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NOTE: The September meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting Wednesday, September 2, 1981, at 10 a.m., in Room 103, Capitol Annex.

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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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

Public hearings will be held at the following times and locations on regulations 405 KAR 30:010 through 405 KAR 30:410. Oil shale operations. [8 Ky.R. 87]

7 p.m. EDT September 8, 1981, at 419 Reed Hall, Morehead State University, Morehead, Kentucky.

7 p.m. EDT September 10, 1981, at the Nelson County High School, Highway 62, Bardstown, Kentucky.

7 p.m. EDT September 14, 1981, at Room 212, Carl Perkins Building, Eastern Kentucky University, Kit Carson Drive, Richmond, Kentucky.

1 p.m. EDT September 15, 1981, at Bluegrass Area Development District, 3220 Nicholasville Road, Lexington, Kentucky.

A public hearing will be held on September 30, 1981, at 10 a.m. EDT in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky, on the following regulations:

401 KAR 2:050. Waste management definitions. [8 Ky.R. 158]

401 KAR 2:055. Waste management provisions, generally. [8 Ky.R. 163]

401 KAR 2:090. Solid waste disposal permit process. [8 Ky.R. 175]

401 KAR 2:095. Application, design and operating standards for sanitary landfills. [8 Ky.R. 176]

401 KAR 2:101. Standards for landfarming facilities. [8 Ky.R. 179]

401 KAR 2:105. Solid waste disposal fees. [8 Ky.R. 181]

401 KAR 2:111. Certification for operators of solid waste disposal facilities. [8 Ky.R. 181]

A public hearing will be held on October 2, 1981, at 10 a.m. EDT in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky on the following regulation:

401 KAR 61:165. Existing primary aluminum reduction plants. [8 Ky.R. 164]

DEPARTMENT FOR HUMAN RESOURCES

A public hearing will be held on September 17, 1981, at 9 a.m. EDT in the Vital Statistics Conference Room, 1st Floor, Department for Human Resources, 275 East Main, Frankfort, Kentucky, on the following regulation:

904 KAR 3:060. Administrative fraud hearings. [8 Ky.R. 83]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 81-672

July 30, 1981

EMERGENCY REGULATION

Department of Fish and Wildlife Resources

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

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

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with nor-

mal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

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

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

JOHN Y. BROWN, Governor

FRANCES JONES MILLS, Secretary

COMMERCE DEPARTMENT
Department of Fish and Wildlife Resources

301 KAR 2:046E. Taking of migratory wildlife.

RELATES TO: KRS 150.300, 150.305, 150.320, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

EFFECTIVE: July 31, 1981

EXPIRES: December 8, 1981

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply.

Section 1. Seasons: (1) Doves: September 1 through October 31; November 26 through December 4.

(2) Woodcock: October 3 through December 6.

(3) Wilson snipe: October 3 through December 6.

(4) Experimental September duck: September 9 through September 13.

Section 2. Limits:

Species	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Wilson snipe	8	16
Experimental September duck, wood duck, teal and other ducks	4*	8*

*Daily bag limit is four (4) ducks, no more than one (1) of which may be a species other than teal or wood ducks, and the possession limit is double the daily bag limit.

Section 3. Bag and Possession Limits: (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes. For further information on the above species, consult Title 50, Code of Federal Regulations, Part 20.

Section 4. Shooting Hours: (1) Doves: from twelve (12) o'clock noon until sunset prevailing time.

(2) Wilson snipe and woodcock: from one-half (½) hour before sunrise to sunset prevailing time.

(3) Experimental September duck: sunrise to sunset prevailing time.

Section 5. Free Permit for Experimental September Duck Season. Persons hunting during the experimental September duck season should obtain a free permit from any conservation officer or other authorized agents before hunting. The free permit contains a request for harvest information to be furnished on a self-addressed, stamped post card.

Section 6. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed

falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

(1) Ballard Wildlife Management Area, located in Ballard County:

(a) Doves: September 1 through October 14. No firearms permitted on this area except during shooting hours.

(b) Woodcock and snipe: Seasons closed.

(2) West Kentucky Wildlife Management Area, located in McCracken County: Doves: September 1 through October 14.

(3) Central Kentucky Wildlife Management Area, located in Madison County:

(a) Doves: September 1 through October 14.

(b) Woodcock and snipe: Seasons closed.

(4) Curtis Gates Lloyd Wildlife Management Area, located in Grant County: Doves: September 1 through October 14.

(5) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:

(a) Doves: September 1 through September 39; December 1 through December 4.

(b) Woodcock and snipe: December 1 through December 6.

(6) Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:

(a) Doves: September 1 through September 20; November 26 through December 4.

(b) Woodcock and snipe: November 26 through December 6.

Section 8. Closing of Certain Wildlife Management Areas to all Hunting. The following areas are closed to all hunting except as indicated.

(1) Grayson Wildlife Management Area located in Carter and Elliott Counties.

(2) Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties. Open to gun and archery deer hunting and limited squirrel, grouse and quail hunting.

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

(4) Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties. Open to gun and archery deer hunting and limited squirrel, grouse and quail hunting.

(5) Dewey Lake Wildlife Management Area, located in Floyd County. Open to archery deer hunting only.

(6) Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County.

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

Section 9. The provisions of this regulation shall expire on December 8, 1981.

CARL E. KAYS, Commissioner

ADOPTED: June 1, 1981

APPROVED: W. BRUCE LUNS福德, Secretary

RECEIVED BY LRC: July 31, 1981 at 10:30 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-689
 August 4, 1981

EMERGENCY REGULATION
Kentucky State Fair Board

WHEREAS, KRS 247.145 authorizes the Kentucky State Fair Board, in governing the operation, maintenance or use of property under its custody and control, to establish such reasonable and lawful regulations as are necessary to maintain decency and good order, to protect the peace or safety of the general public, or to protect the public interest, convenience, or necessity; and

WHEREAS, at its July 16, 1981 meeting, the Fair Board passed a resolution approving and adopting a regulation dealing with rental of booths for sales, solicitation, and dissemination during the annual Kentucky State Fair; and

WHEREAS, at that same meeting, the Fair Board found that an emergency exists with respect to the said proposed regulation because there is not sufficient time remaining to follow the usual regulation hearing and review procedure for the regulation to become effective before the 1981 Kentucky State Fair on August 13-22, 1981; and

WHEREAS, the Fair Board has, therefore, requested that the Governor issue an Executive Order declaring that said regulation should, pursuant to the provisions of KRS 13.085(2), become 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 Kentucky State Fair Board with respect to the filing of said regulation governing rental of booths for sales, solicitation, and dissemination during the annual Kentucky State Fair, and do hereby direct that said regulation should 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

ENERGY AND AGRICULTURE CABINET
Kentucky State Fair Board

303 KAR 1:100E. Exposition Center grounds; sale and dissemination of real property, fixtures and goods, solicitation of contributions or sales during annual State Fair; rental of space.

RELATES TO: KRS 247.145

PURSUANT TO: KRS 13.082

EFFECTIVE: August 5, 1981

EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: To insure orderly movement of crowds and the safety and convenience of State Fair patrons and provide all patrons and exhibitors with equal and adequate access by regulating sale and dissemination of real property, fixtures and goods, solicitation of contributions and sales, and carrying of placards on the Kentucky Fair and Exposition Center grounds during the annual Kentucky State Fair.

Section 1. Regulation 303 KAR 1:080 will not apply to the Kentucky Fair and Exposition Center grounds during the annual Kentucky State Fair.

Section 2. During the annual Kentucky State Fair, no person shall make sales or distribution of real property, fixtures or goods, including but not limited to all printed or written material, solicit for either contributions or sale, or carry placards, except from within the confines of a booth or fixed location rented from the Kentucky State Fair Board.

CHARLES A. HERTZMAN, President
Kentucky State Fair Board

ADOPTED: July 16, 1981

APPROVED: WILLIAM B. STURGILL, Secretary

RECEIVED BY LRC: August 5, 1981 at 3:30 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-681
 August 3, 1981

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 provision of the Home Energy Assistance Program; and

WHEREAS, the Secretary has promulgated a regulation providing for the implementation of the Home Energy Assistance Program cooling component which provides for assistance to those citizens whose health is at risk due to high temperatures and which should be effective for the summer months; and

WHEREAS, the time delays inherent in complying with procedural requirements of KRS Chapter 13 would preclude the effectiveness of the regulation during the summer months; and

WHEREAS, the Secretary has, therefore, found that an emergency exists with respect to the said proposed regulation, and that, therefore, such proposed 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 an emergency by the Secretary of the Department for Human Resources providing for the Home Energy Assistance Program, and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

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

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:088E. Home energy assistance program (HEAP).

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: August 4, 1981

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 is authorized by KRS 194.050 to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to offset the rising costs of home energy that are excessive in relation to household income. This regulation sets forth the eligibility and payments criteria for each of *four* (4) [three (3)] components of *energy* [heat] assistance (regular, emergency, [and] public housing authority, and *cooling*) under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household and public housing authority requesting assistance will be required to complete an application and provide such information as may be deemed necessary to determine eligibility and payment amount in accordance with the procedural requirements prescribed by the department.

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

(2) Energy [for heating] is defined to include electricity, gas, and any other [heating] fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(3) Household is defined as one (1) or more persons who share common living arrangements in a principal residence within the Commonwealth of Kentucky.

(4) A fully vulnerable household is any household which pays all *energy* [heating] costs directly to the energy provider or any household which rents non-subsidized housing whose *energy* [heating] costs are included in the rent payment.

(5) A partially vulnerable household is any household renting subsidized housing that is subject to pay extra energy charges over the normal undesignated rent payment or that is not fully protected against an increase in rent due to an increase in energy costs, and any household living in a room or room and board situation.

(6) An eligible tenant is a household residing in public housing, which generally makes payment for energy as an undesignated portion of rent, meets the requirements for an eligible household, and is not a fully vulnerable household.

(7) Regular component is defined as that element of HEAP which is the major portion of the allocation and is payable to eligible households as energy assistance for heating.

(8) Emergency component is that portion of benefits reserved for use, after the regular component is terminated, for eligible households in emergency or crisis situations as emergency energy assistance.

(9) Public housing authority component is that portion of benefits reserved for direct payment to specified public housing authorities on behalf of eligible tenants.

(10) *Cooling component is that portion of benefits reserved to provide payments to eligible households for medically necessary cooling.*

Section 3. Eligibility Criteria. A household must meet the following conditions of eligibility for receipt of a HEAP payment:

(1) The household must be fully or partially vulnerable for energy cost.

(2) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(3) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household for the regular and cooling components. The emergency component will utilize the single person household income level regardless of household size. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and CETA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	\$395	\$4,738
2	550	6,600
3	602	7,215
4	653	7,830
5	704	8,445
6 or more	755	9,060

(4) Applicants for the emergency component must attest financial inability to obtain or retain energy necessary to prevent or alleviate a life or health threatening situation, and that the applicant is or will be without energy for heat within the next fifteen (15) days or has received a final termination notice.

(5) The household must have total liquid assets at the time of application of not more than \$5,000. Excluded assets are cars, household or personal belongings, primary residence, cash surrender value of insurance policies, and prepaid burial policies.

(6) Public housing authorities eligible for payments on behalf of eligible tenants are those which operate under authority of the U.S. Housing Act of 1937 (42 USC 1437), and which were determined by the Department of Housing and Urban Development on October 17, 1980, to have actual or projected operating reserves which are less than forty (40) percent of the maximum operating reserve.

(7) *Applicants for the cooling component must provide certification from a medical doctor or nurse practitioner that there is a risk to the life or health of a household member due to a particular illness or medical condition which could be helped by cooling facilities.*

Section 4. Payment Levels. Payment amounts are set at a level to serve a maximum number of households while providing a reasonably adequate payment relative to energy [heating] costs.

(1) For the regular component, payments to eligible households will be based on type of energy for heating, monthly household income, and household vulnerability as specified in the following benefit scales.

Benefit Scales

Scale A.

Energy Sources: Fuel Oil and Kerosene

Monthly Household Income	Payment Amount	
	Fully Vulnerable	Partially Vulnerable
\$ 0-\$200	\$350	\$35
\$201-\$400	317	32
\$401-\$600	283	28
Over \$600	250	25

Scale B.

Energy Sources: Liquid Petroleum Gas (Propane), Wood, and Coal

Monthly Household Income	Payment Amount	
	Fully Vulnerable	Partially Vulnerable
\$ 0-\$200	\$300	\$30
\$201-\$400	267	27
\$401-\$600	233	23
Over \$600	200	20

Scale C.

Energy Sources: Natural Gas and Electricity

Monthly Household Income	Payment Amount	
	Fully Vulnerable	Partially Vulnerable
\$ 0-\$200	\$250	\$25
\$201-\$400	217	22
\$401-\$600	183	18
Over \$600	150	15

(2) Benefit amounts for emergency component applicants may not exceed \$200. Payment amounts shall be determined by whether the energy provider uses a continuous or noncontinuous (i.e., gets payment at time of each delivery) billing cycle and by whether the applicant has arrearages as follows:

(a) If the provider uses a continuous billing cycle, arrearages plus current month charges billed will be paid not to exceed \$200 per household.

(b) For a noncontinuous billing cycle, payment will be made for the delivery of fuel not to exceed \$200. Arrearages will not be paid except when the applicant cannot obtain fuel from some source in the community unless the arrearage is paid.

(3) For the public housing authority component, benefit amounts will be the lesser of two (2) calculations:

(a) The exact cost formula (i.e., the heating cost for the months of December, January, and February divided by the total number of occupied units in the building or project times the number of eligible tenants in the building or project), or

(b) The total amount which is set aside for building operators divided by the total number of eligible tenants residing in eligible public housing authorities (see Section 3, (5)(b)) times the number of eligible tenants in each building or project, and

(c) Payments to eligible households residing in housing authorities eligible for payment will be deducted from the amount the housing authority is otherwise eligible to receive and the total amount set aside for public housing authorities.

(4) For the cooling component, payments to eligible households will be based on household income and vulnerability according to the following scale:

Monthly Household Income	Payment Amount	
	Fully Vulnerable	Partially Vulnerable
\$ 0-\$200	\$150	\$15
\$201-\$400	134	13
\$401-\$600	117	12
Over \$600	100	10

Section 5. Payment Method. Payments to eligible households will be made by one-party check to the recipient. Payments on behalf of eligible tenants will be made by one-party check to the public housing authority.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, except the time limitation for requesting a hearing (as shown in Section 3 of that regulation) is sixty (60) days from date of notice of approval or denial instead of thirty (30) days.

Section 7. Time Standards. The department shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days for the regular and emergency components, and not to exceed ten (10) days for the cooling component.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) HEAP implementation shall be December 15, 1980, for outreach purposes with applications accepted for the regular component beginning January 5, 1981.

(2) Applications for the emergency component shall be accepted beginning five (5) work days after regular component termination.

(3) Applications for the public housing authority component shall be accepted after March 15, 1981, and prior to April 16, 1981.

(4) Applications for the cooling component shall be accepted beginning August 3, 1981, and through no later than September 16, 1981. Applications will be processed in the order taken until funds are expended.

(5) [(4)] Each HEAP component shall be terminated by the secretary when actual and projected program expenditures have resulted in utilization of available funds for that component.

(6) [(5)] HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: July 21, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: August 4, 1981 at 11:45 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-614
July 14, 1981

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 regard to food stamp administrative fraud hearings; and

WHEREAS, the Secretary has found that costs related to the administration of services in the Commonwealth and by the Department should be reduced to the extent possible by prompt action; and

WHEREAS, the Secretary has promulgated a regulation showing the revised food stamp administrative fraud hearing process; and

WHEREAS, the Secretary has found that an emergency exists, with respect to the 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 and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

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

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 3:060E. Administrative fraud hearings.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: July 16, 1981

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 has responsibility to administer a food stamp program as prescribed by the Food Stamp Act of 1977, as amended and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the procedures used by the department to disqualify food stamp recipients who have committed fraud.

Section 1. Fraud Disqualification Penalties. Individuals found through an administrative fraud hearing to have committed fraud shall be ineligible to participate for three (3) months beginning with the periods specified in 7 CFR Part 273.16(b)(8). Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be

ineligible for not less than six (6) months and not more than twenty-four (24) months as determined by the court. If the court fails to specify or address a disqualification period for the fraudulent act, the department shall impose a six (6) month disqualification period unless it is contrary to the court order. The department shall disqualify only the individual convicted of fraud and not the entire household. If the individual fails to agree to make restitution, the period of disqualification shall continue until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with established procedures for cash repayment or allotment reduction. The department shall inform the household in writing of the disqualification penalties for committing fraud at each time it applies for benefits.

Section 2. Definition of Fraud. For purposes of determining at an administrative fraud hearing whether or not fraud was committed, fraud shall consist of any action by an individual to knowingly, willfully, and with deceitful intent:

- (1) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;
- (2) Conceal information to obtain benefits to which the household is not entitled;
- (3) Alter ATP's to obtain benefits to which the household is not entitled;
- (4) Use coupons to buy expensive conspicuous nonfood items such as alcohol or cartons of cigarettes;
- (5) Use or possess improperly obtained coupons or ATP's; or
- (6) Trade or sell coupons or ATP's.

Section 3. Administrative Disqualification. An administrative fraud hearing may be initiated by the department whenever the department has documented evidence to prove that a currently certified household member has committed fraud. The department may initiate an administrative fraud hearing regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits. Fraud hearings shall not be conducted if the amount the department suspects has been fraudulently obtained is less than thirty-five dollars (\$35) or if the value of the ineligible items that have been purchased with food stamps is under thirty-five dollars (\$35). The burden of proving fraud is on the department.

