapy.]

[(6) Eligibility for or membership in a World Confederation for Physical Therapy member organization.]

(4) [(8)] *Successful* [Satisfactory] completion of one (1) year of *direct supervised practice under a physical therapist licensed under this chapter* [clinic experience under the supervision of a Kentucky licensed physical therapist]. *This requirement may be satisfied by one (1) year of practice as a licensed physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky. If the clinical experience is in Kentucky, evidence in writing of successful completion and performance is required* [or licensee of a state or territory with substantially the same requirements with prior sanction of the Kentucky State Board of Physical Therapy, or under the supervision of the APTA foreign trained program].

(5) [(9)] *Successful* [Satisfactory] completion of *the* [a qualifying] examination as *specified in KRS 327.050* [prescribed]. *The examination may be taken at any time the candidate desires* [by the Kentucky State Board of Physical Therapy].

Section 2. All documents submitted to the board must be in the native script accompanied by a certified complete translation.

Section 3. Following completion of Section 1(1) to (4), the applicant by examination will be issued a temporary license to practice under the direct supervision of a Kentucky licensed therapist.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:125. Board representative for assistants.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: Since the State Board of Physical Therapy administers the regulations for the physical therapist's assistant, it may be advisable to request an assistant to serve as a consultant to the board on assistant certification and processing of candidate applications. This regulation permits the assistant population a board representative whenever needed.

Section 1. Two (2) assistants may be appointed by the board on adoption of *this* [these] regulation[s]. Subsequent appointments by the board will be made from a list of at least three (3) qualified assistants recommended by the Kentucky Chapter of the American Physical Therapy Association. Assistants will serve as consultants to the board on matters concerning certification and administration of [these] regulations. The consulting assistants attending board meetings shall be entitled to a per diem of *thirty dollars ($30)* [fifteen dollars ($15)] and reasonable expenses *according to state policy.*

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

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

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

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

Section 1. Seasons *for Gun and Archery.* (1) Ducks, Coots and Mergansers: November *26* [21] through November *30* [25], *1980* [1979]. December 7 through January 20, *1981* [1980].

(2) Geese: November 12 thrugh January 20, *1981* [1980].

(3) Rails (Sora and Virginia): November 12 through January 20, *1981* [1980].

(4) Gallinules: November 12 through January 20, *1981* [1980].

Section 2. Limits *for Gun and Archery.* (1) Ducks:

(a) Bag limits. A point system bag limit is in effect. Point values for species and sexes taken are as follows (either sex unless specified):

1. Canvasback: 100 points;
2. Hen mallard, black duck, wood duck, hooded merganser and redhead: 70 points;

3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, widgeon, gadwall, shoveler, scaup and mergansers (except hooded merganser): 10 points;
4. Drake mallard and all other species of ducks not mentioned above: 25 points;
5. Coots; but limited to 15 daily and 30 in possession: 0 points.

(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points. The maximum number of points possible is 195.

(c) Possession limits. The possession limit is the maximum number of ducks of those species and sexes which could have legally been taken in two (2) days. The maximum number of points possible for the possession limit is 390.

(2) Geese:

(a) Bag limits, statewide. Five (5) *(no more than two (2) Canada and two (2) white-fronted geese)* [(only two (2) Canada or two (2) white-fronted or one (1) of each)].

(b) Possession limits, statewide. *Ten (10)* [Five (5)] (any combination of Canada, blue, snow or white-fronted geese, not to include more than four (4) Canada and *four (4)* white-fronted [in the aggregate, of which not more than two (2) may be white-fronted geese)].

(3) Others:

(a) Coots: bag limit 15; possession limit 30;

(b) Rails (Sora and Virginia): bag limit 25 (singly or in the aggregate); possession limit 25 (singly or in the aggregate);

(c) Gallinules: bag limit 15; possession limit 30.

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

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

Section 5. Seasons for Falconry. All species listed in Section 1 may be taken by means of falconry by licensed falconers. The falconry season begins on November 1, 1980 and extends through January 20, 1981.

Section 6. Limits for Falconry. Daily bag and possession limits shall not exceed three (3) and six (6) birds respectively, of any species listed in Section 1, singly or combination, during both the regular gun and archery hunting season or the extended falconry season.

Section 7. Hunting Hours for Falconry. The hunting hours will conform with those stated in Section 3.

Section *8.* [5.] Ballard County Goose Quota Zone. (1) Canada goose quota. *There will be no quota on the harvest of Canada geese in the Ballard quota zone during the 1980-81 waterfowl season.* [Federal regulations limit the harvest of Canada geese to 15,000 in the designated quota zone.] *However, the U.S. Fish and Wildlife Service and Mississippi Flyway Council require that the goose harvest continue to be monitored as prescribed in 301 KAR 2:055 and 301 KAR 3:070.*

(2) Quota zone boundaries. The Ballard County Canada goose quota zone is described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

(3) Quota zone permit requirements. All persons hunting geese on commercial waterfowl shooting areas and non-commercial lands and/or waters within the designated quota zone must comply with regulations 301 KAR 2:055 and 301 KAR 3:070.

[(4) Closure of quota zone. When it has been determined that the Canada goose quota of 15,000 will have been filled prior to January 20, the season for taking Canada geese in the quota zone will be closed by the Commissioner of the Department of Fish and Wildlife Resources upon giving public notice through the news media at least forty-eight (48) hours in advance of the time and date of closing.]

Section *9.* [6.] Migratory Bird Shipping and Transportation Restrictions. For information on tagging, shipping, transporting and storing migratory game birds, refer to regulation 301 KAR 2:090 or federal law 50 CFR part 20. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the postal service, or by any person except as the personal baggage of the hunter taking the birds.

Section *10.* [7.] Methods of Taking. For information on legal methods of taking migratory birds, refer to regulation 301 KAR 2:090 or federal law 50 CFR part 20.

Section *11.* [8.] Waterfowl Seasons on Specified Wildlife Management Areas. (1) Ballard County Wildlife Management Area, located in Ballard County, Kentucky, and described as follows: bounded on the north by the Turner Landing Road, on the west by the Ohio River, on the south by the Terrell Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line; a tract of land known as the Rudy and Haydon tracts bounded on the south by the Turner Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line, on the north by Kentucky Highway 473, then running south along the east bank of Mitchell Lake to the Turner Landing Road; also, open on the north side of the refuge proper a tract of land north of the Clark Line Road including Shelby Lake and west to the Ohio River and continuing north to yellow signs.

(a) Species and seasons:

1. Ducks, Coots and Mergansers: December *8* [7] through January 20, *1981* [1980] (excluding Sundays and Christmas Day [except on Sunday January 20, 1980]);
2. Geese: *December 8* [November 26] through January 20, *1981* [1980] (excluding Sundays and Christmas Day [except on Sunday January 20, 1980]).

(b) There will be an eight (8) shell limit per hunter on the Ballard County Wildlife Management Area when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is permitted in goose hunting areas but shooting geese in duck areas is prohibited. The barrel and magazine of all guns will be checked for ammunition before the hunter enters the check station. No shot larger

than BBs may be used or possessed for hunting waterfowl. Any hunter on the management area under the age of eighteen (18) must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

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

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties. [and described as follows:] Waterfowl hunting is permitted on Kentucky Lake [below elevation 359 feet and at higher elevations within twenty-five (25) yards of the 359 feet elevation,] *and LBL inland areas from the* Kentucky-Tennessee state line to Barkley Canal [in all bays is open to hunting,] except Smith and *Duncan* [Pisgah] Bays *and Energy Lake* which are indicated by signs and are closed to hunting. Duncan Bay is an eagle and waterfowl refuge during the dates designated by signs posted along the boundary. It is closed to all activity. The remainder of Kentucky Lake is open to waterfowl hunting in conformance with statewide regulations. No permits are required *for hunting on Kentucky Lake, but an annual LBL hunting permit is required for hunting on inland areas of LBL. For purposes of this regulation, the Kentucky Lake shoreline bordering LBL is considered an inland area. Permanent pits and blinds are not permitted on inland areas. Temporary blinds and decoys may be used but they must be removed at the close of each hunting day. Waterfowl hunting on inland areas is not permitted on the days of quota deer hunts as well as the day immediately preceding each quota deer hunt. The Environmental Education Center is closed to all waterfowl hunting.*

(3) Lake Barkley Wildlife Management Area:

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

(b) Open hunting areas. Hunting will be permitted on the remainder of Lake Barkley with the exception of recreation areas and access points which will be closed and designated by posted signs at the entrace of said areas. Waterfowl hunting along the western shore of the lake will be confined to those areas *outside the refuge between river mile 51 and river mile 57.3.* [below the 359 feet contour, and those areas within twenty-five (25) yards of the 359 feet elevation.] *No hunting is allowed on the shoreline between the refuge area.*

(c) Permanent blinds or pits must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Maintenance Shop located at Barkley Dam off U.S. Highway 641-62 on October *6* [1] from 8:00 a.m. to 9:00 a.m. prevailing time. Applicants for permanent blinds or pits will take part in a special drawing to determine the order of blind registration. The drawing, which will close promptly at 9:00 a.m., will be followed by registration in which hunters with the lowest numbers will receive first choice of locations. Hunters who miss out on the special October *6* [1] drawing will be registered on a first come first served basis at the resource manager's office from 8:00 a.m. to 3:00 p.m. (prevailing time) weekdays, except federal holidays, from October *7* [2] through November 30. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. Any waterfowl hunter may occupy any unoccupied blind or pit until claimed by the permittee. All pits and blinds must be 150 yards apart and 200 yards from any refuge as designated by signs. Permanent pits or blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties and including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources as marked by red painted steel boundary posts are open to waterfowl hunting during the regular statewide season with the following exceptions: all recreation areas, operational areas and islands (except Mason Island) are closed to all hunting. Lands under license to the department are open to hunting for all other wildlife species during the regular statewide seasons. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration and a drawing for permanent blinds will be conducted at the Barren Lake resource manager's office located near the dam off Kentucky Highway 252, on October *3* [2] from 7:00 a.m. to 9:00 a.m. prevailing time. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(5) Nolin, Rough, Green and Buckhorn Wildlife Management Areas, including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources, and excluding all recreation and park areas, are open to all waterfowl hunting during the regular statewide season. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the resource managers' offices located at or near the dam sites, from October 2 through December 31, *1980* [1979] during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one permit will be issued per hunter. All blinds must be 100 yards

apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

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

(a) Only permanent pits or blinds will be allowed for waterfowl hunting. These will be registered on a permit issued by the Department of Fish and Wildlife Resources. Applicants for a permanent pit or blind must show a current Kentucky hunting license before a permit will be issued. Applicants for pits or blinds will take part in a special drawing to determine the order of blind registration. The drawing for numbers will take place on October *1, 1980* [11, 1979], from *6:00* [7:00] p.m. until 8:00 p.m. prevailing time at the Henderson Community and Youth Center in Atkinson Park, Henderson, Kentucky. The drawing, which will close promptly at 8:00 p.m. will be followed by registration in which hunters with the lowest numbers will receive first choice of pit or blind locations. *A hunter may designate one (1) other person as a partner for registration. Two (2)* [A] nontransferable permits will be issued for each permanent pit or blind and only one (1) permit per hunter will be issued. *Either of the permittees for a location* [Permittees] will have priority over other users of their registered pits or blinds and may claim ownership by showing their permit. Registered pits or blinds must not be locked to exclude other hunters when not occupied by the permittee. Any waterfowl hunter may occupy any unoccupied pit or blind until claimed by the permittee. Only four (4) hunters may occupy a pit or blind at one time. All blinds and pits must be 100 yards apart *and at the designated locations.* Permit holders who have not constructed their pit or blind at the *designated* [registered] location by November 10, *1980* [1979], will lose their location and the site may be assigned to another hunter. *Blinds or pits and all construction materials must be removed from the area no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.*

(b) When the Ohio River stage at the Uniontown Lock and Dam reaches a level that requires boat access to the unit, hunting will be allowed from boats, spaced 100 yards apart, without regard to the registered pits or blinds.

Section *12.* [9.] Wildlife Management *Areas, Counties* and Other Areas Closed or Partially Closed to Hunting of Waterfowl: (1) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. This area is bounded on the north by Kentucky Highway 268 and includes all state-owned lands to the south within the area designated by yellow signs.

(2) Dewey Lake Wildlife Management Area located in Floyd County *is closed to all waterfowl hunting.*

(3) Grayson Lake Wildlife Management Area located in Carter and Elliott Counties *is closed to all waterfowl hunting.*

(4) *Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed only to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.* [Cave Run Lake located in Bath, Rowan, Menifee and Morgan Counties, is closed only to the hunting of geese on all lands and waters enclosed within a boundary marked by a red painted line and metal posts with green painted tops.]

(5) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties *is closed to all waterfowl hunting.*

(6) Cane Creek Wildlife Management Area located in Laurel County *is closed to all waterfowl hunting.*

(7) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties *is closed to all waterfowl hunting.*

(8) Redbird Wildlife Management Area located in Leslie and Clay Counties *is closed to all waterfowl hunting.*

(9) Mill Creek Wildlife Management Area located in Jackson County *is closed to all waterfowl hunting.*

CARL E. KAYS, Commissioner
JACK T. BROOKS, Chairman
ADOPTED: August 25, 1980
APPROVED: JAMES K. NAVOLIO, Secretary
RECEIVED BY LRC: September 10, 1980 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

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

301 KAR 3:021. Hunting and fishing license fees.

RELATES TO: KRS 150.025, 150.175, 150.237, 150.225
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: The Commissioner, with the concurrence of the Fish and Wildlife Resources Commission, finds it necessary to establish the hunting and fishing license fees schedule in this regulation to generate the necessary funds to finance programs to protect, manage, and conserve the fish and wildlife resources of the state so a permanent and continued supply will be maintained for the benefit of present and future generations.

Section 1. License fees for hunting and fishing are as follows:

(1) Sport fishing license:

Statewide fishing license (resident): $ *7.50* [6.50]

Statewide fishing license (nonresident): $ *16.00* [14.00]

Ohio River fishing license (resident Ohio, Indiana and Illinois only): $ *7.50* [6.50]

15-day fishing license (nonresident only): $ *6.50* [5.50]

3-day fishing license (nonresident only): $ *5.00* [4.00]

Trout stamp $ *3.50* [3.00]

(2) Commercial fishing license:

Commercial fishing license (resident) plus 10 commercial gear tags: $ *72.00* [62.50]

Commercial fishing license (nonresident) plus 10 nonresident commercial gear tags: $ *500.00* [125.50]

Ohio River commercial fishing license (resident Ohio, Indiana and Illinois only) plus 10 Ohio River commercial gear tags: $ *72.00* [62.50]

(3) Commercial fishing gear tag (not to be sold singly):
Commercial fishing gear tag (resident) blocks of 10 tags: $*6.50* [5.50]
Commercial fishing gear tag (nonresident) blocks of 10 tags: $*58.00* [50.50]
Ohio River commercial fishing gear tag (resident Ohio, Indiana and Illinois only) block of 10 tags: $*21.50* [18.50]
(4) Special experimental commercial fishing permit: $500.00
(5) Live fish and bait dealers license:
Live fish and bait dealers license (resident) Separate license required for each place of business: $*25.50* [22.50]
Live fish and bait dealers license (nonresident): $*42.50* [37.50]
(6) Mussel license:
Musseling license (resident): $*25.50* [22.50]
Musseling license (nonresident): $*300.00* [300.50]
Mussel buyer's license (resident): $*100.00* [125.50]
Mussel buyer's license (nonresident): $*300.00* [350.50]
(7) Hunting license:
Statewide hunting license (resident): $*7.50* [6.50]
Statewide hunting license (nonresident): $*40.00* [35.00]
Statewide hunting license, small game only (3-day nonresident): $*14.50* [12.50]
Statewide junior hunting license (resident only): $*4.00* [3.50]
(8) Hunting and fishing license (combination resident): $*14.00* [12.00]
(9) Trapping license:
Trapping license (statewide resident): $*11.50* [10.00]
Trapping license (resident landowner/tenant): $*6.00* [5.00]
Trapping license (nonresident): $*115.00* [100.00]
Trap tags: $*.20* [.15]
(10) Big Game license:
Big Game permit, deer (resident or nonresident): $*11.50* [10.50]
Big Game permit, turkey (resident or nonresident): $*6.50* [5.50]
(11) Taxidermist license: $*11.50* [10.00]
(12) Commercial guide license:
Commercial guide license (resident): $*14.50* [12.50]
Commercial guide license (nonresident): $*42.50* [37.50]
(13) Fur dealer's license:
Fur processor's license (resident): $*150.00* [125.00]
Fur buyer's license (resident): $*30.00* [25.00]
Fur buyer's license (nonresident): $*230.00* [200.00]
(14) Special nonresident hunting preserve license valid only for preserve issued (not required if hunter has valid hunting license): $*7.50* [6.50]
(15) Kentucky regulated shooting preserve permit: $*35.00* [30.00]
(16) Pet and propagation permit *for game and fish*: [$5.00]
Pet and propagation permit for game and fish, noncommercial: $6.00
Pet and propagation permit for game and fish, commercial: $30.00
(17) Scientific fish and wildlife collecting permit[, educational]: [$2.00]
Scientific fish and wildlife collecting permit, educational: $3.00
Scientific fish and wildlife collecting permit, commercial: $115.00
(18) Food permit:
Food permit for selling bobwhite quail from propagation farms only: $*150.00* [125.00]
Retail food permit for propagated quail: $*2.50* [2.00]
(19) Commercial waterfowl shooting permit (operator's license): $*40.00* [35.00]
(20) Falconry permit (birds of prey): $*12.00* [10.00]
(21) Pay lake license (Minimum $*55* [50] for first two (2) acres or less; $10 per additional acre or part thereof, up to maximum of $*115* [100])
(22) Shoot to retrieve field trial permit (per day): $30.00
(23) Bird dog training device: $2.50

Section 2. The kind of license or tags authorized by this regulation shall not be changed, altered, or defaced in any manner, except trout stamp, which must carry the licencee's signature in ink across the face of stamp and be attached to the back of the proper fishing license. All licenses, permits, tags, and stamps are nontransferrable.

Section 3. This regulation *as amended* shall become effective on January 1, *1982* [1979].

CARL E. KAYS, Commissioner
JACK T. BROOKS, Chairman
ADOPTED: August 25, 1980
APPROVED: JAMES K. NAVOLIO, Secretary
RECEIVED BY LRC: September 10, 1980 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, 592 East Main Street, Frankfort, Kentucky 40601.

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

401 KAR 2:070. Record keeping, operating standards, and reporting procedures.

RELATES TO: KRS 224.071, 224.255, 224.890
PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.890
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 generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a manifest before transporting the waste off-site.
(2) A generator must designate on the manifest one (1) facility which is permitted to handle the waste described on the manifest.
(3) A generator may also designate on the manifest one (1) alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
(4) The manifest must contain all of the following information:
(a) A manifest document number;
(b) The generator's name, mailing address, telephone number, and identification number;

(c) The name and identification number of each transporter;

(d) The name, address, and identification number of the designated facility and an alternate facility, if any;

(e) The description of the waste(s) (e.g., proper shipping name, etc.) required by regulations of the U. S. Department of Transportation in 49 CFR 172.101, 172.202, and 172.203, filed herein by reference;

(f) The total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle.

(5) The following certification must appear on the manifest: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U. S. Department of Transportation, the U. S. Environmental Protection Agency, and the Kentucky Department for Natural Resources and Environmental Protection."

(6) The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one (1) copy each for their records and another copy to be returned to the generator.

(7) The use of the manifest shall be required *on the effective date of this regulation* [upon public notice by the department].

(8) The department's manifest form shall be used for intra-state shipments of hazardous waste and for shipments originating outside the state but destined for treatment, storage or disposal within Kentucky. For shipments of hazardous waste originating within Kentucky but bound for treatment, storage or disposal outside the state, the receiving state's manifest may be used providing that it meets the requirements of this section.

Section 2. Manifest and Other Procedures for Generators. (1) The generator must:

(a) Sign the manifest certification by hand; and

(b) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(c) Retain one (1) copy.

(2) The generator must give the transporter the remaining copies of the manifest.

(3) For shipment of hazardous waste within the United States solely by railroad or solely by water (bulk shipments only), the generator must send three (3) copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility. Copies of the manifest are not required for each transporter.

(4) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable U. S. Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179, filed herein by reference.

(5) Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable U. S. Department of Transportation regulations on hazardous materials, under 49 CFR 172, filed herein by reference.

(6) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable U. S. Department of Transportation regulations on hazardous materials under 49 CFR 172; filed herein by reference.

(7) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation in accordance with the requirements of 49 CFR 172.304, filed herein by reference. The following words and information shall be displayed: "Hazardous Waste—Kentucky Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the Division of Hazardous Material and Waste Management, Frankfort, Kentucky.
Generator's Name and Address _____;;
Manifest Document Number _____."

(8) Before tansporting hazardous waste or offering hazardous waste for transportation off-site, a generator must offer the initial transporter the appropriate placards according to U. S. Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F, filed herein by reference.

(9) A generator may accumulate hazardous waste on-site without a permit for ninety (90) days or less, provided that:

(a) All such waste is shipped off-site in ninety (90) days or less;

(b) The waste is placed in containers which meet the standards of this section;

(c) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(d) Each container is properly labeled and marked according to this section; [.]

(e) The generator complies with the requirements specified in 40 CFR 265.16 and Subpart C and D of 40 CFR 265, filed herein by reference.

(10) A generator who accumulates hazardous waste for more than ninety (90) days is an operator of a storage facility and is subject to the requirements of this regulation.

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 for shipments received from out of state.

(5) The owner/operator shall handle manifest discrepancies as required by 40 CFR 265.72, filed herein by reference.

(6) The owner/operator shall handle unmanifested shipments as required by 40 CFR 265.76, filed herein by reference.

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 for, at a minimum, 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 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 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 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 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) Unless decontaminated in a manner approved by the department, 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 explosions 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 Facilities of Hazardous Waste. (1) No person or state or federal agency shall store a hazardous waste without written permission from the department.

(2) Any *generator* [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 *by a generator for* longer than ninety (90) days be removed and disposed of in a manner acceptable to the department.

(4) Hazardous waste in storage *by a generator* 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 container or 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) 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 2:060.

(4) Burning wastes shall not be disposed of 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 of on land. Such wastes shall be destroyed or used so as not to present a hazard to public health or the environment.

(6) 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 2:050, can come in contact with each other.

(7) 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.

(8) 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 subsection (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.

(5) The retention period for all records required under this section is automatically extended during the course of an unresolved enforcement action regarding the facility or as requested by the secretary.

Section 10. 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 showing the identity, source, chemical composition, weight or volume, physical state, container type, hazardous properties and method used to dispose of each

waste. The reports should not be required more frequently than once per quarter.

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.

Section 12. Generator Recordkeeping and Reporting. (1) A generator must keep a copy of each manifest signed in accordance with Section 2(1) for three (3) years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three (3) years from the date the waste was accepted by the initial transporter.

(2) A generator must keep a copy of each annual report and exception report for a period of at least three (3) years.

(3) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with 401 KAR 2:075 for at least three (3) years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the secretary.

(5) A generator who ships his hazardous waste off-site must submit annual reports:

(a) On a form approved by the department according to the instructions on the form;

(b) To the department;

(c) No later that March 1 for the preceding calendar year.

(6) Any generator who treats, stores, or disposes of hazardous waste on-site must submit an annual report covering those wastes.

(7) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(8) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter. The exception report must include:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(9) The secretary may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 401 KAR 2:075.

Section 13. International Shipments. (1) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States must comply with the requirements of this section.

(2) When shipping hazardous waste outside the United States the generator must:

(a) Notify the department *and the U. S. Environmental Protection Agency* in writing four (4) weeks before the initial shipment of hazardous waste to each country in each calendar year. The waste must be identified by its hazardous waste identification number and its U. S. Department of Transportation shipping description;

(b) Require the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose;

(c) Meet the requirements under Section 1 for the manifest, except that:

1. In place of the name, address, and identification number of the designated facility, the name and address of the foreign consignee must be used;

2. The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

(3) A generator must file an exception report, if:

(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter; or

(b) Within ninety (90) days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(4) When importing hazardous waste, a person must meet all requirements of Section 1 for the manifest except that:

(a) In place of the generator's name, address and identification number, the name and address of the foreign generator and the importer's name, address and identification number must be used.

(b) In place of the generator's signature on the certification statement, the U. S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

Section 14. Farmers. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this regulation or other standards in 401 KAR 2:060 for those wastes provided he triple rinses each emptied pesticide container and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

JACKIE SWIGART, Secretary

ADOPTED: September 15, 1980

RECEIVED BY LRC: September 15, 1980 at 2 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Friday, October 31, 1980, at 10 a.m., EST, in the State Office Building Auditorium, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

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

401 KAR 59:005. General *p*[P]rovisions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.

Section 1. Applicability. The provisions of this chapter shall apply to the owner or operator of any new source for which a standard of performance has been promulgated under this chapter.

Section 2. Performance Tests. (1) Within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the department, the owner or operator of any affected facility except those affected facilities specified below shall conduct performance test(s) according to 401 KAR 50:045 and furnish the department a written report of the results of such performance test(s).

(a) Process operation with a process weight rate of less than 100 tons per hour;

(b) Indirect heat exchanger of 250 million BTU heat input per hour or less;

(c) Incinerator with a charging rate of forty-five (45) metric tons per day (fifty (50) tons/day) or less;

(d) Affected facilities specified in 401 KAR 59:046, *401 KAR 59:048,* 401 KAR 59:050, 401 KAR 59:090, 401 KAR 59:095, 401 KAR 59:101, 401 KAR 59:175, 401 KAR 59:180, 401 KAR 59:185, 401 KAR 59:190, 401 KAR 59:195, 401 KAR 59:200, 401 KAR 59:210, *401 KAR 59:212, 401 KAR 59:214,* 401 KAR 59:215, [and] 401 KAR 59:220, *401 KAR 59:225, 401 KAR 59:230, 401 KAR 59:235, and 401 KAR 59:240.*

(2) The department may require the owner or operator of any affected facility including those specified in subsection (1) of this section to conduct performance test(s) according to 401 KAR 50:045 and furnish a written report of the results of such performance test(s).

Section 3. Notification and Recordkeeping. Nothing in this section shall relieve the owner or operator from the responsiblity of obtaining the appropriate permits required by 401 KAR 50:035.

(1) Any owner or operator subject to the provisions of this regulation shall furnish the department written notification as follows:

(a) A notification of the date of construction, reconstruction, or modification of an affected facility is commenced, postmarked no later than thirty (30) days after such date;

(b) A notification of the anticipated date of initial startup of an affected facility postmarked not more than sixty (60) days nor less than thirty (30) days prior to such date;

(c) A notification of the actual date of initial startup of an affected facility postmarked within fifteen (15) days after such date;

(d) A notification of any physical or operational change to an affected facility which may increase the emission rate of any air pollutant to which a standard applies. This notice shall be postmarked sixty (60) days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The department may request additional relevant information subsequent to this notice;

(e) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with Section 4(3). Notifications shall be postmarked not less than thirty (30) days prior to such date.

(2) Any owner or operator subject to the provisions of this chapter shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(3) Each owner or operator required to install a continuous monitoring system shall submit for every calendar quarter a written report of excess emissions (as defined in applicable sections) to the department. Both a printed report and computer tape or cards shall be furnished in the format specified by the department. All quarterly reports shall be postmarked by the thirtieth (30th) day following the end of each calendar quarter and shall include the following information:

(a) The magnitude of excess emissions computed in accordance with Section 4(8), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions;

(b) All hourly averages shall be reported for sulfur dioxide and nitrogen oxides monitors. The hourly averages shall be made available on computer tape or cards;

(c) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted;

(d) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments;

(e) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(4) Any owner or operator subject to the provisions of this chapter shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurement; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance peformed on these systems or devices; and all other information required by this chapter recorded in a permanent form suitable for inspection. The file shall be retained for at least two (2) years following the date of such measurements, maintenance, reports, and records.

Section 4. Monitoring Requirements. (1) All continuous monitoring systems required under the regulations of this chapter shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring system under Appendix B of 40 CFR 60, filed by reference in 401 KAR 50:015, unless:

(a) The continuous monitoring system is subject to the provisions of subsection (3)(b) and (c) of this section; or

(b) Otherwise specified in an applicable regulation or by the department.

(2) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under Section 2. Verification of operational status shall, as a minimum, consist of the following:

(a) For continuous monitoring systems referenced in subsection (3)(a) of this section, completion of the conditioning period specified by applicable requirements in Appendix B to 40 CFR 60;

(b) For continuous monitoring systems referenced in subsection (3)(b) of this section, completion of seven (7) days of operation;

(c) For monitoring devices referenced in applicable regulations, completion of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

(3) During any performance tests required under Section 2 or within thirty (30) days thereafter and at such other times as may be required by the department, the owner or operator of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the department within sixty (60) days thereof a copy of a written report of the results of such tests. These continuous monitoring system performance evaluations shall be conducted in accordance with the following specifications and procedures:

(a) Continuous monitoring systems listed within this paragraph except as provided in paragraph (b) of this subsection shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B to 40 CFR 60 as follows:

1. Continuous monitoring systems for measuring opacity of emissions shall comply with Performance Specification 1;

2. Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2;

3. Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2;

4. Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.

(b) An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components or who, prior to October 6, 1975, installed continuous monitoring equipment, shall comply with the following requirements:

1. Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

2. Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

3. Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, may be required to conduct tests under subparagraphs 1. and/or 2. of this paragraph if so requested by the department.

(c) All continuous monitoring systems referenced by paragraph (b) of this subsection shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and the new or improved systems shall be demonstrated to comply with applicable performance specifications under paragraph (a) of this subsection on or before September 11, 1979.

(4) Owners or operators of all continuous monitoring systems installed in accordance with the provisions of this regulation shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of such systems unless the manufacturer recommends adjustments at shorter intervals, in which case such recommendations shall be followed. The zero and span shall, as a minimum, be adjusted whenever the twenty-four (24) hour zero drift or twenty-four (24) hour calibration drift limits of the applicable performance specifications in Appendix B to 40 CFR 60 are exceeded. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero or span drift adjustments except that, for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds four (4) percent opacity. Unless otherwise approved by the department, the following procedures, as applicable, shall be followed:

(a) For extractive continuous monitoring systems measuring gases, minimum procedures shall include introducing applicable zero and span gas mixtures into the measurement system as near the probe as is practical. Span and zero gases certified by their manufacturer to be traceable to National Bureau of Standards reference gases shall be used whenever these reference gases are available. The span and zero gas mixtures shall be the same composition as specified in Appendix B to 40 CFR 60. Every six (6) months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses with Reference Method 6 for sulfur dioxide, Reference Method 7 for nitrogen oxides, and Reference Method 3 for oxygen and carbon dioxide;

(b) For non-extractive continuous monitoring systems measuring gases, minimum procedures shall include upscale check(s) using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition;

(c) For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal op-

tical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(5) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under subsection (4) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(a) All continuous monitoring systems referenced by subsection (3)(a) and (b) of this section for measuring opacity of emissions shall complete a minimum of one (1) cycle of sampling and analyzing for each successive ten (10) second period and one (1) cycle of data recording for each successive six (6) minute period;

(b) All continuous monitoring systems referenced by subsection (3)(a) of this section for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide, or oxygen shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive fifteen (15) minute period;

(c) All continuous monitoring systems referenced by subsection (3)(b) of this section, except opacity, shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive one (1) hour period.

(6) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of Appendix B to 40 CFR 60 shall be used.

(7) When the effluents from a single affected facility or two (2) or more affected facilities subject to the same emission standard are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one (1) affected facility is released to the atmosphere through more than one (1) point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the department.

(8) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six (6) minute averages and for systems other than opacity to one (1) hour averages. Six (6) minute opacity averages shall be calculated from twenty-four (24) or more data points equally spaced over each six (6) minute period. For systems other than opacity, one (1) hour averages shall be computed from four (4) or more data points equally spaced over each one (1) hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this subsection. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form (e.g. ppm pollutant and percent oxygen or lb/million BTU of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in regulations within this chapter. After conversion into units of the standard the data may be rounded to the same number of significant digits used in the regulation to specify the applicable standard (e.g. rounded to the nearest one (1) percent opacity).

(9) Upon written application by an owner or operator, the department may allow alternative monitoring procedures or requirements which have been approved by the U. S. EPA including, but not limited to the following:

(a) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this chapter would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases;

(b) Alternative monitoring requirements when the affected facility is infrequently operated;

(c) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct stack moisture conditions;

(d) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(e) Alternative methods of converting pollutant concentration measurements to units of the standards;

(f) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells;

(g) Alternatives to the ASTM test methods, filed by reference in 401 KAR 50:015, or sampling procedures specified by any regulation;

(h) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, Appendix B to 40 CFR 60, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The department may require that such demonstration be performed for each affected facility;

(i) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two (2) or more affected facilities are released to the atmosphere through more than one (1) point.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 59:050. New storage vessels for petroleum liquids.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new storage vessels for petroleum liquids.

Section 1. Applicability. *(1)* The provisions of this regulation shall apply to each affected facility *with a storage capacity less than or equal to 151,400 liters (40,000 gallons)* commenced on or after the classification date defined *in Section 2(12)* [below], which is located:

(a) [(1)] In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(b) [(2)] In any other county and is a part of a major source of volatile organic compounds.

(2) The provisions of this regulation shall apply to each affected facility with a storage capacity greater than 151,400 liters (40,000 gallons) commenced on or after the classification date defined in Section 2(12).