Section 4. Fraud Hearing Procedures. The department will provide administrative fraud hearings at the [local level in all counties with a right to appeal to a] state[-]level [fraud hearing]. The conduct of an administrative fraud hearing will be similar to that of a fair hearing. [The department will designate hearing officials to conduct only local fraud hearings.] Administrative [F] fraud hearings [decisions appealed to the state level] will be heard by the fair hearing officials. Hearings shall be conducted by an impartial official(s) who did not have any personal stake or involvement in the case; who was not directly involved in the initial determination that the household member had committed fraud; and was not the immediate supervisor of the eligibility worker who took the action. [State level hearings shall be conducted by state-level personnel. The hearing official(s) shall be an employee of the department.]

(1) The powers and duties of the hearing official shall be the same as those specified in 904 KAR 3:070, Section 12.

(2) The household's rights during the fraud hearing shall be the same as those specified in 904 KAR 3:070, Section 13.

(3) The hearing decision shall comply with provisions specified in 904 KAR 3:070, Section 14(1).

(4) At the fraud hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(5) Within ninety (90) days of the date the household member is notified in writing that an [local] *administrative* hearing has been scheduled, the department shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. [If the household decides to appeal its case to a state level hearing, the department shall conduct the state level hearing, arrive at a decision and initiate administrative action which will make the decision effective within sixty (60) days of the date the household member appealed its case.] The household member or representative is entitled to a postponement of up to thirty (30) days. If a hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

Section 5. Advance Notice of Hearing. [(1)] The department shall provide written notice to the household member suspected of fraud at least thirty (30) days in advance of the date an *administrative* [local level] fraud hearing initiated by the department has been scheduled. The notice shall be sent [mailed] certified mail, return receipt requested and shall contain:

(1) [(a)] The date, time, and place of the hearing;

(2) [(b)] The charge(s) against the household member;

(3) [(c)] A summary of the evidence, and how and where the evidence can be examined;

(4) [(d)] A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(5) [(e)] A warning that a determination of fraud will result in a three (3) month disqualification;

(6) [(f)] A listing of the household member's rights as contained in 904 KAR 3:070, Section 13;

(7) [(g)] A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action, or from collecting the overissuance;

(8) [(h)] A telephone number of someone who can give free legal advice.

[(2)] If the household member suspected of fraud is appealing a local level hearing to a state level hearing the department shall provide a written notice to that household member at least ten (10) days in advance of the scheduled hearing. The ten (10) day advance notice shall contain the provisions of paragraphs (a), (f), (g), and (h) of subsection (1) of this section, as well as a statement that the department will dismiss the hearing request and the household member will be disqualified in accordance with the local hearing decision if the household or its representative fails to appear for the hearing without good cause. The department's hearing procedures will be listed on the ten (10) and thirty (30) day written notices.]

Section 6. Scheduling the Hearing. The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of fraud. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the

department without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if fraud was committed based on clear and convincing evidence. If the household member is found to have committed fraud but a hearing official later determined that the household member or representative had good cause as defined in 904 KAR 3:070, Section 9, for not appearing, the previous decision shall no longer remain valid and the department shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has ten (10) days from receipt of the notice of the fraud decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record. [If a local fraud hearing decision is appealed to a higher hearing level but the household member or its representative fails to appear for the hearing, the department shall dismiss the hearing request and notify the household member that it will be disqualified for three (3) months in accordance with the local hearing decision unless the household member or its representative provides good cause for not appearing at the hearing within ten (10) days of receipt of the notice. If the hearing official determines that the household member or representative had good cause for not appearing, the department shall reschedule the hearing.]

Section 7. Participation While Awaiting a Hearing. A pending fraud hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the department cannot disqualify a household member for fraud until the hearing official finds that the individual has committed fraud, the department shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household.

Section 8. Fraud Hearing Decision. The hearing official shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully, and with deceitful intent committed fraud defined in Section 2. Decisions of the hearing official shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent handbook section and corresponding FNS regulation and respond to reasoned arguments made by the household member or representative. An official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the hearing proceeding, shall be retained by the department. This record shall also be available to the household or its representative during work hours for copying and inspection.

Section 9. Appeal Rights of the Household. [Household members found to have committed fraud may appeal their decision as follows:]

[(1)] Appeal after local hearing. A household member found to have committed fraud by a local hearing authority has fifteen (15) days after the member receives the local hearing decision to appeal the decision to a state level hearing. The department shall mail the notice by certified mail, return receipt requested. If a state level hearing is not requested, the household member shall be disqualified for three (3) months. If, however, the household member requests a state level hearing within the fifteen (15) day period, the household member shall not be disqualified

unless the state level hearing also finds the household member committed fraud. If a state level hearing is requested, a new hearing shall be conducted and a decision rendered within sixty (60) days of the request. In a new hearing, the prior decision shall not be taken into consideration.]

[(2) Appeal after state level hearing.] After a household member has been found to have committed fraud by a [state level] hearing official, the household member shall be disqualified for three (3) months beginning with the first month which follows the date the household member has received the state level hearing notice. No further administrative appeal procedure exists after an adverse *administrative fraud* [state level] hearing. The determination of fraud made by a fraud hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay or other injunctive remedy.

Section 10. Notification of Fraud Hearing Decisions. The department shall notify a household member in writing of fraud hearing decisions as specified below:

(1) If the hearing finds that the household member did not commit fraud, the department shall provide a written notice which informs the household member of the decision.

(2) If the administrative fraud hearing finds that the household member committed fraud, the department shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also inform the remaining household members, if any, of either the allotment they will receive during the period of disqualification, or they must reapply

because the certification period has expired[. For state level decisions, the notice shall inform the household member of] and the date disqualification will take effect. [For local level decisions, the notice shall inform the household member of the deadline for requesting a state level hearing, the date disqualification will take effect unless a state level hearing is requested, and that benefits will be continued pending a state level hearing if the household is otherwise eligible.] If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written agreement letter for restitution, explaining the repayment requirements shall also be sent. A list of the household member's rights shall also be printed on the notice of fraud hearing decisions.

Section 11. Court Imposed Disqualification. A court of appropriate jurisdiction, with either the state, a political subdivision of the state, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the program for not less than six (6) months and not more than twenty-four (24) months if the court finds that individual guilty of civil or criminal fraud. Court ordered disqualifications may be imposed separate and apart from any action taken by the department to disqualify the individual through an administrative fraud hearing. In cases where the determination of fraud is reversed by a court the department shall reinstate the individual if eligible and restore any benefits that were lost as a result of the disqualification.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: July 13, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 16, 1981 at 3:00 p.m.

Amended Regulations Now In Effect

PUBLIC PROTECTION AND REGULATION CABINET Board of Claims As Amended

108 KAR 1:010. Board operation and claim procedure.

RELATES TO: KRS 44.070, 44.080, 44.086, 44.090

PURSUANT TO: KRS 13.082, 44.080

EFFECTIVE: August 5, 1981

NECESSITY AND FUNCTION: KRS 44.080 requires the Board of Claims to establish rules for its government and for the regulation of the method of pleading and practice before it. The purpose of this regulation is to establish rules for procedures for claims and rules for operation of the board.

Section 1. Meetings. (1) Additional meetings of the board may be called by the chairman or a majority of the board at such times and places as the call directs.

(2) Three (3) members of the board shall constitute a quorum.

(3) The board shall be considered in continuous session to enter orders.

(4) The Executive Director of the Board of Claims shall serve as secretary to the board and shall have authority to

order the submission of briefs, set hearings, and issue such other orders as the board may direct.

Section 2. Filing of Claims; Response to Claims. (1) Claims shall be legibly written, typed or printed and mailed or delivered to the Board of Claims office in Frankfort, Kentucky.

(2) Each claim shall contain the name and address of the claimant, the amount he is claiming and a statement of facts sufficiently clear to show that the claimant is entitled to relief under the provisions of KRS 44.070 and to enable the defendant to investigate the claim and prepare its defense.

(3) Claims may be filed by the claimant or by an attorney or legal representative acting in the claimant's behalf.

(4) The board's secretary shall promptly furnish a copy of each claim to the head of the affected agency and to the Attorney General. *At the request of the board*, within [fifteen (15)] thirty (30) days, the agency concerned shall investigate the matter and shall answer the charges in writing to the board and to the claimant.

(5) If the Attorney General wishes to enter the matter, he shall file such response as he desires with the board.

(6) If the response filed by the affected agency admits

liability, the secretary shall submit the matter to the board at an early meeting.

(7) If the affected agency fails to respond to the board concerning its investigation within *fifteen (15)* [thirty (30)] days, the secretary shall submit the matter to the board at an early meeting.

(8) If the response filed by the affected agency denies liability, the secretary shall set a hearing before a hearing officer and shall notify the claimant and the head of the affected agency (or their attorney) of the time and place of the hearing.

Section 3. Hearings. (1) Hearings shall be open to the public. The proceedings of hearings shall be taken by a stenographer. The hearing officer shall cause the hearing to be conducted with decorum.

(2) The proof required to support a claim shall be that required to support a claim in any court of competent jurisdiction.

(3) All testimony and proof shall be presented at the hearing before the hearing officer, or within thirty (30) days thereafter by deposition, with the exception of medical or expert testimony.

(4) If either party desires to submit medical or expert testimony by deposition, that party shall be allowed thirty (30) days after the hearing for that purpose. The second party shall then be allowed thirty (30) days, after which the first party shall be allowed five (5) days for rebuttal, unless otherwise ordered by the hearing officer.

(5) If the claimant fails to appear at a scheduled hearing of which he has notice and fails to show good cause within five (5) days for failure to appear, the board may order the claim dismissed. If the affected state agency fails to appear at the hearing, the hearing officer in his discretion may take the testimony of any witnesses present.

(6) The hearing officer shall furnish a finding of fact to the board within thirty (30) days after the record is completed.

Section 4. Board Decision. (1) Each claim shall be submitted to the board at an early meeting following the hearing officer's report.

(2) The board, or a majority of its members, shall render a decision on each claim at a board meeting.

Section 5. Exchange of Facts by Parties to Contested Claims. All discovery procedures as outlined in the Kentucky Rules of Civil Procedure are applicable to proceedings before the board, except that a party shall not take a deposition for discovery without prior approval by the board. Further, any party may request admissions of fact. If a party fails to admit a requested fact which is later established, that party shall be responsible for all costs necessary to establishing the fact.

MELVIN H. WILSON, Chairman

ADOPTED: May 20, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: June 8, 1981 at 1:45 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Banking and Securities
As Amended

808 KAR 10:150. Registration exemptions.

RELATES TO: KRS 292.410(1)

PURSUANT TO: KRS 13.082, 292.500(3)

EFFECTIVE: August 5, 1981

NECESSITY AND FUNCTION: To declare that registration is not necessary in the public interest for certain types of business transactions with limited securities implications pursuant to KRS 292.410(1)(q).

Section 1. Pursuant to KRS 292.410(1)(q), the director having found that the enforcement of the Kentucky Securities Act is not necessary or appropriate in the public interest or for the protection of investors, and securities issued under the following classes of transactions shall be exempt from KRS 292.340 [292.330] to 292.390 and need not file to claim the exemption. *However, any persons receiving commissions or other remuneration in connection with sales made pursuant to these exemptions must comply with the registration requirements of KRS 292.330.*

(1) Small business organization. Where ten (10) or fewer persons organize a corporation, joint venture, or similar business organization other than a limited partnership, provided that:

- (a) There are no more than twenty-five (25) offerees;
- (b) The security acquired does not evidence an oil, gas or mineral interest;
- (c) Each person purchases with investment intent;
- (d) Each purchaser is an organizer on the date the issuer is formed;
- (e) Each purchaser has access to information concerning the issuer;
- (f) In connection with the organization, no commission or other remuneration is paid or given directly or indirectly to any person for soliciting any prospective buyer in this state;

(g) No public advertising through newspapers, television, radio, handbills, or other such solicitation will be employed in effectuating the proposed transaction.

(2) Professional service corporation. Any security issued by a professional service corporation organized under KRS Chapter 274, provided:

(a) The professional service corporation complies with the ownership and retransfer restrictions set forth in KRS Chapter 274;

(b) The securities are sold to a professional person;

(c) The seller must reasonably believe that each buyer is purchasing for investment; and

(d) Each professional is provided access to information concerning the professional service corporation.

(3) Limited offering of securities related to oil, gas and mineral interests to select persons under select conditions. Any offer or sale of a certificate of interest or participation in an oil, gas or mineral title, lease or assignment, or in payments out of production under such title, lease or assignment, provided each such sale complies with each of the following:

(a) The number of investors cannot exceed thirty-five (35);

(b) Offers and sales can only be made to the following types of investors:

1. A professional geologist, professional oil, gas or mineral landman, geophysicist, petroleum engineer or mining engineer;

2. A person who is regularly engaged in the business of production of or exploration for oil, gas or minerals as a full-time vocation or for his primary source of income;

3. A sophisticated investor who the issuer and any person acting on its behalf in the offer, offer to sell, offer for sale or sale of the securities shall have reasonable grounds to believe and shall believe:

a. Immediately prior to making any offer, that the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating both the merits and risks of the prospective oil, gas or mineral investment;

b. Immediately prior to making any sale, after reasonable inquiry, that the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating both the merits and risks of the prospective oil, gas or mineral investment;

c. *That each investor has a minimum net worth of \$100,000 exclusive of home, home furnishings and automobiles, and in addition, is able to bear the economic risk of the investment (for purposes of determining the ability to bear the economic risk, the relationship between the investor's net worth and the amount of the investment shall be a substantial factor); and*

[c. That each purchaser is able to bear the economic risk of the investment (for purposes of determining the ability to bear the economic risk, investors shall have a minimum net worth of \$100,000 exclusive of home, home furnishings and automobiles); and]

d. That each purchaser has access to information concerning the issuer.

(c) The offeror must reasonably believe that each purchaser is purchasing for investment and not with a view for resale and each investor must represent in writing that he understands he cannot resell his security without registration or other compliance with the state and federal securities laws; provided, however, solely for purposes of those investors described in paragraphs (b)1 and (b)2 of this subsection, sales may be made exclusively among those persons described in paragraphs (b)1 and (b)2 of this subsection for purposes of assembling lease or other rights for oil, gas or mineral production or exploration, and resales of *their* whole interests may be made exclusively among those persons described in paragraphs (b)1 and (b)2 of this subsection without regard to a holding period requirement.

(d) Resales by persons described in paragraph (b)3 of this subsection within two (2) years of their purchase of any such security can only be made to persons described in paragraphs (b)1 and (b)2 of this subsection; such resales must be of *their* whole interests and not fractional interests in the securities.

(e) Sales by persons described in paragraph (b)3 of this subsection of their whole interests back to the issuer shall not be considered to be "resales" for purposes of this regulation.

(f) This exemption shall not be available to any issuer, if it, any officer, director, promoter, sponsor, operator, organizer or agent of such *issuer* [issue] or other authorized person participating in the process of offering or selling such securities shall have been the subject of:

1. Any administrative order issued under any state or federal securities law or regulation or a postal fraud order;

2. Any outstanding injunction, consent order or other legal directive for a securities violation of any state or federal securities law or regulation; or

3. Any court decision granting civil relief for a securities violation of any state or federal securities law or

regulation; or shall have been convicted of any criminal violation of the federal securities or postal laws or regulation, the securities laws of any state, or criminal fraud or any felony.

(g) The entire exemption shall not be available upon the occurrence of any one of the following events:

1. Where a single sale is made to a person who is not qualified as an investor under paragraph (b) of this subsection;

2. Where a single offer is made to randomly selected offerees who do not qualify as an offeree under paragraph (b) of this subsection; or

3. Where there has been a willful violation of KRS 292.320.

(4) Private offering of securities under Rule 146 of the Federal Securities Act of 1933. Any offer or sale of securities pursuant to Rule 146 of the Federal Securities Act of 1933, provided each such offer or sale complies with all the requirements of said Rule, and provided further that any forms filed with the United States Securities and Exchange Commission pursuant to such an offering are filed concurrently with the Kentucky Division of Securities.

H. FOSTER PETTIT, Secretary

ADOPTED: August 5, 1981

RECEIVED BY LRC: August 5, 1981 at 10 a.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
As Amended

902 KAR 20:012. Hospital examination services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.400, 216B.990(1),(2), 510.010 to 510.140.

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

EFFECTIVE: August 5, 1981

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandates that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for a licensure requirement for the services to be provided by hospitals.

Section 1. Definition—Hospitals, General. Establishments with organized medical staffs with permanent facilities that include in-patient beds and medical services, including physician services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 2. Examination Services for Victims of Sexual Offenses. (1) Hospitals offering emergency services shall provide for the examination of reported victims of sexual offenses as defined by KRS 510.010 to 510.140.

(2) The hospital shall develop procedures to be followed in the examination of reported victims of sexual offenses. The procedures shall include but need not be limited to the following:

(a) Twenty-four (24) hour on-call responsibility of the medical staff of physicians;

(b) The gathering and handling of physical evidence in accordance with the procedures of the Kentucky State Police Central Crime Laboratory;

(c) Obtaining appropriate patient consent for examination (a minor may consent to examination);

(d) Informing the victim of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems.

(3) The hospital shall, upon the examination of a reported victim and the consent of the reported victim, submit to the Office of the Attorney General a completed examination verification form supplied by the Office of the Attorney General which includes the following:

(a) Physician signature attesting to the performance of the examination and collection of evidence;

(b) Hospital verification that appropriate law enforcement agencies have been notified of the reported sexual offense; and

(c) Hospital verification that proper confidentiality releases have been obtained.

FRANK W. BURKE, SR., Chairman

ADOPTED: May 29, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: June 9, 1981 at 11 a.m.