(3) The provisions of Sections 3(3) and (4), 4(3) and 6 shall apply only to each affected facility with a storage capacity greater than 151,400 liters (40,000 gallons) commenced on or after May 19, 1978.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Affected facility" means a storage vessel for petroleum liquids which has a storage capacity of greater than *2,195 liters (*580 gallons*)*.

(2) "Storage vessel" means *each* [any] tank, reservoir, or container used for the storage of petroleum liquids, but does not include:

(a) Pressure vessels which are designed to operate in excess of *204.9 kPa (*fifteen (15) pounds per square inch gauge*)* without emissions to the atmosphere except under emergency conditions;

(b) Subsurface caverns or porous rock reservoirs; or

(c) Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.

(3) "Petroleum liquids" means [crude] petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oil Numbers 2-GT through 4-GT, or diesel fuel oils Numbers 2-D and 4-D as specified by the department.

(4) "Petroleum refinery" means *each* [any] facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

(5) *"Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.* ["Crude petroleum" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.]

(6) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(7) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods specified by the department.

(8) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover, or covered floating roof, which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(9) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(10) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile petroleum liquids, except liquefied petroleum gases, as determined by methods specified by the department.

(11) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean every fill pipe the discharge opening of which is entirely submerged when the liquid level is two (2) times the fill pipe diameter above the bottom of the tank.

(12) "Classification date" means April 9, 1972.

(13) "Volatile organic compounds (VOC)" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(14) "Custody transfer" means the transfer of produced petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(15) "External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with closure seals to close the space between the roof edge and tank shell.

(16) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floated upon the petroleum liquid being contained, and is equipped with closure seals to close the space between the roof edge and tank shell.

(17) "Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the liquid between the tank wall and the floating roof continuously around the circumference of the tank.

(18) "Vapor-mounted seal" means a foam-filled primary seal mounted continuously around the circumference of the tank so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

(19) "Metallic shoe seal" includes but is not limited to a metal sheet held vertically against the tank wall by springs

or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

(20) "kPa" means kilopascal.

Section 3. Standard for *Volatile Organic Compounds* [hydrocarbons]. *(1)* The owner or operator of any storage vessel *commenced on or after April 9, 1972 and prior to May 19, 1978* to which this regulation applies shall store petroleum liquids as follows:

(a) [(1)] If the storage vessel has a storage capacity greater than *151,400 liters* (40,000 gallons) and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than seventy-eight (78) mm Hg (1.5 psia) but not greater than 574 [0] mm Hg (11.1 psia) the storage vessel shall be equipped with a floating roof, a vapor recovery system, or their equivalents. *If the vessel is equipped with an external floating roof the vessel shall be retrofitted and operated according to the provisions of 401 KAR 61:050, Sections 3(4), 4(3), 6(2) and 7 if the vessel is located:*

1. In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

2. In any other county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

(b) [(2)] If the storage vessel has a storage capacity greater than *151,400 liters* (40,000 gallons) and if the true vapor pressure of the petroleum liquid as stored is greater than 574 [0] mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

(2) [(3)] *The owner or operator of each storage vessel commenced on or after April 9, 1972 to which this regulation applies shall store petroleum liquids as follows:* If the storage vessel has a storage capacity greater than *2,195 liters* (580 gallons), and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than *10.3 kPa* (1.5 psia), as a minimum it shall be equipped with a permanent submerged fill pipe.

(3) The owner or operator of each storage vessel commenced on or after May 19, 1978 with storage capacity greater than 151,400 liters (40,000 gallons) which contains a petroleum liquid which, as stored, has a true vapor pressure equal to or greater than 10.3 kPa (1.5 psia) but not greater than 76.6 kPa (11.1 psia) shall equip the storage vessel with one (1) of the following:

(a) An external floating roof, consisting of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and is equipped with a closure device between the tank wall and the roof edge. Except as provided in subparagraph 3 of this paragraph, the closure device is to consist of two (2) seals, one (1) above the other. The lower seal is referred to as the primary seal and the upper seal is referred to as the secondary seal. Each seal is to meet the following requirements:

1. The primary seal is to be either a metallic shoe seal, a liquid-mounted seal, or a vapor-mounted seal.

2. The secondary seal is to be installed above the primary seal so that it completely covers the space between the roof edge and the tank wall except as provided in Section 4(3)(c).

3. The owner or operator is exempted from the requirements for secondary seals and the secondary seal gap criteria when performing gap measurements or inspections of the primary seal.

(b) A fixed roof with an internal floating type cover equipped with a continuous closure device between the tank wall and the cover edge.

(c) A vapor recovery system which collects all VOC vapors and gases discharged from the storage vessel, and a vapor return or disposal system which is designed to process such VOC vapors and gases so as to reduce their emission to the atmosphere by at least ninety-five (95) percent by weight.

(d) A system equivalent to those described in paragraphs (a) to (c) of this subsection as determined by the department.

(4) The owner or operator of each storage vessel commenced on or after May 19, 1978 with a storage capacity greater than 151.400 liters (40,000 gallons) which contains a petroleum liquid which, as stored, has a true vapor pressure greater than 76.6 kPa (11.1 psia), shall equip the storage vessel with a vapor recovery system which collects all VOC vapors and gases discharged from the storage vessel, and a vapor return or disposal system which is designed to process such VOC vapors and gases so as to reduce their emission to the atmosphere by at least ninety-five (95) percent by weight.

Section 4. Operating Requirements. (1) There shall be no visible holes, tears, or other opening in the seal, [or] any seal fabric, *shoe, or seal envelope.* [; and]

(2) All openings, except stub drains, *automatic bleeder vents, rim space vents, and leg sleeves,* shall be equipped with covers, lids, or seals such that:

(a) The cover, lid, or seal is in the closed position at all times *(i.e., no visible gap)* except when in actual use *or as described in subsection (3)(f) of this section;*

(b) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports; and

(c) Rim vents, if provided, are set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

(3) External and internal floating roof tanks commenced on or after May 19, 1978 shall meet the additional requirements:

(a) The roof is to be floating on the liquid at all times (i.e., off the roof leg supports) except during initial fill and when the tank is completely emptied and subsequently refilled. The process of emptying and refilling when the roof is resting on the leg supports shall be continuous and shall be accomplished in the minimum time necessary.

(b) For each primary seal associated with an external floating roof tank the accumulated area of gaps between the tank wall and the metallic shoe seal or the liquid-mounted seal shall not exceed 212 sq cm/m (10.0 sq in/ft) of tank diameter and the width of any portion of any gap shall not exceed 3.81 cm (1.5 in).

(c) For each primary and each secondary seal associated with an external floating roof tank the accumulated area of gaps between the tank wall and the vapor-mounted seal or between the tank wall and the secondary seal shall not exceed 21.2 sq cm/m (1.0 sq in/ft) of tank diameter and the width of any portion of any gap shall not exceed 1.27 cm (one-half (½) in).

(d) One (1) end of the metallic shoe associated with an external floating roof tank shall extend into the stored liquid and the other end shall extend a minimum vertical distance of sixty-one (61) cm (twenty-four (24) in) above the stored liquid surface.

(e) Each opening in the roof except for automatic

bleeder vents and rim space vents is to provide a projection below the liquid surface.

(f) Each emergency roof drain associated with an external floating roof tank is to be provided with a slotted membrane fabric cover that covers at least ninety (90) percent of the area of the opening.

Section 5. Monitoring of Operations. (1) The owner or operator of any storage vessel with a capacity of greater than *151,400 liters* (40,000 gallons) to which this regulation applies shall *maintain a record of the petroleum liquid stored, the period of storage, and the maximum true vapor pressure of that liquid during the respective storage period.* [, for each such storage vessel, maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored, and of the dates of storage. Dates on which the storage vessel is empty shall be shown.]

(2) *Available data on the typical Reid vapor pressure and the maximum expected storage temperatures of the stored product may be used to determine the maximum true vapor pressure as specified by the department, unless the department specifically requests that the liquid be sampled, the actual storage temperature determined, and the Reid vapor pressure determined from the sample(s).* [The owner or operator of any storage vessel with a capacity of greater than 40,000 gallons to which this regulation applies shall, for each such storage vessel, determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if:]

[(a) The petroleum liquid has a true vapor pressure, as stored, greater than twenty-six (26) mm Hg (0.5 psia) but less than seventy-eight (78) mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with a floating roof, a vapor recovery system or their equivalents; or]

[(b) The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.]

(3) *The true vapor pressure of each type of crude oil with a Reid vapor pressure less than 13.8 kPa (2.0 psia) or whose physical properties preclude determination by the recommended method is to be determined from available data and recorded if the estimated true vapor pressure is greater than 6.9 kPa (1.0 psia).* [The average monthly storage temperature is an arithmetic average calculated for each calendar month, or portion thereof if storage temperatures are determined at least once every seven (7) days.]

(4) *The following are exempt from the requirements of this section:* [The true vapor pressure shall be determined by the procedures specified by the department. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the department requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, the Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available on request to the department when typical Reid vapor pressure is used.]

(a) Each owner or operator of each storage vessel storing a petroleum liquid with a Reid vapor pressure of less than 6.9 kPa (1.0 psia) provided the maximum true vapor pressure does not exceed 6.9 kPa (1.0 psia).

(b) Each owner or operator of each storage vessel equipped with a vapor recovery and return or disposal system in accordance with the requirements of Section 3(1)(a) and (b), (3)(c) and (4).

Section 6. Testing and Procedures. Compliance with the requirements prescribed in Sections 3(3) and (4), and 4(3) shall be determined as follows or in accordance with an equivalent procedure as approved by the department. The owner or operator of each storage vessel to which this section applies which has an external floating roof shall meet the following requirements:

(1) Determine the gap areas and maximum gap widths between the primary seal and tank wall, and the secondary seal and the tank wall according to the following frequency and furnish the department with a written report of the results within sixty (60) days of performance of gap measurements:

(a) For primary seals, gap measurements shall be performed within sixty (60) days of the initial fill with petroleum liquid and at least once every five (5) years thereafter. All primary seal inspections or gap measurements which require the removal or dislodging of the secondary seal shall be accomplished in the minimum time necessary and the secondary seal shall be replaced immediately.

(b) For secondary seals, gap measurements shall be performed within sixty (60) days of the initial fill with petroleum liquid and at least once every year thereafter.

(c) If any storage vessel is out of service for a period of one (1) year or more, subsequent refilling with petroleum liquid shall be considered initial fill for the purposes of paragraphs (a) and (b) of this subsection.

(2) Determine gap widths in the primary and secondary seals individually by the following procedures:

(a) Measure seal gaps, if any, at one (1) or more floating roof levels when the roof is floating off the roof leg supports.

(b) Measure seal gaps around the entire circumference of the tank in each place where a one-eighth (1/8) inch diameter uniform probe passes freely (without forcing or binding against seal) between the seal and tank wall and measure the circumferential distance of each such location.

(c) The total surface area of each gap described in paragraph (b) of this subsection shall be determined by using probes of various widths to accurately measure the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance.

(3) Add the gap surface area of each gap location for the primary seal and the secondary seal individually. Divide the sum for each seal by the nominal diameter of the tank and compare each ratio to the appropriate ratio in the standard in Section 4(3)(b) and (c).

(4) Provide the department thirty (30) days prior notice of the gap measurement to afford the department the opportunity to have an observer present.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments,

contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 59:125. New primary aluminum reduction plants.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new primary aluminum reduction plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each potroom group and anode bake plant (within a primary aluminum reduction plant) commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Primary aluminum reduction plant" means any source manufacturing aluminum by electrolytic reduction.

(2) "Anode bake plant" means an affected facility which produces carbon anodes for use in a primary aluminum reduction plant.

(3) "Potroom" means a building unit which houses a group of electrolytic cells in which aluminum is produced.

(4) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms *or potroom segments* ducted to *a common* [the same] control system.

(5) "Roof monitor" means that portion of the roof of a potroom where gases not captured at the cell exit from the potroom.

(6) "Aluminum equivalent" means an amount of aluminum which can be produced from a ton of anodes produced by an anode bake plant.

(7) "Total fluorides" means elemental fluorine and all fluoride compounds, as measured by reference methods specified in Section 6 or equivalent or alternative methods.

(8) "Primary control system" means an air pollution control system designed to remove gaseous and particulate fluorides from exhaust gases which are captured at the cell.

(9) "Prebake plant" means any primary aluminum reduction plant whose electrolytic reduction cells utilize carbon anodes manufactured in an anode bake plant.

(10) "Vertical stud soderberg plant" means any primary aluminum reduction plant whose electrolytic reduction cells utilize an anode consisting of a rectangular container, open at the top and bottom, suspended above the cell, into which carbon paste is fed at intervals, becoming baked by the heat of the cell as it gradually descends into the container. Current carrying studs project vertically into the anode through the unbaked paste and into the baked portion of the anode.

(11) "Horizontal stud soderberg plant" means any primary aluminum reduction plant whose electrolytic reduction cells utilize an anode consisting of a rectangular container open at the top and bottom, suspended above the cell, into which carbon paste is fed at intervals becoming baked by the heat of the cell as it gradually descends into the container. Rows of studs in channel assemblies project laterally into the paste and move with the anode.

(12) "Secondary control system" means an air pollution control system designed to remove gaseous and particulate fluorides which escape capture by the primary control system.

(13) "Applicable affected facility" means each potroom group and anode bake plant within a primary aluminum reduction plant.

(14) "Classification date" means October 23, 1974.

Section 3. Standard for Visible Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 59:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere:

(1) From any potroom group any gases which exhibit ten (10) percent opacity or greater;

(2) From any anode bake plant any gases which exhibit twenty (20) percent opacity or greater.

Section 4. Standard for Fluorides. *(1)* On and after the date on which the performance test required to be conducted by 401 KAR 59:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere gases which contain total fluorides in excess of:

(a) [(1)] One (1) kg/metric ton (two (2) lb/ton) of aluminum produced for *potroom groups at* [vertical stud soderberg and horizontal stud] soderberg plants*: except that emissions between 1.0 kg/metric ton and 1.3 kg/metric ton (2.6 lb/ton) will be considered in compliance if the owner or operator demonstrates to the department's satisfaction that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance tests*;

(b) [(2)] 0.95 kg/metric ton (1.9 lb/ton) of aluminum produced for potroom groups at prebaked plants*: except that emissions between 0.95 kg/metric ton and 1.25 kg/metric ton (2.5 lb/ton) will be considered in compliance if the owner or operator demonstrates to the department's satisfaction that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance test*; and

(c) [(3)] 0.05 kg/metric ton (0.1 lb/ton) of aluminum equivalent for anode bake plants.

(2) Within thirty (30) days of any performance test which reveals emissions which fall between the 1.0 kg/metric ton and 1.3 kg/metric ton levels in subsection (1)(a) of this section or between the 0.95 kg/metric ton and 1.25 kg/ metric ton levels in subsection (1)(b) of this section, the owner or operator shall submit a report indicating whether all necessary control devices were on-line and operating properly during the performance test, describing the operation and maintenance procedures followed, and setting forth any explanation for the excess emissions to the department.

Section 5. Monitoring of Operations. (1) The owner or operator of any applicable affected facility subject to the provisions of this regulation shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the weight of the aluminum and anode produced. The weighing devices shall have an accuracy of plus or minus five (5) percent over their operating range.

(2) The owner or operator of any applicable affected facility shall maintain a record of daily production rates of aluminum and anodes, raw material feed rates, and cell or potline voltages.

(3) The owner or operator of any affected facility shall install, use, and maintain ambient air monitoring equipment in accordance with such methods as the department shall prescribe; establish and maintain records of same; and make periodic emission reports at intervals prescribed by the department.

Section 6. Test Methods and Procedures. *(1) Following the initial performance test as required under 401 KAR 59:005, an owner or operator shall conduct a performance test at least once each month during the life of the affected facility except when malfunctions prevent representative sampling, as determined by the department. The owner or operator shall give the department ten (10) working days advance notice of each test. The department may require additional testing under 401 KAR 59:005.*

(2) An owner or operator may petition the department to establish an alternative testing requirement that requires testing less frequently than once each month for a primary control system or an anode bake plant. If the owner or operator shows that emissions from the primary control system or the anode bake plant have low variability during day-to-day operations, the department may establish such an alternative testing requirement. The alternative testing requirement shall include a testing schedule and, in the case of a primary control system, the method to be used to determine primary control system emissions for the purpose of performance tests.

(3) [(1)] The reference methods as defined in Appendix A of 40 CFR 60, filed by reference in 401 KAR 50:015, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Sections *3 and* 4, as follows:

(a) For sampling emissions from stacks:

1. Reference Method 13A or 13B for the concentration of total fluoride and the associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 for velocity and volumetric flow rate; and
4. Reference Method 3 for gas analysis.

(b) For sampling emissions from roof monitors not employing stacks or pollutant collection systems:

1. Reference Method 14 for the concentration of total fluorides and associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 and Reference Method 14 for velocity and volumetric flow rate; and
4. Reference Method 3 for gas analysis.

(c) For sampling emissions from roof monitors not employing stacks but equipped with pollutant collection systems the procedures under 401 KAR 50:045 shall be followed.

(d) For opacity determination: Reference Method 9.

(4) [(2)] For Reference Method 13A or 13B, the sampling time for each run shall be at least eight (8) hours for any potroom sample and at least four (4) hours for any anode bake plant sample, and the minimum sample volume shall be 6.8 dscm (240 dscf) for any potroom sample and 3.4 dscm (120 dscf) for any anode bake plant sample except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the department.

(5) [(3)] The air pollution control system for each affected facility shall be constructed so that volumetric flow rates and total fluoride emissions can be accurately determined using applicable methods specified under subsection *(3)* [(1)] of this section.

(6) [(4)] The rate of aluminum production *is determined by dividing 720 hours into the weight of aluminum tapped from the affected facility during a period of thirty (30) days prior to and including the final run of a performance test.* [shall be determined as follows:]

[(a) Determine the weight of the aluminum in metric tons produced during a period from the last tap before a run starts until the first tap after the run ends using a monitoring device which meets the requirements of Section 5(1);]

[(b) Divide the weight of aluminum produced by the length of the period in hours.]

(7) [(5)] For anode bake plants, the aluminum equivalent for anodes produced shall be determined as follows:

(a) Determine the average weight (metric tons) of anodes produced in the anode bake plant during a representative oven cycle using a monitoring device which meets the requirements of Section 5(1);

(b) Determine the average rate of anode production by dividing the total weight of anodes produced during the representative oven cycle by the length of the cycle in hours;

(c) Calculate the aluminum equivalent for anodes produced by multiplying the average rate of anode production by two (2)[.] (Note: an owner or operator may establish a different multiplication factor by submitting production records of the tons of aluminum produced and the concurrent tons of anode consumed by potrooms.);

(d) The owner or operator shall submit production records of the tons of aluminum produced and the concurrent tons of anodes consumed by potrooms during a representative production day. A second aluminum equivalent for anodes produced will be calculated by dividing the tons of aluminum produced by the concurrent tons of anode consumed. The smaller of the aluminum equivalents for anodes produced, as calculated under this paragraph and paragraph (c) of this subsection, shall be used to determine the lbs fluorides/tons of aluminum equivalent for anode bake plants.

(8) [(6)] For each run, potroom group emissions expressed in kg/metric ton of aluminum produced shall be determined using the equation in Appendix A of this regulation.

(9) [(7)] For each run, as applicable, anode bake plant emissions expressed in kg/metric ton of aluminum equivalent shall be determined using the equation in Appendix B of this regulation.

APPENDIX A TO 401 KAR 59:125
EQUATION FOR POTROOM GROUP EMISSIONS

$$E_p = \frac{(CQ)_1 10^{-6} + (CQ)_2 10^{-6}}{M}$$

Where:
E_p = Potroom group emissions of total fluorides in kg/metric ton of aluminum produced.
C = Concentration of total fluorides in mg/dscm as determined by Reference Method 13A or 13B, or Reference Method 14 as applicable.
Q = Volumetric flow rate of the effluent gas stream in dscm/hour as determined by Reference Method 2 and/or Reference Method 14, as applicable.
10^{-6} = Conversion factor for mg to kg.
M = Rate of aluminum production in metric ton/hour as determined by Section 6*(6)* [(4)].
$(CQ)_1$ = Product of C and Q for measurements of primary control system effluent gas streams.
$(CQ)_2$ = Product of C and Q for measurements of secondary control system or roof monitor effluent gas stream.

Where an alternative testing requirement has been established for the primary control system, the calculated value $(CQ)_1$ from the most recent performance test will be used.
Until such time as the first performance test for the primary control system is conducted under the alternative testing requirements established by the department, the calculated $(CQ)_1$ value shall be based on the highest $(CQ)_1$ value contained in the owner's or operator's demonstration of low variability during day-to-day operations.

APPENDIX B TO 401 KAR 59:125
EQUATION FOR ANODE BAKE PLANT EMISSIONS

$$E_a = \frac{(CQ)\,10^{-6}}{M_b}$$

Where:
E_a = Anode bake plant emissions of total fluorides in kg/metric ton of aluminum equivalent.
C = Concentration of total fluorides in mg/dscm as determined by Reference Method 13A or 13B.
Q = Volumetric flow rate of the effluent gas stream in dscm/hour as determined by Reference Method 2.
10^{-6} = Conversion factor from mg to kg.
M_b = Aluminum equivalent for anodes produced by anode bake plants in metric ton/hour as determined by Section 6*(7)* [(5)].

JACKIE SWIGART, Secretary
ADOPTED: September 12, 1980
RECEIVED BY LRC: September 12, 1980 at 9 a.m.
PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 59:185. New solvent metal cleaning equipment.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new solvent metal cleaning equipment.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means cold cleaners, open top vapor degreasers, and conveyorized degreasers which utilize volatile organic compounds to remove soluble impurities from metal surfaces.
(2) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(3) "Classification date" means *June 29, 1979* [the effective date of this regulation].
(4) "Freeboard height" means, for a cold cleaner, the distance from the liquid solvent level in the degreaser tank to the lip of the tank. For a vapor degreaser it is the distance from the solvent vapor level in the tank to the lip of the tank.
(5) "Freeboard ratio" means the freeboard height divided by the width of the degreaser.
(6) "Refrigerated chiller" means a second set of freeboard condenser coils located slightly above the primary condenser coils which create a cold air blanket above the vapor zone.
(7) "Cold cleaner" means a batch-loaded degreaser whose solvent is kept below its boiling point.
(8) "Open top vapor degreaser" means a batch-loaded degreaser whose solvent is heated to its boiling point creating a solvent vapor zone.
(9) "Conveyorized degreasers" means a degreaser which is continuously loaded by means of a conveyor system. Its solvent may be boiling or non-boiling.
(10) "Solvent" means, in this regulation, volatile organic compounds.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility to which this regulation applies shall install, maintain and operate the control equipment and observe at all times the operating

requirements which apply to this type of degreaser as specified in Sections 4, 5, and 6.

Section 4. Cold Cleaners. (1) Control equipment:

(a) The cleaner shall be equipped with a cover. If the solvent volatility is greater than fifteen (15) mm Hg measured at 100°F or if the solvent is agitated or heated, then the cover shall be designed so that it can be easily operated with one (1) hand.

(b) The cleaner shall be equipped with a drainage facility such that solvent that drains off parts removed from the cleaner will return to the cleaner. If the solvent volatility is greater than thirty-two (32) mm Hg measured at 100°F then the drainage facility shall be internal so that parts are enclosed under the cover while draining. The drainage facility may be external if the department determines that an internal type cannot fit into the cleaning system.

(c) A permanent, conspicuous label, summarizing the operating requirements specified in subsection (2) of this section shall be installed on or near the cleaner.

(d) If used, the solvent spray shall be a fluid stream (not a fine, atomized or shower type spray) and at a pressure which does not cause excessive splashing.

(e) If the solvent volatility is greater than thirty-two (32) mm Hg measured at 100°F or if the solvent is heated above 120°F, then one (1) of the following control devices shall be used:

1. Freeboard that gives a freeboard ratio greater than or equal to 0.7.
2. Water cover (solvent must be insoluble in and heavier than water).
3. Other systems of equivalent control, such as a refrigerated chiller or carbon adsorption.

(2) Operating requirements:

(a) Do not dispose of waste solvent or transfer it to another party, such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in covered containers.

(b) Close degreaser cover whenever not handling parts in the cleaner.

(c) Drain cleaned parts until dripping ceases (fifteen (15) seconds is usually necessary).

Section 5. Open Top Vapor Degreasers. (1) Control equipment:

(a) The degreaser shall be equipped with a cover that can be opened and closed easily without disturbing the vapor zone.

(b) The degreaser shall be equipped with the following safety switches:

1. Condenser flow switch and thermostat to shut off sump heat if condenser coolant either is not circulating or is too warm.
2. Spray safety switch to shut off spray pump if the vapor level drops more than four (4) inches below the bottom condenser coil in order to prevent spraying above the vapor level.
3. Vapor level control thermostat which shuts off sump heat if the vapor zone rises above the design level.
4. Equivalent safety systems as approved on a case-by-case basis by the department.

(c) The degreaser shall be equipped with at least one (1) of the following major control devices:

1. Freeboard ratio greater than or equal to 0.75, and if the degreaser opening is greater than ten (10) square feet, the cover shall be powered or mechanically assisted.
2. Refrigerated chiller.
3. Enclosed design such that the cover or door opens only when the dry part is actually entering or exiting the degreaser.
4. Carbon adsorption system, with ventilation greater than or equal to fifty (50) cfm/square foot of air/vapor interface area (when cover is open), and exhausting less than twenty-five (25) ppm by volume solvent averaged over one (1) complete adsorption cycle.
5. Control system demonstrated to have control efficiency equivalent to or better than any of the above.

(d) A permanent, conspicuous label, summarizing the operating procedures specified in subsection (2) of this section shall be installed on or near the degreaser.

(2) Operating requirements:

(a) Keep the cover closed at all times except when processing work loads through the degreaser.

(b) Minimize solvent carry-out by the following measures:

1. Rack parts so that entrainment of solvent is avoided and full drainage is accomplished.
2. Move parts in and out of the degreaser at a vertical speed less than eleven (11) ft./min.
3. Degrease the work load in the vapor zone until condensation ceases (thirty (30) seconds or more is usually necessary).
4. Tip out any pools of solvent on the cleaned parts before removal.
5. Allow parts to dry within the degreaser above the vapor zone until visually dry (fifteen (15) seconds is usually necessary).

(c) Do not degrease porous or absorbent materials such as cloth, leather, wood, or rope.

(d) Work loads should not occupy more than half of the degreaser's open top area.

[(e) The vapor level should not drop more than four (4) inches when the work load enters or leaves the vapor zone.]

(e) [(f)] Never spray above the vapor level.

(f) [(g)] Repair solvent leaks immediately or shut down the degreaser.

(g) [(h)] Do not dispose of waste solvent or transfer it to another party such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in closed containers.

(h) [(i)] Exhaust ventilation should not exceed sixty-five (65) cfm per square foot of degreaser area unless necessary to meet OSHA requirements or control device requirements. Ventilation fans should not be used near the degreaser opening.

(i) [(j)] Water should not be visually detectable in the solvent exiting the water separator.

Section 6. Conveyorized Degreasers. (1) Control equipment:

(a) A conveyorized degreaser shall be enclosed except for work load entrances and exits.

(b) The degreaser shall be equipped with a drying tunnel or another means such as rotating baskets sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

(c) Minimized openings: entrances and exits shall silhouette work loads so that the average clearance between the largest parts and the edge of the degreaser opening is either less than four (4) inches or less than ten (10) percent of the width of the opening.

(d) Down-time covers: the degreaser shall be equipped with covers for closing off the entrance and exit during shutdown hours.

(e) If the degreaser has an air/solvent interface area or an air/vapor interface area equal to or greater than twenty (20) square ft., it shall be equipped with at least one (1) of the following major control devices:

1. Refrigerated chiller.

2. Carbon adsorption system with ventilation greater than or equal to fifty (50) cfm/square foot of air/vapor interface area (when down-time covers are open) and exhausting less than twenty-five (25) ppm of solvent by volume averaged over a complete adsorption cycle.

3. A system demonstrated to have a control efficiency equivalent to or better than either of the above.

(f) If the degreaser is a vapor type, it shall be equipped with the following safety switches:

1. Condensor flow switch and thermostat which will shut off the sump heat if coolant is either not circulating or is too warm.

2. Spray safety switch which will shut off the spray pump or conveyor if the vapor level drops more than four (4) inches below the bottom condenser coil in order to prevent spraying above the vapor level.

3. Vapor level control thermostat which will shut off sump heat if the vapor level rises above the design level.

4. Equivalent safety systems as approved on a case-by-case basis by the department.

(g) A permanent, conspicuous label, summarizing the operating procedures specified in subsection (2) of this section shall be installed on or near the degreaser.

(2) Operating requirements:

(a) Exhaust ventilation should not exceed sixty-five (65) cfm per square foot of degreaser opening unless necessary to meet OSHA requirements or control device requirements. Work place fans should not be used near the degreaser opening.

(b) Minimize solvent carry-out by the following measures:

1. Rack parts so that entrainment of solvent is avoided and full drainage is accomplished.

2. Maintain vertical conveyor speed at less than eleven (11) ft/min.

(c) Do not dispose of waste solvent or transfer it to another party such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in closed containers.

(d) Repair solvent leaks immediately or shut down the degreaser.

(e) Water should not be visually detectable in the solvent exiting the water separator.

(f) Down-time covers shall be placed over entrances and exits of the degreaser immediately after the conveyor and exhaust are shut down and removed just before they are started up.

Section 7. Exemptions. Any cold cleaners shall be exempt from the provisions of Section 4 if the following criteria are met:

(1) The cold cleaner must have a remote solvent reservoir;

(2) The solvent used in the cold cleaner must not have a vapor pressure that exceeds thirty-three (33) mm Hg measured at 100°F or be heated above 120°F;

(3) The sink-like work area must have an open drain area less than 100 sq. cm.; and

(4) Evidence is provided that waste solvent will be stored or properly disposed of with minimal loss due to evaporation.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 61:005. General provisions.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to existing sources.

Section 1. Applicability. The provisions of this chapter shall apply to the owner or operator of any existing source for which a standard of performance has been promulgated under this chapter.

Section 2. Performance Test. (1) On or before the completion of a control plan at an affected facility and at such other times as may be required by the department, the owner or operator of an affected facility, except for those affected facilities specified below, shall conduct performance test(s) according to 401 KAR 50:045 and shall furnish the department a written report of the results of such performance test(s).

(a) Process operation with a process weight rate of less than 100 tons per hour;

(b) Indirect heat exchangers of less than 250 million BTU heat input;

(c) Incinerator with a charging rate of forty-five (45) metric tons per day (fifty (50) tons/day) or less;

(d) Affected facilities specified in 401 KAR 61:040, 401 KAR 61:045, 401 KAR 61:050, 401 KAR 61:056, 401 KAR 61:060, 401 KAR 61:085, 401 KAR 61:090, 401 KAR 61:095, 401 KAR 61:100, 401 KAR 61:105, 401 KAR 61:110, 401 KAR 61:120, *401 KAR 61:122, 401 KAR 61:124,* 401 KAR 61:125, 401 KAR 61:130, *401 KAR 61:132,* [and] 401 KAR 61:135, *401 KAR 61:137, 401 KAR 61:150, 401 KAR 61:155, and 401 KAR 61:160.*

(2) The department may require the owner or operator of any affected facility including those specified in subsection (1) of this section to conduct performance test(s) ac-

cording to 401 KAR 50:045 and furnish a written report of the results of such performance test(s).

Section 3. Emission Monitoring. This section sets forth the minimum requirements for continuous emission monitoring, recording, and reporting for source categories which are set forth. It includes the performance specifications for accuracy, reliability, and durability of acceptable monitoring systems and techniques to convert emission data to units of applicable emission standards.

(1) The owner or operator of a source in a category listed below shall:

(a) Install, calibrate, operate and maintain all monitoring equipment necessary for continuously monitoring the pollutants specified in this section for the applicable source category;

(b) Complete the installation and performance tests of such equipment and begin monitoring and recording within eighteen (18) months *from June 29, 1979* [of the effective date of this regulation], except as provided in paragraph (c) of this subsection; and

(c) For continuous emission monitoring systems for which there are no performance specifications under Appendix B of 40 CFR 60, filed by reference in 401 KAR 50:015, as of *June 29, 1979* [the effective date of this regulation], complete the installation and performance tests of such equipment and begin monitoring and recording within eighteen (18) months of promulgation of the applicable performance specifications under Appendix B of 40 CFR 60.

(2) The source categories and the respective monitoring requirements are listed below.

(a) Indirect heat exchangers, as specified in subsection (6)(a) of this section shall be monitored for opacity, sulfur dioxide emissions, and oxygen or carbon dioxide.

(b) Sulfuric acid plants, as specified in subsection (6)(b) of this section shall be monitored for sulfur dioxide emissions.

(c) Nitric acid plants as specified in subsection (6)(c) of this section shall be monitored for nitrogen oxides emissions.

(d) Petroleum refinery affected facilities as specified in subsection (6)(d) of this section shall be monitored as specified in subsection (6)(d) of this section.

(e) Incinerators, as specified in subsection (6)(e) of this section, shall be monitored for opacity.

(f) Control devices, as specified in subsection (6)(f) of this section, shall be monitored for opacity.

(3) Exemption. Sources which are scheduled for retirement within five (5) years after *June 29, 1979* [the effective date of this regulation] are exempt from the requirements of this section, provided that adequate evidence and guarantees are provided that clearly show that the source will cease operating on or before that date.

(4) Extensions. Reasonable extensions of the time provided for installation of monitors may be allowed for sources unable to meet the time-frame prescribed in subsection (1)(b) of this section, provided the owner or operator of such facility demonstrates that good faith efforts have been made to obtain and install such devices within such prescribed time-frame.

(5) Monitoring systems malfunctions. The department may provide a temporary exemption from the monitoring and reporting requirements of this section during any period of monitoring system malfunction, provided that the source owner or operator shows, to the department's satisfaction, that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Monitoring requirements:

(a) Indirect heat exchangers. Each indirect heat exchanger, except as provided in the following subparagraphs, with an annual average capacity factor of greater than thirty (30) percent as demonstrated to the department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question. (Annual average capacity factor means the ratio of the actual annual heat input to the potential annual heat input based on rated capacity.)

1. A continuous monitoring system for the measurement of opacity which meets the appropriate performance specification as specified in subsection (7) of this section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this subsection by the owner or operator of any such indirect heat exchanger of greater than 250 million BTU per hour heat input except where: gaseous fuel is the only fuel burned, or oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity standards without utilization of particulate matter collection equipment, and where the source has never been found, through any administrative or judicial proceedings, to be in violation of any visible emission standard.

2. A continuous monitoring system for the measurement of sulfur dioxide which meets the appropriate performance specifications as specified in subsection (7) of this section shall be installed, calibrated, maintained, and operated on any indirect heat exchangers (except where natural gas or wood waste is burned) of greater than 250 million BTU per hour heat input.

3. A continuous monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the appropriate performance specifications as specified in subsection (7) of this section shall be installed, calibrated, operated, and maintained on indirect heat exchangers where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard.

(b) Sulfuric acid plants. For the purposes of this regulation, "sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds. The owner or operator of each sulfuric acid plant of greater than 200 tons per day production capacity, the production capacity being expressed as 100 percent acid, shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of sulfur dioxide which meets the appropriate performance specifications as specified in subsection (7) of this section for each sulfuric acid producing facility within such plant.

(c) Nitric acid plants. For the purposes of this regulation "nitric acid plant" means any facility producing nitric acid thirty (30) to seventy (70) percent by weight in strength by either the pressure or atmospheric pressure process. The owner or operator of each nitric acid plant of greater than 200 tons per day production capacity, the production capacity being expressed as 100 percent acid, shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of nitrogen oxides which meet the appropriate performance specifications as specified in subsection (7) of this section for each nitric acid producing facility within such plant.

(d) Petroleum refineries. The owner or operator of each affected facility specified in this paragraph shall install, calibrate, maintain and operate continuous monitoring equipment as follows:

1. A continuous monitoring system for the measurement of opacity for catalyst regenerator for fluid bed cracking units of greater than 20,000 barrels per day fresh feed capacity which meets the appropriate performance specifications specified in subsection (7) of this section.

2. A continuous monitoring system for the measurement of sulfur dioxide in the gases discharged into the atmosphere from the combustion of fuel gases subject to 401 KAR 61:145 which meets the appropriate performance specifications specified in subsection (7) of this section (except where a continuous monitoring system for the measurement of hydrogen sulfide is installed under subparagraph 3 of this paragraph). The pollutant gas used to prepare calibration gas mixtures under Performance Specification 2 of 40 CFR 60 paragraph 2.1 and for calibration checks shall be sulfur dioxide. The span shall be set at 100 ppm. For conducting monitoring system performance evaluations, Reference Method 6 shall be used.

3. An instrument for continuously monitoring and recording concentrations of hydrogen sulfide in fuel gases burned in any fuel gas combustion device subject to 401 KAR 61:145 which meets the appropriate performance specifications specified in subsection (7) of this section, if compliance is achieved by removing hydrogen sulfide from the fuel gas before it is burned; fuel gas combustion devices having a common source of fuel gas may be monitored at one (1) location, if monitoring at this location accurately represents the concentration of hydrogen sulfide in the fuel gas burned. The span of this continuous monitoring system shall be 300 ppm.

4. An instrument for continuously monitoring and recording concentrations of sulfur dioxide in the gases discharged into the atmosphere from any Claus sulfur recovery plant subject to 401 KAR 61:145 which meets the appropriate performance specifications in subsection (7) of this section, if compliance is achieved through the use of an oxidation control system or a reduction control system followed by incineration. The span of this continuous monitoring system shall be set at 500 ppm.

5. An instrument(s) for continuously monitoring and recording the concentration of hydrogen sulfide and reduced sulfur compounds in the gases discharged into the atmosphere from any Claus sulfur recovery plant subject to 401 KAR 61:145 which meets the appropriate performance specifications specified in subsection (7) of this section, if compliance is achieved through the use of a reduction control system not followed by incineration. The span(s) of this continuous monitoring system shall be set at twenty (20) ppm for monitoring and recording the concentration of hydrogen sulfide and 600 ppm for monitoring and recording the concentration of reduced sulfur compounds.

6. An instrument for continuously monitoring and recording the concentration of sulfur dioxide in gases discharged into the atmosphere from fluid catalytic cracking unit catalyst regenerators subject to 401 KAR 61:145 which meets the appropriate performance specifications specified in subsection (7) of this section. The span of this continuous monitoring system shall be 1,500 ppm.

(e) Incinerators. Each incinerator with a charging capacity of more than forty-five (45) metric tons per day (fifty (50) tons/day) shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity which meets the appropriate performance specifications as specified in subsection (7) of this section.

(f) Each control device with a concentrated discharge associated with the affected facilities subject to 401 KAR 61:070, 401 KAR 61:075, or 401 KAR 61:080 shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of opacity which meets the appropriate performance specifications as specified in subsection (7) of this section.

(7) Except as provided in subsection (8) of this section, all owners or operators which are required to comply with this section shall demonstrate compliance with the following performance specifications of Appendix B to 40 CFR 60.

(a) Continuous monitoring systems for measuring opacity shall comply with Performance Specification 1.

(b) Continuous monitoring systems for measuring sulfur dioxide shall comply with Performance Specification 2.

(c) Continuous monitoring systems for measuring nitrogen oxides shall comply with Performance Specification 2.

(d) Continuous monitoring systems for measuring oxygen shall comply with Performance Specification 3.

(e) Continuous monitoring systems for measuring carbon dioxide shall comply with Performance Specification 3.

(8) An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components or who installed continuous monitoring equipment prior to October 6, 1975 shall comply with the following requirements:

(a) Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

(b) Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within plus or minus twenty (20) percent with a confidence level of ninety-five (95) percent. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Appendix B to 40 CFR 60 shall be used for demonstrating compliance with this specification;

(c) Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, may be required to conduct tests under paragraphs (a) and/or (b) of this subsection if requested by the department;

(d) All continuous monitoring systems referenced by this subsection shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and the new or improved systems shall be demonstrated to comply with applicable performance specifications within five (5) years *from June 29, 1979* [of the effective date of this regulation].

(9) Calibration gases. For sulfur dioxide monitoring systems installed on indirect heat exchangers, sulfuric acid plants or petroleum refinery fluid catalyst cracking unit regenerators, the pollutant gas used to prepare calibration gas mixtures (Section 2.1, Performance Specification 2, Appendix B to 40 CFR 60) shall be sulfur dioxide. For nitrogen oxides monitoring systems, installed on nitric acid plants the pollutant gas used to prepare calibration gas mixtures (Section 2.1, Performance Specification 2, Appendix B to 40 CFR 60) shall be nitrogen dioxide. This gas

shall also be used for daily checks under subsection (13) of this section as applicable. Span and zero gases certified by their manufacturer to be traceable to National Bureau of Standards reference gases shall be used whenever these reference gases are available. Every six (6) months from dates of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A to 40 CFR 60 as follows: for sulfur dioxide, use Reference Method 6, for nitrogen dioxide use Reference Method 7, and for carbon dioxide and oxygen use Reference Method 3.

(10) Cycling times. Cycling times include the total time a monitoring system requires to sample, analyze, and record an emission measurement.

(a) Continuous monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive ten (10) second period.

(b) Continuous monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive fifteen (15) minute period.

(11) Monitor location. A continuous monitoring device shall be installed such that representative measurements of emissions or process parameters (i.e., oxygen or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples are contained in the applicable Performance Specifications of Appendix B of 40 CFR 60.

(12) Combined effluents. When the effluents from two (2) or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere, the department may allow monitoring systems to be installed on the combined effluent. When the affected facilities are not of similar design and operating characteristics, or when the effluent from one (1) affected facility is released to the atmosphere through more than one (1) point, the department shall establish alternate procedures to implement the intent of these requirements.

(13) Zero and span drift. Owners or operators of all continuous monitoring systems installed in accordance with the requirements of this subsection shall record the zero and span drift in accordance with the method prescribed by the manufacturer of such instruments; to subject the instruments to the manufacturer's recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case the recommendations shall be followed; to adjust the zero and span whenever the twenty-four (24) hour zero drift or twenty-four (24) hour calibration drift limits of the applicable performance specifications in Appendix B of 40 CFR 60 are exceeded; and to adjust continuous monitoring systems referenced by subsection (8) of this section whenever the twenty-four (24) hour zero drift or twenty-four (24) hour calibration drift exceeds ten (10) percent of the emission standard.

(14) Span. Instrument span should be approximately 200 percent of the expected instrument data display output corresponding to the emission standard of the source.

(15) Alternate procedures and requirements. The department may allow equivalent procedures and requirements that have been approved by the U.S. EPA for continuous monitoring systems as follows:

(a) Alternate monitoring requirements to accommodate continuous monitoring systems that require corrections for stack moisture conditions (e.g., an instrument measuring sulfur dioxide emissions on a wet basis could be used with an instrument measuring oxygen concentration on a dry basis if acceptable methods of measuring stack moisture conditions are used to allow accurate adjustments of the measured sulfur dioxide concentration to a dry basis).

(b) Alternate locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate to the satisfaction of the department that installation at alternate locations will enable accurate and representative measurements.

(c) Alternative procedures for performing calibration checks (e.g., some instruments may demonstrate superior drift characteristics that require checking at less frequent intervals).

(d) Alternative monitoring requirements when the effluent from two (2) or more identical affected facilities is released to the atmosphere through more than one (1) point (e.g., an extractive, gaseous monitoring system used at several points may be approved if the procedures recommended are suitable for generating accurate emission averages).

(e) Alternate continuous monitoring systems that do not meet the spectral response requirements in Performance Specification 1, Appendix B of 40 CFR 60, but adequately demonstrate a definite and consistent relationship between their measurements and the opacity measurements of a system complying with the requirements in Performance Specification 1. The department may require that such demonstration be performed for each affected facility.

(16) Minimum data requirements. The following paragraphs set forth the minimum data reporting requirements. Both a printed summary and computer tape or cards shall be furnished in the format specified by the division.

(a) Owners or operators of facilities required to install continuous monitoring systems shall submit for every calendar quarter, a written report of excess emissions and the nature and cause of the excess emissions if known. The averaging period used for data reporting should correspond to the averaging period specified in the emission test method used to determine compliance with an emission standard for the pollutant/source category in question. The required report shall include, as a minimum, the data stipulated in this subsection. All quarterly reports shall be postmarked by the thirtieth (30th) day following the end of each calendar quarter.

(b) For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of six (6) minute averages of opacity greater than the opacity standard in the applicable standard for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four (4) equally spaced, instantaneous opacity measurements per minute. Any time period exempted shall be considered before determining the excess average of opacity (e.g., whenever a regulation allows two (2) minutes of opacity measurements in excess of the standard, the source shall report all opacity averages, in any one (1) hour, in excess of the standard, minus the two (2) minute exemption). If more than one (1) opacity standard applies, excess emissions data must be submitted in relation to all such standards. Opacity data need be reported on computer cards or tape only.

(c) For gaseous measurements the summary shall consist of hourly averages in the units of the applicable standard. The hourly averages shall not appear in the written sum-

mary, but shall be made available from the computer tape or cards.

(d) The date and time identifying each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of system repairs or adjustments shall be reported. Proof of continuous monitoring system performance whenever system repairs or adjustments have been made is required.

(e) When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.

(f) Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two (2) years from the date of collection of such data or submission of such summaries.

(17) Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.

(a) For indirect heat exchangers the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary:

1. When the owner or operator of an indirect heat exchanger elects under subsection (6)(a)3 of this section to measure oxygen in the flue gases, the measurements of the pollutant concentration and oxygen concentration shall each be on a dry basis and Equation I of the conversion procedures in Appendix A to this regulation shall be used.

2. When the owner or operator elects under subsection (6)(a)3 of this section to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and Equation II of the conversion procedures in Appendix A to this regulation shall be used.

(b) For sulfuric acid plants the owner or operator shall:

1. Establish a conversion factor three (3) times daily according to the procedures in 401 KAR 59:035, Section 5(2);

2. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in kg/metric ton (lb/short ton); and

3. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.

(c) The department may allow data reporting or reduction procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the department that his procedures are at least as accurate as those in this section. Such procedures may include but are not limited to the following:

1. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period).

2. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

(18) Special consideration. The department may provide for approval, on a case-by-case basis, of alternative monitoring requirements different from the provisions of this section if the provisions of this section (i.e., the installation of a continuous emission monitoring system) cannot be implemented by a source due to physical plant limitations or extreme economic reasons. In such cases, when the department exempts any source subject to this section by use of this provision from installing continuous emission monitoring systems, the department shall set forth alternative emission monitoring and reporting requirements (e.g., periodic manual stack tests) to satisfy the intent of these regulations. Examples of such special cases include, but are not limited to, the following:

(a) Alternate monitoring requirements may be prescribed when installation of a continuous monitoring system or monitoring device specified by this section would not provide accurate determinations of emissions.

(b) Alternate monitoring requirements may be prescribed when the affected facility is infrequently operated.

(c) Alternative monitoring requirements may be prescribed when the department deems that the requirements of this section would impose an extreme economic burden on the source owner or operator. The burden of proof for an alleged "economic burden" is to be borne by the source.

(d) Alternative monitoring requirements may be prescribed when the department deems that monitoring systems prescribed by this section cannot be installed due to physical limitations at the facility.

APPENDIX A TO 401 KAR 61:005
CONVERSION PROCEDURES

Equation I.

$$E = \frac{CF\,(20.9)}{(20.9 - \%\ O_2)}$$

Equation II.

$$E = \frac{CFc(100)}{\%\ CO_2}$$

Where:

E = pollutant emission, g/million cal (lb/million BTU).

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16×10^{-5} M g/dscm per ppm (2.64×10^{-9} M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole). M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

$\%\ O_2, \%\ CO_2$ = oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under Section 3(6)(a)3.

F,Fc = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), and a factor representing a ratio of the volume of the carbon dioxide generated to the calorific value of the fuel combusted (Fc) respectively. Values of F and Fc are given in 401 KAR 59:015 as applicable.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of

comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 61:050. Existing storage vessels for petroleum liquids.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing storage vessels for petroleum liquids.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the applicable classification date defined below, which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which is designated non-attainment or unclassified *for ozone* under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

(3) This regulation shall not apply to storage vessels located on a farm and used exclusively for storing petroleum liquids used by the farm.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Affected facility" means a storage vessel for petroleum liquids which has a storage capacity of greater than *2,195 liters (*580 gallons*).*

(2) "Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, but does not include:

(a) Pressure vessels which are designed to operate in excess of fifteen (15) pounds per square inch gauge without emissions to the atmosphere except under emergency conditions;

(b) Subsurface caverns or porous rock reservoirs; or

(c) Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.

(3) "Petroleum liquids" means crude petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oil Numbers 2-GT through 4-GT, or diesel fuel oils Numbers 2-D and 4-D as specified by the department.

(4) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

(5) "Crude petroleum" means a naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(6) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(7) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(8) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods specified by the department.

(9) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(10) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(11) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile petroleum liquids, except liquefied petroleum gases, as determined by methods specified by the department.

(12) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean every fill pipe the discharge opening of which is entirely submerged when the liquid level is two (2) times the fill pipe diameter above the bottom of the tank.

(13) "Classification date" means April 9, 1972.

(14) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(15) "Custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(16) "External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with closure seals to close the space between the roof edge and tank shell.

(17) "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floated upon the petroleum liquid being contained, and is equipped with closure seals to close the space between the roof edge and tank shell.

(18) "Liquid-mounted" means a primary seal mounted so that the bottom of the seal covers the liquid surface between the tank shell and the floating roof.

(19) "Vapor-mounted" means a primary seal mounted so that there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank shell, the liquid surface, and the floating roof.

Section 3. Standard for *Volatile Organic Compounds* [Hydrocarbons]. The owner or operator of any storage vessel to which this regulation applies shall store petroleum liquids as follows:

(1) If the storage vessel has a storage capacity greater than *151,400 liters* (40,000 gallons) and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than seventy-eight (78) mm Hg (1.5 psia) but not greater than 574 [0] mm Hg (11.1 psia) the storage vessel shall be equipped with a floating roof, a vapor recovery system, or their equivalents.

(2) If the storage vessel has a storage capacity greater than *151,400 liters* (40,000 gallons) and if the true vapor pressure of the petroleum liquid as stored is greater than 574 [0] mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

(3) If the storage vessel has a storage capacity greater than *2,195 liters* (580 gallons), and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than *10.3 kilopascal* (1.5 psia), as a minimum it shall be equipped with a permanent submerged fill pipe.

(4) If the storage vessel is an external floating roof tank with a storage capacity greater than 151,400 liters (40,000 gallons), it shall be retrofitted with a continuous secondary seal extending from the floating roof to the tank wall (a rim-mounted secondary) if:

(a) The tank is a welded tank, the true vapor pressure of the contained liquid is 27.6 kilopascal (4.0 psia) or greater, and the primary seal is one (1) of the following:

1. A metallic-type shoe seal, a liquid-mounted foam seal, or a liquid-mounted liquid-filled type seal; or

2. Any other closure device which can be demonstrated equivalent to the above primary seals.

(b) The tank is a riveted tank and the true vapor pressure of the contained liquid is 10.3 kilopascal (1.5 psia) or greater.

(c) The tank is a welded tank, the true vapor pressure of the contained liquid is 10.3 kilopascal (1.5 psia) or greater and the primary seal is vapor-mounted. If such primary seal closure device can be demonstrated equivalent to the primary seals described in paragraph (a) of this subsection, then the secondary seal is required when the vapor pressure is 27.6 kilopascal (4.0 psia) or greater.

Section 4. Operating Requirements. (1) There shall be no visible holes, tears, or other openings in the seal or any seal fabric. [; and]

(2) All openings, except stub drains, shall be equipped with covers, lids, or seals such that:

(a) The cover, lid, or seal is in the closed position at all times except when in actual use;

(b) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports; and

(c) Rim vents, if provided, are set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

(3) External floating roof tanks subject to this regulation shall meet the additional requirements:

(a) The seals must be intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall.

(b) The gap area of gaps exceeding 0.32 cm (one-eighth (1/8) in) in width between the secondary seal installed pursuant to Section 3(4)(a) and the tank wall shall not exceed 6.5 sq. cm./0.3 m of tank diameter (1.0 sq. in/ft).

(c) All openings in the external floating roof, except for automatic bleeder vents, rims space vents, and leg sleeves, are to provide a projection below the liquid surface.

(d) Any emergency roof drain is to be provided with a slotted membrane fabric cover or equivalent that covers at least ninety (90) percent of the area of the opening.

Section 5. Monitoring of Operations. (1) When a liquid having a true vapor pressure greater than 7.0 kPa (1.0 psia) is stored in an external floating roof tank with a capacity of greater than 151,400 liters (40,000 gallons) not equipped with a secondary seal or approved alternative control technology, the owner or operator shall maintain a record of the average monthly storage temperature, the type of liquid, and the Reid vapor pressure of the liquid. The owner or operator shall retain the record for two (2) years after the date on which the record was made.

(2) The true vapor pressure shall be determined by using the average monthly storage temperature and typical Reid vapor pressure of the contained liquid or from typical available data on the contained liquid. Supporting analytical data shall be requested by the department if there is a question on the values reported.

Section *6.* [5.] Compliance Timetable. *(1) The following compliance schedule applies to those affected facilities subject to the standards and operating requirements in Sections 3(1) to (3) and 4(1) and (2).*

(a) [(1)] An affected facility located in a Priority I Region for hydrocarbons shall be in compliance on or before *June 29, 1979* [the effective date of this regulation].

(b) [(2)] Except as provided in *paragraph (c)* [subsection (3)] of this *subsection* [section], the owner or operator of an affected facility located in a Priority III region for hydrocarbons shall be required to complete the following:

1. [(a)] Submit a final control plan for achieving compliance with this regulation no later than September 1, 1979.

2. [(b)] Award the control device contract no later than January 1, 1980.

3. [(c)] Initiate on-site construction or installation of emissions control equipment no later than July 1, 1980.

4. [(d)] On-site construction or installation of emission control equipment shall be completed no later than February 1, 1981.

5. [(e)] Final compliance shall be achieved no later than May 1, 1981.

(c) [(3)] An owner or operator of a storage vessel with a storage capacity of greater than *2,195 liters* (580 gallons) but less than or equal to *151,400 liters* (40,000 gallons) which is associated with a bulk gasoline plant regulated by 401 KAR 61:056 shall adhere to the compliance schedule provided therein.

(2) The following compliance schedule applies to those affected facilities subject to the standards and operating requirements in Sections 3(4) and 4(3). The owner or operator of an affected facility shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(b) Award the control device contract no later than June 15, 1981.

(c) Initiate on-site construction or installation of emissions control equipment no later than December 1, 1981.

(d) On-site construction or installation of emission control equipment shall be completed no later than December 1, 1982.

(e) Final compliance shall be achieved no later than December 31, 1982.

Section 7. Exemptions. Any of the following types of external floating roof tanks storing liquid petroleum shall be exempt from the provisions of Section 3(4) as follows:

(1) External floating roof tanks having capacities less than 1,600,000 liters (422,000 gallons) used to store produced crude oil in condensate prior to custody transfer.

(2) A metallic-type shoe seal in a welded tank which has a secondary seal from the top of the shoe seal to the tank wall (a shoe-mounted secondary).

(3) External floating roof tanks storing waxy, heavy pour crudes.

(4) External floating roof tanks with a closure or other devices which can be demonstrated to the satisfaction of the department to be equivalent to the seals required in Section 3(4)(a).

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

401 KAR 61:095. Existing solvent metal cleaning equipment.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing solvent metal cleaning equipment.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which is designated non-attainment or unclassified under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means cold cleaners, open top vapor degreasers, and conveyorized degreasers which utilize volatile organic compounds to remove soluble impurities from metal surfaces.

(2) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(3) "Classification date" means *June 29, 1979* [the effective date of this regulation].

(4) "Freeboard height" means, for a cold cleaner, the distance from the liquid solvent level in the degreaser tank to the lip of the tank. For a vapor degreaser it is the distance from the solvent vapor level in the tank to the lip of the tank.

(5) "Freeboard ratio" means the freeboard height divided by the width of the degreaser.

(6) "Refrigerated chiller" means a second set of freeboard condenser coils located slightly above the primary condenser coils which create a cold air blanket above the vapor zone.

(7) "Cold cleaner" means a batch-loaded degreaser whose solvent is kept below its boiling point.

(8) "Open top vapor degreaser" means a batch-loaded degreaser whose solvent is heated to its boiling point creating a solvent vapor zone.

(9) "Conveyorized degreasers" means a degreaser which is continuously loaded by means of a conveyor system. Its solvent may be boiling or non-boiling.

(10) "Solvent" means, in this regulation, volatile organic compounds.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility to which this regulation applies shall install, maintain and operate the control equipment and observe at all times the operating requirements which apply to this type of degreaser as specified in Sections 4, 5, and 6.

Section 4. Cold Cleaners. (1) Control equipment:

(a) The cleaner shall be equipped with a cover. If the solvent volatility is greater than fifteen (15) mm Hg measured at 100°F or if the solvent is agitated or heated, then the cover shall be designed so that it can be easily operated with one (1) hand.

(b) The cleaner shall be equipped with a drainage facility such that solvent that drains off parts removed from the cleaner will return to the cleaner. If the solvent volatility is greater than thirty-two (32) mm Hg measured at 100°F then the drainage facility shall be internal so that parts are enclosed under the cover while draining. The drainage facility may be external if the department determines that an internal type cannot fit into the cleaning system.

(c) A permanent, conspicuous label, summarizing the operating requirements specified in subsection (2) of this section shall be installed on or near the cleaner.

(d) If used, the solvent spray shall be a fluid stream (not a fine, atomized or shower type spray) and at a pressure which does not cause excessive splashing.

(e) If the solvent volatility is greater than thirty-two (32) mm Hg measured at 100°F or if the solvent is heated above 120°F, then one (1) of the following control devices shall be used:

1. Freeboard that gives a freeboard ratio greater than or equal to 0.7.
2. Water cover (solvent must be insoluble in and heavier than water).
3. Other systems of equivalent control, such as a refrigerated chiller or carbon adsorption.

(2) Operating requirements:

(a) Do not dispose of waste solvent or transfer it to another party, such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in covered containers.

(b) Close degreaser cover whenever not handling parts in the cleaner.

(c) Drain cleaned parts until dripping ceases (fifteen (15) seconds is usually necessary).

Section 5. Open Top Vapor Degreasers. (1) Control equipment:

(a) The degreaser shall be equipped with a cover that can be opened and closed easily without disturbing the vapor zone.

(b) The degreaser shall be equipped with the following safety switches:

1. Condenser flow switch and thermostat to shut off sump heat if condenser coolant either is not circulating or is too warm.

2. Spray safety switch to shut off spray pump if the vapor level drops more than four (4) inches below the bottom condenser coil in order to prevent spraying above the vapor level.

3. Vapor level control thermostat which shuts off sump heat if the vapor zone rises above the design level.

4. Equivalent safety systems as approved on a case-by-case basis by the department.

(c) The degreaser shall be equipped with at least one (1) of the following major control devices:

1. Freeboard ratio greater than or equal to 0.75, and if the degreaser opening is greater than ten (10) square feet, the cover shall be powered or mechanically assisted.

2. Refrigerated chiller.

3. Enclosed design such that the cover or door opens only when the dry part is actually entering or exiting the degreaser.

4. Carbon adsorption system, with ventilation greater than or equal to fifty (50) cfm/square foot of air/vapor interface area (when cover is open), and exhausting less than twenty-five (25) ppm by volume solvent averaged over one (1) complete adsorption cycle.

5. Control system demonstrated to have control efficiency equivalent to or better than any of the above.

(d) A permanent, conspicuous label, summarizing the operating procedures specified in subsection (2) of this section shall be installed on or near the degreaser.

(2) Operating requirements:

(a) Keep the cover closed at all times except when processing work loads through the degreaser.

(b) Minimize solvent carry-out by the following measures:

1. Rack parts so that entrainment of solvent is avoided and full drainage is accomplished.

2. Move parts in and out of the degreaser at vertical speed less than eleven (11) ft./min.

3. Degrease the work load in the vapor zone until condensation ceases (thirty (30) seconds or more is usually necessary).

4. Tip out any pools of solvent on the cleaned parts before removal.

5. Allow parts to dry within the degreaser above the vapor zone until visually dry (fifteen (15) seconds is usually necessary).

(c) Do not degrease porous or absorbent materials such as cloth, leather, wood, or rope.

(d) Work loads should not occupy more than half of the degreaser's open top area.

[(e) The vapor level should not drop more than four (4) inches when the work load enters or leaves the vapor zone.]

(e) [(f)] Never spray above the vapor level.

(f) [(g)] Repair solvent leaks immediately or shut down the degreaser.

(g) [(h)] Do not dispose of waste solvent or transfer it to another party such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in closed containers.

(h) [(i)] Exhaust ventilation should not exceed sixty-five (65) cfm per square foot of degreaser area unless necessary to meet OSHA requirements or control device requirements. Ventilation fans should not be used near the degreaser opening.

(i) [(j)] Water should not be visually detectable in the solvent exiting the water separator.

Section 6. Conveyorized Degreasers. (1) Control equipment:

(a) A conveyorized degreaser shall be enclosed for work load entrances and exits.

(b) The degreaser shall be equipped with a drying tunnel or another means such as rotating baskets sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

(c) Minimized openings: entrances and exits shall silhouette work loads so that the average clearance between the largest parts and the edge of the degreaser opening is either less than four (4) inches or less than ten (10) percent of the width of the opening.

(d) Down-time covers: The degreaser shall be equipped with covers for closing off the entrance and exit during shutdown hours.

(e) If the degreaser has an air/solvent interface area or an air/vapor interface area equal to or greater than twenty (20) square ft. it shall be equipped with at least one (1) of the following major control devices:

1. Refrigerated chiller.

2. Carbon adsorption system with ventilation greater than or equal to fifty (50) cfm/square foot of air/vapor interface area (when down-time covers are open) and exhausting less than twenty-five (25) ppm of solvent by volume averaged over a complete adsorption cycle.

3. A system demonstrated to have a control efficiency equivalent to or better than either of the above.

(f) If the degreaser is a vapor type, it shall be equipped with the following safety switches:

1. Condensor flow switch and thermostat which will shut off the sump heat if coolant is either not circulating or is too warm.

2. Spray safety switch which will shut off the spray pump or conveyor if the vapor level drops more than four (4) inches below the bottom condenser coil in order to prevent spraying above the vapor level.

3. Vapor level control thermostat which will shut off sump heat if the vapor level rises above the design level.

4. Equivalent safety systems as approved on a case-by-case basis by the department.

(g) A permanent, conspicuous label, summarizing the operating procedures specified in subsection (2) of this section shall be installed on or near the degreaser.

(2) Operating requirements:

(a) Exhaust ventilation should not exceed sixty-five (65) cfm per square foot of degreaser opening unless necessary to meet OSHA requirements or control device requirements. Work place fans should not be used near the degreaser opening.

(b) Minimize solvent carry-out by the following measures:

1. Rack parts so that entrainment of solvent is avoided and full drainage is accomplished.

2. Maintain vertical conveyor speed at less than eleven (11) ft/min.

(c) Do not dispose of waste solvent or transfer it to another party such that greater than twenty (20) percent by weight of the waste solvent can evaporate into the atmosphere. Store waste solvent only in closed containers.

(d) Repair solvent leaks immediately or shut down the degreaser.

(e) Water should not be visually detectable in the solvent exiting the water separator.

(f) Down-time covers shall be placed over entrances and exits of the degreaser immediately after the conveyor and exhaust are shut down and removed just before they are started up.

Section 7. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than September 1, 1979.

(2) Award the control system contract no later than November 1, 1979.

(3) Initiate on-site construction or installation of emission control equipment no later than July 1, 1980.

(4) On-site construction or installation of emission control equipment shall be completed no later than May 1, 1981.

(5) Final compliance shall be achieved no later than July 1, 1981.

Section 8. Exemptions. Any cold cleaners shall be exempt from the provisions of Section 4 if the following criteria are met:

(1) The cold cleaner must have a remote solvent reservoir;

(2) The solvent used in the cold cleaner must not have a vapor pressure that exceeds thirty-three (33) mm Hg measured at 100°F or be heated above 120°F;

(3) The sink-like work area must have an open drain area less than 100 sq. cm.; and

(4) Evidence is provided that waste solvent will be stored or properly disposed of with minimum loss due to evaporation.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(Proposed Amendment)

603 KAR 5:096. Highway classifications.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.222

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

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

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

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

KY 89

AAA—From jct. KY 52 in Irvine to *jct. KY 627 in Winchester* [south end of Red River Bridge at the Estill-Clark Co. line].

AA—From [south end of Red River Bridge at the Estill-Clark Co. line to jct. KY. 627 in Winchester; and] quarry entrance, 5.3 miles sw of US 421 *near McKee* to jct. US 421 near McKee.

A—From jct. KY 490 in Rockcastle Co. near the Laurel Co. line to quarry entrance, 5.3 miles sw of US 421; and from jct. US 421 at McKee to jct. KY 52 in Irvine.

KY 91

AAA—From jct. US 68, near the NWCL of Hopkinsville to 0.5 mile n of KY 1682; [and] from jct. KY 128, se of Princeton to jct. Western Kentucky Parkway, n of Princeton*; and from jct. US 60 in Marion to the Ohio River at Cave in Rock.*

AA—From 0.5 mile n of KY 1682, nw of Hopkinsville to jct. KY 128, se of Princeton; and from jct. Western Kentucky Parkway, n of Princeton to KY 70, s of Fredonia.

[A—From jct. US 60 in Marion to Ohio River at Cave in Rock.]

* COMPILER'S NOTE: Only those particular highways affected by the proposed amendment are shown here. 603 KAR 5:096 is printed in full in Volume 3, "Kentucky Administrative Regulations Service."

FRANK R. METTS, Secretary

ADOPTED: September 4, 1980

RECEIVED BY LRC: September 12, 1980 at 1:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40622.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 2:007. Inside signs.

RELATES TO: KRS 244.130, 244.510
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: *The present provisions of this regulation place a limit of fifty dollars ($50) on inside signs that can be made available to malt beverage retailers by brewers or distributors of malt beverages. Present economic conditions dictate that this limit be raised.* [By the specific provision of KRS 241.060(1) this board has the authority to regulate the advertising of alcoholic beverages. The present Kentucky statutes and A.B.C. regulations do not contain any specific regulation or guideline of inside signs located on licensed premises. The purpose of this regulation is to allow the use of inside signs upon licensed malt beverage retail establishments. The Alcohol, Tobacco and Fire Arms Department of the U.S. Treasury has the responsibility of federal regulation of the alcoholic beverage industry. The ATF Division permits malt beverage licensees to display inside signs under their regulation appearing at 27 CFR Section 6.23. The A.B.C. Board deems it advisable to permit the use of such signs by retailers and further that any such Kentucky regulation should be similar to that of the federal regulation. The function of this regulation is to permit a brewer or wholesaler of malt beverages to provide a malt beverage retailer with signs or displays of a monetary value not to exceed fifty dollars ($50) on one premise at one time. The net result of the regulation would provide a guide to a brewer or distributor of malt beverages as to the type of advertising assistance they may render their retailers.]