Amended After Hearing

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance Amended After Hearing

904 KAR 2:005. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2), (3)

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40 which, in summary, provides that a resident is anyone who is living in the state, entered the state with a job commitment or seeking employment, and is not receiving AFDC benefits from another state. Citizenship is determined in accordance with 45 CFR 233.50 which states that AFDC can be provided only to citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, military service, [or] deportation or *single parent adoption*. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(3) Incapacity defined. Incapacity is any condition of mind or body which makes a parent physically or mentally unable to provide the necessities of life for his/her needy child. The condition must be anticipated to continue for at least thirty (30) days beyond the date of application and may be presumed to continue during a period in which the parent is undergoing diagnostic studies and/or evaluation of rehabilitation potential. Incapacity of the parent must prevent him/her from working in an occupation in which he/she previously engaged, or another job for which he/she is equipped and which is accessible in the county or community where he/she normally resides. If a job opportunity exists in the community or county, it shall be considered accessible regardless of its immediate availability. Scarcity of work does not establish incapacity unless there is a causal relationship between the parent's unemployment and actual physical or mental disability. *Lack of paid work experience does not preclude the patient from being considered incapacitated.*

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grand-

father, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(4) Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.

(5) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

(6) A child placed in foster care is not required to be living in the home of a relative to be eligible to receive AFDC-FC in his/her foster home.

Section 4. Age and School Attendance. A child may be eligible for AFDC from birth to age twenty-one (21); provided, however, that the child eighteen (18) to twenty-one (21) is regularly attending a school or training course leading to a certificate, diploma or degree as required by 45 CFR Section 233.10 and further provided that the eighteen (18) to twenty-one (21) year old attending school less than full-time is either regularly employed or available for and seeking employment unless precluded therefrom by a physical handicap. Full- and part-time is defined in accordance with 45 CFR 233.90. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to re-enter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Work Registration. (1) Unless exempt under the criteria, as specified in Title VI of the Social Security Act and 45 CFR Section 224.20(b) needs of an individual for whom application has been made may not be included in the AFDC assistance grant if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause.

(2) Individuals exempt from WIN registration pursuant to 45 CFR 224.20(b) are as follows:

(a) A child under age sixteen (16).

(b) A child age sixteen (16) to twenty-one (21) if enrolled as a full-time student.

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days.

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days.

(e) An individual age sixty-five (65) or over.

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible.

(g) A mother or other caretaker relative of a child under six (6).

(h) A person so far remote from a work incentive project that his/her effective participation is precluded.

Section 7. Cooperation in Child Support Activities. (1) Inclusion of the specified relative in the AFDC budget is dependent upon cooperation in child support activities pursuant to 45 CFR 232.40 and refusal, except for "good cause," results in removal of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.

(3) Pursuant to 45 CFR part 232.13, the Department for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.

(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicants's/recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation.

(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 8. Potential Entitlement for Other Programs. All applicants/recipients must apply for any statutory benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 9. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 10. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Department for Human Resources of any child support owed for the child up to the amount of AFDC payments made to the recipient.

Section 11. Eligibility Criteria for Foster Care. To be eligible for foster care, the child must meet the technical re-

quirements of the regular AFDC program as set forth in this regulation. In addition, the child must have been:

- (1) Removed from the home after April 30, 1961; and
- (2) Committed to the department by a judicial determination under the authority of KRS 208.200 or 208.080 specifying that the child is delinquent, neglected, needy, or dependent (as stated in KRS 208.020), or if prior to June 1976, KRS 205.430, that continuance in or return to the home of a relative would be contrary to his/her welfare; and
- (3) Receiving AFDC as of the month in which court ac-

tion was initiated, or if not, would have received AFDC if application had been made; or if not living with a relative at the time of court action, did live with such relative within six (6) months prior to the month of initiation of court action and was eligible or would have been eligible for AFDC if application had been made.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: August 13, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: August 12, 1981 at 11 a.m.

Proposed Amendments

DEPARTMENT OF REVENUE (Proposed Amendment)

103 KAR 18:030. Monthly and quarterly reporting requirements.

RELATES TO: KRS 141.330

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: Under authority of KRS 141.330, this regulation prescribes monthly and quarterly reporting requirements for certain employers withholding Kentucky income tax.

Section 1. Monthly Filing Requirements. Any employer withholding Kentucky individual income tax of \$900 [\$300] or more during any quarter shall report and pay the tax to the Department of Revenue on a monthly basis. Any employer meeting the monthly payment requirement for the first time shall inform the department and be placed on *monthly filing* [request further instructions].

Section 2. Change to Quarterly Reporting. Any employer making monthly reports and remitting the tax due each month shall continue on such basis until a request in writing to change to quarterly reports and payment is filed with and approved by the department [of Revenue]. The request shall contain evidence that the tax withheld is less than \$900 [\$300] per quarter and will be less than such amount for the next twelve (12) months.

Section 3. Quarterly Filing Requirements. Any employer withholding Kentucky individual income tax and not permitted or required to file monthly as provided in Section 1 or annually as provided under 103 KAR 18:020, shall report and pay the tax to the department on a quarterly basis. [Reports. The report and payment of tax for the first two (2) months of the quarter must be made within fifteen (15) days from the close of the month in which the tax was withheld. The report required for the first and second months of any quarter shall be filed on Revenue Form K-5, Employer's Monthly Report of Income Tax Withheld. This form may be secured by written request to the Department of Revenue. All quarterly returns shall be filed in accordance with KRS 141.330. Any employer required to report and remit tax withheld in the first two (2) months of any quarter shall be entitled to a credit for such tax on the quarterly return.]

Section 4. Due Dates. Monthly returns and payment of the tax shall be due within fifteen (15) days from the close of the month in which the tax was withheld except for the month of December for which the return and payment shall be due on or before January 31. Quarterly returns and payment of the tax shall be due on or before the last day of the month following the close of the quarter in which the tax was withheld.

Section 5. Effective Date. The provisions of this regulation shall be effective for withholding tax periods beginning after December 31, 1981.

ROBERT H. ALLPHIN, Commissioner

ADOPTED: July 31, 1981

RECEIVED BY LRC: July 31, 1981 at 8:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Department of Revenue, Capitol Annex Building, Frankfort, Kentucky 40620.

DEPARTMENT OF FINANCE (Proposed Amendment)

200 KAR 5:308. Small purchase procedures.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(c) and 45A.100. This amendment extends application of such procedures to purchases of commodities and services of \$5,000 and less by state institutions of higher education as authorized by KRS 45A.100, as amended by the 1980 regular session of the General Assembly.

Section 1. Small purchase procedures may be used by all agencies without prior approval by the Department of Finance where procurement for a total requirement is estimated not to exceed an aggregate amount of \$5,000 for construction services, and \$1,000 for all other categories of

purchases, except that state institutions of higher education may purchase an aggregate amount not to exceed \$5,000. Procurement requirements shall not be parceled, split, divided or purchased over a period of time in order to meet the dollar limitations for use of small purchase procedures.

Section 2. (1) Agencies shall informally obtain three (3) or more price quotations from qualified sources of supply for all small purchases between \$1,500 and \$5,000 [exceeding \$1,500] for construction services and between \$500 and \$1,000 [\$500] for all other purchases, except state institutions of higher education shall obtain three (3) or more price quotations from qualified sources of supply for construction services and other categories of small purchases between \$1,500 and \$5,000 [as otherwise delegated]. The price quotations received, a tabulation of prices offered, and comments by the agency handling the small purchase concerning the basis selected for placing the order, shall be recorded in writing and shall be filed in a small purchase order file to be maintained by the agency.

(2) Small purchases may be made by agencies from any available source of supply, without first obtaining quotations from other sources [,] for construction services costing \$1,500 or less, and \$500 or less for all other purchases except state institutions of higher education may make small purchases of construction service and other categories not to exceed \$1,500 without quotations.

GEORGE L. ATKINS, Secretary

ADOPTED: July 20, 1981

RECEIVED BY LRC: July 20, 1981 at 3:30 p.m.

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

**DEPARTMENT OF FINANCE
Kentucky Board of Pharmacy
(Proposed Amendment)**

201 KAR 2:050. Licenses and permits; fees.

RELATES TO: KRS Chapter 315

PURSUANT TO: KRS 13.082, 315.035, 315.050, 315.060, 315.110(1), (2), 315.191(2), 315.195, 315.210

NECESSITY AND FUNCTION: This regulation is to provide reasonable fees for this agency to perform all the functions for which it is responsible and to operate within its budget. All monies are held in a trust and agency fund to the credit of the board.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits and the issuance and renewal of licenses and permits:

Application for a registered pharmacist license by examination including a license issued as a result thereof	\$ 75
Application for a registered pharmacist license by reciprocity including license issued as a result thereof	\$100

Certifying the grades of a licentiate of Kentucky to the licensing agency of another state	\$ 3
Annual renewal of a pharmacist license	\$ 35 [\$ 30]
Annual renewal of an assistant pharmacist license	\$ 25
Duplicate pharmacist license certificate	\$ 10
Application for a permit to operate a pharmacy	\$ 50
Renewal of permit to operate a pharmacy	\$ 50 [\$ 35]
Change of location or change of ownership of a pharmacy permit	\$ 35

JOHN H. VOIGE, Executive Secretary

ADOPTED: August 3, 1981

RECEIVED BY LRC: August 3, 1981 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Secretary, Kentucky Board of Pharmacy,
P.O. Box 553, Frankfort, Kentucky 40602.

**DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Examiners of Social Work
(Proposed Amendment)**

201 KAR 23:030. License renewal; fee.

RELATES TO: KRS 335.010 to 335.150

PURSUANT TO: KRS 13.082, 335.070, 335.130

NECESSITY AND FUNCTION: This regulation clarifies the conditions for renewal of licenses granted under the provisions of KRS Chapter 335.

Section 1. Licenses and certificates must be renewed three (3) years from the date of issuance or from last date of renewal. Failure to submit the required renewal application and fee on or before the last day of the current term will automatically invalidate such license or certificate without official notice by the board.

Section 2. Renewal fees shall be thirty dollars (\$30) for licensure.

Section 3. The licensee shall have complied with such continuing education requirements as may be required by the board in other sections of KRS Chapter 335.

Section 4. Licensees shall record on their renewal application any continuing education obtained during the preceeding three (3) years.

Section 5. [4.] Any licensee that is under suspension at the time of renewal shall be renewed but the period of

suspension shall continue to run and not be affected by the renewal.

DOROTHY A. MILLER, Chairman

ADOPTED: June 29, 1981

RECEIVED BY LRC: July 29, 1981 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: David Nicholas, Acting Director, Division of Occupations and Professions, P. O. Box 456, Frankfort, Kentucky 40602.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Examiners of Social Work
(Proposed Amendment)

201 KAR 23:050. Termination of license, reinstatement.

RELATES TO: KRS 335.010 to 335.160, 334.990

PURSUANT TO: KRS 13.082, 335.070

NECESSITY AND FUNCTION: This regulation clarifies the provisions of terminating the licenses of individuals who have failed to renew their licenses and sets forth the standard for reinstating an individual whose license has been terminated.

Section 1. A licensee may, within sixty (60) days following the dated expiration of his license, submit the required fees as set forth in KRS 335.130 and renewal application and have his license renewed.

Section 2. A licensee may continue to practice for sixty (60) days after the expiration of his license. Should a licensee reapply after sixty (60) days and before six (6) months, he shall pay a penalty of fifty dollars (\$50). Should a licensee reapply after six (6) months and before twelve (12) months he shall pay a penalty of \$100. Should a licensee reapply after twelve (12) months and before the end of eighteen (18) months he shall pay a penalty of \$200. [If, at the end of that time, he has not applied for the renewal of his license, his right to practice shall terminate and he must submit a new application, in accordance with the then-current requirements.]

Section 3. Any licensee who shall not have renewed his license at the end of eighteen (18) months must submit a new application in accordance with existing requirements.

Section 4. Upon payment of penalty and payment of the renewal of license and/or certificate(s), the date of the license and/or certificate(s) shall be retroactive to the date of the immediately prior license and/or certificate(s) expired.

DOROTHY A. MILLER, Chairman

ADOPTED: June 29, 1981

RECEIVED BY LRC: July 29, 1981 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: David Nicholas, Acting Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Examiners of Social Work
(Proposed Amendment)

201 KAR 23:070. Specialty certification.

RELATES TO: KRS 335.100, 335.080, 335.090

PURSUANT TO: KRS 13.082, 335.070

NECESSITY AND FUNCTION: This regulation further clarifies descriptions of specialty certification and the functions evolving therefrom, in addition to clarifying terms used in KRS Chapter 335.

Section 1. Definitions: (1)(a) "Educational institution approved by the board" means graduate schools of social work accredited by the Council on Social Work Education except, that the board will evaluate credentials of foreign graduates on a case by case basis; and

(b) "A social work or social welfare program" not accredited by the Council on Social Work Education must demonstrate to the satisfaction of the board that they meet the Council on Social Work Education standards for accreditation of undergraduate programs.

(2) Supervision for independent practice of clinical social work shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development.

(3) Supervision for independent practice of community social work shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for social planning, program development, evaluation advocacy, ombudsmanship, facilitation, program budgeting, legislative activity, social organization and social mediation, among others.

(4) Supervision for independent practice of social work research shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for hypothesis formulation, sampling, data collection, data analysis, and interpretation of results, among others.

(5) Supervision for independent practice of social work administration and management shall be defined as the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon skills including those necessary for organizing, directing, supervising, staffing, evaluating, and consulting, among others.

Section 2. [1.] For the purpose of the board, the private independent practice of social work is defined as the professional delivery of social work services by certified social workers offered independently of:

(1) The auspices and supervision of federal, state, and local government agencies; [or]

(2) The auspices and supervision of any nonprofit social service agency; or

(3) The auspices and supervision of any for profit social service agency.

Section 3. [2.] Certification for Independent Practice. Certification is the process whereby the board recognizes a licensed certified social worker to have special training and/or competence to engage in autonomous and independent practice in specified areas of specialty.

Section 4. [3.] The areas of certification for private, independent practice are those of clinical social work, community social work, social work research, and social work administration and management.

Section 5. [4.] Clinical social work is defined as practice which focuses on the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development. Such practice is based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners have numerous skills including those necessary for individual, marital, family, and group psychotherapy, as well as other treatment modalities. To be certified for independent practice in clinical social work the licensee must have:

(1) Had the required number of hours of experience in clinical social work under supervision [and consultation]. Such supervision *shall [must]* have been provided by an individual *meeting the requirement set forth in subsection (4) of this section* [certified in the clinical specialty by the board and must total at least 200 hours];

(2) *Shall [must]* have spent at least sixty (60) percent of the required experience in a direct client-professional relationship;

(3) *Shall [must]* have had direct responsibility for specific individual and/or groups of clients;

(4) Supervision *shall be provided by one (1) of the following:*

(a) *An individual certified in the clinical specialty by this board;*

(b) *An individual listed at the time of supervision in either the National Association of Social Workers Registry of Clinical Social Workers or the National Registry of Health Care Providers in Clinical Social Work;*

(5) Supervision *shall be related specifically to the experience which is proffered as the qualifying experience for the clinical certificate;*

(6) *When supervision is being provided outside the agency in which the clinical experience is occurring, a contractual arrangement, including evidence of built-in accountability shall be provided;*

(7) *Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;*

(8) *Such supervision shall be congruent with the board's code of ethical practice;*

(9) [(4)] Pass an examination developed by the board.

Section 6. [5.] Community social work is defined as practice which deals with intervention at the community level oriented at involving community institutions and solving community welfare problems. Such practice is based on knowledge of community organization and development, social planning, policy analysis and social action. Practitioners have numerous skills including those necessary for social planning, program development, evaluation, advocacy, ombudsmanship, facilitation, program budgeting, legislative activity, social organization

and social mediation, among others. In order to be certified for the independent practice of community social work the licensee must have:

(1) Completed the required number of hours of supervised experience in community social work. Such supervision *shall [must]* have been provided by an individual *meeting the qualifications set forth in subsection (3) of this section* [certified by the board in community social work and must total at least 200 hours];

(2) *Shall [must]* have had direct responsibility for specific projects which would require the utilization and refinement of the knowledge and skills outlined above;

(3) Supervision *shall be provided by one (1) of the following:*

(a) *An individual certified in the community specialty by this board; or*

(b) *A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;*

(4) Supervision *shall be related specifically to the experience which is proffered as the qualifying experience for the community certificate;*

(5) *When supervision is being provided outside the agency in which the community experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;*

(6) *Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;*

(7) *Such supervision shall be congruent with the board's code of ethical practice;*

(8) [(3)] Pass an examination developed by the board.

Section 7. [6.] Social work research is defined as practice which focuses primarily on the scientific investigation of social and behavioral phenomena. Such practice is based on knowledge of statistics, research design, research methodology and basic computer methodology among other things. Practitioners have numerous skills, including those necessary for hypothesis formulation, sampling, data collection, data analysis, and interpretation of results, among others. Licensees applying for certification in this specialty will be expected to have:

(1) Completed the required number of hours of supervised experience in the practice of this specialty. Such supervision shall have been provided by an individual *meeting the qualifications set forth in subsection (2) of this section* [certified in this specialty area by the board and must total at least 200 hours];

(2) Supervision *shall be provided by one (1) of the following:*

(a) *An individual certified in the social research specialty by this board; or*

(b) *A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;*

(3) Supervision *shall be related specifically to the experience which is proffered as the qualifying experience for social work research;*

(4) *When supervision is being provided outside the agency in which the social work research experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;*

(5) *Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through*

group supervision in groups of six (6) or fewer members.

(6) Such supervision shall be congruent with the board's code of ethical practice;

(7) [(2)] Pass an examination developed by the board.

Section 8. [7.] Social work administration and management is defined as practice which focuses primarily on directing the development and/or management of social service delivery systems. Such practice is based on knowledge of policy development, program management, personnel management, fiscal management, public relations and organization development among other things. Practitioners have numerous skills including those necessary for organizing, directing, supervising, staffing, evaluating and consulting among others. Licensees applying for certification for the independent practice in this specialty shall be expected to have:

(1) Completed the required number of hours of supervised experience in the area of administration and management [this specialty area]. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (6) of this section [A minimum of 200 hours of supervision must have been acquired under a person certified in administration and management by the board];

(2) Affirmed that sixty (60) percent of such experience has been spent in management of a recognized unit or units which has a continuing function;

(3) Organizational responsibility for at least four (4) or more professional staff with the ability to hire or dismiss, or at least make recommendations on any change of status in such staff;

(4) Demonstrated the exercise of discretion and independent judgment which involves the comparison and evaluation of possible courses of conduct and subsequent action or making a decision after the various possibilities have been considered.