Section 1. Except as provided in Section 2, it is unlawful for any brewer or distributor of malt beverages to induce any retailer to purchase any products from such brewer or wholesaler to the exclusion in whole or in part of such products sold or offered for sale by other brewers or distributors, by furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, service or other things of value, directly or indirectly or through an affiliate, if such inducement is made or such practice is used as a means to prevent, deter, hinder or restrict other brewers or distributors from selling or offering for sale any such malt beverage products to a retailer.

Section 2. Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail malt beverage establishment, may be given, rented, loaned, or sold to a malt beverage retailer by a brewer or distributor of malt beverages, if the total value of all such materials furnished by any brewer or distributor for any one (1) brand in use at any one (1) time in any one (1) retail establishment does not exceed the sum of *$100* [fifty dollars ($50)], including all expenses incurred directly or indirectly by a brewer or distributor in connection with the purchase, manufacture, transportation, assembly, and installation of such materials and accessories. No brewer or distributor shall directly or indirectly pay or credit any retailer for displaying such materials or for any expense incidental to their operation.

RICHARD H. LEWIS, Chairman
ADOPTED: August 25, 1980
APPROVED: H. FOSTER PETTIT
RECEIVED BY LRC: September 3, 1980 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alcoholic Beverage Control Board, 123 Walnut Street, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Utility Regulatory Commission
(Proposed Amendment)

807 KAR 25:010. Rules of procedure.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.310(2)
NECESSITY AND FUNCTION: KRS 278.310(2) provides that all hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission. This regulation prescribes requirements with respect to formal and informal proceedings before the commission.

Section 1. General Offices and Hearings. (1) The commission will be in continuous session for the performance of administrative duties.

(2) Meetings of the commission for the consideration of all matters requiring formal hearings will be held on such days, at such hours and at such places as the commission may designate.

(3) Notice of hearing will be given by the secretary to parties to proceedings before the commission, except when a hearing is not concluded on the day appointed therefor and verbal announcement is made by the presiding commissioner or hearing examiner of an adjourned date. Verbal announcements so made shall be deemed due notice of continued hearing.

Section 2. Secretary to Furnish Information. (1) Upon request, the secretary of the commission will advise any party as to the form of a petition, complaint, answer, application or other paper desired to be filed; and he will make available from the commission's files, upon request, any document or record pertinent to any matter before the commission.

(2) The secretary may reject for filing any document which on its face does not comply with the rules and regulations of the commission.

Section 3. General Matters Pertaining to All Formal Proceedings. (1) Address of the commission. All communications should be addressed to "Utility Regulatory Commission, Frankfort, Kentucky."

(2) Case numbers and styles. Each matter coming formally before the commission will be known as a case and will receive a number and style, descriptive of the subject matter. Such number and style shall be placed on all subsequent papers in such case.

(3) Form of papers filed. All pleadings and applications filed with the commission in formal proceedings shall be

printed or typewritten on one (1) side of the paper only, and typewriting shall be double spaced.

(4) Signing of pleadings. Every pleading of a party represented by an attorney shall be signed by at least one (1) attorney of record in his individual name and shall state his address. Except when otherwise specifically provided by statute, pleadings need not be verified or accompanied by affidavit.

(5) Amendment. At its discretion, the commission may allow any complaint, application, answer or other paper to be amended or corrected or any omission supplied therein.

(6) Witnesses and subpoenas:

(a) Upon the application of any party to a proceeding, subpoenas requiring the attendance of witnesses for the purpose of taking testimony may be signed and issued by a member of the commission.

(b) Subpoenas for the production of books, accounts, papers or records (unless directed to issue by the commission on its own authority) will be issued only at the discretion of the commission, or any commissioner, upon application in writing, stating as nearly as possible the books, accounts, papers or records desired to be produced.

(7) Service of process. When any party has appeared by attorney, service upon such attorney will be deemed proper service upon the party.

(8) Parties and intervention. In any formal proceeding, any corporation, association, body politic or person authorized by law to become a party to a proceeding before the commission, may by timely motion request that he or it be granted leave to intervene. The motion shall set forth the grounds for the request, including the status and interest of the movant. If the commission, after opportunity has been given to the party or parties to such proceeding to be heard on such intervention, be of the opinion that the movant is entitled to be made a party, it shall so order. Leave thus granted will entitle the intervenor to have notice of and to appear at the taking of testimony, to produce and cross-examine witnesses and to be heard in person or by counsel in the proceeding.

Section 4. Hearings and Rehearings. (1) When hearings will be granted. Except as otherwise determined in specific cases, the commission will grant a hearing in the following classes of cases:

(a) When an order to satisfy a complaint or to make answer thereto has been made and the corporation or person complained of has not satisfied the complaint to the satisfaction of the commission.

(b) When application has been made in a formal proceeding.

(2) Publication of notice. Upon the filing of any application the commission may, in its discretion, give all other corporations or persons who may be affected thereby an opportunity to be heard by service upon them of a copy of the petition or by publication of the substance thereof, at the expense of the applicant, for such length of time and in such newspaper or newspapers as the commission may designate. In such cases the form of notice will be prepared by the secretary of the commission, and a proof of the publication thereof must be filed at or before the hearing.

(3) Investigation on commission's own motion. The commission may at any time, on its own motion, make investigations and order hearings into any act or thing done or omitted to be done by the public utility, which the commission may believe is in violation of any provision of law or of any order or regulation of the commission. It may also through its own experts or employees, or otherwise, obtain such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties.

(4) Conferences with commission staff. In order to provide opportunity for settlement of a proceeding or any of the issues therein, an informal conference with the commission staff may be arranged through the secretary of the commission either prior to, or during the course of hearings in any proceeding, at the request of any party.

(5) Conduct of hearings. Hearings will be conducted before the commission or a commissioner or before a person designated by the commission to conduct a specific hearing.

(6) Stipulation of facts. By a stipulation in writing, filed with the secretary, the parties to any proceeding or investigation by the commission may agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing.

(7) Testimony. All testimony given before the commission will be given under oath or affirmation.

(8) Objections and exceptions. When objections are made to the admission or exclusion of evidence before the commission, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and will not be taken to rulings therein.

(9) Transcript of evidence. The commission will cause to be made a stenographic record of all public hearings, and such copies of the transcript thereof as it requires for its own purposes. Participants desiring copies of such transcripts may obtain the same from the official reporter upon payment of the fees fixed therefor.

(10) Briefs and petitions for rehearing. All briefs and petitions for rehearing in any proceeding must be accompanied with notice, showing service upon all other parties or their attorneys, and, in addition to the filed original, ten (10) copies of each such document shall be furnished for the use of the commission.

(11) Filing of briefs. All briefs must be filed within the time fixed, and the commission may refuse to consider any brief filed thereafter. Applications for extensions of time to file briefs must be made to the commission in writing.

(12) Form of briefs. All briefs filed with the commission shall be in the form prescribed by the commission.

Section 5. Documentary Evidence. (1) If documentary evidence is offered, the commission, in lieu of requiring the originals to be filed may, in its discretion, accept certified, or otherwise authenticated, copies of such documents or such portions of the same as may be relevant, or may require such evidence to be transcribed as a part of the record.

(2) Where relevant and material matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant the party must plainly designate the matter so offered. If such immaterial matter unnecessarily encumbers the record, such book, paper or document will not be received in evidence, but may be worded for identification, and if properly authenticated, the relevant and material matter may be read into the record, or if the commission, or commissioner conducting the hearing, so directs, a true copy of such matter in proper form shall be received as an exhibit, and like copies delivered by the parties offering same to opposing parties, or their attorneys, appearing at the hearing, who shall be offered opportunity to examine such book, paper or document, and to offer evidence in like manner other portions thereof if found to be material and relevant.

(3) Whenever practicable the sheets of each exhibit and

the lines of each sheet shall be numbered and if the exhibit consists of two (2) or more sheets, the first sheet or title page shall contain a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit. Wherever practicable, rate comparisons and other such evidence shall be condensed into tables.

(4) Except as may be expressly permitted in particular instances, the commission will not receive in evidence or consider as a part of the record any book, paper or other document for consideration in connection with the proceeding after the close of the testimony.

(5) Upon motion of any party to a proceeding, any case in the commission's files or any document on file with the commission, at the discretion of the commission may be made a part of the record by "reference only." By reference only, the case or document made a part of the record will not be physically incorporated into the record. Upon action in the Franklin Circuit Court, excerpts from any case or part only of any document may be made, at the instance of any party, a part of the record before such court.

Section 6. Financial Exhibit. Whenever in these rules it is provided that a financial exhibit shall be annexed to the application, the said exhibit shall cover operations for a twelve (12) month period, said period ending not more than ninety (90) days prior to the date the application is filed. The said exhibit shall disclose the following information in the order indicated below:

(1) Amount and kinds of stock authorized.

(2) Amount and kinds of stock issued and outstanding.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets or otherwise.

(4) Brief description of each mortgage on property of applicant, giving date of execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of indebtedness actually secured, together with any sinking fund provisions.

(5) Amount of bonds authorized, and amount issued, giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(7) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(8) Rate and amount of dividends paid during the five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(9) Detailed income statement and balance sheet.

Section 7. Applications. (1) Contents of application. All applications must be by petition in writing. The petition must set forth the full name and post office address of the applicant, and must contain fully the facts on which the application is based, with a request for the order, authorization, permission or certificate desired and a reference to the particular provision of law requiring or providing for same.

(2) Number of copies. At the time the original application is filed, ten (10) additional copies must also be filed, and where parties interested in the subject matter of the application are named therein, there shall be filed an additional copy for each named party and such other additional copies as may be required by the secretary.

(3) Articles of incorporation. If the applicant is a corporation, a certified copy of its articles of incorporation, and all amendments thereto, if any, shall be annexed to the application. If applicant's articles of incorporation and amendments thereto, if any, have already been filed with the commission in some prior proceeding, it will be sufficient if this fact is stated in the application and reference is made to the style and case number of the prior proceeding.

Section 8. Applications for Certificates of Public Convenience and Necessity. (1) Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the commission by the utility for a certificate of convenience and necessity authorizing applicant to bid on a franchise, license or permit offered by any governmental agency, the applicant shall submit with its application, the following:

(a) A copy of its articles of incorporation. (See Section 7(3).)

(b) The name of the governmental agency offering the franchise.

(c) The type of franchise offered.

(d) A statement showing the need and demand for service. Should the applicant be successful in acquiring said franchise, license or permit, it shall file a copy thereof with the commission.

(2) New construction or extension. When application is made by the utility, person, firm, or corporation for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property or facility, the applicant, in addition to complying with Section 7, shall submit the following data, either in the application or as exhibits attached thereto:

(a) The facts relied upon to show that the proposed new construction is or will be required by public convenience or necessity.

(b) Copies of franchises or permits, if any, from the proper public authority for the proposed new construction or extension, if not previously filed with the commission.

(c) A full description of the proposed location, route, or routes of the new construction or extension, including a description of the manner in which same will be constructed, and also the names of all public utilities, corporations, or persons with whom the proposed new construction or extension is likely to compete.

(d) Three (3) maps to suitable scale (preferably not more than two (2) miles per inch) showing the location or route of the proposed new construction or extension, as well as the location to scale of any like facilities owned by others located anywhere within the map area with adequate identification as to the ownership of such other facilities.

(e) The manner in detail in which it is proposed to finance the new construction or extension.

(f) An estimated cost of operation after the proposed facilities are completed.

(g) All other information necessary to afford the commission a complete understanding of the situation.

(3) All testimony in support of the proposed construction shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one

(1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(4) [(3)] Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

(5) [(4)] Renewal applications. Insofar as procedure is concerned, applications for a renewal of a certificate of convenience and necessity will be treated as an original application.

Section 9. Application or Notice for Authority to Adjust Rates. (1) When the utility seeks to adjust any rate, toll, charge, or rental, so as to alter any classification, contract, practice, rule or regulation as to result in any change in any rate, toll, charge, or rental, the applicant, in addition to complying with the provisions of Section 7, shall submit the following data either in the application or attached thereto as exhibits:

(a) Financial exhibit. (See Section 6.)

(b) A schedule of the present rates, tolls, charges, or rentals, in effect, and the changes which it is desired to make, shown in comparative form.

(c) A description of applicant's property, including a statement of the net original cost of the property (estimated if not known) and the cost thereof to applicant.

(d) A statement in full of the reason why the adjustment is required.

(e) A statement setting forth estimates of the effect that the new rate or rates will have upon the revenues of the utility, the total amount of money resulting from the increase or decrease, the percentage of increase or decrease, and the effect upon average consumer bills.

(f) A statement certifying that the utility's annual reports, including the report for the most recent calendar year, are on file with the commission in accordance with 807 KAR 25:020, Section 3(1).

(2) All testimony in support of the proposed rate adjustment shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one (1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(3) [(2)] In all cases involving a general increase in rates, in addition to the information required in subsection (1) above, complete financial data for the twelve (12) months corresponding to the test period used by the utility in its case shall be submitted at the hearing or prior thereto unless such information is contained in reports on file with the commission. Such data shall include:

(a) Total amount of interest charged to construction.

(b) An analysis of customer's bills in such detail that the revenues from the present and proposed rates can be readily determined.

(c) Details of any apportionment used.

(d) Monthly revenues and operating expenses.

(4) All information and notice required by these regulations shall be furnished to the commission at the time of the filing of any proposed adjustments in rates, and the twenty (20) days statutory notice will not commence to run and will not be computed until such information and notice are filed.

Section 10. Application for Authority to Issue Securities, Notes, Bonds, Stocks or Other Evidences of Indebtedness. (1) When application is made by the utility for an order authorizing the issuance of securities, notes, bonds, stocks or other evidences of indebtedness payable at periods of more than two (2) years from the date thereof, under the provisions of KRS 278.300, said application, in addition to complying with the requirements of Section 7, shall contain:

(a) A general description of applicant's property and the field of its operation, together with a statement of the original cost of the same and the cost to the applicant, if it is impossible to state the original cost, the facts creating such impossibility shall be stated.

(b) The amount and kinds of stock, if any, which the utility desires to issue, and, if preferred, the nature and extent of the preference; the amount of notes, bonds or other evidences of indebtedness, if any, which the utility desires to issue, with terms, rate of interest and whether and how to be secured.

(c) The use to be made of the proceeds of the issue of such securities, notes, bonds, stocks or other evidence of indebtedness with a statement indicating how much is to be used for the acquisition of property, the construction, completion, extension or improvement of facilities, the improvement of service, the maintenance of service and the discharge or refunding of obligations.

(d) The property in detail which is to be acquired, constructed, improved or extended with its cost, a detailed description of the contemplated construction, completion, extension or improvement of facilities set forth in such a manner that an estimate of cost may be made, a statement of the character of the improvement of service proposed, and of the reasons why the service should be maintained from its capital. Whether any contracts have been made for the acquisition of such property, or for such construction, completion, extension or improvement of facilities, or for the disposition of any of the securities, notes, bonds, stocks or other evidence of indebtedness which it proposes to issue or the proceeds thereof and if any contracts have been made, copies thereof shall be annexed to the petition.

(e) If it is proposed to discharge or refund obligations, a statement of the nature and description of such obligations including their par value, the amount for which they were actually sold, the expenses associated therewith, and the application of the proceeds from such sales. If notes are to be refunded, the petition must show the date, amount, time, rate of interest, and payee of each and the purpose for which their proceeds were expended.

(f) Such other facts as may be pertinent to the application.

(2) All testimony in support of the proposed financing shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one (1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(3) [(2)] The following exhibits must be filed with the application:

(a) Financial exhibit. (See Section 6.)

(b) Copies of trust deeds or mortgages, if any, unless they have already been filed with the commission, in which case reference should be made, by style and case number, to the proceeding in which the trust deeds or mortgages have been filed.

(c) Maps and plans of the proposed property and constructions together with detailed estimates in such form that they can be checked over by the commission's engineering division. Estimates must be arranged ac-

cording to the uniform system of accounts prescribed by the commission for the various classes of utilities.

Section 11. Formal Complaints. (1) Contents of complaint. Each complaint shall be headed "Before the Utility Regulatory Commission," shall set out the names of the complainant and the name of the defendant, and shall state:

(a) The full name and post office address of the complainant.

(b) The full name and post office address of the defendant.

(c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be done, of which complaint is made, with a reference, where practicable, to the law, order, or section, and subsections, of which a violation is claimed, and such other matters, or facts, if any, as may be necessary to acquaint the commission fully with the details of the alleged violation. The complainant shall set forth definitely the exact relief which is desired. (See Section 14(1).)

(2) Signature. The complaint shall be signed by the complainant or his attorney, if any, and if signed by such attorney, shall show his post office address. Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

(3) Number of copies required. At the time the complainant files his original complaint, he must also file copies thereof equal in number to ten (10) more than the number of persons or corporations to be served.

(4) Procedure on filing of complaint:

(a) Upon the filing of such complaint, the commission will immediately examine the same to ascertain whether it establishes a prima facie case and conforms to this regulation. If the commission is of the opinion that the complaint does not establish a prima facie case or does not conform to this regulation, it will notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the commission, for good cause shown, may grant, it will be dismissed.

(b) If the commission is of the opinion that such complaint, either as originally filed or as amended, does establish a prima facie case and conforms to this regulation, the commission will serve an order upon such corporations or persons complained of under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of such order, provided that the commission may, in particular cases, require the answer to be filed within a shorter time.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief which he is willing to give. Upon the acceptance of this offer by the complainant and the approval of the commission, no further proceedings need be taken.

(6) Answer to complaint. If satisfaction be not made as aforesaid, the corporation or persom complained of must file an answer to the complaint, with certificate of service on other parties endorsed thereon, within the time specified in the order or such extension thereof as the commission, for good cause shown, may grant. The answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground. (See Section 14(2).)

Section 12. Informal Complaints. (1) Informal complaints must be made in writing. Matters thus presented are, if their nature warrants, taken up by correspondence with the utility complained against in an endeavor to bring about satisfaction of the complaint without formal hearing.

(2) No form of informal complaint is prescribed, but in substance it must contain the essential elements of a complaint, including the name and address of complainant, the correct name and post office address of the utility against whom complaint is made, a clear and concise statement of the facts involved, and the relief requested.

(3) In the event of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to the complainant's right to file and prosecute a formal complaint whereupon the informal proceedings will be discontinued.

Section 13. Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

Section 14. Forms. (1) In all practice before the commission the following forms shall be followed insofar as practicable:

(a) Formal complaint.

(b) Answer.

(c) Application.

(d) Notice of adjustment of rates.

(2) Forms of Formal Complaint.

Before the Utility Regulatory Commission

(Insert name of complainant) Complainant
vs.
(Insert name of each defendant) Defendant
No. _____ (To be inserted by the secretary of the commission)

COMPLAINT

The complaint of (here insert full name of each complainant) respectfully shows:

(a) That (here state name, occupation and post office address of each complainant).

(b) That (here insert full name, occupation and post office address of each defendant).

(c) That (here insert fully and clearly the specific act or thing complained of, such facts as are necessary to give a full understanding of the situation, and the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complaint asks (here state specifically the relief desired).

Dated at _____, Kentucky, this _____ day of _____, 19__.

_____
(Name of each complainant)

_____
(Name and address of attorney, if any)

(3) Form of Answer to Formal Complaint.

Before the Utility Regulatory Commission

(Insert name of each complainant) Complainant)
vs.)
(Insert name of each defendant) Defendant)
No. _____ (To be inserted by the secretary of the commission)

ANSWER

The above-named defendant, for answer to the complaint in the proceeding, respectfully states:

(a) That (here follow specific denials of such material allegations as are controverted by the defendant and also a statement of any new matter constituting a defense. Continue lettering each succeeding paragraph).

WHEREFORE, the defendant prays that the complaint be dismissed (or other appropriate prayer).

_____
(Name of defendant)

_____
(Name and address of attorney, if any)

(4) Form of Application.

Before the Utility Regulatory Commission

In the matter of the application of (here insert name of each applicant) for (here insert desired order, authorization, permission or certificate, thus: "Order authorizing issue of stocks and bonds"))
No. _____ (To be inserted by the secretary of the commission)

APPLICATION

The petition of (here insert name of each applicant) respectfully shows:

(a) That applicant is engaged in the business of (here insert nature of business and territorial extent thereof).

(b) That the post office address of each applicant is _____.

(c) That (here state fully and clearly the facts required by these rules, and any additional facts which applicant desires to state).

WHEREFORE, applicant asks that the Utility Regulatory Commission of the Commonwealth of Kentucky make its order authorizing applicant to (here state specifically the action which the applicant desires the commission to take).

Dated at _____, Kentucky, this ____ day of _____, 19___.

_____
(Name of applicant)

_____
(Name and address of attorney, if any)

(5) Form of Notice to the Commission of Adjustment of Rates.

Before the Utility Regulatory Commission

In the matter of adjustment of rates of the (state name of corporation).)
No. _____ (To be inserted by the secretary of the commission).

The (here insert name of company) informs the commission that it is engaged in the business of (set out character of business) in (set out place of operation) and does hereby propose to adjust its rates, effective the ____ day of _____, 19___, in conformity with the attached schedule.

(See Section 9 of this regulation for required information.)

_____
(Name and address of company)

_____
(Name and address of attorney)

RICHARD S. TAYLOR, Chairman
ADOPTED: August 29, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: September 12, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Utility Regulatory Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

PUBLIC PROTECTION AND REGULATION CABINET
Energy Regulatory Commission
(Proposed Amendment)

807 KAR 50:005. Rules of procedure.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.310(2)
NECESSITY AND FUNCTION: KRS 278.310(2) provides that all hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission. This regulation prescribes requirements with respect to formal and informal proceedings before the commission.

Section 1. General Offices and Hearings. (1) The commission will be in continuous session for the performance of administrative duties.

(2) Meetings of the commission for the consideration of all matters requiring formal hearings will be held on such days, at such hours and at such places as the commission may designate.

(3) Notice of hearing will be given by the secretary to parties to proceedings before the commission, except when a hearing is not concluded on the day appointed therefor and verbal announcement is made by the presiding commissioner or hearing examiner of an adjourned date. Verbal announcements so made shall be deemed due notice of continued hearing.

Section 2. Secretary to Furnish Information. (1) Upon request, the secretary of the commission will advise any party as to the form of a petition, complaint, answer, application or other paper desired to be filed; and he will make available from the commission's files, upon request, any document or record pertinent to any matter before the commission.

(2) The secretary may reject for filing any document which on its face does not comply with the rules and regulations of the commission.

Section 3. General Matters Pertaining to All Formal Proceedings. (1) Address of the commission. All communications should be addressed to "Energy Regulatory Commission, Frankfort, Kentucky."

(2) Case numbers and styles. Each matter coming formally before the commission will be known as a case and will receive a number and style, descriptive of the subject matter. Such number and style shall be placed on all subsequent papers in such case.

(3) Form of papers filed. All pleadings and applications filed with the commission in formal proceedings shall be printed or typewritten on one (1) side of the paper only, and typewriting shall be double spaced.

(4) Signing of pleadings. Every pleading of a party represented by an attorney shall be signed by at least one (1) attorney of record in his individual name and shall state his address. Except when otherwise specifically provided by statute, pleadings need not be verified or accompanied by affidavit.

(5) Amendment. At its discretion, the commission may allow any complaint, application, answer or other paper to be amended or corrected or any omission supplied therein.

(6) Witnesses and subpoenas:

(a) Upon the application of any party to a proceeding, subpoenas requiring the attendance of witnesses for the purpose of taking testimony may be signed and issued by a member of the commission.

(b) Subpoenas for the production of books, accounts, papers or records (unless directed to issue by the commission on its own authority) will be issued only at the discretion of the commission, or any commissioner, upon application in writing, stating as nearly as possible the books, accounts, papers or records desired to be produced.

(7) Service of process. When any party has appeared by attorney, service upon such attorney will be deemed proper service upon the party.

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(3) Investigation on commission's own motion. The commission may at any time, on its own motion, make investigations and order hearings into any act or thing done or omitted to be done by the public utility, which the commission may believe is in violation of any provision of law or of any order or regulation of the commission. It may also through its own experts or employees, or otherwise, obtain such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by the parties.

(4) Conferences with commission staff. In order to provide opportunity for settlement of a proceeding or any of the issues therein, an informal conference with the commission staff may be arranged through the secretary of the commission either prior to, or during the course of hearings in any proceeding, at the request of any party.

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(12) Form of briefs. All briefs filed with the commission shall be in the form prescribed by the commission.

Section 5. Documentary Evidence. (1) If documentary evidence is offered, the commission, in lieu of requiring the originals to be filed may, in its discretion, accept certified, or otherwise authenticated, copies of such documents or such portions of the same as may be relevant, or may require such evidence to be transcribed as a part of the record.

(2) Where relevant and material matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant the party must plainly designate the matter so offered. If such immaterial matter unnecessarily encumbers the record, such book, paper or document will not be received in evidence, but may be worded for identification, and if properly authenticated, the relevant and material matter may be read into the record, or if the commission, or commissioner conducting the hearing, so directs, a true copy of such matter in proper form shall be received as an exhibit, and like copies delivered by the parties offering same to opposing parties, or their attorneys, appearing at the hearing, who shall be offered opportunity to examine such book, paper or document, and to offer evidence in like manner other portions thereof if found to be material and relevant.

(3) Whenever practicable the sheets of each exhibit and the lines of each sheet shall be numbered and if the exhibit consists of two (2) or more sheets, the first sheet or title

page shall contain a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit. Wherever practicable, rate comparisons and other such evidence shall be condensed into tables.

(4) Except as may be expressly permitted in particular instances, the commission will not receive in evidence or consider as a part of the record any book, paper or other document for consideration in connection with the proceeding after the close of the testimony.

(5) Upon motion of any party to a proceeding, any case in the commission's files or any document on file with the commission, at the discretion of the commission may be made a part of the record by "reference only." By reference only, the case or document made a part of the record will not be physically incorporated into the record. Upon action in the Franklin Circuit Court, excerpts from any case or part only of any document may be made, at the instance of any party, a part of the record before such court.

Section 6. Financial Exhibit. Whenever in these rules it is provided that a financial exhibit shall be annexed to the application, the said exhibit shall cover operations for a twelve (12) month period, said period ending not more than ninety (90) days prior to the date the application is filed. The said exhibit shall disclose the following information in the order indicated below:

(1) Amount and kinds of stock authorized.

(2) Amount and kinds of stock issued and outstanding.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets or otherwise.

(4) Brief description of each mortgage on property of applicant, giving date of execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of indebtedness actually secured, together with any sinking fund provisions.

(5) Amount of bonds authorized, and amount issued, giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(7) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(8) Rate and amount of dividends paid during the five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(9) Detailed income statement and balance sheet.

Section 7. Applications. (1) Contents of application. All applications must be by petition in writing. The petition must set forth the full name and post office address of the applicant, and must contain fully the facts on which the application is based, with a request for the order, authorization, permission or certificate desired and a reference to the particular provision of law requiring or providing for same.

(2) Number of copies. At the time the original application is filed, ten (10) additional copies must also be filed, and where parties interested in the subject matter of the application are named therein, there shall be filed an additional copy for each named party and such other additional copies as may be required by the secretary.

(3) Articles of incorporation. If the applicant is a corporation, a certified copy of its articles of incorporation, and all amendments thereto, if any, shall be annexed to the application. If applicant's articles of incorporation and amendments thereto, if any, have already been filed with the commission in some prior proceeding, it will be sufficient if this fact is stated in the application and reference is made to the style and case number of the prior proceeding.

Section 8. Applications for Certificates of Public Convenience and Necessity. (1) Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the commission by the utility for a certificate of convenience and necessity authorizing applicant to bid on a franchise, license or permit offered by any governmental agency, the applicant shall submit with its application, the following:

(a) A copy of its articles of incorporation. (See Section 7(3).)

(b) The name of the governmental agency offering the franchise.

(c) The type of franchise offered.

(d) A statement showing the need and demand for service. Should the applicant be successful in acquiring said franchise, license or permit, it shall file a copy thereof with the commission.

(2) New construction or extension. When application is made by the utility, person, firm, or corporation for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property or facility, the applicant, in addition to complying with Section 7, shall submit the following data, either in the application or as exhibits attached thereto:

(a) The facts relied upon to show that the proposed new construction is or will be required by public convenience or necessity.

(b) Copies of franchises or permits, if any, from the proper public authority for the proposed new construction or extension, if not previously filed with the commission.

(c) A full description of the proposed location, route, or routes of the new construction or extension, including a description of the manner in which same will be constructed, and also the names of all public utilities, corporations, or persons with whom the proposed new construction or extension is likely to compete.

(d) Three (3) maps to suitable scale (preferably not more than two (2) miles per inch) showing the location or route of the proposed new construction or extension, as well as the location to scale of any like facilities owned by others located anywhere within the map area with adequate identification as to the ownership of such other facilities.

(e) The manner in detail in which it is proposed to finance the new construction or extension.

(f) An estimated cost of operation after the proposed facilities are completed.

(g) All other information necessary to afford the commission a complete understanding of the situation.

(3) All testimony in support of the proposed construction shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one (1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(4) [(3)] Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

(5) [(4)] Renewal applications. Insofar as procedure is concerned, applications for a renewal of a certificate of convenience and necessity will be treated as an original application.

Section 9. Application or Notice for Authority to Adjust Rates. (1) When the utility seeks to adjust any rate, toll, charge, or rental, so as to alter any classification, contract, practice, rule or regulation as to result in any change in any rate, toll, charge, or rental, the applicant, in addition to complying with the provisions of Section 7, shall submit the following data either in the application or attached thereto as exhibits:

(a) Financial exhibit. (See Section 6.)

(b) A schedule of the present rates, tolls, charges, or rentals, in effect, and the changes which it is desired to make, shown in comparative form.

(c) A description of applicant's property, including a statement of the net original cost of the property (estimated if not known) and the cost thereof to applicant.

(d) A statement in full of the reason why the adjustment is required.

(e) A statement setting forth e timates of the effect that the new rate or rates will have upon the revenues of the utility, the total amount of money resulting from the increase or decrease, the percentage of increase or decrease, and the effect upon average consumer bills.

(f) A statement certifying that the utility's annual reports, including the report for the most recent calendar year, are on file with the commission in accordance with 807 KAR 50:015, Section 3(1).

(2) All testimony in support of the proposed rate adjustment shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one (1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(3) [(2)] In all cases involving a general increase in rates, in addition to the information required in subsection (1) above, complete financial data for the twelve (12) months corresponding to the test period used by the utility in its case shall be submitted at the hearing or prior thereto unless such information is contained in reports on file with the commission. Such data shall include:

(a) Total amount of interest charged to construction.

(b) An analysis of customer's bills in such detail that the revenues from the present and proposed rates can be readily determined.

(c) Details of any apportionment used.

(d) Monthly revenues and operating expenses.

(4) All information and notice required by these regulations shall be furnished to the commission at the time of the filing of any proposed adjustments in rates, and the twenty (20) days statutory notice will not commence to run and will not be computed until such information and notice are filed.

Section 10. Application for Authority to Issue Securities, Notes, Bonds, Stocks or Other Evidences of Indebtedness. (1) When application is made by the utility for an order authorizing the issuance of securities, notes, bonds, stocks or other evidences of indebtedness payable at periods of more than two (2) years from the date thereof, under the provisions of KRS 278.300, said application, in addition to complying with the requirements of Section 7, shall contain:

(a) A general description of applicant's property and the field of its operation, together with a statement of the original cost of the same and the cost to the applicant, if it is impossible to state the original cost, the facts creating such impossibility shall be stated.

(b) The amount and kinds of stock, if any, which the utility desires to issue, and, if preferred, the nature and extent of the preference; the amount of notes, bonds or other evidences of indebtedness, if any, which the utility desires to issue, with terms, rate of interest and whether and how to be secured.

(c) The use to be made of the proceeds of the issue of such securities, notes, bonds, stocks or other evidence of indebtedness with a statement indicating how much is to be used for the acquisition of property, the construction, completion, extension or improvement of facilities, the improvement of service, the maintenance of service and the discharge or refunding of obligations.

(d) The property in detail which is to be acquired, constructed, improved or extended with its cost, a detailed description of the contemplated construction, completion, extension or improvement of facilities set forth in such a manner that an estimate of cost may be made, a statement of the character of the improvement of service proposed, and of the reasons why the service should be maintained from its capital. Whether any contracts have been made for the acquisition of such property, or for such construction, completion, extension or improvement of facilities, or for the disposition of any of the securities, notes, bonds, stocks or other evidence of indebtedness which it proposes to issue or the proceeds thereof and if any contracts have been made, copies thereof shall be annexed to the petition.

(e) If it is proposed to discharge or refund obligations, a statement of the nature and description of such obligations including their par value, the amount for which they were actually sold, the expenses associated therewith, and the application of the proceeds from such sales. If notes are to be refunded, the petition must show the date, amount, time, rate of interest, and payee of each and the purpose for which their proceeds were expended.

(f) Such other facts as may be pertinent to the application.

(2) All testimony in support of the proposed financing shall be submitted in written form where the utility's gross annual jurisdictional revenue equals or exceeds one (1) million dollars as evidenced by the utility's most recent annual report on file with the commission.

(3) [(2)] The following exhibits must be filed with the application:

(a) Financial exhibit. (See Section 6.)

(b) Copies of trust deeds or mortgages, if any, unless they have already been filed with the commission, in which case reference should be made, by style and case number, to the proceeding in which the trust deeds or mortgages have been filed.

(c) Maps and plans of the proposed property and constructions together with detailed estimates in such form that they can be checked over by the commission's engineering division. Estimates must be arranged according to the uniform system of accounts prescribed by the commission for the various classes of utilities.

Section 11. Formal Complaints. (1) Contents of complaint. Each complaint shall be headed "Before the Energy Regulatory Commission," shall set out the names of the complainant and the name of the defendant, and shall state:

(a) The full name and post office address of the complainant.

(b) The full name and post office address of the defendant.

(c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be done, of which complaint is made, with a reference, where practicable, to the law, order, or section, and subsections, of which a violation is claimed, and such other matters, or facts, if any, as may be necessary to acquaint the commission fully with the details of the alleged violation. The complainant shall set forth definitely the exact relief which is desired. (See Section 14(1).)

(2) Signature. The complaint shall be signed by the complainant or his attorney, if any, and if signed by such attorney, shall show his post office address. Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

(3) Number of copies required. At the time the complainant files his original complaint, he must also file copies thereof equal in number to ten (10) more than the number of persons or corporations to be served.

(4) Procedure on filing of complaint:

(a) Upon the filing of such complaint, the commission will immediately examine the same to ascertain whether it establishes a prima facie case and conforms to this regulation. If the commission is of the opinion that the complaint does not establish a prima facie case or does not conform to this regulation, it will notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the commission, for good cause shown, may grant, it will be dismissed.

(b) If the commission is of the opinion that such complaint, either as originally filed or as amended, does establish a prima facie case and conforms to this regulation, the commission will serve an order upon such corporations or persons complained of under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of such order, provided that the commission may, in particular cases, require the answer to be filed within a shorter time.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief which he is willing to give. Upon the acceptance of this offer by the complainant and the approval of the commission, no further proceedings need be taken.

(6) Answer to complaint. If satisfaction be not made as aforesaid, the corporation or persom complained of must file an answer to the complaint, with certificate of service on other parties endorsed thereon, within the time specified in the order or such extension thereof as the commission, for good cause shown, may grant. The answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground. (See Section 14(2).)

Section 12. Informal Complaints. (1) Informal complaints must be made in writing. Matters thus presented are, if their nature warrants, taken up by correspondence with the public utility complained against in an endeavor to bring about satisfaction of the complaint without formal hearing.

(2) No form of informal complaint is prescribed, but in substance it must contain the essential elements of a complaint, including the name and address of complainant, the correct name and post office address of the utility against whom complaint is made, a clear and concise statement of the facts involved, and the relief requested.

(3) In the event of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to the complainant's right to file and prosecute a formal complaint whereupon the informal proceedings will be discontinued.

Section 13. Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

Section 14. Forms. (1) In all practice before the commission the following forms shall be followed insofar as practicable:

(a) Formal complaint.

(b) Answer.

(c) Application.

(d) Notice of adjustment of rates.

(2) Forms of Formal Complaint.

Before the Energy Regulatory Commission

(Insert name of complainant) Complainant	)	
	)	No. _____
vs.	)	(To be inserted by the secretary of the commission)
(Insert name of each defendant) Defendant	)	

COMPLAINT

The complaint of (here insert full name of each complainant) respectfully shows:

(a) That (here state name, occupation and post office address of each complainant).

(b) That (here insert full name, occupation and post office address of each defendant).

(c) That (here insert fully and clearly the specific act or thing complained of, such facts as are necessary to give a full understanding of the situation, and the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complainant asks (here state specifically the relief desired).

Dated at _____, Kentucky, this _____ day of _____, 19 ___.

_____
(Name of each complainant)

_____
(Name and address of attorney, if any)

(3) Form of Answer to Formal Complaint.

Before the Energy Regulatory Commission

(Insert name of each complainant) Complainant)
vs.)
(Insert name of each defendant) Defendant)
No. _____ (To be inserted by the secretary of the commission)

ANSWER

The above-named defendant, for answer to the complaint in the proceeding, respectfully states:

(a) That (here follow specific denials of such material allegations as are controverted by the defendant and also a statement of any new matter constituting a defence. Continue lettering each succeeding paragraph).

WHEREFORE, the defendant prays that the complaint be dismissed (or other appropriate prayer).

_____
(Name of defendant)

_____
(Name and address of attorney, if any)

(4) Form of Application.

Before the Energy Regulatory Commission

In the matter of the application of (here insert name of each applicant) for (here insert desired order, authorization, permission or certificate, thus: "Order authorizing issue of stocks and bonds"))
No. _____ (To be inserted by the secretary of the commission)

APPLICATION

The petition of (here insert name of each applicant) respectfully shows:

(a) That applicant is engaged in the business of (here insert nature of business and territorial extent thereof).

(b) That the post office address of each applicant is _____.

(c) That (here state fully and clearly the facts required by these rules, and any additional facts which applicant desires to state).

WHEREFORE, applicant asks that the Energy Regulatory Commission of the Commonwealth of Kentucky make its order authorizing applicant to (here state specifically the action which the applicant desires the commission to take).

Dated at _____, Kentucky, this ____ day of _____, 19 ____.

_____
(Name of applicant)

_____
(Name and address of attorney, if any)

(5) Form of Notice to the Commission of Adjustment of Rates.

Before the Energy Regulatory Commission

In the matter of adjustment of rates of the (state name of corporation).)
No. _____ (To be inserted by the secretary of the commission).

The (here insert name of company) informs the commission that it is engaged in the business of (set out character of business) in (set out place of operation) and does hereby propose to adjust its rates, effective the ____ day of _____, 19 ____, in conformity with the attached schedule.

(See Section 9 of this regulation for required information.)

_____
(Name and address of company)

_____
(Name and address of attorney)

PERRY R. WHITE, JR., Chairman
ADOPTED: September 15, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: September 12, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Energy Regulatory Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 15:020. Administrative procedures; requirements.

RELATES TO: KRS 236.030
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 236.030 requires the commissioner, upon advisement of the Board of Boiler Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This regulation specifies administrative procedures and requirements of the boiler inspection section.

Section 1. Administration. (1) Manufacturers data report to be filed:

(a) Manufacturers data report on *all* boilers *of steel construction* which are to be operated in this state, unless exempted by *KRS 236.060* [the Act], shall be filed with the national board [and copies forwarded to the Boiler Inspection Section].

[(b) Manufacturers data reports on all boilers of steel construction, regardless of pressure, unless exempted by the Act, shall be filed with the national board and copies forwarded to the Boiler Inspection Section.]

(b) [(c)] Details of boilers *and pressure vessels* of special design (not fully complying with ASME Boiler and Pressure Vessel Code) shall be submitted to the boiler section and approval secured before construction or field erection is started.

(2) When boilers or pressure vessels are designed and fabricated according to the requirements of the applicable sections of the ASME Boiler and Pressure Vessel Code, but are not stamped with the ASME Boiler and Pressure Vessel Code symbol stamp, individual handling is required for their installation. The prospective owner or user who desires jurisdiction authority acceptance must pursue the following procedure in each individual case:

(a) Prior to construction of the boiler or pressure vessel the proposed owner, user, or his authorized agent shall make written application for permission to install the boiler or pressure vessel in the State of Kentucky. The application may be by letter or application permit form of the jurisdiction and shall be directed to the Chief Boiler Inspector, Office of the State Fire Marshal, Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky 40601

(b) He shall submit with the application letter or application permit the following data, material and information to establish ASME Boiler and Pressure Vessel Code equivalency:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United States units of measurements as used in the ASME Boiler and Pressure Vessel Codes.

2. Design calculation and supporting data which include pressure (psi), temperature (deg.F.), use and other service conditions.

3. Specifications for all material to be used in construction. These should conform to the applicable ASME Boiler and Pressure Vessel Codes standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, please attach a copy and indicate how the material is considered equivalent.

4. Copies of: All welding procedures to be used, welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications."

5. Where the design exceeds ASME Boiler and Pressure Vessel Code limitation, recognized engineering practices shall be used and identified in the submittal.

6. Design drawings and calculations shall be certified by a professional engineer holding a license acceptable to the boiler inspection section.

7. The manufacturer of the vessel shall identify the inspection agency whose personnel will make the shop inspections and sign the manufacturer's data reports for the proposed vessel.

8. The shop inspection agency shall furnish the qualifications and experience of the individual inspector or inspectors assigned to make the shop inspections and shall give his jurisdiction commission number.

(c) All details mentioned in paragraphs (a) and (b) of this subsection must be acceptable to the Boiler Inspection Section, *Department of Housing, Buildings and Construction* [State of Kentucky].

(d) When the boiler or pressure vessel is completed, a manufacturers' data report signed by the manufacturer and shop inspector shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. (Do not use ASME Boiler and Pressure Vessel Code data report forms.)

(e) The vessel will be inspected by a qualified boiler and pressure vessel inspector in the employ of the department upon arrival in the State of Kentucky and before installation to make certain the above provisions have been complied with and that the vessel is properly marked and stamped for identification.

(3) Inspection of boilers:

(a) All power boilers shall be inspected annually internally and externally while not under pressure and shall also be inspected annually externally while under pressure. One (1) of the above inspections shall be a certificate inspection.

(b) All low pressure heating boilers shall be inspected biannually both internally and externally where construction will permit. One (1) of the above inspections shall be a certificate inspection.

(c) A grace period of two (2) months beyond the periods specified in paragraphs (a) and (b) of this subsection may elapse between inspections.

(d) Power boilers operated in such a manner that experience indicates internal corrosion of deposits would not be anticipated may have the internal inspection period extended by the boiler inspection section if requested in writing by the owner or user and if circumstances warrant.

(4) Installation inspection or first inspection and stamping boilers *and pressure vessels*:

(a) Upon completion of installation or at the time of first inspection, a Commonwealth of Kentucky serial number will be assigned to the boiler or *pressure vessel* [water heater], applied as follows:

1. Steel boilers will be stamped with the letters, "KY" followed by the state serial number assigned. *Pressure vessels will be stamped with the letters "KY" followed by the numeral "0" and the remainder of the state serial number assigned.* Stamping will be applied in the immediate area of code stamping on the boiler or *pressure vessel* and will be in letters and figures not less than five-sixteenths (5/16) inch in height. A metal tag may additionally be used showing identical lettering and serial number as used in the stamping, this tag to be securely affixed in the area of manufacturer's name plate or data plate.

2. Cast iron boilers shall have securely attached to the boiler (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height which shall have the letters "KY" and the state serial number stamped thereon.

3. Hot water *supply* boilers shall have securely attached to the heater (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height which shall have the letters "KY" and the state serial number stamped thereon.

(b) New installations completed subsequent to July 1, 1970, are subject to inspection as set forth in *KRS Chapter 236* [the Act]. Such installations will be inspected for conformance with applicable ASME Boiler and Pressure Vessel Codes and these rules and regulations and additionally will be subject to inspection of pressure piping carrying steam, vapor or water pressures emanating from the boiler, as follows:

1. Power boiler piping shall be inspected in all segments of the system carrying substantially the same pressures and temperatures encountered in the boiler itself. Inspection shall be to the extent necessary to *assure* [secure] compliance with engineering design, material specifications, fabrication, assembly and test requirements of the boiler and first (or second) stop valve and requirements of Section 1, ASME Boiler and Pressure Vessel Code, for that piping between the boiler and the first (or second) stop valve and requirements of *The National Standard Code For Pressure Piping ANSI B31.1 (and subsequent revisions)* [USA Standard Code for Pressure Piping USAS 31.1)] for pressure piping beyond Section 1, *Power Boiler* ASME Code Limits. *ANSI B31.1 also covers air and hydraulic system piping.*

2. The installing contractor, where welded assembly has been used, must be able to present for the inspector's review, his welding procedures and proof of qualification of his welding operators. The contractor is responsible for the quality of the welding done by his organization.

3. Visual inspection of welding performed by qualified welders is normally deemed sufficient unless codes or engineering specifications state otherwise, or unless the inspector wishes to augment this visual inspection with other nondestructive tests including radiography. All tests or retests required by the inspector shall be at the owner's or contractor's expense.

4. The inspector may accept signed certification of the contractor regarding satisfactory hydrostatic tests performed on piping or he may witness such tests himself. He may also, if he deems it expedient, require such tests to be performed in his presence.

5. Heating boiler piping shall be inspected in all segments of the system carrying substantially the same pressure and temperature as the boiler itself. Inspection shall be to the extent necessary to assure good fitup, assembly, tightness and support of the system. Welded joints shall be visually inspected for soundness of the weld and freedom from undercutting, cracking and other surface imperfections.

6. Hot water supply boiler installations shall be inspected for conformance with Section IV, ASME Boiler and Pressure Vessel Code.

(5) Notification of inspection: the owner or user shall prepare each boiler for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary, on the date specified by the inspector, which date shall not be less than seven (7) days after the date of notification.

(6) Examinations for commission:

(a) Examinations for commission as *an* [boiler] inspector shall be given by the Department of Housing, Boiler Inspection Section four (4) times each year; namely, the first Wednesday of the months of March, June, September, and December. Special examinations will be held when considered necessary by the department. Qualifications shall be set forth in KRS 236.070, 236.090 and 815 KAR 15:010, Section 1(7).

(b) Application for employment as an inspector shall be in writing, upon a form to be furnished by the commissioner, stating the school education of the applicant, a list of his employers, his period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected. If the applicant's history and experience meet with the approval of the Board of Boiler Rules, he shall be given a written examination, prepared by the National Board of Boiler and Pressure Vessel Inspectors in accordance with their by-laws, Article IV, dealing with the construction, installation, operation, maintenance, and repair of boilers and their appurtenances. The applicant shall be accepted or rejected for permanent status on the merits of this examination.

(7) Examination fees: *A fee of twenty dollars ($20) will be charged to each applicant who sits for the National Board examination. This fee shall be payable directly to the Treasurer of the Commonwealth of Kentucky, and shall accompany the application.* [The Commonwealth shall be reimbursed for the actual cost incurred by the Board of Boiler Rules in monitoring the National Board examination. Should there be more than one (1) applicant taking this National Board examination, the cost shall be shared equally by each company or individual represented. The parties shall be notified after the examination has been given as to the cost. Checks for the examination fee shall be made payable to the Commonwealth of Kentucky.]

(8) Commission:

(a) Upon the request of a boiler insurance company authorized to do business in this Commonwealth, a commission as a special boiler inspector and an identifying commission card shall be issued by the department to an inspector in the employ of such insurance company provided the inspector has successfully passed the written examination as set forth in subsection (6) of this section, or holds a commission as outlined in subsection (9) of this section.

(b) The commission and the identifying commission card shall be returned to the department when the inspector to whom the commission was issued is no longer in its employ, or at the request of the department.

(c) The commission issued to such boiler inspector may be suspended by the commissioner and may be revoked upon ten (10) days notice to the inspector and to the employer of such inspector for incompetency or untrustworthiness; for willful falsification of any matter or statement contained in his application, or in the report of an inspection; or for other sufficient reasons; but the holder of such commission shall be entitled to a hearing before the commissioner before the revocation of said commission.

(9) Reciprocal commissions:

(a) Upon the request of a boiler insurance company authorized to do business in this Commonwealth, a commission and identifying commission card as special boiler inspector shall be issued by the department to an inspector in the employ of such insurance company provided the inspector [is at least twenty-five (25) years of age,] has the experience prescribed in subsection (6) of this section, and holds either:

1. A certificate of competency, or
2. A commission issued by a state which has adopted the ASME Boiler and Pressure Code, or
3. A commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(b) Application for a reciprocal commission shall be made on a form to be furnished by the department and shall be accompanied by a photostatic copy of the applicant's state or national board commission or certificate of competency and a fee of *twenty dollars ($20)* [ten dollars ($10)].

(c) The commission issued to such an inspector may be suspended or revoked upon ten (10) days notice to the inspector and to the employer of such inspector for incompetency or untrustworthiness; for willful falsification of his application or in the report of an inspection; but the holder of the commission shall be entitled to a hearing before any final action is taken.

(10) Inspectors to have no other interests: Inspectors shall not be engaged in the sale of any article or device that is related to boilers and shall devote their full time to inspection work.

(11) Inspection reports: Inspectors shall submit to the Boiler Inspection Section an inspection report on each boiler *or pressure vessel* subject to inspection. *Reinspection shall be reported* [Complete data shall be submitted on each boiler] on a form suggested by the National Board Inspection Code [at the time of the first internal inspection. Subsequent internal inspection shall be reported on a form suggested by the National Board Inspection Code]. Reports shall be submitted within thirty (30) days of the date of inspection. External inspections shall be reported on a form suggested by the National Board Inspection Code immediately when hazardous conditions affecting the safety of the boiler *or pressure vessel* are found to exist.

(12) Insurance companies to notify the Boiler Inspection Section of new, cancelled, or suspended risks: All insurance companies shall notify the Boiler Inspection Section within thirty (30) days of all boiler *or pressure vessel* risks written, cancelled, not renewed, or suspended because of unsafe conditions.

(13) Insurance companies to notify the Boiler Inspection Section of defective boilers *or pressure vessels*: If a special boiler inspector, upon the first inspection of a boiler *or pressure vessel*, finds that the boiler *or pressure vessel* or any of the appurtenances are in such condition that his company refuses insurance, the company shall immediately notify the Boiler Inspection Section and submit a report of the defects.

(14) Defective conditions disclosed at time of external inspections: If, upon an external inspection, there is evidence of a leak or crack, enough of the covering of the boiler *or pressure vessel* shall be removed to satisfy the inspector in order that he may determine *its* [as to the] safety [of the boiler]; or, if the covering cannot be removed at that time, he may order the operation [of the boiler] stopped until such time as the covering can be removed and proper examination made.

(15) Owner, *user or insurer* to notify the Boiler Inspection Section in case of accident: When an accident occurs which serves to render a boiler *or pressure vessel* inoperative, the owner, [or] user, *or insurer* shall immediately notify the Boiler Inspection Section, and submit a detailed report of the accident. In case of serious accident, such as explosion, notice shall be given immediately by telephone, telegraph, or messenger and neither the boiler, *pressure vessel* nor any of the parts thereof shall be removed or disturbed before an inspection has been made by an inspector, except for the purpose of saving a human life.

(16) Inspection certificate fees:

(a) If a boiler shall, upon inspection, be found to be suitable and to conform to these rules and regulations, the owner or user shall pay directly to the department a fee of *five ($5)* [two ($2)] dollars for each boiler required to be inspected under *KRS Chapter 236* [this Act] before an inspection certificate shall be issued.

(b) If the owner or user of each boiler *or pressure vessel* required to be inspected refuses to allow an inspection to be made or refuses to pay the above fee, the inspection certificate shall be suspended by the commissioner until the owner or user complies with the requirements.

(c) The owner or user who causes a boiler *or pressure vessel* to be operated without possessing a valid certificate of inspection shall be subject to the penalties provided for in KRS 236.990.

(d) Certificates shall be posted under glass in the room containing the boiler *or pressure vessel* inspected or, in the case of a portable boiler, shall be kept in a metal container, either fastened to the boiler or kept in a tool box accompanying the boiler.

(17) Validity of inspection certificates: An inspection certificate, issued in accordance with KRS 236.120, shall be valid until expiration unless some defect or conditon affecting the safety of the boiler *or pressure vessel* is disclosed. A certificate issued for a boiler *or pressure vessel* inspected by a special boiler inspector shall be valid only if the boiler for which it was issued continues to be insured by a duly authorized insurance company.

(18) Suspension of certificate of operations: If, upon inspection, a boiler *or pressure vessel* is found to be in such condition that it is unsafe to operate, the inspection certificate shall be suspended by the commissioner. Any person, firm, partnership, or corporation causing such objects to be operated shall be subject to the penalties provided for in KRS 236.990.

(19) Condemned boilers:

(a) Any boiler *or pressure vessel* having been inspected and declared unsafe by the chief *boiler inspector* or boiler inspector shall be stamped with [an arrowhead stamp having an overall length of one-half (½) inch and width of three-eighths (3/8) inch on either side of] the letters "XX" and the letters "KY," as shown by the following facsimile which will designate a condemned boiler *or pressure vessel*: XX KY *12345* XX.

(b) Any person, firm, partnership, or corporation using or offering for sale a condemned boiler *or pressure vessel* for operation within this Commonwealth shall be subject to the penalties in KRS 236.990.

(20) Nonstandard boilers *and pressure vessels*:

(a) Shipment of nonstandard boilers *or pressure vessels*, or hot water supply boilers into this Commonwealth for use is prohibited, provided same are not exempted under *KRS Chapter 236* [the Act].

(b) A nonstandard boiler, *pressure vessel*, or hot water supply boiler now in use in this Commonwealth, if removed from the Commonwealth, may not be brought in*to* and reinstalled.

(21) Secondhand boilers *and pressure vessels*: Before a secondhand boiler *or pressure vessel* can be shipped into this Commonwealth, an inspection shall be made by a boiler inspector, or a special *boiler* inspector holding a national board commission, and the data submitted by him shall be filed by the owner or user of the boiler *or pressure vessel* with the Boiler Inspection Section for approval.

(22) Reinstalled boilers *or pressure vessels*: In any case where a boiler *or pressure vessel* within the Commonwealth is moved and reinstalled, the fittings and appliances must comply with the ASME Boiler and Pressure Vessel Code.

(23) Factors of safety for existing installations: The inspector is authorized to increase factors of safety if the condition of the boiler warrants it. If the owner or user does not concur with the inspector's decision, he may appeal to the commissioner *who* [which] may request a joint inspection by the chief inspector and the boiler inspector or special *boiler* inspector. Each inspector shall render his report to the commissioner, who shall render the final decision, based upon the data contained in all the inspector's reports.

(24) Major repairs: Where a major repair is necessary, an inspector shall be called for consultation and advice as to the best method of making such repair; after such repair is made, it shall be subject to the approval of the inspector. Repairs to all boilers, *pressure vessels* and their appurtenances, shall conform to the requirements of the National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(25) Repairs by welding: Welding repairs shall be performed in accordance with the rules recommended by the National Board of Boiler and Pressure Vessel Inspectors Inspection Code *available from the 1979 Edition, (or most recent edition).*

(26) Riveted patches: Riveted patches shall be designed and installed in accordance with the rules recommended by the National Board and Pressure Vessel Inspectors Inspection Code.

(27) Removal of safety appliances: No person, except under the direction of an inspector, shall attempt to remove or shall do any work, upon any safety appliance, while a boiler is in operation. Should any of these appliances be repaired during an outage of a boiler *or pressure vessel*, they must be reinstalled and in proper working order before the object is again placed in service.

(28) Inspection fees: The installing contractor, owner or user of any boiler *or pressure vessel* not exempted under *KRS Chapter 236* [the Act] and required to be inspected by a boiler *or pressure vessel* inspector, shall pay to the department following inspection of the boiler, fees in accordance with KRS 236.130.

(29) Other inspection fees:

(a) Shop inspections made by boiler inspectors at the request of a boiler manufacturer, installer, engineering contractor, or owner shall be charged at the following rates:

1. Seventy-five dollars ($75) for one-half (½) day of four (4) hours or less.

2. One hundred dollars ($100) for one (1) day of over four (4) hours.

3. One hundred twenty dollars ($120) for eight (8) hours or any part thereof on Saturdays, Sundays, or public holidays.

4. Fifteen dollars ($15) per hour for overtime in excess of eight (8) hours in any one (1) day. Plus itemized expenses to include mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers *or pressure vessels* [or boilers] are completed.

(b) Charges for inspection of second-hand equipment shall be at the rates specified above plus charges for mileage, lodging, meals, and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers *or pressure vessels* are [re]installed.

(c) Inspection of pressure piping:

1. Under normal circumstances, this will be a "once only" inspection as specified under KRS Chapter 236 and will be conducted generally as set forth under subsection (4)(b) of this section.

2. The fees chargeable for inspection of piping carrying substantially the same pressures and temperatures as encountered in the boiler shall be based upon the total dollar value of the contract covering the combined boiler and piping installation, either actual or estimated. It is the obligation of the installing contractor to supply this value which shall include both labor and material costs. No exact figure need be quoted or divulged to the boiler inspector or department; only a designation that the true value lies within certain limits as set forth in the table below. The fee for boiler and pressure piping inspection is then found in the table's right hand column.

Amount In Dollars	*Fee*
$ 2,000 or less	*$ 30.00*
$ 2,001 to $ 10,000	*$ 45.00*
$ 10,001 to $ 25,000	*$ 60.00*
$ 25,001 to $ 50,000	*$ 75.00*
$ 50,001 to $ 75,000	*$100.00*
$ 75,001 to $100,000	*$150.00*
$100,001 to $150,000	*$200.00*
$150,001 to $200,000	*$250.00*
$200,001 and over	*$300.00*

3. The installing contractor, owner or user shall request inspection of new boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Request for inspection shall be made by letter or phone call to the department.

(d) Inspection of nuclear installations: Nuclear installation inspections will be charged as set forth under paragraph (a) of this subsection or as determined by contracts between the installer and the department.

(e) Hydrostatic tests: When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees set forth under paragraph (a) of this subsection shall be charged.

JOHN R. GROVES, JR., Commissioner
ADOPTED: August 15, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: September 12, 1980 at 8 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Office of the General Counsel, Department of Housing, Buildings and Construction, 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:004. Resource and income standard of medically needy.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations of the Medically Needy: An applicant for or recipient of medical assistance is permitted to retain:

(1) A homestead, occupied or abandoned, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity of *$6,000* [$5,000] in income-producing, non-homestead property;

(3) Equity of $3,000 in non-income producing, non-homestead property;

(4) Savings, stocks, bonds, totaling no more than $1,500 for family size of one (1); $3,000 for family size of two (2); and fifty dollars ($50) for each additional member.

(5) Burial reserves in the form of pre-paid burial, trust fund or life insurance policies are exempt from consideration if the reserve does not exceed $1,500 per *individual* [adult or blind or disabled child or $500 per dependent child]. If *burial reserves have* [a life insurance policy has] a face value in excess of the above amount, the cash surrender value is determined and any excess of the allowable reserve added to total liquid assets in determining eligibility.

Section 2. Income and Resource Exemptions: Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the department, except that the AFDC earned income disregard (first thirty dollars ($30) and one-third (⅓) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section *3.* [2.] Income Limitations of the Medically Needy: Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section *4* [3], of the applicant, [;] applicant and spouse, [;] or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	*2,200* [1,800]	*183* [150]
2	*2,600* [2,200]	*217* [183]
3	*3,100* [3,000]	*258* [250]
4	3,800	317
5	4,400	367
6	5,000	417

For each additional member, $600 annually or fifty dollars ($50) monthly is added to the scale.

Section 4. [3.] Additional Income Considerations: In comparing income with the scale as contained in Section 3 [2], gross income is adjusted as follows in all cases with exceptions as contained in Section 5 [4]:

(1) In cases of adults and children, *the standard or* actual work related expenses of adult members and out-of-school youth are deducted from gross earnings. All earnings of an in-school child are disregarded plus any amount of a statutory benefit received by an eighteen (18) to twenty-one (21) year old youth contingent upon school attendance actually used for school expenses.

[(2) In cases of aged, blind or disabled persons, the first twenty dollars ($20) of income of the individual or couple is disregarded. If the income is earned by the applicant or recipient, the first sixty-five dollars ($65) and one-half (½) of the remainder is also disregarded.]

(2) [(3)] In all cases, verified fixed and measurable medical costs, including cost of health insurance premiums and expenses for medical services, recognized under state law but outside the scope of the medical assistance program, are deducted from income before comparison with the scale.

Section 5. [4.] *Individuals* [Persons] in Chronic Care Institutions: For aged, blind or disabled *individuals* [persons] in [skilled nursing or intermediate] *chronic* care facilities, *the following requirements with respect to income limitations and treatment of income shall be applicable:*

(1) Income protected for basic maintenance is twenty-five dollars ($25) monthly in lieu of the figure shown in Section 3 [2]. All income in excess of twenty-five dollars ($25) is applied to the cost of care *except* [unless conserved for dependents] as follows:

(a) Available income in excess of the twenty-five dollars ($25) is first applied to the cost of non-covered medical expenses and to other verified fixed and measurable medical expenses; and

(b) [(1)] *Remaining* income of the patient is conserved as needed to provide *for* needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 [2], *including any additional amount needed to cover the verified fixed and measurable medical expenses of the spouse or minor children.*

(2) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs. However, an individual entering a facility on the first day of the month, and who remains institutionalized for the remainder of the month, would not receive a disregard for home maintenance. [Any additional amount needed to cover the verified fixed and measurable medical expenses of the ineligible spouse or minor children.]

Section 6. [5.] Spend-Down Provisions: No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. *Individuals* [Persons] with income in excess of the basic maintenance scale as contained in Section 3 [2] may qualify for any part of a three (3) month period in which medical expenses incurred during the period have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment and is thus disregarded as a fixed and measurable medical expense. When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the medical assistance program) if actually available for payment to the provider.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the medical assistance program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

Section 10. Relative Responsibility. For purposes of the medical assistance program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart, both of whom are concurrently applying for or receiving MA only, income is considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart. After the six (6) month period, each is considered as a single individual.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse who is not a recipient of MA only, the applicant or recipient is considered as a single individual in the month after separation and only that individual's income and resources are considered.

(5) For an individual whose case is being worked as if he were a single individual due to living apart from his spouse, as shown in Section 10(3) and (4), who has jointly held resources with his spouse, one-half (½) of the jointly held

resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18), or age eighteen (18) through twenty (20) if in school, living with his parent(s), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parent(s) for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five dollars ($25) maintenance standard is not applicable since his needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the Parent. An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. When the stepparent is not being so included, the amount of available income to allocate to the parent from the stepparent is determined by first deducting from the combined income of the stepparent and his minor dependent children in the home the standard or actual work expenses if income is earned (not to exceed earnings). Then disregard the maintenance amount (Section 3) for the stepparent and his/her children in the home, their verified fixed and measurable medical expenses, and any child support payments being paid by the stepparent for children outside the home. From the remainder, deduct any income attributable to the stepparent's children which is in excess of the children's prorated share of the maintenance scale. The balance is then allocated to the parent. If this balance, plus other income of the parent, equals or exceeds the parent's prorated share from the maintenance scale, the parent is precluded from eligibility. If the balance is less than the prorated share, the parent may be included in the family case with the income allocated from the stepparent to the parent considered when determining eligibility of the family case.

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself on the basis of age, blindness, or disability.

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: September 15, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: September 15, 1980 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:019. Pharmacy services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to pharmacy services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Prescribed Drugs: Drugs prescribed by a physician, osteopath, or dentist shall be provided with the following limitations: (1) The drug must be included on the Kentucky Medical Assistance Program Outpatient Drug List;

(2) Prescribing quantities may be limited by the program;

(3) Patients placed in "lock-in" status due to over-utilization are to receive services only from their lock-in provider except in the case of emergency or referral;

(4) Practitioner authorization, i.e., actual signature of the prescriber, shall be required on all prescriptions *not phoned in, on all Schedule II controlled substances prescriptions, and when the physician override (certifica-*

tion of brand name necessity) procedure is being used. For telephone prescriptions (but not including the preceding) the pharmacist shall enter on the prescription form the name of the prescriber and the initials of the pharmacist;

(5) No prescription shall be refilled more than five (5) times, or more than six (6) months after the original prescription is written;

(6) Drugs, provided to recipients in institutions in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medical Assistance Program, shall not be billed as an outpatient pharmacy benefit;

(7) Effective May 1, 1975, legend drugs, of a type not included on the Kentucky Medical Assistance Program Outpatient Drug List, and which meet established criteria, shall be considered covered when preauthorized by qualified medical professionals within the Division for Medical Assistance.

WILLIAM L. HOFFMAN, Commissioner
ADOPTED: September 8, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: September 10, 1980 at 10:20 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 1:024. Intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provision relating to intermediate care facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Provision of Services: Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status [in that they require intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting].

Section 2. Classification of Facilities: There shall be two (2) classifications of intermediate care facilities, i.e. (i) general intermediate care facilities and (ii) intermediate care facilities for the mentally retarded and persons with related conditions.

Section 3. Definitions: The following definitions shall be applicable:

(1) "Patient status," means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.

(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.

(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition and/or treatment regimen.

Section 4. [3.] Determining Patient Status: Professional staff of the department, *or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the department,* shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet the needs and the feasibility of meeting the needs through alternative institutional or non-institutional services. [A patient with a stable medical condition manifesting a combination of the following care needs may be qualified for intermediate care:]

(1) An individual shall be determined to meet patient status for a general intermediate care facility when the individual requires intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting. In making the decision as to patient status, the following criteria shall be applicable:

(a) An individual with a stable medical condition requiring intermittent skilled services not provided in a personal care home is considered to meet patient status.

(b) An individual with a stable medical condition, who has a complicating problem which prevents the individual from caring for himself in an ordinary manner outside the institution is considered to meet patient status. For example, ambulatory cardiac and hypertensive patients may be reasonably stable on appropriate medication, but have intellectual deficiencies preventing safe use of self-medication, or other problems requiring frequent nursing appraisal, and thus be considered to meet patient status.