(5) Have demonstrated significant responsibility for program planning and budgeting for the organizational unit which he has managed.

(6) Supervision shall be provided by one (1) of the following:

(a) An individual certified in administration and management by the board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(7) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the administration and management certificate;

(8) When supervision is being provided outside the agency in which the administration and management experience is occurring, a contractual arrangement including evidence of built-in accountability shall be provided;

(9) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;

(10) Such supervision shall be congruent with the board's code of ethical practice;

(11) [(6)] Pass an examination offered by the board.

[Section 8. Definitions. (1)(a) "Educational institution approved by the board" means graduate schools of social work accredited by the Council on Social Work Education except, that the board will evaluate credentials of foreign graduates on a case-by-case basis; and]

[(b) "A social work or social welfare program" not ac-

credited by the Council on Social Work Education must demonstrate to the satisfaction of the board that they meet the Council on Social Work Education standards for accreditation of undergraduate programs.]

[(2) "Appropriate supervision" is defined as a minimum of eight (8) hours per month individual supervision or consultation. Such supervision shall be acquired under a licensee certified for independent practice of social work in the specialty in which the licensee wishes to seek a certificate of qualification.]

DOROTHY A. MILLER, Chairman

ADOPTED: June 29, 1981

RECEIVED BY LRC: July 29, 1981 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: David Nicholas, Acting Director, Division of Occupations and Professions, P. O. Box 456, Frankfort, Kentucky 40602.

DEVELOPMENT CABINET Department of Agriculture (Proposed Amendment)

302 KAR 20:010. Definitions.

RELATES TO: KRS Chapters 246, 257

PURSUANT TO: KRS Chapter 257, 13.082

NECESSITY AND FUNCTION: Definitions and terms to clarify interpretation of regulations relating to the Division of Livestock Sanitation.

Section 1. Definitions and terms: (1) "Commissioner" means the Commissioner of the Department of Agriculture.

(2) "Department" means the Department of Agriculture.

(3) "Board" means the State Board of Agriculture.

(4) "Persons" shall include any individual, firm, association, partnership or corporation.

(5) "Stockyards" means any livestock yard, concentration point, packing plant or any other public place where livestock is regularly assembled for sale or exchange and is bought, sold or exchanged at auction or upon a commission or other basis.

(6) "Posted stockyards" means stockyards regulated by the United States Secretary of Agriculture under the Packers and Stockyards Act, 1921 (42 Stat. 159).

(7) "Premises" means any portion of land or any structure erected on land or any vehicle or vessel used in the transportation of passengers, goods or livestock.

(8) "Communicable disease" includes hog cholera, coccidiosis, brucellosis, anaplasmosis, leptospirosis, encephalomyelitis, anthrax, blackleg, salmonellosis, catarrhal influenza of cattle, contagious pleuropneumonia, foot and mouth disease or apthous fever, glanders, hemorrhagic septicaemia, maladie du coit or dourine, mange of cattle, necrobacillosis and foot rot in sheep, hydrophobia, rinderpest, scabies in cattle, Texas tick or southern cattle fever, tuberculosis, paratuberculosis or Johnes disease, pseudorabies, velogenic viscerotropic Newcastle disease or any other disease proclaimed by the board to be of a transmissible character.

(9) "Garbage" means waste consisting entirely or in part of animal waste resulting from handling, preparing, cooking, and consuming of food including the offal from animal carcasses or parts thereof, but excluding such waste

from ordinary household operations which is fed directly to swine on the same premises.

(10) "Interstate" means movement into or through any other state.

(11) "Intrastate" means movement solely within the boundaries of the Commonwealth of Kentucky.

(12) "Concentration" or "assembly point" means any place where livestock or animals are assembled, moved, gathered, combined, collected or brought together by any person using any method or vehicle for sale, resale or barter.

(13) "Recognized slaughtering center" means a slaughtering establishment approved in accordance with state and federal regulations where slaughtering facilities are provided and to which animals are regularly shipped and slaughtered.

(14) "Chief livestock sanitary official" means State Veterinarian of the Division of Livestock Sanitation, Department of Agriculture, or his authorized representative.

(15) "Livestock" means animals used or raised on a premises of the bovine, caprine, equine, porcine, avian, ovine and lapin species.

(16) "Feeder cattle" means steers of any breed, spayed heifers or open heifers of the beef breed only under twenty-four (24) months of age which are primarily intended for slaughter after having reached the desired feeding stage.

(17) "Official brucellosis vaccinate" means a female bovine animal vaccinated against brucellosis with an approved *Brucella* vaccine with the vaccination protocol set forth by the State Veterinarian's office [while three (3) through six (6) months of age]. *Animals must be vaccinated by a licensed, accredited veterinarian or authorized representative of the department and permanently identified and tattooed as a vaccinate and reported at the time of vaccination to the appropriate state or federal agency on official forms as provided.*

(18) "Health certificate" means a legible record covering the requirements of the state of destination accomplished on an official form of a standard size from the state of origin or an equivalent form of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, that is prepared and issued by a licensed, accredited veterinarian.

(19) "Approved health certificate" means an official health certificate approved by the chief livestock sanitary official of the state of origin.

(20) "Virulent hog cholera virus" means the living agent capable of causing hog cholera that is found in the clear serum, plasma, defibrinated blood, whole blood or other tissue derived from pigs sick of hog cholera; or in any material used as a vehicle for perpetuating such living agent.

(21) "Farm of origin" means a farm where livestock to be moved interstate were born and which has not been used in the past six (6) months to assemble, buy or sell livestock brought in from other sources.

(22) "Infectious" or "contagious disease" means any disease condition that can be transmitted from one animal to another either directly or indirectly.

(23) "Owner" or "operator" means a person, firm, corporation or company responsible for the operation of a stockyard, sale, public stockyard, farm or ranch.

(24) "State-Federal approved stockyard" means a stockyard that has complied with state and federal requirements for specific movements of livestock and has been approved by the chief livestock sanitary official and

federal area veterinarian in charge of the area where the stockyard does business.

(25) "Licensed, accredited veterinarian" means a graduate veterinarian who is qualified by a state examining board and is approved by the federal government and Commonwealth of Kentucky.

(26) "Area veterinarian in charge" means federal veterinarian in charge of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture in Kentucky.

(27) "Move" or "movement" means the act of moving, shipping or transporting livestock by any means, method or vehicle; delivering, receiving or collecting livestock by any means, method or vehicle by any person by land, water or air for sale, resale or barter.

(28) "Assembled cattle" are animals without a common owner, consignor or herd of origin brought together during transportation to market and commingled in a common enclosure.

ALBEN W. BARKLEY, II, Chairman

ADOPTED: June 10, 1981

RECEIVED BY LRC: August 4, 1981 at 11:25 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Alben W. Barkley, II, Commissioner of Agriculture, 712 Capital Plaza Tower, Frankfort, Kentucky 40601.

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

401 KAR 2:050. Waste management [Hazardous waste] definitions.

RELATES TO: KRS 224.033, 224.255, 224.855 to 224.884 [224.866]

PURSUANT TO: KRS 13.082, 224.017, 224.033(24) [224.866]

NECESSITY AND FUNCTION: KRS 224.017 and the waste management provisions of KRS Chapter 224 [224.866] require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the management of solid and [for] hazardous wastes. This regulation defines essential terms used in connection with the [hazardous] waste management regulations.

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

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

(2) "Active portion" means any area of a facility where treatment, storage, recycling or disposal operations are being conducted. It includes the treated area of a landfarm and the active face of a landfill. Covered, closed, or inac-

tive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the secretary.

(3) "Aquifer" means a geologic[al] formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(4) "Agricultural waste" means any non-hazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, prunings and crop residues.

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

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

(7) "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

(8) [(6)] "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses.

(9) "Construction materials" means non-hazardous material generally considered not to be water-soluble, including but not limited to steel, concrete, brick, asphalt roofing material, or lumber from a construction or demolition project. Mixture of construction and demolition debris with any amount of other types of waste may cause it to be classified as other than construction materials.

(10) [(7)] "Container" means any portable enclosure in which a material is [can be] stored, [handled,] transported, treated, [or] disposed, or otherwise handled.

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

(12) "Contingency plan" means an organized, planned, coordinated course of action to be followed in the event of a fire, explosion or discharge or release of waste into the environment which has the potential of endangering human health and the environment. Financial planning to identify resources for initiation of such action is a part of contingency plan development.

(13) "Covered material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on, support vegetation; provide trafficability; or assure an aesthetic appearance.

(14) "Disease vector" means all insects or gnawing animals such as rats, mice or ground squirrels, which are capable of transmitting pathogens from one (1) organism to another.

(15) [(9)] "Discharge" means the release of any solid or hazardous waste or any constituent thereof into the environment.

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

[(11)] "Erosion" means the detachment and movement

of soil or rock fragments by water, wind, ice, or gravity.]

[(12)] "Existing" means any hazardous waste site or facility that was in being or under construction on October 17, 1979.]

(17) "Existing hazardous waste management facility" means a hazardous waste facility which was in operation, or for which construction had commenced, on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained all necessary governmental approvals or permits necessary to begin physical construction, and such construction had begun or contractual obligations for physical construction which cannot be cancelled or modified without substantial loss are established.

(18) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more land landfills, surface impoundments, or combination of them).

(19) [(13)] "Final closure of a [hazardous] waste facility" means the procedures which must be followed by a facility owner/operator when it is determined that the facility will no longer accept [hazardous] waste for treatment, recycling, storage, or disposal on the entire facility.

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

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

(22) "Flood plain" means lowland and relatively flat areas adjoining inland waters which are inundated by the base flood.

(23) [(16)] "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans. [a forage or feed grain used to feed animals which are raised for human consumption, used to produce products for human consumption, or also food or tobacco crops for human consumption.]

(24) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

(25) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(26) "Fresh water aquifer" means those water bearing formations containing water with quantities of dissolved minerals less than 10,000 mg/l capable of yielding usable quantities of groundwater to drinking water wells, pumps, springs or streams.

(27) [(17)] "Generating" means the act or process of producing wastes except that any person who produces hazardous wastes in amounts not determined to be harmful to public health or the environment by regulation of the department consistent with the federal Resource Conservation and Recovery Act of 1976, as amended and regulations issued pursuant thereto shall not be a generator of hazardous waste or considered to be engaged in the generation of hazardous waste.

(28) [(18)] "Generator" means any person, by site,

[federal agency, or state agency] whose act or process produces [or accumulates any] hazardous waste[,] identified or listed in 401 KAR 2:075 or whose act first causes a hazardous waste to become subject to regulation.

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

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

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

[(31) [(22)] "Hazardous waste" means any discarded material or material to be discarded or substance or combination of such substances to be discarded, in any form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; and as defined in 40 CFR 261.3, filed herein by reference. Nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended, or to agricultural wastes including manures and crop residues, which are returned to the soil as fertilizers or soil conditioners, or to pesticides, herbicides or fertilizers or their respective containers when disposed of under label instructions or in accordance with the federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended.]

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

[(24) "Hazardous waste regulations" means those regulations relating to and pursuant to KRS 224.890.]

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

(a) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. [any facility which disposes of hazardous waste by landfilling in a manner approved by the department.]

(b) "Elementary neutralization unit" means a tank, container, transport vehicle, or vessel which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic or are listed wastes only for this reason.

(c) "Incinerator" means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators.

(d) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(e) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(f) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste or any constituent thereof waste will remain after closure.

(g) [(b)] "On site" means on the same or geographically continuous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property. [where hazardous waste generation, treatment, storage, recycling, or disposal occurs. Two (2) or more pieces of property which are divided only by a public or private right-of-way and which are otherwise geographically contiguous are considered a single site.]

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

(h) [(d)] "Storage facility" means a facility or part of a facility at which hazardous waste is held for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere. [any hazardous waste facility which stores hazardous wastes.] A generator who accumulates [stores] his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport on-site or off-site is not operating or maintaining a storage facility.

(i) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(j) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthern materials (e.g., wood, concrete, steel, plastic) which provide structural support.

(k) "Thermal treatment facility" means a facility or part of a facility which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

(l) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment.

(m) [(e)] "Treatment facility" means a facility or part of a facility using any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. [any

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

[(f) "Recycling facility" means any facility at which hazardous waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing hazardous waste for re-use.]

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

[(n) "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or wastewater treatment sludge either of which is a hazardous waste.

(33) "Incompatible waste" means a hazardous waste which is unsuitable for placement in a particular device or facility because it may cause corrosion or decay of containment materials, or unsuitable for commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(34) "Infectious waste" means those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

(35) "Interim permit" means a permit (or permit-by-rule) deemed issued to the operator of an existing waste management facility while an application is being processed, or while a facility is being modified to comply with permit requirements.

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

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

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

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

(36) [(30)] "Leachate" means any liquid including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

(37) [(31)] "Liner" means a layer of natural or man-made material placed beneath or over a surface impoundment or landfill which serves to restrict the movement of the wastes from within the surface impoundment or the

landfill into the soil, rock or water outside of the surface impoundment or landfill.

(38) "Major modification" means a change in ownership, area occupied, disposal method, or other significant change in the operation of a waste management facility that would require prior administrative analysis and review before granting approval, as opposed to the issuance of a letter of acknowledgement upon notice of the proposed modification.

(39) [(32)] "Manifest" means the shipping document originated and signed by the generator which contains information required by 401 KAR 2:070.

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

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

(42) [(35)] "New" means any hazardous waste site or facility that commenced construction after November 19, 1980 [October 17, 1979].

(43) [(36)] "One-hundred year flood" means a flood that has a one (1) percent or one (1) in 100 or greater chance of recurring in any year, or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period, taking into consideration the present engineering aspect of the floodplain.

(44) [(37)] "Open burning" means the combustion of any material without:

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

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

(c) Control of emission of the gaseous combustion products. [Emission of the combustion products through a stack or vent adequate for both visual monitoring and point-source sampling.]

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

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

(47) [(40)] "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities meet interim status requirements do not present a threat of imminent hazard to public health or a substantial environmental impact.

(48) [(41)] "Permittee" means any person holding a valid permit issued by the department to manage, treat, store, and/or dispose of [hazardous] waste.

(49) "Personnel" or "facility personnel" means all persons who work at or oversee the operations of a waste facility, and whose actions or failure to act may result in noncompliance with the requirements of the waste management regulations.

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

(50) [(43)] "Post closure care" means the manner in

which a facility must be maintained when it no longer accepts hazardous waste for treatment, storage, or disposal.

(51) [(44)] "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility.

(52) "Putrescible" means susceptible to rapid decomposition by bacteria, fungi, or oxidation sufficient to cause nuisances such as odors, gases, or other offensive conditions. Putrescible wastes include but are not limited to organic matter such as food wastes, offal, dead animals, paper, cardboard, leaves, sawdust, woodchips, pruning waste, and organic sludges.

(53) "Recharge zone" means an area supplying the water which enters a fresh water aquifer.

(54) [(45)] "Representative sample" means a sample of a universe or whole (e.g., wastepile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole. [any sample of waste or groundwater which is equivalent to the total waste or groundwater in composition, and physical, biological, and chemical properties as specified in American Society for Testing Materials' (ASTM) standards.]

(55) "Resource recovery" means the process by which materials subject to the waste management regulations which still have useful physical or chemical properties are reused or recycled for the same or other purposes, including uses as an energy source.

(56) [(46)] "Run-off" means any rainwater, or other liquid that drains overland from any part of a facility. [that portion of precipitation that flows overland before entering a defined stream channel.]

(57) "Run-on" means any rainwater or other liquid that drains overland onto any part of a facility.

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

(59) "Salvaging" means the controlled removal of waste materials for utilization from an area remote from the operating face of the fill.

(60) "Scavenging" means the removal of waste materials from a waste management facility site in a manner deemed by the department to be dangerous to the health and safety of any person.

(61) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(62) "Solid waste site or facility" means one (1) of the three (3) categories of sanitary landfills or a land farming facility permitted by the department for the disposal of solid waste involving the placement of solid waste on or into the land surface as follows:

(a) "Inert landfill" means a facility for the disposal of solid waste which meets minimal design and operation standards so as to achieve proper disposal of generally non-putrescible and non-soluble waste, including construction materials, certain industrial or special wastes, and other waste material not deemed to pose environmental problems from leachate.

(b) "Residential landfill" means a facility for the disposal of solid waste which is designed and operated so as to achieve proper disposal of any residential waste, commercial waste, institutional waste; and certain sludges, industrial or special waste with specific approval from the department.

(c) "Contained landfill" means a facility for the

disposal of solid waste which is designed and operated so as to achieve proper disposal of certain industrial or special waste and any non-hazardous waste without case-by-case approval from the department.

(d) "Landfarming facility" (or landspreading) means a facility for land application of sludges or other residual waste by any method for purposes of disposal. It can be on any piece of land and may improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and will not disturb the soil below three (3) feet from the surface.

[(48)] "Special wastes" means those wastes of high volume and low hazard which commonly include, but are not necessarily limited to, utility wastes (fly ash, bottom ash, scrubber sludge), mining wastes, sludge from pollution control equipment, water treatment facilities, and sewage treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines.]

(63) [(49)] "Spill" means any accidental discharge into the environment of any substance which meets the definition of hazardous waste.

(64) [(50)] "Storage of hazardous waste" means the holding [containment] of hazardous waste for [either on] a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere. [basis or for a period of years in such a manner as not to constitute disposal of such hazardous waste.]

[(51)] "Storage tank" means any manufactured non-portable covered device used for containing pumpable hazardous waste.]