(c) An individual with a stable medical condition manifesting a significant combination of the following care needs shall be determined to meet patient status for a general intermediate care facility when the professional staff determines that such combination of needs can be met satisfactorily only by provision of intermittent skilled nursing care, continuous personal care and/or supervision in an institutional setting:

1. [(1)] Assistance with wheelchair;
2. [(2)] Physical and/or environmental management for confusion and mild agitation;
3. [(3)] Must be fed;
4. [(4)] Assistance with going to bathroom or using bedpan for elimination;
5. [(5)] Old colostomy care;
6. [(6)] In-dwelling catheter for dry care;
7. [(7] Changes in bed position;
8. [(8)] Administration of stabilized dosages of medication;
9. [(9)] Restorative and supportive nursing care to maintain the patient and prevent deterioration of his condition;
10. [(10)] Administration of injections during time licensed personnel is available.
11. [(11)] Services that could ordinarily be provided or

administered by the individual but due to physical and/or mental condition is not capable of such self-care.

12. [(12)] Routine administration of medical gases after a regimen of therapy has been established.

[(13)For intermediate care in an intermediate care facility/mentally retarded only, physical and/or environmental management and/or rehabilitation for moderate to severe retardation.]

(d) An individual shall not generally be considered to meet patient status criteria when care needs are limited to the following:

1. Minimal assistance with activities of daily living;

2. Independent use of mechanical devices, for example, assistance in mobility by means of a wheelchair, walker, crutch(es) or cane;

3. Limited diets such as low salt, low residue, reducing and other minor restrictive diets;

4. Medications that can be self-administered and/or the individual requires minimal supervision.

(e) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has medical care needs as shown in subsection (1)(a) through (c) of this section, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require active psychiatric in-patient treatment.

(2) An individual shall be determined to meet patient status for an intermediate care facility for the mentally retarded and persons with related conditions when the individual requires physical and/or enviromental management and/or rehabilitation for moderate to severe retardation. In making the decision as to patient status the following criteria shall be applicable:

(a) An individual with significant developmental disabilities and significantly sub-average intellectual functioning who requires a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning, but does not necessarily require skilled or general intermediate care facility services, is considered to meet patient status.

(b) An individual requiring a protected environment while overcoming the effects of developmental disabilities and sub-average intellectual functioning is considered to meet patient status while:

1. Learning fundamental living skills;

2. Learning to live happily and safely within his own limitations;

3. Obtaining educational experiences that will be useful in self-supporting activities;

4. Increasing his awareness of his environment.

(c) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has care needs as shown in paragraph (a) or (b) of this subsection, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require psychiatric in-patient treatment.

(d) An individual that does not require a planned program of active treatment to attain and/or maintain the individual's optimal level of functioning is not considered to meet patient status.

(e) It is the policy of the department that no individual is to be denied patient status solely due to advanced age, or length of stay in an institution, or history of previous institutionalization, so long as the individual qualifies for patient status on the basis of all other factors.

(f) With regard to an individual with a "related condition" (not mental retardation), the illness or ailment must have manifested itself prior to the individual's twenty-second birthday.

Section *5.* [4.] Re-evaluation of Need for Service: Intermediate care shall be provided for as long as the health status and care needs are within the scope of program benefits. Patient status shall be re-evaluated at least every six (6) months. If the re-evaluation reveals that the patient's condition indicates the need for a different level of care, payment shall continue for a maximum of *thirty (30)* [twenty (20)] days to provide for orderly transfer to the appropriate level of care.

Section 6. Hearing Rights: Any applicant/recipient determined not to meet patient status may appeal that decision in accordance with 904 KAR 1:075 or 904 KAR 2:055, as applicable.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: September 4, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: September 4, 1980 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:031. Therapist's licensing procedure.

RELATES TO: KRS 327.050, 327.060, 327.080
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The purpose of this regulation is to clearly define the procedure for issuing licenses. This regulation standardizes the administrative procedures involved in granting a physical therapy license through the various means of qualifying.

Section 1. Upon approval as a candidate by the board, the candidate for examination will be notified of the date, place and time of the examination by the board. Examination will be held at a time and location set by the board. The board will administer the Professional Examination Service of the American Public Health Association examination and/or other examinations as determined by the board to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for licensure by examination after the fifth (5th) day of the month preceding the month that the next examination is to be held and credentials of the applicant are in order and fees submitted, then a temporary license shall be issued to be in force until sixty (60) days after the examination held six (6) months later, or until the results of that examination are received and processed, whichever comes first. The board shall issue a temporary license only to:

(1) Graduates who have applied for licensure by examination, have met all requirements and are sitting for the next examination.

(2) Applicants for licensure by endorsement who have met all requirements but must take one (1) or more parts of the examination again.

(3) Foreign-trained physical therapists who have met all requirements for licensure and paid all fees provided for in KRS 327.060(2), except that the applicant has not taken the PES examination and has not yet begun a one (1) year board approved, directly supervised employment as a physical therapist.

Section 3. The applicant shall have three (3) attempts to pass the examination. The original application fee covers the first attempt. The cost of the examination plus an administrative fee of fifteen dollars ($15) must be assumed by the applicant for the second and third attempts. The temporary license will be issued after request for re-examination on the second attempt and payment of required fee at the discretion of the board. If the applicant fails on the second attempt and requests re-examination and pays the required fee, at the discretion of the board, a temporary license shall be issued to allow the applicant to practice; but only with direct, on-site supervision of a licensed physical therapist. If the applicant fails on the third attempt, the temporary license is revoked and the applicant may no longer be employed in Kentucky as a physical therapist. The applicant may reapply after one (1) year but must submit a new application fee and no temporary license will be issued.

Section 4. Candidates examined by boards of other states and territories shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service to have their scores submitted to this board for consideration of licensure.

Section 5. The candidate for licensure by endorsement shall use the regular license application form and submit the same fee as an applicant by examination. The board will process the mechanics of endorsement. The Kentucky State Board of Physical Therapy will endorse a candidate who has been examined by the Professional Examination Service, meets the board's requirements of national average raw score minus 1.5 standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and whose physical therapy license has never been revoked or suspended, and is currently not on probation in another state.

Section 6. The candidate for licensure through reinstatement may receive renewal of his license without further examination upon requesting renewal, furnishing his complete current home and work addresses and telephone numbers, payment of the renewal fee of thirty dollars ($30) and reinstatement fee of fifteen dollars ($15) by money order, cashier's or certified check made payable to the Kentucky State Treasurer, and mailing these to the executive secretary of the board. Therapists who have not been licensed for three (3) years may, in addition, be required to appear before the board and/or show evidence of professional competency. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence.

Section 7. A license, which shall be in effect until the next January 31st shall be issued by the board as soon as it receives notice from the Professional Examination Service that the candidate by examination has received a passing grade which shall be set based on the national raw average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and when candidates by endorsement and reinstatement have meet all requirements.

Section 8. The executive secretary of the board may function administratively to review, process, and interpret all applications received by the board and correspond with the applicants accordingly.

Section 9. 201 KAR 22:030 is hereby repealed.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary; 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:035. Licensee's or certificand's change of name.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: Provides the mechanism for a physical therapist or therapist's assistant to change the name under which originally licensed or certified.

Section 1. Physical Therapist. If a physical therapist wishes to be licensed in a name different from that in which the licensee is originally or currently licensed, that change shall be made only after submission of a legal document which authorizes such change.

Section 2. Assistant. If a physical therapist's assistant wishes to be certified in a name different from that in which the assistant is originally or currently certified, that change shall be made only after submission of a legal document which authorizes such change.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:051. Refusal, revocation, suspension or probation of license or certificate.

RELATES TO: KRS 327.070, 327.090
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The board has the responsibility of enforcing the definitive procedures of refusal, revocation, suspension, or placing on probation, the license of any licensed physical therapist, and the certificate of any physical therapist's assistant. Often questions concerning the law or possible violations can be resolved by mutual discussion; however, these guidelines are to be followed when the board receives, or initiates, a written and signed explicit complaint. All aspects of an investigation of a complaint shall be held strictly confidential.

Section 1. (1) Complaint. A complaint that a person (hereinafter called respondent) has failed to or refused to obey the requirements of KRS Chapter 327 or the rules and regulations of the board, shall be made in writing to or by the Kentucky State Board of Physical Therapy. The complaint must be a clear and concise violation and it must be signed by the complainant. The complainant need not be a physical therapist or an assistant. Within ten (10) days the chairman of the board shall acknowledge to the complainant receipt of the complaint by registered or certified mail.

(2) Notice to respondent. Within ten (10) days after receipt of the written complaint, the chairman of the board shall notify the respondent of the complaint by registered or certified mail, return receipt requested. This notice shall require the respondent to reply to the complaint by registered or certified mail to the board within ten (10) days after receipt of notice.

(3) Investigation of complaint. The investigation shall be a thorough, objective review of the circumstances under which the alleged violation took place. Two (2) members of the board or its official representative may wish to discuss the complaint with the respondent or complainant to collect and organize more information, but not make a decision. An investigation file shall be formed to include all information and documents acquired during the investigation.

(4) Arrangements for a hearing. After receiving respondent's written reply and after possible discussion between board and respondent, the board shall determine if a hearing will be necessary to further investigate the complaint. If no hearing is necessary or all parties come to an agreement the board shall advise all parties that the matter is determined to be settled or closed. If a hearing is necessary, the board shall give all involved parties thirty (30) days notice of the date, time and place the hearing will be held. The board shall call a hearing if it feels it may revoke, refuse, or suspend a license or certificate or place a licensee or certified assistant on probation so that the licensee or certified assistant can show evidence why his/her license or certificate should not be revoked, refused, or suspended or that the licensee or certified assistant should not be placed on probation.

(5) Hearing. At the hearing the respondent has the right to be present and to be represented by counsel. The board may or may not wish to follow formal rules of evidence, but the board may exclude irrelevant or repetitious evidence. The hearing may be conducted to bring out pertinent facts, including the calling of witnesses and the production of pertinent documents. Testimony shall be under oath or affirmation. The hearing shall be recorded. All documents accepted by the board, including the investigative file, shall be made part of the record of the hearing.

(6) Findings and decisions. After the hearing the board shall make findings as to all questions of fact and all questions of interpretation of KRS Chapter 327, board rules and regulations; the Standards of Practice Document and the Code of Ethics and the Guide for Professional Conduct of the American Physical Therapy Association; and, the Guide for the Conduct of the Affiliate Member of the American Physical Therapy Association. The board may close the matter or settle, and notify all persons involved, or it may take appropriate disciplinary action after conferring with the Attorney General to assure that all guidelines have been followed correctly.

Section 2. Any person aggrieved by an order of the board denying, suspending or revoking his/her license or certificate may appeal to the Franklin Circuit Court within thirty (30) days after entry of said order for appropriate relief. Examination of the record of the board's action will be done for the purpose of determining whether the board abused its discretion.

Section 3. 201 KAR 22:050 and 201 KAR 22:115 are hereby repealed.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:061. Endorsement.

RELATES TO: KRS 327.040, 327.060
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: This regulation authorizes the executive secretary of the board to issue credentials of Kentucky licensees and certificands to licensing authorities of other states and territories. This procedure may eliminate reexamination of the physical therapist or assistant who moves to another state.

Section 1. Physical Therapists. Upon request of an actively or formerly licensed physical therapist in this state, and payment of a fifteen dollar ($15) administrative charge by money order, certified or cashier's check payable to the Kentucky State Treasurer, the board will furnish to the licensing board of another state or territory, or to the individual licensee, the credentials of the physical therapists' license in the State of Kentucky.

Section 2. Assistants. Upon request of an individual who is certified or has been certified as a physical therapist's assistant in this state and payment of a fifteen dollar ($15) administrative fee by money order, certified or cashier's check payable to the Kentucky State Treasurer, the board will furnish to the licensing board of another state or territory or to the individual certificand, the credentials of his/her physical therapists' assistant certificate in the State of Kentucky.

Section 3. 201 KAR 22:060 and 201 KAR 22:120 are hereby repealed.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:101. Eligibility and method of applying for assistant's certification.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: In order to offer a high level of assistance to the physical therapist in delivery of his service, the role of physical therapist's assistant was developed. The assistant's work is carried out only under the supervision and direction of the physical therapist to whom the employee is responsible. This regulation identifies the requirements and mechanisms by which one may become certified as a physical therapist's assistant and defines supervision of practice and delegation of duties.

Section 1. (1) The physical therapist's assistant is a skilled technical worker who performs physical therapy and related duties as assigned by the physical therapist. This work is carried out only under the supervision and direction of the therapist to whom the employee is responsible. Supervision means that the responsible therapist be available and accessible by telecommunications to the assistant at all times during the working hours of the assistant and be responsible for the direction of the actions of the person supervised when services are performed by the assistant. The therapist shall not designate to a less qualified person any service which requires the skill, knowledge and judgment of the therapist and shall perform personally the following activities, regardless of the setting in which service is given:

(a) Interpretation of physician referrals.
(b) Initial evaluation of the referred patient.
(c) Development of the treatment plan and program, including long and short term goals.
(d) Selection of the appropriate portions of the program to be delegated.
(e) Instruction of the assistant in the delegated functions to be carried out: precautions, special problems, contraindications, goals and anticipated progress, and plans for re-evaluation.
(f) Supervision of the assistant.
(g) Re-evaluation of the patient and adjustment of the treatment plan with the assistant present.
(h) Arrangement for reports (written and oral) from the assistant through the therapist to the physician or another physical therapy service.

(2) Only individuals certified as a physical therapist's assistant under this chapter may hold himself out as a physical therapist's assistant, and may use the initials PTA or CPTA, in designating his/her title. From the effective date of this regulation, no person shall act, nor hold himself out to be able to act as an assistant in this state unless he/she is certified in accordance with the provisions of the board's regulations.

Section 2. To be eligible for certification the assistant applicant must have successfully completed the academic and clinical requirements of an approved physical therapist's assistant program and must have been granted certification upon completion. All physical therapist's assistant programs accredited by the American Physical Therapy Association are periodically reviewed and updated for approval by the Kentucky State Board of Physical Therapy.

Section 3. A person desiring to practice as a physical therapist's assistant in Kentucky must apply to the Kentucky State Board of Physical Therapy. An application form will be sent to the applicant by the executive secretary of the board. When the completed application, certification of completion of all academic and clinical portions of an approved program, and a money order, cashier's or certified check for fifty dollars ($50) made payable to the Kentucky State Treasurer have been received, the applicant becomes an official candidate for certification.

Section 4. Four (4) types of candidates will be accepted for certification:
(1) Examination;
(2) Endorsement;
(3) Reinstatement; and
(4) Special.

Section 5. 201 KAR 22:100 is hereby repealed.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEPARTMENT OF FINANCE
Board of Physical Therapy

201 KAR 22:106. Assistant's certification procedure.

RELATES TO: KRS 327.040
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: Because certification may be achieved in several ways, this regulation defines the types of candidates, the fee and procedure for making application to the State Board of Physical Therapy as a candidate for certification as a physical therapist's assistant.

Section 1. Upon approval as a candidate by the board, the candidate for examination will be notified of the date, place and time of the examination. Examination will be held at a time and location set by the board. The board will administer the Professional Examination Service of the American Public Health Association examination and/or other examinations as determined by the board to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for certification by examination after the fifth (5th) day of the month preceding the month that the next examination is to be held and the credentials of the applicant are in order and correct fee submitted, then a temporary certificate shall be issued to be in force until sixty (60) days after the next examination is held or until the results of that examination are received and processed, whichever comes first. The board shall issue a temporary certificate to:
(1) Graduates who have applied for certification and have met all requirements and are sitting for the next examination.
(2) Applicants for certification by endorsement who have met all requirements but must take the examination again.

Section 3. The applicant shall have three (3) attempts to pass the examination. The original fee of fifty dollars ($50) covers the first attempt. The cost of the examination plus an administrative fee of fifteen dollars ($15) must be assumed by the applicant for the second and third attempts. If the applicant fails on the first attempt and requests re-examination and pays the required fee, at the discretion of the board, a temporary certificate shall be issued to allow the applicant to practice, but only with direct, on-site supervision of a licensed physical therapist. If the applicant fails on the third attempt, the temporary certificate is revoked and the applicant may no longer be employed in Kentucky as a physical therapist's assistant. The applicant who has failed the qualifying examination three (3) times may reapply after one (1) year but must submit a new application fee and no temporary certificate will be issued.

Section 4. Candidates examined by boards of other states or territories shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service to have those scores submitted to this board for consideration of certification by endorsement.

Section 5. The candidate for certification by endorsement shall use the regular application form. The board will process the mechanics of endorsement. The Kentucky State Board of Physical Therapy may endorse a candidate who has been examined by the Professional Examination Service, meets the Kentucky board's requirements of the national raw average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75), and has never had a physical therapist's assistant certificate revoked or suspended or whose certificate is currently not on probation.

Section 6. The candidate for reinstatement may receive a renewal of his/her certificate without further examination upon requesting renewal payment of the renewal fee of twenty dollars ($20) by money order, cashier's or certified check made payable to the Kentucky State Treasurer, furnishing current complete home and business addresses and telephone numbers and mailing these to the executive secretary of the board. Assistants who have not been certified for three (3) years may, in addition, be required to show evidence of technical competency. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence and may require re-examination of the candidate.

Section 7. Physical therapist candidates who fail to pass the physical therapists' licensure examination on three (3) attempts may become special candidates for certification as a physical therapist's assistant by application to the board. The board will only consider those candidates who have scores at least equal to the national average raw score minus 1.5 standard deviation set equal to a converted score of fifty (50) on each part of the physical therapist's licensure examination.

Section 8. Certification, which shall be in effect until the next January thirty-first, shall be issued by the board when candidates for certification by endorsement, reinstatement and special means have met all requirements and the board has received notice from the Professional Examination Service that the candidate by examination has received a passing grade of at least the national raw

average score minus 1.5 standard deviation set equal to a converted score of seventy-five (75).

Section 9. 201 KAR 22:105 is hereby repealed.

MICKEY BARON, Chairman
ADOPTED: July 11, 1980
RECEIVED BY LRC: August 26, 1980 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Nancy Brinly, Executive Secretary, 1614 Dunbarton Wynde, Louisville, Kentucky 40205.

DEVELOPMENT CABINET
Department of Agriculture

302 KAR 1:035. Eggs.

RELATES TO: KRS 247.850 to 247.865, 260.540 to 260.650
PURSUANT TO: KRS 13.082, 247.853
NECESSITY AND FUNCTION: KRS 247.853 authorizes the Commissioner to establish and determine the rules and regulations to conduct a referendum among handlers of eggs for the purpose of promoting and stimulating by research, market development and education, the increased production, use and sale, domestic and foreign, of eggs.

Section 1. Definitions: As used in this regulation, unless the context otherwise requires:
(1) "Board" means the State Board of Agriculture;
(2) "Commissioner" means the Commissioner of Agriculture;
(3) "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers, either on his own account or as an agent, and selling or transferring eggs by the case to a wholesaler, processor, retailer, or other person;
(4) "Department" means the Department of Agriculture;
(5) "Handler" means a dealer, processor, wholesaler, or retailer;
(6) "KPF" means the Kentucky Poultry Federation, Inc.;
(7) "Person" means any individual, firm, partnership, corporation, company, or association, and shall include any trustee, receiver, or similar representative;
(8) "Referendum Agent" means an employee of the State Department of Agriculture under the direct control of the Commissioner of Agriculture.

Section 2. Counties in Which Referendum Will Be Conducted. The egg referendum will be conducted in all counties where egg handlers' principal places of business are located.

Section 3. List of Eligible Voters. The commissioner shall prepare a list of all known persons eligible to vote in said referendum. The list shall be composed from the egg marketing law and the Kentucky Poultry Federation, Inc. One (1) official ballot will be mailed to each egg handler eligible to vote.

Section 4. Who May Vote. All egg handlers located in the Commonwealth of Kentucky who pay or who are subject to pay inspection fees on eggs bought or sold in accordance with KRS 260.600(3); and who are duly licensed under the provisions of KRS 260.550. Each licensee shall be eligible to cast one (1) vote and have their ballot counted in the referendum.

Section 5. Voting. Voting will be by mail-out ballot with the voters returning the signed and marked ballot to the Kentucky Department of Agriculture as determined in Section 6.

Section 6. Referendum Voting Period. Official ballots will be mailed to all egg handlers eligible to vote. The ballots must be signed, marked, and returned to the Kentucky Department of Agriculture postmarked no later than twenty (20) days after mailing. These dates will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by such referendum.

Section 7. Supervison of the Referendum and Duties of the Referendum Agent. The commissioner shall provide the referendum agent with a copy of this regulation to conduct said referendum. The referendum agent shall see that the official mail ballots are mailed out and received back from the egg handlers on schedule as set forth in Section 6. The referendum agent shall determine by the signature and marking of the ballot if said ballot shall be counted in the referendum.

Section 8. Approved Ballot Forms. The commissioner shall furnish the referendum agent with the approved official ballot forms. The ballot shall contain a certification statement to be signed by the egg handler. The ballot shall show the amount of the assessment the egg handler is voting on.

Section 9. Custody of Ballots. The referendum agent shall have custody of the ballots that are returned to the Kentucky Department of Agriculture and keep the ballots in a secure place until such ballots may be counted.

Section 10. Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which any person voted, and all information furnished to, compiled by, or in the possession of the commissioner and the referendum agent shall be regarded as confidential. The commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of six (6) months.

Section 11. Counting the Ballots. The counting of the ballots shall be in an area designated within the Kentucky Department of Agriculture by the commissioner. The vote count shall be conducted by employees of the Kentucky Department of Agriculture, but the KPF and any organization actively engaged in the handling of eggs in Kentucky may each have one (1) representative present during the counting of the ballots. Such organization must establish to the satisfaction of the commissioner that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 12. Announcement of the Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: September 15, 1980
APPROVED: LARRY TOWNSEND, Secretary
RECEIVED BY LRC: September 15, 1980 at 3:15 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

401 KAR 2:085. Hazardous waste transportation.

RELATES TO: KRS 224.071, 224.255, 224.873
PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.873
NECESSITY AND FUNCTION: KRS 224.873 requires the Department for Natural Resources and Environmental Protection to promulgate regulations establishing standards applicable to transporters of hazardous waste regarding record-keeping and compliance with the manifest system.

Section 1. Scope. (1) This regulation establishes standards which apply to persons transporting hazardous waste within the Commonwealth of Kentucky if the transportation requires a manifest under 401 KAR 2:070.

(2) This regulation do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(3) A transporter of hazardous waste must also comply with 401 KAR 2:070 if he:

(a) Transports hazardous waste into Kentucky from a foreign country; or

(b) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

Section 2. EPA Identification Number. (1) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator of the U.S. Environmental Protection Agency (EPA).

(2) A transporter who has not received an EPA identification number may obtain one (1) by applying to the administrator using EPA Form 8700-12.

(3) A transporter who transports or intends to transport hazardous waste within the Commonwealth of Kentucky must register with the department. The application for registration shall include but not be limited to:

(a) The name, legal structure and permanent address of the organization;

(b) The EPA identification number.

Section 3. Compliance with the Manifest System. (1) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest, signed by the generator in accordance with the provisions of 401 KAR 2:070.

(2) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

(3) The transporter must insure that the manifest accompanies the hazardous waste.

(4) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(a) Obtain the date of delivery and the handwritten signature of that transporter or of the owner/operator of the designated facility on the manifest; and

(b) Retain one (1) copy of the manifest in accordance with Section 4; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The requirements of subsections (3) and (4) of this section do not apply to rail or water (bulk shipment) transporters if:

(a) The hazardous waste is delivered by rail or water (bulk shipment) to the designated facility; and

(b) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) accompanies the hazardous waste; and

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner/operator of the designated facility on either the manifest or the shipping paper; and

(d) The person delivering the hazardous waste to the initial rail or water (bulk shipment) transporter obtains the date of delivery and signature of the rail or water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each rail or water (bulk shipment) transporter in accordance with Section 4.

(6) Transporters who transport hazardous waste out of the United States must:

(a) Indicate on the manifest the date the hazardous waste left the United States; and

(b) Sign the manifest and retain one (1) copy in accordance with Section 4(3); and

(c) Return a signed copy of the manifest to the generator.

(7) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(8) If the hazardous waste cannot be delivered in accordance with subsection (7) of this section, the transporter must contact the generator for further directions and must

revise the manifest according to the generator's instructions.

Section 4. Recordkeeping. (1) A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner/operator of the designated facility for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter must retain a copy of a shipping paper containing all the information required in Section 3(5)(b) for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(3) A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States, for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the EPA Administrator or the Secretary of the Department for Natural Resources and Environmental Protection.

Section 5. Hazardous Waste Discharges. (1) In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

(2) If a discharge of hazardous waste occurs during transportation and an official (state or local government or a federal agency) acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

(3) An air, rail, highway, or water transporter who has discharged hazardous waste must:

(a) Give notice, if required by 49 CFR 171.15, to the National Response Center (800-424-8802 or 202-426-2675); and

(b) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

(c) Report to the Kentucky Department for Natural Resources and Environmental Protection 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; and provide the department, if required, with a written report of the incident or accident within ten (10) days.

(4) A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

(5) A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by federal, state or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

JACKIE SWIGART, Secretary

ADOPTED: September 15, 1980

RECEIVED BY LRC: September 15, 1980 at 2 p.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Friday, October 31, 1980, at 10 a.m., EST, in the State Office Building Auditorium, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Water

401 KAR 4:050. Construction exemptions.

RELATES TO: KRS 151.110, 151.250, 151.310

PURSUANT TO: KRS 13.082, 151.230, 151.250

NECESSITY AND FUNCTION: In the course of regulating construction in or along streams pursuant to KRS 151.250, the department frequently encounters actions or proposed actions which are of such nature or location as to have little potential for damage or such that any damage which would occur is limited in extent to the immediate vicinity of the action. This regulation exempts construction of this type from the provisions of KRS 151.250.

Section 1. A construction permit pursuant to KRS 151.250 shall not be required for construction in or along a stream whose watershed is less than one (1) square mile, except for the construction of dams as defined by KRS 151.100 or other water impounding structures or for any construction that does or may endanger life or cause severe damage to residential or commercial property.

Section 2. A construction permit pursuant to KRS 151.250 shall not be required for a subfluvial utility or pipeline crossing provided that the construction of the crossing meets the following criteria:

(1) During the construction of the crossing, no material may be placed in the stream or in the floodplain of the stream to form construction pads, coffer dams, access roads, etc., unless prior approval has been obtained from the department.

(2) The trench shall be backfilled as closely as possible to the original contour. All excess material from construction of the trench shall be disposed of outside of the floodplain unless the applicant has received prior approval from the department to fill within the floodplain.

(3) For subfluvial crossings of erodible channels, there shall be at least thirty (30) inches clear to the top of the pipe or conduit at all points.

(4) For subfluvial crossings of non-erodible channels, there shall be at least six (6) inches of clear cover above the top of the pipe or conduit at all points, and the pipe or conduit shall be encased on all sides by at least six (6) inches of concrete.

(5) The weight of a pipe and its contents during normal operating conditions at all points must exceed that of an equal volume of water, or the applicant must provide the division with sufficient information to show that the pipe and joints have sufficient strength.

JACKIE SWIGART, Secretary
ADOPTED: August 15, 1980
RECEIVED BY LRC: August 21, 1980 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Thomas L. Grissom, Acting Director, Division of Water, Department for Natural Resources and Environmental Protection, Century Plaza, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:048. Leaks from new petroleum refinery equipment.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from leaks from new petroleum refinery equipment.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced or or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means each individual component within a petroleum refinery complex that could potentially leak volatile organic compounds to the atmosphere.
(2) "Component" means equipment or apparatus which includes, but is not limited to, pumps, compressors, seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes that could potentially leak volatile organic compounds to the atmosphere.
(3) "A petroleum refinery complex" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, rearrangement or reforming of unfinished petroleum derivatives.
(4) "Leak" means the presence of a volatile organic compound concentration exceeding 10,000 ppm when tested in the manner referenced in Section 5.
(5) "Gas service" means that the volatile organic compound is gaseous at conditions that prevail in the component during normal operations.
(6) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(7) "Classification date" means the effective date of this regulation.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall:
(1) When any affected facility within the petroleum refinery complex is found to be leaking, repair the leak within fifteen (15) days. A component recheck shall be made after repair. If the leak is still present or a new leak is created by the repair, further maintenance shall be performed until the volatile organic compound emission drops below the screening value (10,000 ppm).
(2) Any time a valve is located at the end of a pipe or line containing volatile organic compounds, seal the end of the line with a second valve, a blind flange, a plug or a cap. This sealing device may be removed only when a sample is being taken. This requirement does not apply to safety pressure relief valves.

Section 4. Monitoring and Reporting Requirements. The owner or operator shall conduct such monitoring of affected facilities and submit records as specified below:
(1) The refinery operator shall perform component monitoring using the method referenced in Section 5 as follows:
(a) Monitor with a portable volatile organic compound detection device one (1) time per year (annually): pump seals, pipeline valves in liquid service, and process drains.
(b) Monitor with a portable volatile organic compound detection device four (4) times per year (quarterly): compressor seals, pipeline valves in gas service, and pressure relief valves in gas service.
(c) Monitor visually fifty-two (52) times per year (weekly): pump seals.
(d) No individual monitoring is necessary for pressure relief valves in liquid service and pipeline flanges.
(2) Pipeline valves and pressure relief valves for gas service shall be marked or noted so that their location is readily obvious to both the refinery operator performing the monitoring and the department.
(3) Whenever liquids are observed dripping from a pump seal, the seal shall be checked immediately with a portable detector to determine if a leak of volatile organic compounds is present.
(4) Whenever a relief valve operates and venting to the atmosphere occurs, the operator shall monitor such valve immediately. Pressure relief devices which are tied in to either a flare header or vapor recovery device shall be exempted from the monitoring requirements.
(5) When a leak is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. The location, tag number, date and stream composition of the leak shall also be noted on a survey log. When the leak is repaired, the date of repair and date and instrument reading of component recheck after maintenance shall be entered in the survey log and the tag discarded. The operator shall retain the survey log for two (2) years after the inspection is completed.

(6) After quarterly monitoring has been performed the refinery operator shall submit a report to the department listing all leaks that were located but not repaired within the fifteen (15) day limit and a signed statement attesting to the fact that all monitoring has been performed as stipulated in the control plan. Leaks that cannot be repaired within fifteen (15) days shall be repaired during the next scheduled turnaround, or if unable to be brought into compliance, a variance shall be requested and obtained on an individual basis.

Section 5. Test Methods and Procedures. (1) Except as provided for in 401 KAR 50:045 the test methods as defined in Appendix B to "Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment" (OAQPS 1.2-111, U.S. EPA, Office of Air Quality Planning and Standards), filed by reference in 401 KAR 50:015, shall be used to determine compliance with the standard prescibed in Section 3 and monitoring requirements in Section 4.

(2) The owner or operator may elect to use alternate monitoring methods if it can be demonstrated to the department's satisfaction that the alternate methods will achieve equivalent control efficiency.

Section 6. Variances and Modifications. (1) If, after at least two (2) complete annual checks, the refinery operator determines that modifications of the monitoring requirements are in order, he may request in writing to the department that a revision be made. The submittal shall include data that have been developed to justify any modifications in the monitoring schedule.

(2) If the department finds an excessive number of leaks during an inspection, or if the refinery operator found an excessive number of leaks in any given area during scheduled monitoring, the department shall increase the required frequency of operator inspections for that part of the facility.

(3) Variation with the standards and limitations contained in this regulation, when supported by adequate technical information will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:212. New graphic arts facilities using rotogravure and flexography.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new graphic arts facilities which use rotogravure and flexography.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means a printing line for packaging rotogravure, publication rotogravure, and flexographic printing.

(2) "Applicator" means the mechanism or device used to apply the ink.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Printing line" means a series of equipment and/or operations used to apply, dry, or cure, any inks containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;

(b) Process storage;

(c) Applicators;

(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;

(f) Leaks, spills and disposal of volatile organic compounds;

(g) Processing and handling of recovered volatile organic compounds;

(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) printing line, its volatile organic compound emissions shall be assigned to each printing line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each printing line;

(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate printing line;

(j) All units in a machine which has both coating and printing units will be considered as performing a printing operation.

(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic car-

bides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain inks, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(7) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication and packaging printing.

(8) "Coating" means the application of a uniform layer of material across the entire width of a web.

(9) "Classification date" means the effective date of this regulation.

(10) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

(11) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(12) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(13) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(14) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves intaglio or recessed image areas in the form of cells.

(15) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

Section 3. Standard for Volatile Organic Compounds. (1) No person shall cause, allow, or permit an affected facility for publication rotogravure printing to discharge into the atmosphere more than twenty-five (25) percent by weight of the volatile organic compounds net input into the affected facility.

(2) No person shall cause, allow, or permit an affected facility for packaging rotogravure printing to discharge into the atmosphere more than thirty-five (35) percent by weight of the volatile organic compounds net input into the affected facility.

(3) No person shall cause, allow, or permit an affected facility for flexographic printing to discharge into the atmosphere more than forty (40) percent by weight of the volatile organic compounds net input in the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 5.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the inks used at an affected facility to verify that the inks meet the requirements in Section 5. The following methods of analyses, filed by reference in 401 KAR 50:015, for inks shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;
(b) ASTM D 1475-60(74);
(c) ASTM D 2369-73; or
(d) Federal Standard 141 a, Method 4082.1.

Section 5. Exemptions. Any affected facility shall be exempt from the provision of Section 3 if the printing systems:

(1) Utilize a water-borne ink whose volatile portion consists of seventy-five (75) volume percent water and twenty-five (25) volume percent organic solvent (or a lower volatile organic compound content) in all printing units;

(2) Achieve a seventy (70) volume percent overall reduction of solvent usage (compared to all solvent-borne ink usage); or

(3) Utilize inks which contain sixty (60) percent or more non-volatile material.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:214. New factory surface coating operations of flat wood paneling.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new factory surface coating operations of flat wood paneling.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means a coating line for the factory surface coating of interior flat wood paneling.
(2) "Applicator" means the mechanism or device used to apply the coating including but not limited to: roll coaters, curtain coaters, sprays and brushes.
(3) "Flashoff area" means the space between the applicator and the oven.
(4) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any coatings containing volatile organic compounds. This shall include, but is not limited to:
(a) Mixing operations;
(b) Process storage;
(c) Applicators;
(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;
(e) Clean up operations;
(f) Leaks, spills and disposal of volatile organic compounds;
(g) Processing and handling of recovered volatile organic compounds;
(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compound it receives from or distributes to each coating line;
(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 5, then that portion shall be considered to be a separate coating line;
(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.
(7) "Interior flat wood paneling" means printed interior wall panels made of hardwood plywood and thin particleboard, natural finish hardwood plywood panels, or hardboard paneling with Class II finishes.
(8) "Printed panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.
(9) "Hardwood plywood" means plywood whose surface layer is a veneer of hardwood.
(10) "Particleboard" means a manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Thin particleboard has a thickness of one-fourth (¼) inch or less.
(11) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.
(12) "Hardboard" means a panel manufactured primarily from interfelted lignocellulosic fibers which are consolidated under heat and pressure in a hot-press.
(13) "Class II hardboard paneling finishes" means finishes which meet the specifications of Voluntary Product Standard PS-59-73, filed by reference in 401 KAR 50:015, as approved by the American National Standards Institute.
(14) "Classification date" means the effective date of this regulation.
(15) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.
(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.
(3) With the prior approval of the department, the

owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 5.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 5. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;
(b) ASTM D 1475-60(74);
(c) ASTM D 2369-73; or
(d) Federal Standard 141 a, Method 4082.1.

Section 5. Exemptions. Any affected facility shall be exempt from the provision of Section 3 if the total volatile organic compound content of all the coatings applied to a specific area of finished paneling product is:

(1) Less than 2.9 kg of volatile organic compounds per 100 sq. m. of coated surface (6.0 lb/1,000 sq. ft.) for printed interior wall panels made of hardwood plywood and thin particleboard;

(2) Less than 5.9 kg of volatile organic compounds per 100 sq. m. of coated surface (12.0 lb/1,000 sq. ft.) for natural finish hardwood plywood panels; or

(3) Less than 4.9 kg of volatile organic compounds per 100 sq. m. of coated surface (10.0 lb/1,000 sq. ft.) for Class II finishes for hardboard paneling.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:225. New miscellaneous metal parts and products surface coating operations.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new miscellaneous metal parts and products surface coating operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means a coating line located at job shops and original equipment manufacturing industries which apply coatings on metal substrates not elsewhere subject to regulation in this chapter.

(2) "Applicator" means the mechanism or device used to apply the coating, including but not limited to: dipping, spraying, or flowcoating.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Single coat" means only one (1) film of coating is applied to the metal substrate.

(5) "Prime coat" means the first of two (2) or more films of coating applied in an operation.

(6) "Topcoat" means the final film or series of films of coating applied in a two (2) coat (or more) operation.

(7) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any prime, topcoat or single coatings containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;
(b) Process storage;
(c) Applicators;
(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;
(e) Clean up operations;
(f) Leaks, spills and disposal of volatile organic compounds;
(g) Processing and handling of recovered volatile organic compounds;
(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;
(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate coating line.

(8) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(9) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(10) "Miscellaneous metal parts and products" means items including but not limited to:

(a) Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);

(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

(c) Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

(d) Commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(f) Fabricated metal products (metal covered doors, frames, etc.); and

(g) Any other industrial category not otherwise subject to regulation in this chapter which coats metal parts or products.

(11) "Heat sensitive material" means materials which cannot be exposed to temperatures greater than eighty-two (82) to ninety-three (93)°C (180°-200°F).

(12) "Air or forced air-dried items" means parts that are too large or too heavy for practical size ovens; parts that are sensitive to heat; parts to which heat sensitive materials are attached; or equipment assembled prior to top coating for specific performance or quality standards.

(13) "Outdoor or harsh exposure or extreme environmental conditions" means exposure to any of the following: year round weather conditions, temperatures consistently above ninety-five (95)° Celsius, detergents, scouring, solvents, corrosive atmospheres; and similar environmental conditions.

(14) "Classification date" means the effective date of this regulation.

(15) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 5.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 5. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;

(b) ASTM D 1475-60(74);

(c) ASTM D 2369-73; or

(d) Federal Standard 141 a, Method 4082.1.

Section 5. Exemptions. (1) Any affected facility shall be exempt from the provision of Section 3 if the volatile organic compound content of coating is:

(a) Less than 0.52 kg/l of coating (4.3 lb/gal), excluding water, delivered to applicators associated with clear coat;

(b) Less than 0.42 kg/l of coating (3.5 lb/gal), excluding water, delivered to applicators associated with air or forced air-dried items or items subject to outdoor or harsh exposure or extreme environmental conditions;

(c) Less than 0.36 kg/l of coating (3.0 lb/gal), excluding water, delivered to applicators associated with color coat or first coat on untreated ferrous substrate; or

(d) Less than 0.05 kg/l of powder coating (0.4 lb/gal) delivered to applicators associated with no or infrequent color change, or a small number of colors applied.

(2) The surface coating of the following metal parts and products are exempt from this regulation:

(a) The exterior of airplanes and marine vessels, but not parts for the exterior of airplanes and marine vessels that are coated as a separate manufacturing or coating operation;

(b) Automobile refinishing; and

(c) Customized top coating of automobiles and trucks, if production is less than thirty-five (35) vehicles per day.

(3) Any affected facility shall be exempt from the provisions of Section 3 if the total volatile organic compound emissions from all affected facilities subject to this regulation are less than or equal to twenty (20) tons per year.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:230. New synthesized pharmaceutical product manufacturing operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new synthesized pharmaceutical product manufacturing operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means operations involved in the manufacture of pharmaceutical products by chemical synthesis, but does not include fermentation, extraction, or formulation and packaging.
(2) "Extraction" means the manufacture of botanical and biological products by the extraction of organic chemicals from vegetative materials or animal tissues.
(3) "Fermentation" means the production and separation of medicinal chemicals such as antibiotics and vitamins from microorganisms.
(4) "Formulation and packaging" means the formulation of bulk pharmaceuticals into various dosage forms such as tablets, capsules, injectable solutions, ointments, etc., that can be taken by the patient immediately and in accurate amount.
(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(6) "Classification date" means the effective date of this regulation.
(7) "kPa" means kilopascals.
(8) "psi" means pounds per square inch.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility to which this regulation applies shall install, maintain and operate the control equipment and observe at all times the following operating requirements:
(1) (a) Each vent from reactors, distillation operations, crystallizers, centrifuges, and vacuum dryers that emit 6.8 kg/day (fifteen (15) lb/day) or more of volatile organic compounds shall be equipped with surface condensers or other methods of control which provide emission reductions equivalent to the use of surface condensers which meet the requirements in paragraph (b) of this subsection.

(b) If surface condensers are used, the condenser outlet gas temperatures shall not exceed the following temperatures (degrees Celsius) when condensing volatile organic compounds with the respective minimum vapor pressures (kilopascals). All vapor pressures are measured to twenty (20) degrees Celsuis.
1. Negative twenty-five (-25)°C; forty (40) kPa (5.8 psi);
2. Negative fifteen (-15)°C; twenty (20) kPa (2.9 psi);
3. Zero (0)°C; ten (10) kPa (1.5 psi);
4. Ten (10)°C; seven (7) kPa (1.0 psi); and
5. Twenty-five (25)°C; 3.5 kPa (0.5 psi).

(2) (a) For air dryers and production equipment exhaust systems that emit 150 kg/day (330 lbs./day) or more of volatile organic compounds, emissions shall be reduced ninety (90) percent.

(b) For air dryers and production equipment exhaust systems that emit less than 150 kg/day (330 lbs/day), emissions shall be reduced to fifteen (15) kg/day (thirty-three (33) lbs/day).

(3) (a) For storage tanks storing volatile organic compounds with a vapor pressure greater than twenty-eight (28) kPa (4.1 psi) at twenty (20)°C, one (1) liter of displaced vapor shall be allowed to be released to the atmosphere for every ten (10) liters transferred (i.e., a ninety (90) percent effective vapor balance or equivalent) on truck/rail car delivery to all tanks greater than 7,500 liters (2,000 gal) capacity except where tanks are equipped with floating roofs, vapor recovery systems, or their equivalent. This requirement does not apply to transfer of volatile organic compounds from one (1) in-plant location to another.

(b) For tanks storing volatile organic compounds with a vapor pressure greater than ten (10) kPa (1.5 psi) at twenty (20)°C, pressure/vacuum conservation vents shall be set at plus or minus 0.2 kPa, except where more effective air pollution control is used.

(4) All centrifuges containing volatile organic compounds, rotary vacuum filters processing liquid containing volatile organic compounds and any other filters having an exposed liquid surface where the liquid contains volatile organic compounds shall be enclosed. This applies to liquids exerting a total volatile organic compounds vapor pressure of 3.5 kPa (0.5 psi) or more at twenty (20)°C.

(5) All in-process tanks containing volatile organic compound at any time shall have covers which shall be closed except for short periods when production, sampling, maintenance, or inspection procedures require operator access.

(6) For liquids containing volatile organic compounds, all leaks in which liquid can be observed to be running or dripping from vessels and equipment (for example: pumps, valves, flanges) shall be repaired within fifteen (15) days. A visual recheck shall be made after repair. If the leak is still present or a new leak is created by the repair, further maintenance shall be performed until the volatile organic compound emission drops below the screening value (observed to be running or dripping). Leaks that cannot be repaired within fifteen (15) days shall be repaired during the next scheduled turnaround, or if unable to be brought into compliance, a variance shall be requested and obtained on an individual basis. Leak detection/maintenance and repair procedures shall include maintaining a log identifying when the leak occurred and reporting every ninety (90) days those leaks not repaired after fifteen (15) days. The operator shall retain the survey log for two (2) years after the inspection is completed.

Section 4. Compliance Procedures. Compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

Section 5. Monitoring Requirements. When adsorbers, condensers, incinerators or scrubbers are used to achieve complaince with Section 3, the following monitoring devices shall be an integral part of the control device:

(1) For carbon adsorbers, a monitoring device connected to an alarm device, which indicates carbon bed breakthrough;

(2) For condensers, a temperature securing device located in the exit gas stream;

(3) For incinerators, temperature securing devices located in the combustion chamber for thermal incinerators and in the catalyst pre-heat chamber for catalytic incinerators; and

(4) For scrubbers, flow meters for measuring flow rate of scrubbing medium or pressure drop measuring devices indicating back pressure and pressure drop across the scrubber.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:235. New pneumatic rubber tire manufacturing plants.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new pneumatic rubber tire manufacturing plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means undertread cementers, tread end cementers, bead dip tanks, and green tire spray booths association with the manufacture of pneumatic rubber tires.

(2) "Manufacture of pneumatic rubber tires" means the mass production of pneumatic rubber tires.

(3) "Pneumatic rubber tires" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger tires of bead diameter up to .51 m (twenty (20) in.) and cross-sectional dimension up to .33 m (12.8 in.).

(4) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(5) "Classification date" means the effective date of this regulation.

(6) "Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water, and emulsifiers have been substituted for organic solvents.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall install, maintain and operate capture and control equipment to achieve the following:

(1) Emissions from undertread cementers, tread end cementers and bead dip tanks shall be reduced by at least seventy-six (76) percent; and

(2) Emissions from green tire spray booths shall be reduced by at least eighty-one (81) percent. This requirement is not applicable to green tire spray booths using water based sprays.

Section 4. Compliance. Compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

Section 5. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

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PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m.

(EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 59:240. New perchloroethylene dry cleaning systems.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new perchloroethylene dry cleaning systems.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any other county and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means dry cleaning systems which use percholoroethylene.
(2) "Dry cleaning system" means a series of equipment and/or operations which includes, but is not limited to: washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves used for the purpose of commercial cleaning of fabrics.
(3) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(4) "Classification date" means the effective date of this regulation.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall install, maintain and operate the control equipment such that the following requirements are met:
(1) There shall be no liquid leakage of organic solvents from the system.
(2) The entire dryer exhaust shall be vented through a properly functioning carbon adsorber or equally effective control device.
(3) The maximum organic solvent concentration in the vent from the dryer control device shall not exceed 100 ppm before dilution.
(4) Filter and distillation wastes.
(a) The residue from any diatomaceous earth filter shall be cooked or treated so that wastes shall not contain more than twenty-five (25) kg of solvent per 100 kg of wet waste material.
(b) The residue from a solvent still shall not contain more than sixty (60) kg of solvent per 100 kg of wet waste material.
(c) Filtration cartridges shall be drained in the filter housing for at least twenty-four (24) hours before being discarded. The drained cartridges shall be dried in the dryer tumbler after draining.
(d) Any other filtration or distillation system can be used if equivalency to these requirements is demonstrated. Any system reducing waste losses below one (1) kg solvent per 100 kg clothes cleaned will be considered equivalent.

Section 4. Compliance. (1) Liquid leakage shall be determined by visual inspection of the following sources:
(a) Hose connections, unions, couplings and valves;
(b) Machine door gasket and seating;
(c) Filter head gasket and seating;
(d) Pumps;
(e) Base tanks and storage containers;
(f) Water separators;
(g) Filter sludge recovery operations;
(h) Distillation units;
(i) Divertor valves;
(j) Saturated line from lint basket; and
(k) Cartridge filters.
(2) Dryer exhaust concentration shall be determined by the proper installation, operation, and maintenance of approved equipment as determined by the department or by performance tests specified by the department.
(3) The amount of solvent in filter and distillation wastes shall be determined by ASTM D 322-67 (77), and substituting collector C from ASTM E 123-78. ASTM Methods are filed by reference in 401 KAR 50:015.

Section 5. Exemptions. Percholoroethylene dry cleaning facilities which are coin-operated shall be exempt from this regulation.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary
ADOPTED: September 12, 1980
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PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:122. Existing graphic arts facilities using rotogravure and flexography.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing graphic arts facilities which use rotogravure and flexography.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means a printing line for packaging rotogravure, publication rotogravure, and flexographic printing.
(2) "Applicator" means the mechanism or device used to apply the ink.
(3) "Flashoff area" means the space between the applicator and the oven.
(4) "Printing line" means a series of equipment and/or operations used to apply, dry, or cure, any inks containing volatile organic compounds. This shall include, but is not limited to:
(a) Mixing operations;
(b) Process storage;
(c) Applicators;
(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;
(e) Clean up operations;
(f) Leaks, spills and disposal of volatile organic compounds;
(g) Processing and handling of recovered volatile organic compounds;
(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) printing line, its volatile organic compound emissions shall be assigned to each printing line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each printing line;
(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate printing line;
(j) All units in a machine which has both coating and printing units will be considered as performing a printing operation.
(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain inks, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.
(7) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication and packaging printing.
(8) "Coating" means the application of a uniform layer of material across the entire width of a web.
(9) "Classification date" means the effective date of this regulation.
(10) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.
(11) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.
(12) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.
(13) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.
(14) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves intaglio or recessed image areas in the form of cells.
(15) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

Section 3. Standard for Volatile Organic Compounds. (1) No person shall cause, allow, or permit an affected facility for publication rotogravure printing to discharge into the atmosphere more than twenty-five (25) percent by weight of the volatile organic compounds net input into the affected facility.
(2) No person shall cause, allow, or permit an affected facility for packaging rotogravure printing to discharge into the atmosphere more than thirty-five (35) percent by weight of the volatile organic compounds net input into the affected facility.
(3) No person shall cause, allow, or permit an affected facility for flexographic printing to discharge into the at-

mosphere more than forty (40) percent by weight of the volatile organic compounds net input in the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the inks used at an affected facility to verify that the inks meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for inks shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;
(b) ASTM D 1475-60(74);
(c) ASTM D 2369-73; or
(d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract or the exempt inks and any other accompanying process change contracts no later than June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment or process changes for exempt inks no later than December 1, 1981.

(4) On-site construction or installation of emission control equipment or process changes for exempt inks shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. Any affected facility shall be exempt from the provision of Section 3 if the printing systems:

(1) Utilize a water-borne ink whose volatile portion consists of seventy-five (75) volume percent water and twenty-five (25) volume percent organic solvent (or a lower volatile organic compound content) in all printing units;

(2) Achieve a seventy (70) volume percent overall reduction of solvent usage (compared to all solvent-borne ink usage); or

(3) Utilize inks which contain sixty (60) percent or more non-volatile material.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:124. Existing factory surface coating operations of flat wood paneling.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing factory surface coating operations of flat wood paneling.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means a coating line for the factory surface coating of interior flat wood paneling.

(2) "Applicator" means the mechanism or device used to apply the coating including but not limited to: roll coaters, curtain coaters, sprays and brushes.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any coatings containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;
(b) Process storage;
(c) Applicators;
(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;
(f) Leaks, spills and disposal of volatile organic compounds;
(g) Processing and handling of recovered volatile organic compounds;
(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;
(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate coating line;
(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.
(7) "Interior flat wood paneling" means printed interior wall panels made of hardwood plywood and thin particleboard, natural finish hardwood plywood panels, or hardboard paneling with Class II finishes.
(8) "Printed panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.
(9) "Hardwood plywood" means plywood whose surface layer is a veneer of hardwood.
(10) "Particleboard" means a manufactured board made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure. Thin particleboard has a thickness of one-fourth (¼) inch or less.
(11) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.
(12) "Hardboard" means a panel manufactured primarily from interfelted lignocellulosic fibers which are consolidated under heat and pressure in a hot-press.
(13) "Class II hardboard paneling finishes" means finishes which meet the specifications of Voluntary Product Standard PS-59-73, filed by reference in 401 KAR 50:015, as approved by the American National Standards Institute.
(14) "Classification date" means the effective date of this regulation.
(15) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.
(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.
(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.
(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:
(a) ASTM D 1644-75 Method A;
(b) ASTM D 1475-60(74);
(c) ASTM D 2369-73; or
(d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:
(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.
(2) Award the control system contract or the exempt coatings and any accompanying process change contracts no later than June 15, 1981.
(3) Initiate on-site construction or installation of emission control equipment or process changes for exempt coatings no later than December 1, 1981.
(4) On-site construction or installation of emission control equipment or process changes for exempt coatings shall be completed no later than December 1, 1982.
(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. Any affected facility shall be exempt from the provision of Section 3 if the total volatile organic compound content of all the coatings applied to a specific area of finished paneling product is:
(1) Less than 2.9 kg of volatile organic compounds per 100 sq. m. of coated surface (6.0 lb/1,000 sq. ft.) for printed interior wall panels made of hardwood plywood and thin particleboard;
(2) Less than 5.9 kg of volatile organic compounds per 100 sq. m. of coated surface (12.0 lb/1,000 sq. ft.) for natural finish hardwood plywood panels; or
(3) Less than 4.9 kg of volatile organic compounds per 100 sq. m. of coated surface (10.0 lb/1,000 sq. ft.) for Class II finishes for hardboard paneling.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary
ADOPTED: September 12, 1980
RECEIVED BY LRC: September 12, 1980 at 9 a.m.
PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing miscellaneous metal parts and products surface coating operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means a coating line located at job shops and original equipment manufacturing industries which apply coatings on metal substrates not elsewhere subject to regulation in this chapter.
(2) "Applicator" means the mechanism or device used to apply the coating, including but not limited to: dipping, spraying, or flowcoating.
(3) "Flashoff area" means the space between the applicator and the oven.
(4) "Single coat" means only one (1) film of coating is applied to the metal substrate.
(5) "Prime coat" means the first of two (2) or more films or coating applied in an operation.
(6) "Topcoat" means the final film or series of films of coating applied in a two (2) coat (or more) operation.
(7) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any prime, topcoat or single coatings containing volatile organic compounds. This shall include, but is not limited to:
(a) Mixing operations;
(b) Process storage;
(c) Applicators;
(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;
(e) Clean up operations;
(f) Leaks, spills and disposal of volatile organic compounds;
(g) Processing and handling of recovered volatile organic compounds;
(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;
(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate coating line.
(8) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(9) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.
(10) "Miscellaneous metal parts and products" means items including but not limited to:
(a) Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);
(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);
(c) Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);
(d) Commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);
(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);
(f) Fabricated metal products (metal covered doors, frames, etc.); and
(g) Any other industrial category not otherwise subject to regulation in this chapter which coats metal parts or products.
(11) "Heat sensitive material" means materials which cannot be exposed to temperatures greater than eighty-two (82) to ninety-three (93)°C (180°-200°F).
(12) "Air or forced air-dried items" means parts that are too large or too heavy for practical size ovens; parts that are sensitive to heat; parts to which heat sensitive materials are attached; or equipment assembled prior to top coating for specific performance or quality standards.
(13) "Outdoor or harsh exposure or extreme environmental conditions" means exposure to any of the

following: year round weather conditions, temperatures consistently above ninety-five (95)° Celsius, detergents, scouring, solvents, corrosive atmospheres; and similar environmental conditions.

(14) "Classification date" means the effective date of this regulation.

(15) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;
(b) ASTM D 1475-60(74);
(c) ASTM D 2369-73; or
(d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract or the exempt coatings and any other accompanying process change contracts no later than June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment or process changes for exempt coatings no later than December 1, 1981.

(4) On-site construction or installation of emission control equipment or process changes for exempt coatings shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. (1) Any affected facility shall be exempt from the provision of Section 3 if the volatile organic compound content of coating is:

(a) Less than 0.52 kg/l of coating (4.3 lb/gal), excluding water, delivered to applicators associated with clear coat;

(b) Less than 0.42 kg/l of coating (3.5 lb/gal), excluding water, delivered to applicators associated with air or forced air-dried items or items subject to outdoor or harsh exposure or extreme environmental conditions;

(c) Less than 0.36 kg/l of coating (3.0 lb/gal), excluding water, delivered to applicators associated with color coat or first coat on untreated ferrous substrate; or

(d) Less than 0.05 kg/l of powder coating (0.4 lb/gal) delivered to applicators associated with no or infrequent color change, or a small number of colors applied.

(2) The surface coating of the following metal parts and products are exempt from this regulation:

(a) The exterior of airplanes and marine vessels, but not parts for the exterior of airplanes and marine vessels that are coated as a separate manufacturing or coating operation;

(b) Automobile refinishing; and

(c) Customized top coating of automobiles and trucks, if production is less than thirty-five (35) vehicles per day.

(3) Any affected facility shall be exempt from the provisions of Section 3 if the total volatile organic compound emissions from all affected facilities subject to this regulation are less than or equal to twenty (20) tons per year.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:137. Leaks from existing petroleum refinery equipment.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental

Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from leaks from existing petroleum refinery equipment.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means each individual component within a petroleum refinery complex that could potentially leak volatile organic compounds to the atmosphere.

(2) "Component" means equipment or apparatus which includes, but is not limited to, pump seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes that could potentially leak volatile organic compounds to the atmosphere.

(3) "A petroleum refinery complex" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, rearrangement or reforming of unfinished petroleum derivatives.

(4) "Leak" means the presence of a volatile organic compound concentration exceeding 10,000 ppm when tested in the manner referenced in Section 5.

(5) "Gas service" means that the volatile organic compound is gaseous at conditions that prevail in the component during normal operations.

(6) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(7) "Classification date" means the effective date of this regulation.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall:

(1) When any affected facility within the petroleum refinery complex is found to be leaking, repair the leak within fifteen (15) days. A component recheck shall be made after repair. If the leak is still present or a new leak is created by the repair, further maintenance shall be performed until the volatile organic compound emission drops below the screening value (10,000 ppm).

(2) Any time a valve is located at the end of a pipe or line containing volatile organic compounds, seal the end of the line with a second valve, a blind flange, a plug or a cap. This sealing device may be removed only when a sample is being taken. This requirement does not apply to safety pressure relief valves.

Section 4. Monitoring and Reporting Requirements. The owner or operator shall conduct such monitoring of affected facilities and submit records as specified below:

(1) The refinery operator shall perform component monitoring using the method referenced in Section 5 as follows:

(a) Monitor with a portable volatile organic compound detection device one (1) time per year (annually): pump seals, pipeline valves in liquid service, and process drains.

(b) Monitor with a portable volatile organic compound detection device four (4) times per year (quarterly): compressor seals, pipeline valves in gas service, and pressure relief valves in gas service.

(c) Monitor visually fifty-two (52) times per year (weekly): pump seals.

(d) No individual monitoring is necessary for pressure relief valves in liquid service and pipeline flanges.

(2) Pipeline valves and pressure relief valves for gas service shall be marked or noted so that their location is readily obvious to both the refinery operator performing the monitoring and the department.

(3) Whenever liquids are observed dripping from a pump seal, the seal shall be checked immediately with a portable detector to determine if a leak of volatile organic compounds is present.

(4) Whenever a relief valve operates and venting to the atmosphere occurs, the operator shall monitor such valve immediately. Pressure relief devices which are tied in to either a flare header or vapor recovery device shall be exempted from the monitoring requirements.

(5) When a leak is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. The location, tag number, date and stream composition of the leak shall also be noted on a survey log. When the leak is repaired, the date of repair and date and instrument reading of component recheck after maintenance shall be entered in the survey log and the tag discarded. The operator shall retain the survey log for two (2) years after the inspection is completed.

(6) After quarterly monitoring has been performed the refinery operator shall submit a report to the department listing all leaks that were located but not repaired within the fifteen (15) day limit and a signed statement attesting to the fact that all monitoring has been performed as stipulated in the control plan. Leaks that cannot be repaired within fifteen (15) days shall be repaired during the next scheduled turnaround, or if unable to be brought into compliance, a variance shall be requested and obtained on an individual basis.

Section 5. Test Methods and Procedures. (1) Except as provided for in 401 KAR 50:045 the test methods as defined in Appendix B to "Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment" (OAQPS 1.2-111, U.S. EPA, Office of Air Quality Planning and Standards), filed by reference in 401 KAR 50:015, shall be used to determine compliance with the standard prescibed in Section 3 and monitoring requirements in Section 4.

(2) The owner or operator may elect to use alternate monitoring methods if it can be demonstrated to the department's satisfaction that the alternate methods will achieve equivalent control efficiency.

Section 6. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract no later than May 15, 1981.
(3) Initiate on-site construction or installation of emission control equipment no later than July 15, 1981.
(4) On-site construction or installation of emission control equipment shall be completed no later than November 15, 1981.
(5) Final compliance shall be achieved no later than January 1, 1982.

Section 7. Variances and Modifications. (1) If, after at least two (2) complete annual checks, the refinery operator determines that modifications of the monitoring requirements are in order, he may request in writing to the department that a revision be made. The submittal shall include data that have been developed to justify any modifidations in the monitoring schedule.
(2) If the department finds an excessive number of leaks during an inspection, or if the refinery operator found an excessive number of leaks in any given area during scheduled monitoring, the department shall increase the required frequency of operator inspections for that part of the facility.
(3) Variation with the standards and limitations contained in this regulation, when supported by adequate technical information will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary
ADOPTED: September 12, 1980
RECEIVED BY LRC: September 12, 1980 at 9 a.m.
PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:150. Existing synthesized pharmaceutical product manufacturing operations.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing synthesized pharmaceutical product manufacturing operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced or or after the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means operations involved in the manufacture of pharmaceutical products by chemical synthesis, but does not include fermentation, extraction, or formulation and packaging.
(2) "Extraction" means the manufacture of botanical and biological products by the extraction of organic chemicals from vegetative materials or animal tissues.
(3) "Fermentation" means the production and separation of medicinal chemicals such as antibiotics and vitamins from microorganisms.
(4) "Formulation and packaging" means the formulation of bulk pharmaceuticals into various dosage forms such as tablets, capsules, injectable solutions, ointments, etc., that can be taken by the patient immediately and in accurate amount.
(5) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(6) "Classification date" means the effective date of this regulation.
(7) "kPa" means kilopascals.
(8) "psi" means pounds per square inch.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility to which this regulation applies shall install, maintain and operate the control equipment and observe at all times the following operating requirements:
(1) (a) Each vent from reactors, distillation operations, crystallizers, centrifuges, and vacuum dryers that emit 6.8 kg/day (fifteen (15) lb/day) or more of volatile organic compounds shall be equipped with surface condensers or other methods of control which provide emission reductions equivalent to the use of surface condensers which meet the requirements in paragraph (b) of this subsection.
(b) If surface condensers are used, the condenser outlet gas temperature shall not exceed the following temperatures (degrees Celsius) when condensing volatile organic compounds with the respective minimum vapor pressures (kilopascals). All vapor pressures are measured to twenty (20) degrees Celsuis.
1. Negative twenty-five (-25)°C; forty (40) kPa (5.8 psi);
2. Negative fifteen (-15)°C; twenty (20) kPa (2.9 psi);
3. Zero (0)°C; ten (10) kPa (1.5 psi);
4. Ten (10)°C; seven (7) kPa (1.0 psi); and
5. Twenty-five (25)°C; 3.5 kPa (0.5 psi).
(2) (a) For air dryers and production equipment exhaust systems that emit 150 kg/day (330 lbs./day) or more of volatile organic compounds, emissions shall be reduced ninety (90) percent.
(b) For air dryers and production equipment exhaust systems that emit less than 150 kg/day (330 lbs/day), emissions shall be reduced to fifteen (15) kg/day (thirty-three (33) lbs/day).

(3) (a) For storage tanks storing volatile organic compounds with a vapor pressure greater than twenty-eight (28) kPa (4.1 psi) at twenty (20)°C, one (1) liter of displaced vapor shall be allowed to be released to the atmosphere for every ten (10) liters transferred (i.e., a ninety (90) percent effective vapor balance or equivalent) on truck/rail car delivery to all tanks greater than 7,500 liters (2,000 gal) capacity except where tanks are equipped with floating roofs, vapor recovery systems, or their equivalent. This requirement does not apply to transfer of volatile organic compounds from one (1) in-plant location to another.

(b) For tanks storing volatile organic compounds with a vapor pressure greater than ten (10) kPa (1.5 psi) at twenty (20)°C, pressure/vacuum conservation vents shall be set at plus or minus 0.2 kPa, except where more effective air pollution control is used.

(4) All centrifuges containing volatile organic compounds, rotary vacuum filters processing liquid containing volatile organic compounds and any other filters having an exposed liquid surface where the liquid contains volatile organic compounds shall be enclosed. This applies to liquids exerting a total volatile organic compounds vapor pressure of 3.5 kPa (0.5 psi) or more at twenty (20)°C.

(5) All in-process tanks containing volatile organic compound at any time shall have covers which shall be closed except for short periods when production, sampling, maintenance, or inspection procedures require operator access.

(6) For liquids containing volatile organic compounds, all leaks in which liquid can be observed to be running or dripping from vessels and equipment (for example: pumps, valves, flanges) shall be repaired within fifteen (15) days. A visual recheck shall be made after repair. If the leak is still present or a new leak is created by the repair, further maintenance shall be performed until the volatile organic compound emission drops below the screening value (observed to be running or dripping). Leaks that cannot be repaired within fifteen (15) days shall be repaired during the next scheduled turnaround, or if unable to be brought into compliance, a variance shall be requested and obtained on an individual basis. Leak detection/maintenance and repair procedures shall include maintaining a log identifying when the leak occurred and reporting every ninety (90) days those leaks not repaired after fifteen (15) days. The operator shall retain the survey log for two (2) years after the inspection is completed.

Section 4. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract no later than June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment no later than December 1, 1981.

(4) On-site construction or installation of emission control equipment shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 5. Compliance Procedures. Compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

Section 6. Monitoring Requirements. When adsorbers, condensers, incinerators or scrubbers are used to achieve complaince with Section 3, the following monitoring devices shall be an integral part of the control device:

(1) For carbon adsorbers, a monitoring device connected to an alarm device, which indicates carbon bed breakthrough;

(2) For condensers, a temperature sensing device located in the exit gas stream;

(3) For incinerators, temperature sensing devices located in the combustion chamber for thermal incinerators and in the catalyst pre-heat chamber for catalytic incinerators; and

(4) For scrubbers, flow meters for measuring flow rate of scrubbing medium or pressure drop measuring devices indicating back pressure and pressure drop across the scrubber.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

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PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:155. Existing pneumatic rubber tire manufacturing plants.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing pneumatic rubber tire manufacturing plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means undertread cementers, tread end cementers, bead dip tanks, and green tire spray booths association with the manufacture of pneumatic tires.
(2) "Manufacture of pneumatic rubber tires" means the mass production of pneumatic rubber tires.
(3) "Pneumatic rubber tires" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires of bead diameter up to .51 m (twenty (20) in.) and cross-sectional dimension up to .33 m (12.8 in.).
(4) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(5) "Classification date" means the effective date of this regulation.
(6) "Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water, and emulsifiers have been substituted for organic solvents.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall install, maintain and operate capture and control equipment to achieve the following:
(1) Emissions from undertread cementers, tread end cementers and bead dip tanks shall be reduced by at least seventy-six (76) percent; and
(2) Emissions from green tire spray booths shall be reduced by at least eighty-one (81) percent. This requirement is not applicable to green tire spray booths using water based sprays.