[(52)] "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.]

(65) [(53)] "Termination" means the final actions taken by the department as to a solid waste or hazardous waste [treatment, storage or] disposal facility when formal responsibilities for post-closure monitoring and maintenance cease.

(66) "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(67) [(54)] "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

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

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

(70) "Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

(71) [(57)] "Wetlands" means those areas that are inundated by surface or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated

soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

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

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 2:055. *Waste management* provisions, generally.

RELATES TO: KRS 224.033, 224.250, 224.255, 224.855 to 224.889 [224.037, 224.866]

PURSUANT TO: KRS 13.082, 224.017, 224.033(24) [224.866]

NECESSITY AND FUNCTION: KRS 224.017, 224.033 and the waste management provisions of KRS Chapter 224 [and 224.866], require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes and the disposal of solid wastes. This regulation sets forth general provisions which apply to the [hazardous] waste management regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, and severability.

Section 1. Applicability. The [hazardous] waste management regulations shall apply to the disposal of solid waste and the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 2:050, 401 KAR 2:075) by all persons and state and federal agencies who engage in the generation, treatment, storage, [recycling,] or disposal of such wastes, including hazardous substances spilled into the environment, thereby meeting the criteria of hazardous waste.

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

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

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

federal delisting or exemption rulemaking actions pertaining to hazardous waste management.

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

(3) Variances are authorized for non-commercial, one-time disposal of construction materials and other generally non-soluble waste without a permit.

(4) Permit modifications may take the form of special permission issued to the disposal facility upon proper request for review of a specific waste stream made by either the disposal facility or the waste generator.

Section 3. Compatibility with the Federal Acts [Solid Waste Disposal Act]. The regulations promulgated pursuant to the waste management provisions of KRS Chapter 224 [KRS 224.890] are intended to be compatible with federal regulations adopted pursuant to [the Solid Waste Disposal Act as amended by] Public Law 94-580, the "Resource Conservation and Recovery Act of 1976," as amended [and as amended by the Quiet Communities Act of 1978].

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

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

Section 6. Environmental Performance Standards. All facilities for the land disposal of solid waste, or the treatment, storage, or disposal of hazardous waste shall be located, designed, constructed, operated, maintained and closed in a manner so as not to pose a reasonable probability of environmental contamination that would result in a limitation of available use of natural resources. Environmental performance standards shall include but not be limited to:

(1) Prevention of adverse effects on both groundwater and subsurface environment water quality considering the volume and type of waste; hydrogeological characteristics; quantity, quality and direction of groundwater flow; proximity and withdrawal rates of existing groundwater users; potential damage to human health, wildlife, crops and vegetation caused by exposure to waste constituents.

(2) Prevention of adverse effects on surface water considering their proximity, established water quality standards, existing use, rainfall patterns, and other applicable factors from subsection (1).

(3) Prevention of adverse effects on air quality consider-

ing the potential for fire or other volatilization, and for wind dispersal of waste.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

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 startup cells, cell tapping, anode changing, ore additions, or any other potroom operation but does not include operations due to 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 except startup cells;

(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 discharged into the atmosphere no gases which contain total fluorides in excess of 1.9 lb/ton of aluminum produced except that emissions between 1.9 lb/ton and 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. [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.]

(c) [(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, except as provided for under Section 9.

(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.

Section 9. Variance. To allow for technological and economic circumstances unique to a source, variation from the visible emission standard for sick or startup cells specified in Section 3(2) shall be granted by the department when supported by adequate technical and economic documentation reasonably acceptable to the department.

JACKIE SWIGART, Secretary

ADOPTED: August 14, 1981

RECEIVED BY LRC: August 14, 1981 at 10:30 a.m.

PUBLIC HEARING: A public hearing will be conducted October 2, 1981 at 10 a.m. (local time) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Written comments are due on or before October 2, 1981 at the Frankfort Office of the Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, to the attention of Mr. Larry Wilson, Supervisor, Development and Evaluation Branch, (502) 564-3382.

APPENDIX A TO 401 KAR 61:165 EQUATION FOR POTROOM GROUP EMISSIONS

$$E_P = \frac{(CQ)_1 10^{-6} + (CQ)_2 10^{-6}}{M}$$

Where:

E_P = Primary control system emissions of total fluorides in kg/metric ton of aluminum produced at wet scrubbing plants.

= Potroom group emissions of total fluorides in kg/metric ton of aluminum produced at dry scrubbing plants.

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(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 roof monitor effluent gas stream at dry scrubbing plants. (CQ)₂ shall be equal to zero for wet scrubbing plants.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:005. Implementation plan.

RELATES TO: KRS 158.650 to 158.740

PURSUANT TO: KRS 13.082, 156.070, 158.670, 158.700, 158.730

NECESSITY AND FUNCTION: KRS 158.650 to 158.740, the Educational Improvement Act of 1978, mandates a program of assessment, testing, and educational improvement plans to insure the right of public school students to acquire the basic knowledge and learning skills necessary to complete high school, pursue post secondary education, or assure such students access to programs and services appropriate to their educational needs in the areas of basic academic and learning skills development, with the Department of Education to administer the act pursuant to regulations of the State Board of Education and to develop a comprehensive implementation plan. This regulation implements the duties and functions of the Educational Improvement Act of 1978 by adopting the Department of Education's implementation plan.

Section 1. Pursuant to the authority vested in the State Board of Education by KRS 158.670, [158.570,] each local district board of education shall submit to the State Department of Education for approval a local plan for educational improvement. The plan shall include the following: process goals, product goals, names of individuals involved in developing the plan, area of weaknesses, a list of priorities, objectives and activities, calendar of events, and progress report for previous year. The plan shall be on forms supplied by the State Department of Education. [the "Educational Improvement Implementation Manual," as adopted on September 6, 1978, is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies of this manual may be obtained from the Department of Education.]

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: July 21, 1981

RECEIVED BY LRC: August 7, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 5:050. Public school programs.

RELATES TO: KRS 157.312, 157.315, 157.360, 158.030, [158.070,] 158.090, [158.300]

PURSUANT TO: KRS 13.082, 156.070, 157.315, 157.360 [156.160]

NECESSITY AND FUNCTION: KRS 157.312 and 158.090 authorize public school kindergartens; KRS 157.315 requires the State Board of [for Elementary and Secondary] Education to adopt regulations defining and prescribing the criteria for kindergartens in the common schools; KRS 157.360 allows the Superintendent of Public Instruction to allot kindergarten units under regulations of the State Board; and KRS 158.030 sets forth the kindergarten entrance age requirements. This regulation sets forth the criteria for public school kindergartens, the procedures for allotment of units, and entrance requirements [and the eligibility requirements of pupils to attend these classes].

Section 1. Personnel qualified to serve in an approved unit for kindergarten shall hold Kentucky teacher certification as follows:

(1) A Kentucky certificate endorsement for kindergarten teaching; or

(2) A Kentucky certificate valid for kindergarten teaching; or

(3) A Kentucky certificate valid for elementary classroom teaching initially issued prior to September 1, 1971.

Section 2. (1) State funding for a public school kindergarten unit shall be based on average daily attendance. A Foundation Program kindergarten unit shall consist of twenty-three (23) full-time equivalent kindergarten children in average daily attendance in a school district as follows:

(a) The tentative allotment of units shall be based on the total district-wide average daily attendance of kindergarten children enrolled in Foundation Program classes the previous school year.

(b) A fractional portion (tenths) of a unit shall be awarded on the ratio of one (1) unit to twenty-three (23) full-time equivalent kindergarten children.

(c) The final allotment of Foundation Program kindergarten units shall be based on the total district-wide first two (2) months' average daily attendance of Foundation Program kindergarten children for the current school year. The total district-wide average daily attendance of programs operating under Section 3, subsections (2), (3), and (4) shall be calculated on the program's first month of the second semester operation. [Allocated for each fifty (50) kindergarten children enrolled in a school district. A fractional portion of a unit will be awarded on the ratio of one (1) unit to fifty (50) children enrolled.]

(2) If the total kindergarten units appropriated in the state biennium budget bill are not allocated based on the average daily attendance [enrollment] requirement, the Superintendent of Public Instruction may [shall] make a percentage reduction in the average daily attendance [enrollment] requirement. This reduction shall not be lower than twenty (20) average daily attendance. [in order to allot the total units appropriated.]

Section 3. Scheduling for a kindergarten unit shall meet one (1) of the following plans, *with a kindergarten school day to consist of six (6) hours unless shortened as provided for in KRS 158.060*:

- (1) Conduct half-day session(s) for the school year.
- (2) Conduct all day session(s) for the first semester. Conduct all day session(s) for the second semester. The second semester enrollment shall be children that have not previously enrolled in a kindergarten session in the district.
- (3) Conduct alternate day session(s) all year.
- (4) A school district desiring to implement a plan other than those listed in Section 3 (1) (2) and (3) shall submit a request for approval of such plan to the Assistant Superintendent for the Bureau of Instruction prior to implementing such plan.

Section 4. Any child who is five (5) years of age or who may become five (5) years of age by October 1, 1980, and any year thereafter, shall be permitted to enroll in a public school kindergarten. [Notwithstanding the age requirement listed above, each child who has satisfactorily completed nursery school and will be five (5) years of age on or before December 31, 1980, shall be eligible for enrollment in a public kindergarten program in the 1980-81 school year and in the first grade during the 1981-82 school year.]

Section 5. The program shall include *appropriate developmental* [desirable] experiences in social living, physical development, emotional growth and stability, *creative expression and in academic areas including math, language, science, and social studies.* [language arts, science, music, art, and creative activities.] The program shall provide opportunities and experiences in accordance with each child's level of comprehension and maturation.

Section 6. The facilities shall be in compliance with the regulations of the Department of Education's Division of Buildings and Grounds.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: July 21, 1981

RECEIVED BY LRC: August 7, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 20:005. Kentucky standards for preparation program approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal

qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference the Kentucky Standards for the Preparation-Certification of Professional School Personnel, which shall include the standards and procedures for the approval of college and university curricula for the preparation programs.

Section 2. The Kentucky Standards for the Preparation-Certification of Professional School Personnel is amended by the selective revision of certain standards, the deletion of certain standards, and by the addition of other new standards, and the amended document is hereby incorporated by reference and identified as the Kentucky Standards for the Preparation-Certification of Professional School Personnel, revised July [May], 1981. A copy of this document can be obtained from the Bureau of Instruction, Department of Education, Capital Plaza Tower, Frankfort, Kentucky.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: July 21, 1981

RECEIVED BY LRC: August 7, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:020. Adoption of 29 CFR Part 1910.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards for General Industry, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the March 1979 Edition, Copyright Date 1979, These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.20 "Access to employee exposure and medical records" and Appendices A and B as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, is adopted by reference with the following amendments:

(a) 29 CFR 1910.20(e)(1)(i) is amended to read "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not later than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

(b) 29 CFR 1910.20(e)(1)(ii) is amended to read "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within the period of time previously specified assure that either:"

(c) 29 CFR 1910.20(e)(1)(v) is added and shall read "Original x-ray film will be made available to the employee and/or designated representative for inspection, review, and duplication under the supervision of the employer or his representative. The employer is not required to bear the cost of duplication of x-ray film."

(d) 29 CFR 1910.20(e)(3)(ii) shall read "Whenever OSHA seeks access to personally identifiable employee

medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days. OSHA will have access to employee medical records maintained by an employee's personal physician fifteen (15) days after written consent is given to OSHA by the affected employee. The consent must contain a general description of the medical information that is authorized to be released."

(e) 29 CFR 1910.20(g)(1) is amended to read "Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform each employee exposed to toxic substances or harmful physical agents of the following:"

(f) 29 CFR 1910.20(g)(2) is amended to read "Each employer shall make readily available to employees a copy of this standard and its appendices, and shall make readily available to employees any informational materials concerning this standard which are provided to the employer by the Assistant Secretary of Labor for Occupational Safety and Health."

(4) Subparagraph 29 CFR 1910.23(a)(7) shall be amended to read as follows: "Every temporary or permanent floor opening shall have standard railings, or shall be constantly attended by someone."

(5) Revision to 29 CFR 1910.35 "Definitions" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(6) Revision to 29 CFR 1910.37 "Means of egress general," as printed in the Federal Register, Volume 45, Number 179, Friday, September 13, 1980, is adopted by reference.

(7) 29 CFR 1910.38 "Employee emergency plans and fire prevention plans," and the appendix to Subpart E as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, are adopted by reference.

(8) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(9) 29 CFR 1910.106(a)(3) shall read as follows:

"The term automotive service station, or service station, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(10) Revision to 29 CFR 1910.107 "Spray finishing using flammable and combustible materials," as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(11) Revision to 29 CFR 1910.108 "Dip tanks containing flammable or combustible liquids," as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(12) Revision to 29 CFR 1910.109 "Explosives and blasting agents," as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(13) 29 CFR 1910.141(c)(2)(i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(14) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(15) 29 CFR 1910.155 "Scope, application and definitions applicable to this subpart," as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(16) Revision to 29 CFR 1910.156 "Fire brigades" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference, except:

"1910.156(a)(2) 'Application' is amended to read 'The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply only to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters.'"

(17) Revision to 29 CFR 1910.157 "Portable fire extinguishers" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(18) Revision to 29 CFR 1910.158 "Standpipe and hose systems" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(19) Revision to 29 CFR 1910.159 "Automatic sprinkler systems," as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(20) Revision to 29 CFR 1910.160 "Fixed extinguishing systems, general" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(21) Revision to 29 CFR 1910.161 "Fixed extinguishing systems, dry chemical" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(22) 29 CFR 1910.162 "Fixed extinguishing systems, gaseous agent" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(23) 29 CFR 1910.163 "Fixed extinguishing systems,

water spray and foam" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(24) 29 CFR 1910.164 "Fire detection systems" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(25) Revision to 29 CFR 1910.165 "Employee alarm systems" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, is adopted by reference.

(26) Appendices A, B, C, D, and E to 29 CFR 1910 Subpart L as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980, are adopted by reference.

(27) The "Occupational Safety and Health Standards-Fire Protection; Means of Egress; Hazardous Materials; Corrections" as printed in the Federal Register, Volume 46, Number 84, Friday, May 1, 1981, are adopted by reference.

(28) [(27)] 29 CFR 1910.177 "Servicing Multi-Piece Rim Wheels" as printed in the Federal Register, Volume 45, Number 20, January 20, 1980, a copy of which is attached hereto, is adopted by reference.

(29) [(28)] Amend 29 CFR 1910.217 Mechanical Power Press Standards to read:

(a) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(b) "1910.217(b)(8)(iv) All a.c. control circuits and solenoid coils shall be powered by not more than a nominal 120-volt a.c. supply obtained from a transformer with an isolated secondary."

(c) 1910.217(d)(3), (d)(5), (d)(9)(i) The references to paragraph (b) shall be changed to paragraph (c).

(30) [(29)] Subparagraph 29 CFR 1910.252(a)(6)(iv), (d)(2) shall be corrected to read as follows:

"Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.309(a) for Class I, Division 2 locations."

(31) [(30)] Revisions to 29 CFR 1910 Subpart S "Electrical" as published in the Federal Register, Volume 46, Number 11, Friday, January 16, 1981, are adopted by reference as follows:

(a) 1910.301 "Introduction"

(b) 1910.302 "Electrical utilization systems"

(c) 1910.303 "General requirements"

(d) 1910.304 "Wiring design and protection"

(e) 1910.305 "Wiring methods, components, and equipment for general use"

(f) 1910.306 "Specific purpose equipment and installations"

(g) 1910.307 "Hazardous (classified) locations"

(h) 1910.308 "Special systems"

(i) 1910.399 "Definitions applicable to this subpart"

(j) Appendix A—Reference documents.

(32) [(31)] 29 CFR 1910.423 Commercial Diving Operations; Corrections, Federal Register, Volume 45, Number 121, June 20, 1980, is adopted by reference.

(33) [(32)] Revisions to 29 CFR 1910.440 "Commercial diving operations recordkeeping requirements" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(34) [(33)] Revisions to 29 CFR 1910.1001 "Asbestos" as printed in the Federal Register, Volume 45, Number

102, Friday, May 23, 1980, are adopted by reference.

(35) [(34)] Revisions to 29 CFR 1910.1003 "4-Nitrobiphenyl" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(36) [(35)] Revisions to 29 CFR 1910.1004 "alpha-Naphthylamine" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(37) [(36)] 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(38) [(37)] Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(39) [(38)] Revisions to 29 CFR 1910.1006 "Methyl Chloromethyl ether" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(40) [(39)] Revisions to 29 CFR 1910.1007 "3-3'-Dichlorobenzidine (and its salts)" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(41) [(40)] Revisions to 29 CFR 1910.1008 "bis-Chloromethyl ether" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(42) [(41)] Revisions to 29 CFR 1910.1009 "beta-Naphthylamine" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(43) [(42)] Revisions to 29 CFR 1910.1010 "Benzidine" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(44) [(43)] Revisions to 29 CFR 1910.1011 "4-Aminodiphenyl" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(45) [(44)] Revisions to 29 CFR 1910.1012 "Ethyleneimine" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(46) [(45)] Revisions to 29 CFR 1910.1013 "beta-Propiolactone" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(47) [(46)] Revisions to 29 CFR 1910.1014 "2-Acetylaminofluorene" as printed in the Federal Register, Volume 4, Number 102, Friday, May 23, 1980, are adopted by reference.

(48) [(47)] Revisions to 29 CFR 1910.1015 "4-Dimethylaminoazobenzene" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(49) [(48)] Revisions to 29 CFR 1910.1016 "N-Nitrosodimethylamine" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(50) [(49)] Revisions to 29 CFR 1910.1017 "Vinyl chloride" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(51) [(50)] Revisions to 29 CFR 1910.1018 "Inorganic arsenic" and "Appendix A-Inorganic Arsenic Information Sheet" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(52) [(51)] 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Add Appendices A, B, and C which appeared in the Federal Register Volume 44, Number 206, October 23, 1979, hereby adopted by reference, copy attached hereto.