Section 4. Compliance. Compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:
(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.
(2) Award the control system contract no later than June 15, 1981.
(3) Initiate on-site construction or installation of emission control equipment no later than December 1, 1981.
(4) On-site construction or installation of emission control equipment shall be completed no later than December 1, 1982.
(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary
ADOPTED: September 12, 1980
RECEIVED BY LRC: September 12, 1980 at 9 a.m.
PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:160. Existing perchloroethylene dry cleaning systems.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing perchloroethylene dry cleaning systems.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:
(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.
(1) "Affected facility" means dry cleaning systems which use percholoroethylene.
(2) "Dry cleaning system" means a series of equipment and/or operations which includes, but is not limited to: washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves used for the purpose of commercial cleaning of fabrics.
(3) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.
(4) "Classification date" means the effective date of this regulation.

Section 3. Standard for Volatile Organic Compounds. The owner or operator of an affected facility shall install, maintain and operate the control equipment such that the following requirements are met:

(1) There shall be no liquid leakage of organic solvents from the system.

(2) The entire dryer exhaust shall be vented through a properly functioning carbon adsorber or equally effective control device.

(3) The maximum organic solvent concentration in the vent from the dryer control device shall not exceed 100 ppm before dilution.

(4) Filter and distillation wastes.

(a) The residue from any diatomaceous earth filter shall be cooked or treated so that wastes shall not contain more than twenty-five (25) kg of solvent per 100 kg of wet waste material.

(b) The residue from a solvent still shall not contain more than sixty (60) kg of solvent per 100 kg of wet waste material.

(c) Filtration cartridges shall be drained in the filter housing for at least twenty-four (24) hours before being discarded. The drained cartridges shall be dried in the dryer tumbler after draining.

(d) Any other filtration or distillation system can be used if equivalency to these requirements is demonstrated. Any system reducing waste losses below one (1) kg solvent per 100 kg clothes cleaned will be considered equivalent.

Section 4. Compliance. (1) Liquid leakage shall be determined by visual inspection of the following sources:

(a) Hose connections, unions, couplings and valves;
(b) Machine door gasket and seating;
(c) Filter head gasket and seating;
(d) Pumps;
(e) Base tanks and storage containers;
(f) Water separators;
(g) Filter sludge recovery operations;
(h) Distillation units;
(i) Divertor valves;
(j) Saturated lint from lint basket; and
(k) Cartridge filters.

(2) Dryer exhaust concentration shall be determined by the proper installation, operation, and maintenance of approved equipment as determined by the department or by performance tests specified by the department.

(3) The amount of solvent in filter and distillation wastes shall be determined by ASTM D 322-67 (77), and substituting collector C from ASTM E 123-78. ASTM Methods are filed by reference in 401 KAR 50:015.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract no later than June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment no later than December 1, 1981.

(4) On-site construction or installation of emission control equipment shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. Percholoroethylene dry cleaning facilities which are coin-operated shall be exempt from this regulation.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution

401 KAR 61:165. Existing primary aluminum reduction plants.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing primary aluminum reduction plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each potroom group within a primary aluminum reduction plant commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Primary aluminum reduction plant" means any source manufacturing aluminum by electrolytic reduction.

(2) "Potroom" means a building unit which houses a group of electrolytic cells in which aluminum is produced.

(3) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.

(4) "Roof monitor" means that portion of the roof of a potroom where gases not captured at the cell exit from the potroom.

(5) "Total fluorides" and "gaseous fluorides" means elemental fluorine and all fluoride compounds, as measured and distinguished by reference methods specified in Section 7 or equivalent or alternative methods.

(6) "Primary control system" means an air pollution control system designed to remove gaseous and particulate fluorides from exhaust gases which are captured at the cell.

(7) "Classification date" means October 23, 1974.

(8) "Dry scrubbing plant" means each primary aluminum reduction plant with a primary control system which operates in a manner whereby potroom group gases flow through a reaction bed consisting of alumina prior to being treated by dry removal methods for particulate emissions control. The resulting reaction bed products are then used as feed to the potroom group electrolytic reduction cells.

(9) "Wet scrubbing plant" means each primary aluminum reduction plant with a primary control system which acts in series to remove particulate emissions by dry removal methods, followed by wet scrubbing to remove gaseous fluoride emissions.

(10) "Startup cell" means an electrolytic reduction cell which is initially devoid of any materials other than carbon cathodes and anodes. Such a cell undergoes a prebake period by passing electrical current through anodes resting on the cathode floor, then has the necessary electrolyte and aluminum added, such that it will produce aluminum.

(11) "Sick cell" means an electrolytic reduction cell which has lost its proper heat balance, cannot maintain a solid crust, and must be removed from the primary control system to receive corrective attention.

(12) "Normal potroom operations" means any potroom activity and includes uncaptured cell gases resulting from cell tapping, anode changing, ore additions, or any other potroom operation but does not include operations due to startup cells or sick cells.

Section 3. Standard for Visible Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere:

(1) From any potroom roof monitor any gases which exhibit ten (10) percent opacity or greater during normal potroom operation;

(2) From any potroom roof monitor section directly above sick cells or startup cells any gases which exhibit forty (40) percent opacity or greater;

(3) From any dry scrubbing plant primary control system any gases which exhibit ten (10) percent opacity or greater; or

(4) From any wet scrubbing plant primary control system any gases which exhibit twenty-five (25) percent opacity or greater.

Section 4. Standard for Fluorides. (1) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, the owner or operator subject to the provisions of this regulation shall:

(a) For a dry scrubbing plant cause to be captured and ducted to a primary removal system at least ninety-five (95) percent of the total fluoride emissions generated at each electrolytic reduction cell.

(b) For a wet scrubbing plant cause to be discharged into the atmosphere through each potroom roof monitor no gases which contain gaseous fluorides in excess of 3.25 lb/hr.

(c) For a dry scrubbing plant cause to be removed at least 98.5% of the total fluoride emissions ducted to the primary control system.

(d) For a wet scrubbing plant cause to be discharged into the atmosphere from any primary control system no gases which contain gaseous fluorides in excess of 1.0 lbs/ton of aluminum produced.

(2) In the event of a recorded violation of the fluoride standard prescribed in 401 KAR 53:010, the department shall require that remedial measures be initiated from the source(s) responsible for causing said violation.

Section 5. Standard for Particulate Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any wet scrubbing plant primary control system any gases which contain particulate emissions in excess of 0.010 gr/scf. Addition of dilution air shall not constitute compliance.

Section 6. Monitoring of Operations. (1) The owner or operator of any wet scrubbing plant subject to the provisions of this regulation shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the weight of the aluminum produced. The weighing devices shall have an accuracy of plus or minus five (5) percent over their operating range.

(2) The owner or operator of any wet scrubbing plant shall maintain a record of daily production rates of aluminum, raw material feed rates, and cell or potline voltages.

(3) The owner or operator of any affected facility shall install, use, and maintain ambient air monitoring equipment in accordance with such methods as the department shall prescribe; establish and maintain records of same; and make periodic emission reports at intervals prescribed by the department.

Section 7. Test Methods and Procedures. (1) Reference methods as defined in Appendix A of 40 CFR 60 or as otherwise specified, filed by reference in 401 KAR 50:015, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Sections 3, 4 and 5 as follows:

(a) For sampling emissions from stacks:

1. Reference Method 13A or 13B for the concentration of total fluoride and the associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 for velocity and volumetric flow rate;
4. Reference Method 3 for gas analysis; and
5. Reference Method 5 for particulate emissions.

(b) For sampling emissions from roof monitors not employing stacks or pollutant collection systems:

1. Reference Method 14 and Kentucky Method 130 for the concentration of gaseous fluorides and associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 and Reference Method 14 for velocity and volumetric flow rate; and
4. Reference Method 3 for gas analysis.

(c) For opacity determination: Reference Method 9.

(2) For Reference Method 13A or 13B, 14, and Kentucky Method 130, the sampling time for each run shall be at least eight (8) hours for any potroom sample, and the minimum sample volume shall be 6.8 dscm (240 dscf) for any potroom sample except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the department.

(3) The air pollution control system for each affected

facility shall be constructed so that volumetric flow rates and total fluoride emissions can be accurately determined using applicable methods specified under subsection (1) of this section.

(4) The rate of aluminum production is determined by dividing 720 hours into the weight of aluminum tapped from the affected facility during a period of thirty (30) days prior to and including the final run of a performance test.

(5) For each run, potroom group emissions expressed in kg/metric ton of aluminum produced shall be determined using the equation in Appendix A of this regulation.

(6) For any sampling harness which does not comply with Reference Method 14 in Appendix A to 40 CFR 60, as amended on June 30, 1980, the department shall prescribe such sampling procedures as it deems appropriate.

Section 8. Compliance Timetable. (1) The owner or operator of an affected facility shall be required with respect to startup cell and sick cell emissions to achieve compliance with this regulation no later than February 1, 1982.

(2) The owner or operator of an affected facility shall be required with respect to the primary removal system to achieve final compliance no later than February 1, 1981.

APPENDIX A TO 401 KAR 61:165
EQUATION FOR POTROOM GROUP EMISSIONS

$$E_p = \frac{(CQ)_1 10^{-6}}{M}$$

Where:

E_p = Primary control system emissions of total fluorides in kg/metric ton of aluminum produced.

C = Concentration of total fluorides in mg/dscm as determined by Reference Method 13A or 13B.

Q = Volumetric flow rate of the effluent gas stream in dscm/hour as determined by Reference Method 2 and/or Reference Method 14, as applicable.

10^{-6} = Conversion factor for mg to kg.

M = Rate of aluminum production in metric ton/hour as determined by Section 6(4).

$(CQ)_1$ = Product of C and Q for measurements of primary control system effluent gas streams.

JACKIE SWIGART, Secretary

ADOPTED: September 12, 1980

RECEIVED BY LRC: September 12, 1980 at 9 a.m.

PUBLIC HEARING: A public hearing will be held on this regulation November 5 and 6, 1980, 10 a.m. to 5 p.m. (EST), in the auditorium in the Department for Human Resources, 275 East Main Street, Frankfort, Kentucky. For additional information or submission of comments, contact: Norman E. Schell, Director, Division of Air Pollution Control, 1050 U.S. 127 By-Pass South, Frankfort, Kentucky 40601, phone (502) 564-3382.

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

815 KAR 15:051. Installations of steam, hot water and hot water supply boilers.

RELATES TO: KRS 236.030
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 236.030 provides the commissioner, upon advisement of the Board of Boiler Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This regulation sets forth the basic requirements for heating boilers. Many of the provisions have been in effect for some time under the regulation which preceded this one.

Section 1. New Installations, Heating Boilers. (1) Requirements:

(a) No heating boiler, except reinstalled boilers and those exempted by these rules and regulations, shall hereafter be installed in this Commonwealth unless it has been constructed, stamped, and inspected in conformity with the ASME Boiler and Pressure Vessel Code for heating boilers, and is approved, registered, and inspected in accordance with the requirements of the boiler safety regulations. (See also "State specials" 815 KAR 15:010, Section 1(37).)

(b) All new heating boiler installations, including reinstalled boilers, must be installed in accordance with the requirements of the latest revision of the ASME Boiler and Pressure Vessel Code for heating boilers and the boiler safety regulations.

(2) Safety valve requirements for steam boilers:

(a) Each steam boiler shall have one (1) or more officially rated safety valves of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed fifteen (15) psi. Seals shall be attached in a manner to prevent the valve from being taken without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field installation. For iron and steel bodied valves exceeding two (2) inch pipe size, the drain hole, or holes, shall be tapped not less than three-eighths (3/8) inch pipe size. For valves two (2) inch pipe size or less, the drain hole shall not be less than one-fourth (¼) inch in diameter.

(b) No safety valve for a steam boiler shall be smaller than one-half (½) inch. No safety valve shall be larger than four and one-half (4½) inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

(c) The minimum relieving capacity of valve, or valves, shall be governed by the capacity-marking on the boiler.

(d) The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in table "A." In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these rules. In every case, the requirements of paragraph (e) of this subsection shall be met.

TABLE A

MINIMUM POUNDS OF STEAM PER HOUR PER SQUARE FOOT OF HEATING SURFACE

	Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface		
Hand fired	5	6
Stoker fired	7	8
Oil, gas or pulverized fuel fired	8	10
Waterwall Heating Surfaces		
Hand fired	8	8
Stoker fired	10	12
Oil, gas or pulverized fuel fired	14	16

1. When a boiler is fired only by a gas having a heat valve not in excess of 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity may be based on the values given for hand fired boilers.

2. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be three and one-half (3½) pounds per hour kilowatt input.

3. For heating surface determination see ASME Code for Heating Boilers, paragraph HG403.

(e) The safety valve capacity for each steam boiler shall be such that with the fuelburning equipment installed and operated at maximum capacity, the pressure cannot rise more than five (5) psi above the maximum allowable working pressure.

(f) When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with paragraph (e). The additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

(3) Safety relief valve requirements for hot water heating boilers and hot water supply boilers:

(a) Each hot water heating boiler shall have at least one (1) officially rated pressure relief valve, set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one (1) officially rated safety relief valve of the automatic-reseating type, set to relieve at or below the maximum allowable pressure of the boiler. Safety relief valves officially rated as to capacity shall have pop action when tested by steam. When more than one (1) safety relief valve is used on either hot water heating or hot water supply boilers, the additional valve or valves shall be officially rated and may be set within a range not to exceed six (6) psi above the maximum allowable working pressure up to and including exceeding sixty (60) psi and five (5) percent for those having a maximum allowable working pressure exceeding sixty (60) psi. Safety relief valves shall be spring loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum permitted in this paragraph.

(b) No materials liable to fail due to deterioration or vulcanization when subjected to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

(c) No safety relief valve shall be smaller than three-fourths (¾) inch, nor larger than four and one-half (4½) inches, standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a rated safety relief valve of one-half (½) inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than one-fourth (¼) inch diameter, or its equivalent area.

(d) The required steam relieving capacity, in pounds per hour, of the pressure relieving device, or devices, on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of pounds of steam generated per hour, per square foot of boiler heating surface, as given in Table A. In many cases a greater relieving capacity of valves will have to be provided than the minimum specified by these rules. In every case, the requirements of paragraph (f) of this subsection shall be met.

(e) When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with paragraph (f) of this subsection. The additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

(f) Safety relief valve capacity for each boiler with a single safety relief valve shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than ten percent (10%) above the maximum allowable working pressure when more than one (1) safety relief valve is used, the over pressure shall be limited to ten percent (10%) above the set pressure of the highest set valve allowed by subsection (2) of this section.

(4) New installations of heating boilers: All new installations of heating boilers shall comply with section four (4) of the ASME Code.

Section 2. Existing Installations, Heating Boilers: (1) ASME Code boilers: The maximum allowable working pressure of a boiler built in accordance with the ASME Code shall, in no case, exceed the pressure indicated by the manufacturer's identification stamped or cast upon the boiler or upon a plate secured to it.

(2) Noncode riveted boilers: The maximum allowable working pressure on the shell of a noncode riveted heating boiler shall be determined in accordance with 806 KAR 50:165, Section 2(1), covering existing installations-power boilers, except that, in no case, shall the maximum allowable working pressure of a steam boiler exceed fifteen (15) psi or a hot water boiler exceed 160 psi at a temperature not to exceed 250 degrees Fahrenheit.

(3) Noncode welded boilers: The maximum allowable working pressure of a noncode steel or wrought iron heating boiler of welded construction shall not exceed fifteen (15) psi. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Boiler and Pressure Vessel Code.

(4) Noncode cast iron boilers:

(a) The maximum working pressure of a noncode boiler, composed principally of cast iron, shall not exceed fifteen (15) psi for steam service or thirty (30) psi for hot water service.

(b) The maximum allowable working pressure of a noncode boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed fifteen (15) psi for steam service or thirty (30) psi for water service.

(5) Hydrostatic tests:

(a) Where repairs are necessary which in any way affect the working pressure or safety of a boiler, it shall be subjected to a hydrostatic test of the greater of sixty (60) psig or one and one-half (1½) times the maximum allowable working pressure that is stamped on the boiler with the exception that cast iron steam boilers shall be subjected to a hydrostatic test of not less than forty-five (45) psig.

(b) In making hydrostatic pressure tests the pressure shall be under such control that in no case shall the required tests pressure be exceeded by more than ten (10) psig.

(c) Hydrostatic tests water shall be at no less than ambient room temperature, but in no case less than seventy (70) degrees Fahrenheit, nor high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

(d) The safety valve(s) or safety relief valve(s) shall be removed or each valve disc shall be held to its seat by means of a testing clamp.

(e) For all cases involving the question of tightness, the test pressure shall be equal to the relieving pressure of the safety valve(s) having the lowest relief setting.

(6) General. If, in the judgment of the inspector, a steam heating boiler is unsafe for operation at the pressure previously approved, the pressure shall be reduced, proper repair made, or the boiler retired from service.

Section 3. 815 KAR 15:050 is hereby repealed.

JOHN R. GROVES, JR., Commissioner
ADOPTED: August 15, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: September 12, 1980 at 8 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

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

815 KAR 15:070. Installation and inspection of pressure vessels.

RELATES TO: KRS Chapter 236
PURSUANT TO: KRS 236.030
NECESSITY AND FUNCTION: The commissioner, upon advisement of the Board of Boiler Rules, is required by KRS 236.030 to establish reasonable rules governing the safe construction, installation and inspection of pressure vessels. This regulation establishes the standards to be used to determine safe installation of new pressure vessels.

Section 1. Pressure Vessels: Installations and Inspections. (1) Construction:

(a) The design and construction of pressure vessels, not exempted by this chapter, shall be in conformance with the provisions of the applicable rules and regulations of this chapter and the ASME Pressure Vessel Code, Section VIII, Division 1.

(b) Nonstandard (state special) pressure vessels shall be designed and constructed under the provisions of these rules and regulations as outlined in 815 KAR 15:020, Section 1.

(2) Installation:

(a) Vessels subject to external corrosion shall be so installed that there is sufficient access to all parts of the exterior to permit proper inspection of the exterior surfaces, otherwise sufficient protection against corrosion shall be provided, or the vessel shall be of such size, dimension and connected that it can be readily removed from its location for inspection.

(b) Vessels having handholes, manholes, or cover plates to permit inspection of interior surfaces shall be so installed that these openings are readily accessible.

(c) When cylindrical vessels are installed in a vertical position and subject to corrosion, the bottom head, if dished, should be concave to pressure to facilitate proper drainage.

(d) The installed vessel shall be so located that the stamping or marking shall be accessible to the inspector and shall not be obliterated by insulation or other covering not readily removable.

(3) Pressure relieving devices:

(a) Single pressure relieving devices shall be set to operate at a pressure not exceeding the MAWP of the vessel.

(b) All pressure vessels other than unfired steam boilers shall be protected by a pressure relieving device that shall prevent the pressure within the vessel from rising more than five percent (5%) above the maximum allowable working pressure (MAWP) when full open and discharging, except as in paragraphs (c) and (d) of this subsection. Unfired steam boilers shall have protective devices as required by 815 KAR 15:040.

(c) The aggregate capacity of the pressure relieving devices connected to any vessel or system of vessels for the release of a liquid, air, steam, or other vapor shall be sufficient to discharge the maximum quantity that can be generated or supplied to the attached equipment without permitting a rise in pressure within the vessel or more than sixteen percent (16%) above the maximum allowable working pressure (MAWP) of the vessel when all pressure relieving devices are full open and discharging.

(d) Where an additional hazard can be created by exposure of a pressure vessel to fire or other unexpected sources of external heat, supplemental pressure relieving devices shall be installed capable of protecting against excessive pressure. Such supplemental pressure relieving devices shall be capable of preventing the pressure from rising more than twenty-one percent (21%) above the maximum allowable working pressure.

(e) Pressure relieving devices shall be constructed, located, and installed so that they are readily accessible for inspection and repair and so that they cannot be readily rendered inoperative and should be selected on the basis of their intended service.

(f) Safety, safety relief, and relief valves shall be of the direct spring loaded type.

(g) Pilot operated pressure relief valves may be used, provided that the pilot is self-actuated and the main valve will open automatically at not over the set pressure and will discharge its full rated capacity if some essential part of the pilot should fail.

(h) The spring in a pressure relief valve in service for pressures up to and including 250 psi shall not be reset for any pressure more than ten percent (10%) above or below that for which the valve is marked. For higher pressures, the spring shall not be reset for any pressure more than five

percent (5%) above or five (5%) percent below that for which the safety or relief valve is marked.

(i) The set pressure tolerances, plus or minus, of pressure relief valves shall not exceed two (2) psi for pressures up to and including seventy (70) psi and three percent (3%) for pressures above seventy (70) psi. All other requirements regarding over pressure protection devices shall be in accordance with UG 125 through UG 136 of ASME Pressure Vessel Code, Section VIII, Division 1.

(4) Inspection frequency: Unfired pressure vessels shall receive a certificate inspection at intervals set by the board, but internal inspection shall not be required of unfired pressure vessels, the contents of which are known to be noncorrosive to the material of which the shell, heads or fittings are constructed, either from the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor, provided that such vessels are constructed in accordance with the rules and regulations of the board.

(5) Conditions not covered by these rules and regulations: For any condition not covered by these requirements, the applicable provisions of the National Board Inspection Code and the ASME Code shall apply.

Section 2. New Installations. Pressure Vessels; Requirements: (1) No pressure vessel, except reinstalled pressure vessels and those exempted by KRS Chapter 236, shall hereafter be installed in this Commonwealth unless it has been constructed, inspected, and stamped in conformity with the applicable ASME Pressure Vessel Code and is approved, registered, and inspected in accordance with the requirements of these rules and regulations.

(2) A pressure vessel having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the Commonwealth of Kentucky may be accepted by the department; provided, however, that the person desiring to install the pressure vessel shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the pressure vessel in question. (See also "State specials" as defined in 815 KAR 15:010(3).

(3) All new pressure vessel installations, including reinstalled pressure vessels shall be installed in accordance with the requirements of the latest revision of the applicable ASME Pressure Vessel Code and these rules and regulations.

(4) Where special designs are not covered by said code, their construction may be determined by the manufacturer in cooperation with the purchaser, subject to the approval of the chief boiler inspector and the Board of Boiler Rules. Upon completion of the installation, pressure vessels and pressure piping shall be inspected as set forth in 815 KAR 15:020.

Section 3. Existing Installations; Pressure Vessels. (1) Maximum allowable working pressure for standard pressure vessels. The maximum allowable working pressure for standard pressure vessels shall be determined in accordance with the applicable provision of the edition of the ASME Pressure Vessel Code under which they were constructed and stamped.

(2) Maximum allowable working pressure for nonstandard pressure vessels. The maximum allowable working pressure on the shell of a nonstandard pressure vessel shall be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course and the factor of safety allowed by these rules and regulations.

JOHN R. GROVES, JR., Commissioner
ADOPTED: August 15, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: September 12, 1980 at 8 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Office of the General Counsel, Department of Housing, Buildings and Construction, 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board

902 KAR 20:126. Licensure hearings.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1)(2)
PURSUANT TO: KRS 13.082, 216B.105
NECESSITY AND FUNCTION: KRS 216B.105 authorizes the Certificate of Need and Licensure Board to deny, suspend, probate, modify or revoke a license. This regulation sets forth the hearing process for licensure actions.

Section 1. Notice of Action and Request for Hearing. Any applicant or licensee whose license to operate a health facility or health service has been denied, suspended, modified, probated, or revoked by the board shall be notified of the board's action by certified mail, and may request an evidentiary hearing regarding the board's action. The request must be filed with the executive director of the board within thirty (30) days of the date of mailing of notice of the board's action.

Section 2. Notice of Hearing. Notice of date, time and location of the hearing shall be given by certified mail at least ten (10) days before the date of the hearing.

Section 3. Continuances. Continuances may be granted by the board or its designated hearing officer only upon the showing of extraordinary circumstance. A request for a continuance shall be submitted in writing to the designated hearing officer and shall state the grounds for the request.

Section 4. Subpoenas. The applicant or licensee may subpoena witnesses and relevant records. Requests for subpoenas shall be made in writing to the executive director of the board or designated hearing officer.

Section 5. Disqualifications of Hearing Officer. No hearing officer shall participate in any hearing with which he has had within the past twelve (12) months preceding the hearing, any substantial ownership, employment, staff, fiduciary, contractual, creditor or consultative relationship with the applicant or licensee.

Section 6. Hearing Procedure. (1) The applicant or licensee may be present at the hearing in person or by counsel, or both, and may introduce testimony by witnesses, or if permitted, by depositions. No depositions

shall be permitted for the purpose of discovery; however, depositions of witnesses, who for good cause shown cannot be present at the hearing, may be authorized at the discretion of the board or designated hearing officer.

(2) The licensee or applicant may present evidence relevant to the charges prompting the appeal, and may question all witnesses. The board or hearing officer may, if deemed necessary to secure full information on the issues, examine each party and each witness.

(3) The board or hearing officer may take additional evidence if deemed necessary. If additional evidence is taken, all interested parties shall be afforded the opportunity of examining and refuting the same. All additional evidence shall be submitted to the board or hearing officer within ten (10) days of the hearing.

(4) All persons testifying at hearings shall testify under oath, administered by the board or its designated hearing officer.

(5) All hearings shall be conducted informally without regard to common law, statutory or technical rules of procedure, and in such manner as to maintain the substantial rights of the parties. The hearing shall be tape recorded. Any party of the proceeding may request a transcript of the proceeding and must pay the entire cost of preparation of transcript.

(6) In lieu of an evidentiary hearing, the parties to a proceeding, with the consent of the board or designated hearing officer, may file written stipulations of relevant facts. The board or hearing officer may decide the appeal on the basis of such stipulation or may schedule a hearing and take such further evidence as deemed necessary.

(7) The board or designated hearing officer may, at his discretion, grant a continuance of a hearing in order to secure necessary evidence.

Section 7. Findings and Recommendations. (1) After the conclusion of the hearing, the hearing officer or the board shall prepare written findings of fact and recommendations with a synopsis of the evidence contained in the record on the issue(s) involved; provided, that if the applicant or licensee fails to appear and prosecute his appeal, the board or hearing officer may dismiss or recommend dismissal of the appeal.

(2) Findings and recommendations shall be sent by certified mail to the applicant or licensee who may submit exceptions within ten (10) days of receipt.

(3) The board shall consider and make its final decision at the first board meeting following receipt of the hearing officer's findings and recommendations, but not less than ten (10) days after receipt of the findings and recommendations by the applicant or licensee pursuant to subsection (2) of this section.

Section 8. Adminstrative Review. (1) The applicant or licensee shall be notified of the board's decision by certified mail, and may request an administrative review of the decision, stating the specific grounds for appeal. The request must be filed with the executive director of the board within thirty (30) days of the date of mailing of notice of the board's action.

(2) The executive director of the board shall forward a certified record of the board's proceedings to the attorney general within ten (10) days of the receipt of the notice of appeal. The cost of such record shall be taxed as costs upon appeal. The charge per page shall be the same as the per page charge under the Commonwealth's current price contract for court reporters. In lieu of filing of such record an abstract thereof may be filed if all parties to the appeal agree.

(3) The record shall contain:

(a) Material submitted by the Department for Human Resources to the board for the board's preliminary order;

(b) Relevant correspondence between the applicant or licensee and the executive director of the board;

(c) Transcript or tape of the administrative hearing with any exhibits;

(d) Findings and recommendations of the hearing officer; and

(e) Final order of the board.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 10, 1980 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September 3, 1980 Meeting

(Subject to subcommittee approval at its October 1, 1980 meeting.)

The regularly scheduled meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, September 3, 1980, at 10 a.m., in Room A of the Capitol Annex.

Chairman Brinkley announced a quorum was present and called the meeting to order. On motion of Representative Stumbo, seconded by Representative Robinson the minutes of the August 5, 1980 meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman, Senators Helen Garrett and James P. Bunning, Representatives Albert Robinson and Gregory D. Stumbo.

LRC Staff: Deborah Herd, Garnett Evins, Joe Hood, Steve Armbrust, Mary Helen Wilson and June Mabry.

Guests: Judith Walden, Department of Housing; Ked R. Fitzpatrick, Greg Lawther, David Adkinson, Department for Human Resources; Gary Bale, Jewell D. Ellis, Paul Jones, Conley Manning, Department of Education; Mary Gehant, Department of Public Information; Tony Sholar, Kentucky Chamber of Commerce; John Hinkle, Ky. Retail Federation; Linda H. Freeman; Roy Stevens, Ashland Oil; John W. Bilby, John M. Leinenbach, Stephen P. Gennett, Greg Martin, Jere Noe, Associated General Contractors; Peter L. Plummer, Associated Industries of Ky.; Jerry Roberts, Workers' Compensation Board; Charles McCoy, Mark Miller, Department of Labor; Tom Harris, J. D. Wolf, Department of Agriculture; Arnold Guess, Ky. School Building Authority; James L. Pace, Owen K. Caster, William C. Debord, Jerry Anglin, Paul E. Hunley, J. D. Chisholm, Gary L. Dailey, Department of Transporation; Sharon M. Weisenbeck, Annette Y. Castle, Dr. Marion E. McKenna, Alta Haunsz, Gaye Hatfield, Barbara G. Southworth, Mary Romelfanger, Martin Glazer, Ky. Board of Nursing; Margaret Miller, Ky. Nurses' Assoc.; Elizabeth Jenkins, Ruth Ann Steele, Thelma Hannah, Audrey Wilkinson, KALPN; Joyce Spalding, Norton's Infirmary; Linda Cracraft, Connie Sehlinger, King's Daughters Memorial Hospital; Deborah K. Molnar, Janice L. Carter, Jewish Hospital; Carol E. DeYoung, Highlands Baptist Hospital; Rebecca A. Bosselman, Barbara Heck, Cynthia Johnson, St. Anthony's Hospital; Bette Bednarski, Brother Ignatius Perkins, Spalding College; Connie S. Gumlaw, Jane Wininger, Wininger, Gumlaw and Associates; Nancy C. Lipinski, William Davenhall, Sarah S. Nicholson, Ky. Hospital Association; Shirley Powers, KSHNSA.

At the request of the administrative agency the following regulation was deferred until the October meeting.

KENTUCKY SCHOOL BUILDING AUTHORITY
School Building Construction

723 KAR 1:005. Funding procedures.

The following regulations were deferred until the October meeting by a unanimous vote of the subcommittee.

DEPARTMENT OF FINANCE
Travel Expense and Reimbursement

200 KAR 2:005. Reimbursement for employee's travel.

Occupations and Professions

Board of Psychologists

201 KAR 26:060. License and certificate renewals.

After a lengthy discussion of KRS 13.085 relating to when an agency is required to hold a hearing, the following regulations were deferred until the October meeting to give the subcommittee time to request an Opinion of the Attorney General regarding this issue.

DEPARTMENT OF FINANCE
Occupations and Professions

Board of Nursing Education and Nurse Registration

201 KAR 20:200. Definitions for mandatory continuing education.

201 KAR 20:205. Standards for continuing education offerings.

201 KAR 20:210. Standards for program of continuing education.

201 KAR 20:215. Contact hours.

201 KAR 20:220. Provider approval.

201 KAR 20:225. Reinstatement of a lapsed license.

The following regulation was rejected by a unanimous vote of the subcommittee.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
Local Fire Departments

815 KAR 45:035. Education incentive.

The following proposed regulations were accepted and ordered filed.

LEGISLATIVE RESEARCH COMMISSION
Personal Service Contracts

1 KAR 2:010. Personal Service Contract Review Subcommittee; procedure; records.

DEPARTMENT OF AGRICULTURE
Livestock Sanitation

302 KAR 20:040E. Entry into state.

302 KAR 20:040. Entry into state.

302 KAR 20:070E. Stockyards.

302 KAR 20:070. Stockyards.

DEPARTMENT OF TRANSPORTATION
Bureau of Vehicle Regulation

Motor Carriers

601 KAR 1:090. Exempted commodities. (Rep. Brinkley abstained on this regulation.)

Motor Vehicle Tax

601 KAR 9:070. Motor carrier fuel use tax. (Rep. Brinkley abstained on this regulation.)

601 KAR 9:071. Records of fuel tax licensees. (Rep. Brinkley abstained on this regulation.)

DEPARTMENT OF EDUCATION
Bureau of Administration and Finance
Pupil Transportation
702 KAR 5:080. Bus drivers' qualifications; responsibilities.
Bureau of Instruction
Health and Physical Education Programs
704 KAR 4:020. Comprehensive school health.
Department for Vocational Education
Administration
705 KAR 1:010. Annual program plan.

KENTUCKY SCHOOL BUILDING AUTHORITY
School Building Construction
723 KAR 1:015. Eligibility criteria.

DEPARTMENT OF LABOR
Labor Standards; Wages and Hours
803 KAR 1:005. Employer-employee relationship.
803 KAR 1:035. Hearing procedure.
Workers' Compensation Board
803 KAR 25:010. Procedure.
803 KAR 25:025. Joint self-insurers.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
Mobile Homes and Recreational Vehicles
815 KAR 25:010. Mobile homes.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
902 KAR 20:115. Emergency care; ambulance services.
Bureau for Social Insurance
Public Assistance
904 KAR 2:035. Right to apply and reapply.

On motion of Senator Bunning, seconded by Representative Stumbo, the meeting was adjourned at 2 p.m., to meet again on Wednesday, October 1, 1980, at 10 a.m., in Room A in the Capitol Annex.

Administrative Register of kentucky

Cumulative Supplement

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Regulation Locator—Effective Dates

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Volume 7

NOTE: Effective July 15, 1980, emergency regulations expire upon being repealed, replaced or sine die adjournment of the next regular session of the General Assembly.

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