(b) Corrections to the Appendices which have been adopted by the U.S. Department of Labor, printed in the Federal Register, Volume 44, Number 232, November 30, 1979, a copy of which is attached hereto, is adopted by reference.

(c) Paragraph (a)(2) shall read: "This section does not apply to the Construction Industry or to Agricultural operations covered by 29 CFR 1928."

(d) Revisions as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(53) [(52)] 29 CFR 1910.1028 "Occupational Exposure to Benzene," and footnote 1, Table Z-2 are deleted in their entirety.

(54) [(53)] Revisions to 29 CFR 1910.1029 "Coke oven emissions" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(55) [(54)] Amendments to 29 CFR 1910.1043 "Occupational Exposure to Cotton Dust":

(a) Relating to new start-up dates, printed in the Federal Register, Volume 45, Number 39, February 26, 1980, a copy of which is attached hereto, is adopted by reference.

(b) Revisions to 29 CFR 1910.1043 printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(56) [(55)] Revisions to 29 CFR 1910.1044 "1,2-Dibromo-3-Chloropropane" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference.

(57) [(56)] 29 CFR 1910.1045 "Acrylonitrile" is amended as follows:

(a) Revisions to 29 CFR 1910.1045 "Acrylonitrile" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, is adopted by reference.

(b) Revisions to "Appendix A-Substance Safety Data Sheet for Acrylonitrile" as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, is adopted by reference.

(c) 29 CFR 1910.1045(k) "Waste Disposal" is amended to read 29 CFR 1910.1045(l) "Waste Disposal."

(58) [(57)] Revisions to 29 CFR 1910.1046 "Exposure to cotton dust in cotton gins" [as printed in the Federal Register, Volume 45, Number 102, Friday, May 23, 1980, are adopted by reference] is revoked.

EUGENE F. LAND, Commissioner

ADOPTED: July 23, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: July 31, 1981 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:032. Adoption of 29 CFR Part 1928.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the Board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of agriculture.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1928, the Occupational Safety and Health Standards, published in the Federal Register April 25, 1975 Edition, Volume 40, Number 81, Government Printing Office, Washington, D. C. 20402. These standards are hereby adopted by reference with the following additions, exceptions and deletions.

(1) 29 CFR Part 1928.1 shall read as follows:

"This part contains Occupational Safety and Health Standards applicable to agriculture operations. The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1928 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) The additions which have been adopted by the U. S. Department of Labor, relating to Agricultural Standards, which are contained in 29 CFR 1928.57, Subpart D—Safety for Agricultural Equipment, published in the Federal Register, Volume 41, No. 47, Tuesday, March 9, 1976, and Volume 41, No. 109, Friday, June 4, 1976, copies of which are attached hereto, are hereby adopted by reference.

(3) Amendments which have been adopted by the U. S. Department of Labor by making several nonsubstantive editorial changes in 29 CFR Paragraph 1928.57, published in the Federal Register, Volume 41, No. 206, Friday, October 22, 1976, copies of which are attached hereto, are hereby adopted by reference.

(4) 29 CFR 1928.21 is hereby amended by revising Paragraph (b) as follows: Except to the extent specified in Paragraph (a) of this section, the standards contained in Subparts B through T and Subpart Z of 29 CFR 1910, as adopted by 803 KAR 2:020, do not apply to agriculture operations[, except as found in subsection (5) below].

[(5) A new Subpart I, Toxic and Hazardous Substances, is added to 29 CFR 1928. 29 CFR 1928.113 Occupational Exposure to Cotton Dust, which is identical to 29 CFR 1910.1046, printed in the Federal Register, Volume 43, No. 122, June 23, 1978, (43 F. R. 27434) and the corrections and omissions to this standard which appeared in the Federal Register, 43 F. R. 28474, June 30, 1978 and 43 F. R. 35035, August 8, 1978, copies of which are attached hereto, are hereby adopted by reference.]

EUGENE F. LAND, Commissioner

ADOPTED: July 23, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: July 31, 1981 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:010. Licensing blasters.

RELATES TO: KRS 351.315, 351.325

PURSUANT TO: KRS 13.082, 351.335

NECESSITY AND FUNCTION: KRS 351.315 requires the Department of Mines and Minerals to license blasters. This regulation spells out the licensing requirements and duties of a blaster to effect this law.

Section 1. Licensing of Blasters. (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives is used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:

(a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster; and

(b) Has passed an examination, prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.

(2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a fee of *twenty dollars (\$20)* [ten dollars (\$10)]. If the applicant is successful in passing the examination, a license to detonate explosives shall be issued upon the payment of an additional fee of five dollars (\$5).

(3) The department shall have two (2) classifications of blasting licenses and two (2) tests; one (1) termed "Kentucky Blasters License," and one (1) termed "Limited Kentucky Blasters License."

(4) Persons holding a limited Kentucky blasters license shall not conduct a blasting operation in which more than five (5) pounds of explosives are used in a single charge.

(5) Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee of *ten dollars (\$10)* [five dollars (\$5)]. The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.

(6) A blaster who fails to renew his Kentucky Blasters License within two (2) years of the expiration date of his last valid license shall be required to reapply for a license and retake the blasters examination as specified in subsection (2).

(7) [(6)] The commissioner may grant a thirty (30) day non-renewable blaster's license to any person qualified under KRS 351.315(3) upon the payment of a five dollar (\$5) fee.

(8) [(7)] The definitions of a blaster for the purpose of a license is:

(a) A blaster is a person who makes any or all of the following decisions:

1. Decides hole size, spacing, or depth;
2. Decides total quantity of explosives;
3. Decides quantity of explosives in each hole;
4. Decides timing delays to be used.

(b) He must be present when the charge is detonated and either physically detonates the charge or gives the order to detonate the charge.

(9) [(8)] A licensed blaster shall not take any instruction on the activities covered in subsection (8) [(7)] from a person not holding a blaster's license if compliance with such instruction will result in an unlawful act or unlawful effect of the blast.

(10) [(9)] Anyone failing a blaster's examination may not retake the examination in less than thirty (30) days.

(11) The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.

(12) Persons involved in seismic exploration of the subsurface geology and detonating explosives solely for the purpose of monitoring seismic waves generated by such a detonation must hold either a Kentucky blaster's license or a Limited Kentucky blaster's license. The five (5) pound limitation in subsection (4) may be waived for the purpose of seismic exploration based upon a written request to the department.

(13) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination. Application for such license shall be on a form furnished by the department and accompanied by a fee of twenty-five dollars (\$25).

WILLIARD STANLEY, Commissioner

ADOPTED: July 29, 1981

APPROVED: LARRY SCHNEIDER, Director

RECEIVED BY LRC: July 30, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Larry C. Schneider, Director, Division of Explosives and Blasting, Department of Mines and Minerals, P. O. Box 680, Lexington, Kentucky 40586.

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

Division for Consumer Health Protection

(Proposed Amendment)

902 KAR 50:040. Hauler requirements.

RELATES TO: KRS 217C.010 to 217C.990

PURSUANT TO: KRS 13.082, 194.050, 211.090, 217C.040

NECESSITY AND FUNCTION: The Department for Human Resources is directed by KRS Chapter 217C to regulate milk haulers. The function of this regulation is to provide uniform standards for the transportation, handling, sampling, examination and grading of raw milk and the issuance and revocation of milk hauler permits.

Section 1. Milk Hauler Permit Requirements. No person shall haul raw milk in this state without a permit from the department. Provided, however, that individual producer delivery or transport delivery between plants or receiving and transfer stations shall not be required to have a permit. Owners of bulk tank route trucks shall immediately notify the department of any new haulers. All new haulers shall be required to obtain a permit within sixty (60) days of their employment. Permits shall not be transferable with respect to persons or locations. Permits shall continue in force unless suspended or revoked for cause. All haulers collecting raw milk samples to be used by the department for regulatory purposes shall be permitted by the department as an "Official Sample Collector," according to this regulation.

Section 2. Bulk Milk Hauler Standards. Each bulk milk hauler shall be equipped with an accurate pocket-type metal stemmed thermometer when collecting milk from dairy farms, and shall observe the following sanitary practices in his milk collection operations:

(1) His hands and outer clothing shall be clean during all pick-up operations.

(2) The milk shall be smelled through the port opening in the cover of the bulk tank for off-odors prior to raising the lid for a visual examination of the raw milk.

(3) A visual examination shall be made of the raw milk in the bulk tank. Milk which is visibly unfit for human consumption in accordance with the provisions of KRS Chapter[s] 217 and regulations pursuant to Chapter 217C shall be rejected and not collected. The lid shall be closed immediately after making the visual examination whenever possible.

(4) The milk transfer hose used to withdraw raw milk from the farm bulk tank shall not exceed twenty (20) feet in length and enter the milkhose only through the porthole provided for that purpose.

(5) If milk has leaked past the core of the outlet valve of the farm bulk tank, the outlet port of the valve shall be washed and sanitized prior to withdrawing the milk.

(6) When the cap from the end of the transfer hose is being removed it shall be handled in a sanitary manner and stored so as to prevent it from being contaminated while milk is being pumped from the farm bulk tank into the bulk milk tank truck.

(7) After the milk has been removed from the farm bulk tank, the bottom of the tank shall be observed for sediment and other foreign material.

(8) Sediment and other foreign material conditions observed shall be noted on the plant and producer's copy of the ticket.

(9) The date [and time] of milk collection and the temperature of the raw milk shall be entered on the weigh ticket.

(10) After the milk has been removed from the farm bulk tank, the transfer hose shall be removed and recapped before the farm bulk tank is rinsed with water. After recapping, the transfer hose shall be rinsed free of exterior soil.

(11) A bulk milk hauler shall not collect milk from any dairy farm for delivery to a milk plant, receiving station or transfer station unless such farm holds a valid permit or authorization for sale from the department [or local health department having jurisdiction].

(12) At the time of collection of milk from each dairy farm, the bulk milk hauler shall collect the entire volume of acceptable milk being stored in the bulk tanks on each dairy farm. Only milk in properly constructed and operated equipment shall be collected.

(13) All precautions shall be taken to prevent the entrance of flies into the milkhous.

(14) At least once each three (3) months, the bulk milk hauler shall check the accuracy of the thermometer of each of his milk producer's bulk milk tanks against his pocket-type thermometer. The temperatures obtained from both thermometers shall be entered on the weigh ticket. If there is a difference between the readings on the two (2) thermometers, the reading of the bulk milk hauler's thermometer shall be reported as the official temperature on that day and each succeeding day until the thermometer on the bulk milk tank is adjusted or repaired to be accurate.

(15) If milk in a bulk tank is rejected, the reason for rejection shall be noted by the hauler and the tank tagged with appropriate tags prepared by or approved by the department.

Section 3. Sampling Appurtenances for Bulk Milk Trucks. Every bulk milk tank truck used to collect raw milk on a bulk milk route shall be equipped with:

(1) A sample dipper or other sampling device of sanitary construction approved by the department.

(2) A container suitable for the storage of the sample dipper in a sanitizing solution enroute between the farms on the bulk route. If other sampling devices are used, they shall be protected from contamination.

(3) A sample carrying case constructed of such material and in such a way as to maintain producer raw milk samples at a temperature of thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit from the time such samples are collected until they are delivered to the milk plant, receiving station or transfer station.

(4) A sample rack approved by the department and of sufficient size to hold at least one (1) sample of raw milk in an upright position from each bulk milk tank of each milk producer represented on the load of raw milk being transported to a milk plant, receiving station or transfer station plus one (1) sample to be used for temperature determination.

Section 4. Sample Collection From Bulk Tanks. The milk hauler shall collect a sample of milk from each farm bulk tank after the milk has been thoroughly agitated (a minimum of five (5) minutes) and before opening the outlet valve, at a frequency directed by the department. Such sample shall be collected in the following manner:

(1) If a sample dipper is used, it shall be clean and transported between farms on the bulk milk route in a sanitizing solution equivalent to 100 p.p.m. chlorine or other approved sanitizers. Other sampling devices shall be kept free of contamination.

(2) After removal from the sanitizing solution, all of the sanitizing solution shall be drained from the sample dipper.

(3) The sample dipper shall then be rinsed twice in the milk in the farm bulk tank and then drained.

(4) A sample shall then be collected through the port opening in the cover of the bulk tank and placed in a sterile container.

(5) The sample container shall then be closed and immediately placed in melting ice water in the sample carrying case on the bulk milk tank truck in such a way that the top of the sample container is not submerged in the refrigerant. Producer raw milk samples shall be maintained at a temperature of thirty-two (32) degrees Fahrenheit to forty (40) degrees Fahrenheit until delivered to the milk plant, receiving station or transfer station. Such samples shall not be frozen.

(6) Each sample collected shall be identified with date the sample was collected, the temperature of the milk in the farm bulk tank, the route and *name* [patron] or identity number of the milk producer and the person collecting the sample.

(7) Prior to or at the time of collecting raw milk from the first milk producer on the bulk milk route, the bulk milk hauler shall collect a sample of milk for temperature determination. *The temperature sample shall have date, time, and temperature recorded on the sample container.* Such sample shall be refrigerated until it arrives at the laboratory.

(8) Sampling equipment shall be rinsed in clean water immediately after each usage.

(9) If one-pint samples are used to conduct the required sediment tests of each milk producer's raw milk, the bulk milk hauler shall collect and identify such full one-pint samples as requested by the milk plant, receiving station, transfer station or department. A sample dipper, which shall be cleaned and sanitized prior to the collection of each sample, shall be used. Such one-pint samples shall be collected and transported in such a manner as to not interfere with the proper conduct of sediment tests.

Section 5. Frequency of Raw Milk Pick-up. All raw milk for manufacturing purposes shall be collected as required by 902 KAR 50:050. Raw milk collection frequencies may be waived by the department in the case of emergencies. All Grade A bulk tank raw milk shall be collected at least every forty-eight (48) hours, and all Grade A milk shipped in cans shall be collected every twenty-four (24) hours, except in the case of emergencies.

Section 6. Bulk Milk Tank Truck Owner Standards. (1) Every bulk tank truck used to collect raw milk on a bulk milk route shall be of sanitary design and construction.

(2) The owner of the bulk tank *connected to the truck chassis* shall be responsible for maintaining it and its milk contact appurtenances in good repair and in a clean, sanitary condition. *Additionally, the owner of the bulk tank connected to the truck chassis shall obtain an identification number from the department. The number shall be placed on the rear of the tank in letters at least three (3) inches high.*

(3) Each bulk milk tank truck and its milk contact appurtenances shall be cleaned after the completion of each day's usage and sanitized prior to beginning the next day's operation in a manner and at a location approved by the department.

(a) *Each plant, receiving or transfer station or other location which washes bulk tank trucks shall provide truck wash tags.*

(b) *The company or person responsible for washing the bulk tank truck shall affix a wash tag in the interior pump compartment of the truck signifying the date and location at which the truck and appurtenances were cleaned and sanitized and the signature or initials of the person responsible for cleaning the bulk tank truck and appurtenances. Over the road tankers without rear pump compartments shall have the wash tag affixed to the top manhole cover or the outlet valve.*

(c) *Receiving locations shall not receive milk from a truck not properly tagged signifying date and location cleaned, unless otherwise approved by the department. Cleaning tags shall be removed whenever a truck is unloaded and the tags maintained at the receiving location for a minimum of fifteen (15) days.*

(d) *Trucks which pick up and deliver two (2) loads of*

milk in the same day shall have a new cleaning tag affixed after the first load is delivered explaining why the truck is running unwashed on the second trip.

(e) Wash tag requirements apply to all farm bulk milk pick-up trucks and milk transport tankers. When transport trucks are not washed by the plant which loads the truck, the truck shall have a wash tag prior to loading. Transport trucks or trucks from another plant, receiving or transfer station shall have a properly identified tag to be received and unloaded unless otherwise approved by the department.

(4) The bulk milk tank [truck] and its milk contact appurtenances shall be protected from contamination after being cleaned and sanitized.

(5) Milk in bulk milk tank trucks shall be maintained at a temperature of forty-five (45) [fifty (50)] degrees Fahrenheit or less for Grade A milk and fifty (50) degrees Fahrenheit or less for manufacturing milk from the time of collection until delivered to a milk plant, receiving station or transfer station. Provided, that Grade A milk may be collected within two (2) hours after milking if the blend temperature in the farm bulk cooler does not exceed fifty (50) degrees Fahrenheit.

(6) Milk in farm bulk tanks in excess of forty-five (45) [fifty (50)] degrees Fahrenheit for Grade A milk and fifty (50) degrees Fahrenheit for manufacturing milk shall not be commingled with other producers' milk on a bulk tank truck, except as provided for in subsection (5) above.

(7) The name [and address] of the milk plant or company or the name and address of the owner of the bulk milk pick-up tank shall be legibly marked on both sides or on the rear of the vehicle in letters not less than one and one-half (1½) inches in height.

(8) Each bulk milk route owner shall provide a bulk milk hauler who holds a valid permit for all bulk milk collection. The permit shall be carried on the person or in the vehicle.

Section 7. Milk Plant, Receiving Station and Transfer Station Standards. It shall be the responsibility of the milk plant, receiving station or transfer station to provide competent personnel to receive producer raw milk samples from each bulk milk tank truck. The temperature of the temperature sample (if applicable), shall be recorded and the samples properly identified and stored prior to delivery to the laboratory. The milk plant, receiving station or transfer station shall also be responsible for providing facilities for the storage of producer raw milk samples at a temperature of thirty-two (32) to forty (40) degrees Fahrenheit at which temperature they shall be maintained until they are received by the laboratory for analysis. Producer raw milk samples shall not be transferred to another sample container after they have been collected by the bulk

milk hauler. Required laboratory analysis shall begin no later than the second day after the date the sample was collected. Milk producers and bulk milk haulers shall not receive notice of which samples are to be used for bacteriological analysis.

Section 8. Milk Hauler Permit Suspension, Revocation and Reinstatement. (1) Whenever the department [or local health department having jurisdiction] has reason to believe that a public health hazard exists, or whenever the permit holder has interfered with the department [or local health department] concerned in the performance of their duties, the permit may be suspended immediately upon notice to the permit holder without a hearing. In such event the permit holder may request a hearing which shall be granted as soon as practicable.

(2) In all other instances of violation of the provisions of this regulation, the department [or local health department having jurisdiction] shall serve upon the holder of the permit a written notice of intent to suspend which shall specify the violation(s) in question and afford the holder a reasonable opportunity to correct same.

(3) If the department's reinspection, after the written notice of intent has been issued, indicates the violation(s) have not been corrected, the department may suspend the hauler's permit or require the hauler and owner to appear before the department at a hearing to justify why the permit should not be suspended.

(4) [(3)] Upon written application of any person whose permit has been suspended, or upon application within forty-eight (48) hours of any person who has been served with a notice of intention to suspend and in the latter case before suspension, the department [or local health department having jurisdiction,] shall within a reasonable time proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or notice of intention to suspend. Any permit suspended under the provisions of this section may be reinstated upon application if all violations are found to be corrected upon reinspection by the department. [by submission of proper evidence satisfactory to the department or local health department having jurisdiction that the violations have been corrected.]

DAVID T. ALLEN, Commissioner

ADOPTED: July 21, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 22, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT OF REVENUE

103 KAR 16:141. Repeal of 103 KAR 16:140.

RELATES TO: KRS 141.200, 141.205

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The purpose of this regulation is to repeal the existing regulation dealing with the treatment of Subchapter S and DISC corporations since Kentucky law was changed to exempt Subchapter S corporations from corporation income tax.

Section 1. 103 KAR 16:140, Subchapter S and DISC treatment, is hereby repealed.

ROBERT H. ALLPHIN, Commissioner

ADOPTED: August 5, 1981

RECEIVED BY LRC: August 5, 1981 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner, Department of Revenue, Capitol Annex Building, Frankfort, Kentucky 40620.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection
Division of Waste Management

401 KAR 2:090. Solid waste disposal permit process.

RELATES TO: KRS 224.255, 224.855, 224.880, 224.884

PURSUANT TO: KRS 13.082, 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.855 specifies minimum requisites for issuance of waste disposal permits, and KRS 224.255 and 224.880 prohibit use or operation of a waste disposal site or facility without first obtaining a permit from the department. This regulation specifies the general requirements for all solid waste disposal permits.

Section 1. General Requirements for Permitting. (1) No person or state or federal agency shall engage in the disposal of solid waste without having first obtained a permit, interim permit or a variance from the department.

(2) A permit shall authorize the owner/operator to engage in the disposal of solid waste in a manner prescribed by the department for a period of not more than one (1) year from the date of issuance or renewal. Interim permits or permit-by-rule shall be perpetual until modified, revoked or suspended by the department.

(3) The permit shall confer upon the owner/operator a qualified right to dispose of solid waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state and local laws and regulations, including but not limited to the Clean Water Act (33 U.S.C. 1251), the Safe Drinking Water Act (42 U.S.C. 7041), the Occupational Safety and Health Act (29 U.S.C.

651) and the Endangered Species Act (16 U.S.C. 1530), as amended.

(4) The permit shall be issued in the name of the applicant, and shall be non-transferable without written approval by the department. Any successor operator prior to the final closure of the facility whether by sale, assignment, lease or otherwise may be required to submit an application or independently provide financial responsibility for closure or both.

(5) Disposal of large volume industrial waste by a practice common to the industry may be deemed by the department to operate pursuant to an interim permit (permit-by-rule) if the operation is not in violation of applicable environmental performance standards. These disposal practices include spray irrigation, quarry waste fills, sawdust piles, asphalt residue fills, oil production brine pits, gas and oil drilling mud pits, disposal of septic tank pumpings, utility waste pits, disposal of waste from the mining, processing or primary beneficiation of ores and minerals, volume reduction by incineration, agricultural waste disposal, junkyards, and pits, ponds or lagoons for the disposal of residual waste from pollution control devices, water treatment facilities, or sewage treatment facilities.

Section 2. Issuance of Permit. (1) The department may issue a construction permit upon finding that the person or state or federal agency desiring the permit has met all the requirements for application and has the ability to meet the operational and closure requirements of the solid waste regulations. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(2) No construction permit shall be issued until at least forty-five (45) days have expired following publication of a notice of application as required under KRS 224.855. A verified affidavit from the publisher of the notice, establishing the date of publication, shall be received by the department before a construction permit is issued. This publication shall be made after the owner/operator receives written notice that the department has received a complete application.

(3) An operational permit shall be issued by the department when:

(a) The applicant notifies the department, in writing, that construction has been completed;

(b) A departmental representative inspects the site and verifies in writing that the site has been developed according to plans and that necessary equipment is available to the site; and

(c) The required financial responsibility for closure has been established, by posting a bond or establishing an escrow account as required by KRS 224.884 in an amount of \$10,000 or greater if so determined by an approved closure plan and cost estimate. The approved cost estimate for closure and corresponding bond shall be reviewed and adjusted at least once every five (5) years.

(4) The department shall make a determination whether an application is complete within thirty (30) days of receipt. The department shall act on the complete permit application within ninety (90) days of receipt or shall,

within that time period, inform the applicant of a projected schedule for review.

(5) The department may issue a permit subject to special conditions which include but are not limited to types of wastes which may be accepted or disposed, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable departmental permits.

Section 3. Termination and Renewal of Permit. (1) A permit shall automatically terminate at the end of one (1) year. A shorter period may be specified. An interim permit or permit-by-rule shall be perpetual until modified, revoked, or suspended by the department.

(2) A permit may be renewed. Renewal requests shall be made in writing to the department not less than sixty (60) days prior to the permit expiration date and shall include any changes or modifications in the approved plan of operation for the facility.

(3) The department, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise are being met. The department may request updated information necessary for re-evaluating the permit's suitability for reissuance and impose additional or modified permit conditions if deemed appropriate.

Section 4. Copies and Display of Permits and Application. (1) The applicant shall submit one (1) copy of all information required for review of the permit application to the department.

(2) When review is complete the applicant shall provide the department with at least three (3) copies of the final application for formal certification and issuance of the permit document.

(3) One (1) copy shall be returned to the permittee and the permit with all applicable conditions shall be conspicuously displayed at the solid waste site or facility for the duration of the permit. A copy of the approved application including plans shall be reasonably available to the site.

Section 5. Modification of Operating Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall submit in writing to the department for preliminary review any proposed change in the approved closure and other plans or any proposed change in the operating methods. "Any change" includes but is not limited to any additional wastes not listed at the time of the original permit issuance or any other request for a variance from existing permit requirements.

(2) The department shall notify the owner within thirty (30) days if the modification will require prior administrative analysis and review and the payment of a fee, or if further information is required before the modification, change, or variance can be approved or denied. The department will respond to the request within thirty (30) days of receipt of all applicable fees and information with a letter of acknowledgement, issuance of a variance or issuance of a permit modification as appropriate.

(3) The owner/operator shall not proceed with the proposed closure or change in operating methods without written approval of the department.

Section 6. Repealer and Effective Dates. (1) 401 KAR 2:090 through 401 KAR 2:110 supersede solid waste regulation 401 KAR 2:010, and 401 KAR 2:010 is hereby repealed.

(2) All persons subject to the solid waste regulations with existing permits shall meet the changed requirements relating to design and construction upon application for annual permit renewal, or enter into a compliance schedule with the department for purposes of meeting the changed requirements.

(3) All persons subject to the solid waste regulations shall meet the changed solid waste facility operating standards within ninety (90) days of the effective date of the regulations.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 2:095. Application, design and operating standards for sanitary landfills.

RELATES TO: KRS 224.255, 224.855, 224.880

PURSUANT TO: KRS 13.082, 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the department to adopt regulations for the management of solid waste. This regulation sets forth the permit application requirements and general design and operating requirements for sanitary landfills.

Section 1. Contents of Permit Applications. A person or state or federal agency desiring a landfill permit shall submit a complete application to the department. The application shall be on a form and presented in a manner as prescribed by the department, and shall include, but not be limited to, the following:

(1) Name, address, and phone number of applicant. If applicant is a government agency, corporation, company or partnership, include the name and address and phone number of process agent or other contact individual.

(2) Written certification from the county judge/executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.

(3) Approval of the local KRS Chapter 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the landowner.

(5) A copy of the deed to the property and a copy of a lease showing a two (2) year right of re-entry following final closure of the facility if the landowner is not the applicant.

(6) A soils analysis (similar to a U.S. Soil Conservation Service Soils analysis) interpreted for landfill usage.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked.

(8) Plans drawn to scale for the site which shall bear the seal of a professional engineer registered in Kentucky, and shall include the following:

(a) Initial and proposed final contour intervals sufficient to reveal the character of the site.

(b) Existing roads, surface drainage, buildings and other man-made features, on-site fire protection equipment, and property lines.

(c) A buffer zone between the property line and the outer limits of the fill area, and a buffer zone between the fill and any existing residence or blue-line streams.

(d) The location of all-weather on-site roads sufficient to handle anticipated traffic.

(e) Site access controls including lockable entrance ways.

(f) Appropriate cross-section and baseline profiles which shall include: existing surface, bedrock, seasonal high water table, limits of excavation, final waste cells, final surface elevations, and other subsurface and surface features including but not limited to shafts, roads and drainage.

(g) A typical lift cross-section showing details of the final cover, length and depth of cells, width of cell walls, and depth of waste.

(h) A diagram illustrating the sequence of the areas to be filled (with methods to be used).

(i) A typical section detail of site roadways, showing base, wearing surface, side slopes, drainage, width, and other information relevant to roadway design.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site using roads or highways.

(b) A description of the sequence of operation.

(c) A list of all types of wastes which will be disposed at the landfill, the sources which generate the waste, the chemical and physical characteristics of industrial or special wastes, and the anticipated volume of each category of waste.

(d) The source and availability of equipment including back-up equipment and fire protection equipment.

(e) An engineering statement of the site flood frequency exposure.

(f) The number of acres to be filled and the total number of acres to be permitted, including buffer zone.

(g) A brief safety and communication plan, including certification of fire protection from the appropriate fire marshal or local official and method of emergency communication.

(h) A description of the access controls.

(i) A description of the covering program including frequency of cover, volume and source of borrow material available, and total estimated volume and source of cover required (final, daily and interim).

(j) The proposed revegetation program, including provisions for liming, fertilization, seed types and schedule, erosion control during early growth period, and interim cover vegetation program.

(k) A final cover maintenance program covering the entire site and lasting two (2) years beyond closure, to include erosion control, reseeding, refertilization and growth control.

(l) A detailed plan for closure of the landfill in accordance with KRS 224.884 along with an estimate of closure costs.

(m) The estimated life of the site in volume and number of years.

(n) A description of the method to be used for compac-

tion of waste and cover material including the placement of waste and direction of compaction, the placement of cover material and direction of compaction, and the ground pressure developed by the equipment used for compaction.

(o) Such additional information as the department deems necessary for a determination regarding issuance of the permit.

Section 2. General Design Requirements. (1) Landfills in the 100-year floodplain shall be designed and operated to prevent the washout of wastes. Further, they shall not restrict the flow of the 100-year flood or significantly reduce the temporary water storage capacity of the floodplain. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data is not available, the frequency of flood exposure shall be established by the unit hydrograph technique.

(2) Landfills subject to a high seasonal water table shall be restricted to sites which provide greater than two (2) feet of compacted earth between deposited waste and the maximum water table, and include measures to prevent contamination of groundwater.

(3) The bottom of the waste in the landfill shall be at least two (2) feet above bedrock, sand or gravel.

(4) Landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(5) Surface contours shall minimize surface water running onto or through the operational or completed fill area. Surface storm water features shall be designed for the maximum flows occurring up to a 100-year, twenty-four (24) hour storm flows. Surface water sediment basins shall be designed to detain ten (10) year, twenty-four (24) hour storms with emergency spillway flows of 100-year, twenty-four (24) hour storms.

(6) Disposal of wastes presenting special handling problems shall be separately considered in design of the landfill.

(7) A 100-foot minimum buffer zone between the fill area and the property line, a 200-foot minimum buffer zone between the fill and a blue-line stream, and a 250-foot minimum buffer zone between the fill and existing residences shall be provided.

(8) Adequate cover material shall be available to cover solid wastes at intervals sufficient to prevent fire hazards, unsightly appearance, disease vectors and for interim and final cover.

(9) Sufficient equipment shall be available to comply with the requirements of this regulation. This equipment is not required on-site at all times.

(10) Other requirements may be stipulated by the department.

Section 3. General Operating Requirements. (1) The owner/operator of a landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the solid waste facility permit issued by the department, and the approved operational plan filed with the department.

(2) Landfill operators shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes which are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited at a location safely removed from the normal fill area.

(3) No liquids or hazardous wastes shall be discharged to or placed in a landfill without obtaining a permit modification or a written variance from the department.

(4) The grounds in and about a landfill shall not be allowed to become a nuisance. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(5) Scavenging is prohibited. Salvage and recycling operations shall not be allowed in conjunction with a landfill unless conducted in a sanitary manner.

(6) Landfill operators shall not allow uncontrolled public access which would expose the public to potential health and safety hazards. Days and time of operation shall be clearly posted.

(7) Landfill operators shall not allow a discharge of fill material, erosion sediment, leachate or other pollutants into waters of the Commonwealth that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act or that exceeds the water quality standards for surface waters established in 401 KAR 5:031.

(8) Final cover and closure.

(a) Those areas of a landfill that will receive no additional deposits of solid waste shall receive final cover within a time period specified by the department not to exceed one (1) year. A minimum final cover of two (2) feet shall be required in addition to any daily and interim cover required.

(b) Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the department to determine compliance with approved plans and specifications. The owner/operator shall submit a closure schedule based on the approved closure plan thirty (30) days prior to the last intended use of a solid waste facility.

(c) Final cover shall be graded as provided in the approved closure plan in a manner to prevent ponding. For a period of two (2) years, the surface of final cover shall be maintained at the proper elevation.

(d) Final cover shall be revegetated. After grading, final cover shall be fertilized, as necessary, seeded, and/or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner/operator may be required to repeat this process until adequate vegetation is obtained to insure soil stabilization.

(e) Other necessary corrective work required by the department, if any, shall be performed before the landfill is accepted as closed and financial responsibility funds released.

Section 4. Additional Contents of Permit Application for a Residential Landfill. In addition to the requirements of Section 1 of this regulation, the complete application for residential landfills shall include but not be limited to the following additional information:

(1) A leachate contingency plan and specifications for collecting and treating or other control of leachate generated at the site.

(2) A methane gas contingency control plan and specifications shall be given for all sites within 500 feet of a residential, farm, commercial or industrial building.

(3) The plans shall include grades for proper drainage of each lift and a typical cross-section of each lift. Identical lift plans need not be repeated.

(4) The site plan shall show locations of personnel structures, toilet facilities, equipment maintenance areas, emergency communication devices, and all other structures within 1000 feet of the site.

(5) Groundwater monitoring plan to include location

and specifications of wells, and monitoring parameters and schedule may be required by the department upon examination of geological aspects and other relevant factors.

Section 5. Residential Landfill Design Requirements. In addition to the requirements in Section 2 of this regulation, residential landfills shall meet the following design requirements:

(1) Residential landfills shall not be located in the ten (10) year floodplain.

(2) A personnel shelter shall be designed to provide all-weather protection for site operating personnel.

(3) Leachate and methane gas contingency plans shall contain long-term plans for post-closure maintenance if not self-maintaining by design. If long-term maintenance is necessary, a performance bond may be required by the department before the release of financial responsibility closure funds can be approved.

(4) Groundwater monitoring, if required, shall contain a minimum of one (1) upgradient monitoring well and two (2) downgradient wells designed to detect the influence of the site on usable groundwater aquifers.

(5) The concentration of methane generated by a sanitary landfill shall not exceed twenty-five percent (25%) of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components), and shall not exceed the lower explosive limit for methane at the property boundary.

(6) Residential landfills shall be designed to keep surface water flows and leachate separate.

(7) A minimum of four (4) soil boring holes for the first ten (10) acres, and one (1) for each five (5) additional acres shall be required. The "K" test results from a falling head permeability test or other approved permeability test shall be shown on the boring records. The site must have at least twelve (12) inches of 1×10^{-7} cm/sec. material or equivalent under the waste, and six (6) inches of similarly impermeable material over the solid waste.

Section 6. Residential Landfill Operating Requirements. In addition to the requirements in Section 3 of this regulation, residential landfills shall meet the following operating requirements:

(1) The following improvements shall be made before a residential landfill site is placed in operation.

(a) All-weather roads shall be provided within the site for vehicular movement. Separate areas within the site may be provided to allow for wet or dry weather operation and access. When necessary to prevent a dust nuisance, roads within the site shall be surfaced or treated.

(b) A shelter shall be provided which is accessible to operating personnel. The shelter shall be screened and provided with heating facilities and adequate lighting. Safe drinking water, sanitary handwashing and toilet facilities shall be available at or near the site.

(c) Arrangements shall be made for fire protection services. A fire protection district or other public fire protection service is acceptable. When such a service is not available, alternate arrangements shall be made.

(d) Adequate communication facilities shall be provided for emergency purposes.

(e) Operating equipment shall be on-site, capable of spreading and compacting the volume of waste received at the site, and capable of handling the daily and interim earthwork requirements. Backup equipment shall be available within twenty-four (24) hours of primary equipment breakdown.

(2) Residential landfill operations shall be in accordance

with approved plans and the following additional requirements:

(a) Access to the site shall be permitted only when operating personnel are on the site.

(b) Dumping of solid waste on the site shall be confined to the smallest practical area.

(c) Unloading shall be supervised.

(d) Disease vector control measures in addition to daily cover shall be required by the department when necessary.

(e) Solid waste shall be spread within two (2) hours of depositing at the site, in shallow layers not to exceed two (2) feet in depth and compacted with appropriate equipment to the maximum practical density. The completed cell shall consist of the solid waste admitted and compacted during one (1) working day, regardless of overall height and volume. Unless excluded from the site, large bulky items shall be deposited in a manner approved by the department.

(f) A compacted layer of at least six (6) inches of soil shall be used to cover all exposed solid waste at the end of each working day. Surfaces that will not receive an additional depth of refuse or final cover within sixty (60) days shall receive an interim layer of compacted cover of at least one (1) foot total. All daily and interim cover depths shall be maintained until the landfill is closed.

(g) The entire site including the area of the landfill being actively worked shall be maintained as necessary to prevent erosion or washing of the fill, and graded as necessary to drain rain water from the fill area and to prevent standing water. No surface water shall drain to the fill area.

(3) The owner/operator of a residential landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, and a statement that future disturbance of this area should only occur after an examination of potential gas or leachate migration problems. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

Section 7. Additional Contents of Permit Applications for Contained Landfills. In addition to the contents of Sections 1 and 4 of this regulation, the complete application for a contained landfill shall include but not be limited to the following:

(1) A description and specifications of an in-place groundwater monitoring system shall be given in the site plan and the narrative.

(2) A description and details of an in-place leachate collection and treatment system shall be given in the site plan and the narrative.

Section 8. Contained Landfill Design Requirements. In addition to the requirements in Sections 2 and 5 of this regulation, contained landfills shall meet the following requirements:

(1) A groundwater monitoring system approved by the department shall be in place. The monitoring plan shall consist of a minimum of one (1) upgradient and three (3) downgradient wells, and a monitoring schedule.

(2) A leachate collection and treatment or other control system approved by the department shall be in place.

(3) The design and specifications for special areas, if any, which will receive exempt hazardous waste, spill residues and other sludges and residual solid waste shall be approved by the department.

Section 9. Contained Landfill Operating Requirements.

In addition to the requirements in Sections 3 and 6 of this regulation, contained landfills shall meet the following operation standards:

(1) The owner/operator of a contained landfill shall keep permanent records of the source, amount, characteristics and disposal location of any spill residues or small generator exclusion waste, and records as to the source and quantity of all other wastes disposed of at the contained landfill. This record shall be available for departmental inspection and shall be summarized in an annual report. This annual report shall be submitted with the request for permit renewal.

(2) Receipt of exempt hazardous waste shall be limited to those wastes which meet the characteristics for hazardous waste but are not regulated by the state hazardous waste program because they are generated in small quantities (or otherwise exempted) having been determined as not harmful to public health or the environment consistent with the federal Resource Conservation and Recovery Act, as amended.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 2:101. Standards for landfarming facilities.

RELATES TO: KRS 224.255, 224.855, 224.880

PURSUANT TO: KRS 13.082, 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.017 and the waste management provisions of KRS Chapter 224 require the department to adopt regulations for the disposal of solid waste. This regulation sets forth the permit application requirements and general design and operating requirements for landfarming facilities.

Section 1. Contents of Permit Applications. A person or state or federal agency desiring a landfarming facility permit shall submit a complete application to the department. Such applications shall be on a form and presented in a manner prescribed by the department, and shall include, but not be limited to the following:

(1) Names, addresses and telephone numbers of the landowner, applicant and waste sources. If applicant is a government agency, corporation, company or partnership, include the name and address of process agent or other contact individual.

(2) Location and address of the proposed landfarming site.

(3) A copy of the deed to the property and a copy of the proposed lease if the landowner is not the applicant.

(4) Written certification from the county judge/executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.

(5) A soils analysis interpreted for landspreading including:

(a) A physical description of the soil including type, texture, series, erodibility, and permeability in the most restrictive layer within five (5) feet of the surface.

(b) A chemical analysis of the soil including pH, cation exchange capacity (CEC), and a fertilizer analysis.

(c) Written recommendation of the county agricultural extension agent or comparable authority for fertilizer requirements of the proposed site based on soil tests.

(6) A physical and chemical analysis of the waste to be disposed at the site including moisture content, nutrient levels, pH, heavy metals content, polychlorinated biphenyls (PCB's) present, and any other toxic organics.

(7) A U.S. Soils Conservation Service soils map or the equivalent, an original, current U.S.G.S. topographic map showing location of the permit area; and an enlarged, current U.S.G.S. topographic map at a minimum scale of one (1) inch to 400 feet showing the following:

(a) Property lines and boundaries of the proposed site to be covered by the permit.

(b) Buffer zones and proposed application area.

(c) Access and proposed or existing internal roads.

(d) Surface water within 1000 feet of the proposed site boundary including boundaries of the 100-year floodplain.

(e) All existing man-made features within 1000 feet of the proposed site boundary including structures, public roads, utilities and water wells.

(f) Proposed structures including storage buildings or facilities, sheds and sanitary facilities.

(g) Proposed run-off/run-on, and erosion control.

(h) Existing or proposed access control.

(8) The complete application narrative which shall include:

(a) Source and total estimated quantity of sludge or other residual waste to be disposed at the proposed facility.

(b) Projected capacity including number of acres to be permitted and estimated life of the facility and projected application period in years.

(c) A brief description of the waste including origin, method of stabilization, composition and any other pertinent information.

(d) Application method(s) including a description of the process, equipment to be used, labor required and waste storage holding provisions during adverse weather conditions or equipment breakdown.

(e) Application rates and schedules, including depth to which waste will be spread or quantity to be injected, in terms of quantity per acre per year, and a liquid application rate in terms of volume per unit area per hour.

(f) Site description including pervious waste applications to the site, future use of the land, proposed crops or vegetation, slopes, proximity of surface waters, water wells and man-made features.

(g) Geology of the proposed site including depth to bedrock, names and descriptions of geologic formations and geologic characteristics including karst features.

(h) Description of run-off and run-on control provisions, access control provisions and proposed soil amendments, if necessary.

(i) Proposed monitoring program for waste, soil, groundwater and surface water quality.

(j) The proposed revegetation program, including provisions for liming, fertilization, seed types and schedule, erosion control during early growth period and interim cover vegetation program.

(k) A detailed plan for closure of the site including closure cost estimates.

Section 2. General Design Requirements. (1) Facility locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(2) Facilities in the 100-year floodplain shall be designed and operated to prevent the washout of wastes. Further, they shall not restrict the flow of the 100-year floodplain or reduce the temporary water storage capacity of the floodplain or increase the likelihood of flooding downstream from the site. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data is not available, the frequency of flood exposure shall be established by the unit hydrograph technique.

(3) Surface contours shall minimize run-off/run-on onto or through the operational or completed area of the facility. Surface storm water features shall be designed for 100-year twenty-four (24) hour storm flows.

(4) The applicant shall provide such additional information as the department deems necessary for a determination regarding the issuance of a permit.

(5) Other requirements may be stipulated according to the "Guidelines for Landspreading of Solid Waste" published by the department.

Section 3. General Operating Requirements. (1) The facility operation shall be under the direction of a permitted operator who shall be on the site during operating hours.

(2) No hazardous wastes shall be discharged to or placed in a landfarming facility.

(3) Facilities shall not allow access which might expose the public to potential health and safety hazards. All facilities shall be restricted access and have an entrance gate that shall be locked during closing hours and whenever an attendant is not present. Suitable warning signs shall be posted near public access points indicating the type of operation and hazards associated with it, along with the name and address of a contact person.

(4) Wastes shall not be landspread on frozen, ice-covered, or water-saturated soil.

(5) Facilities at which food-chain crops are or will be grown shall comply with the cadmium and PCB application limits in "Application to land used for the production of food-chain crops," 40 CFR 257.3-5, incorporated herein by reference, and other heavy metal limits as prescribed by the department.

(6) No raw or unstabilized sludge shall be landspread.

(7) Facilities which accept sewage sludge and/or septic tank pumpings shall comply with "Sewage sludge and septic tank pumpings," 40 CFR 257.3-6(b), incorporated herein by reference.

(8) Schedules and rates of waste application and schedules of soil and waste monitoring shall be approved by the department.

(9) Landspreading facilities shall not cause a discharge of leachate or pollutants into waters of the Commonwealth that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act, as amended, or that exceeds the water quality standards for surface waters established in 401 KAR 5:031.

(10) The owner/operator shall maintain records of schedules and rates of waste application, all testing and monitoring records, and any other pertinent information as required by the department.

(11) Other requirements may be stipulated according to the "Guidelines for Landspreading of Solid Waste" published by the department.

Section 4. Applicability of Landfarming Facility Permit. (1) Permits shall be issued to the operator and are not necessarily limited to apply to one (1) site. Additional sites may be added through permit modification procedures.

(2) Landspreading of limited quantities of waste deemed to constitute beneficial reuse for agricultural purposes may occur without a permit if upon request a variance is granted by the department.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 2:105. Solid waste disposal fees.

RELATES TO: KRS 224.855, 224.884

PURSUANT TO: KRS 13.082, 224.033(20)

NECESSITY AND FUNCTION: KRS 224.033(20) states that the department may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. The purpose of this regulation is to establish a fee schedule for the issuance and modification of solid waste disposal permits or variances.

Section 1. Applicability. The provisions of this regulation shall apply to the owner or operator of each solid waste site or facility required to apply for a permit, permit renewal or exemption except publicly-owned facilities.

Section 2. Filing Fees. (1) Any owner or operator may submit a preliminary application for a solid waste facility permit, permit modification, or variance for initial review without payment of any fee.

(2) Any owner or operator who submits an application for a permit to construct shall include with the application a certified check or money order in the amount of \$1,000 payable to the Kentucky State Treasurer.

(3) Any owner or operator who submits an application for a permit to operate shall include with the application a certified check or money order in the amount of the filing fee, assessed in accordance with the provisions set forth in subsection (4) of this section, payable to the Kentucky State Treasurer.

(4) Filing fee for permit to operate shall be determined by the following schedule:

Solid Waste Facility Type	Fee
Contained landfill	\$800
Residential landfill	\$500
Land farming facility	\$500
Inert landfill	\$200

(5) Any owner or operator who submits an application

for solid waste facility permit exemption, variance, major modification or renewal shall include with the application a certified check or money order in the amount of \$250 payable to the Kentucky State Treasurer. Any request for permit modification or issuance of a variance that does not require prior administrative review and analysis before approval can be granted will receive a letter of acknowledgment and will not require the payment of a fee.

(6) Filing fees are not refundable if a permit or exemption is denied or an application is withdrawn.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 2:111. Certification for operators of solid waste disposal facilities.

RELATES TO: KRS 224.880, 224.882

PURSUANT TO: KRS 13.082, 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.882 requires the department to promulgate regulations that establish standards and a certification program for operators of waste disposal sites or facilities. These standards provide programs for education, testing, and certification of facility operators of sanitary landfills.

Section 1. Definitions. The following are definitions as used in this regulation: (1) "Classification" means the grading of operator levels by type of primary responsibility for purposes of training, testing and certifying by the department.

(2) "Certificate" means a certificate of competency issued by the department stating that the operator has met all requirements for certification for the specific operator classification.

(3) "Operator" means the person having the primary responsibility for the operation of a sanitary landfill or any person with whom rests ultimate decision-making authority for any activity which may significantly affect the operation of the solid waste site or facility.

Section 2. Operator Classifications. Two (2) operator classifications are established for purpose of this regulation as follows: (1) The "equipment operator" shall be the individual or individuals having primary responsibility for the physical operation of equipment at the sanitary landfill which is used for excavation, earth moving, spreading, compacting or landspreading of wastes and application of daily cover; as well as equipment used for processing waste on site prior to final disposal.

(2) The "site operator" shall be the individual who has primary responsibility for the management and operational decisions pertaining to the day-to-day operation of a sanitary landfill.

Section 3. General Provisions. (1) Each sanitary landfill shall have a certified equipment operator and a certified site operator. One (1) operator can satisfy this requirement if that operator is certified as both a site operator and an equipment operator.

(2) In the event the certified site operator is not physically at the facility during operating hours, the operator must leave adequate notice of how contact can be made and be reasonably available.

(3) Certified equipment operators who desire to become certified site operators must first satisfactorily complete the requirements for the site operator classification before a new certificate is issued.

(4) In carrying out its responsibilities the department will examine the qualifications of applicants for certification and maintain records of operator qualifications, certification and a register of certified operators.

Section 4. Application for Certification. (1) An operator desiring to be certified shall file an application on a form provided by the department at least thirty (30) days before beginning training for a scheduled examination.

(2) The department shall assemble all information needed to determine eligibility of the applicant for examination and certification.

(3) The department shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify the applicant of the notification.

(4) No person shall be eligible for examination or certification unless that person completes the appropriate training class or classes provided by the department, unless an alternative training program is accepted by the department.

Section 5. Training Classes and Examinations. (1) The department will provide training classes applicable to each operator classification.

(2) Training sessions will be held at least annually at places and times set by the department. The last day of each training session will be set aside for the purpose of examinations to determine the knowledge and ability of the applicant.

(3) Certification shall be conditioned on successful passage of a written examination, unless an alternative examination process is accepted by the department.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities for each operator classification.

(5) Applicants who fail to pass an examination may reapply for the examination at a regularly scheduled examination or by appointment with the department.

(6) In the event an applicant fails to meet the requirements for certification, he may petition the department for a one (1) time only "temporary hardship certification." The department will then conduct an informal hearing at which evidence shall be presented by the applicant to support his hardship request. Each temporary hardship certification request shall be considered on a case-by-case basis under the following guidelines:

(a) Failure of the applicant to receive certification would leave a significant area of the state without adequate waste disposal service.

(b) The applicant has shown a good faith effort by attending all required training sessions and met all requirements except the examination requirement.

(c) The applicant has shown, through departmental inspections, a capability for satisfactory operation of the solid waste site or facility.

Section 6. Issuance of Certificates. (1) Upon passage of the examination the department will issue a certificate to the applicant designating competency. This certificate will indicate the classification for which the operator is qualified.

(2) Equipment operators shall be recertified every five (5) years, and shall renew the certification annually.

(3) Site operators shall be recertified every two (2) years and shall renew the certification in the intervening year.

(4) Certificates of operators in good standing will be renewed annually, upon making a written application to the department.

(5) Certificates will be issued to holders of certificates of another state if the training requirements of the issuing state are deemed comparable and if the operator passes the departmental examination.

(6) Certificates shall be valid only so long as the holder uses reasonable care and judgment in the performance of an operator's duties. No certificate will be valid if obtained through fraud, deceit, or the submission of inaccurate data on qualifications.

(7) The certificates of operators who terminate their employment at a sanitary landfill will remain valid if renewed and recertified.

(8) Certificates will be of such size and nature that they may be carried in a billfold and shall be carried on the person of each certified operator during working hours at the facility.

(9) Certification of all current operators shall be accomplished by July 1, 1982, and certification of operators who are hired after the effective date of this regulation shall be accomplished within one (1) year of assuming primary responsibility.

Section 7. Revocation of Certificate. The department may revoke the certificate of an operator, following a departmental hearing, when it determines that the operator has practiced fraud or deception, or that the operator is incompetent to perform an operator's duties.

Section 8. Operator Qualifications: Experience, Education, and Equivalencies. (1) Operators shall be examined by the department as to education, experience, and knowledge as related to the appropriate classification.

(2) Equipment operators shall have completed one (1) year of acceptable operational experience at a sanitary landfill: site operators shall have completed high school (by graduation or by obtaining an equivalency certificate) and a minimum of two (2) years of acceptable experience in management of or primary responsibility for the operation of a sanitary landfill.

(3) Alternate formulations combining education and experience may be accepted by the department if deemed to be equivalent to the established standard. In evaluating qualification of operators and experience/education equivalencies, the department will be guided by the following:

(a) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the department or other agencies having appropriate responsibilities for supervising solid waste management facilities.

(b) Partial credit may be given for operating experience in related fields.

(c) Where applicable, education may be substituted for a portion of experience requirements. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of

two (2) years of experience in management of or primary responsibility for the operation of a solid waste site or facility.

(d) Where applicable experience in excess of the experience requirement may be substituted for education. One (1) year's experience may be considered as equivalent to a maximum of two (2) years of high school.

Section 9. Permit Condition. Every sanitary landfill requiring a permit shall be operated by an operator(s) certified pursuant to this regulation. Maintaining certified operator(s) shall be considered a permit condition, and the landfill permit may be revoked, or penalties for permit violations sought as appropriate, upon violation of the requirements and duties established by this regulation.

Section 10. Fees. (1) Fees for certification or recertification shall be thirty dollars (\$30).

(2) Fees for annual renewal of certification shall be five dollars (\$5).

(3) Fees shall accompany applications and will not be returned to those who do not qualify for a certificate.

JACKIE SWIGART, Secretary

ADOPTED: August 7, 1981

RECEIVED BY LRC: August 12, 1981 at 8:30 a.m.

SUBMIT COMMENT TO: Jimmy D. Hankins, Director, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET Department of Education Bureau of Instruction

704 KAR 3:281. Repeal of 704 KAR 3:280.

RELATES TO: KRS 156.095, 158.070

PURSUANT TO: KRS 13.082, 156.070

NECESSITY AND FUNCTION: KRS 156.095 authorizes the Department of Education to establish a statewide program for the improvement of professional school personnel in the public common schools; and KRS 158.070 mandates the State Board of Education to adopt regulations covering inservice, professional development, and planning activities. 704 KAR 3:035 requires each school district to submit an annual master inservice education plan and duplicates this regulation in significant respect, so 704 KAR 3:280 is no longer necessary.

Section 1. 704 KAR 3:280, Professional performance improvement project, is hereby repealed.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: July 21, 1981

RECEIVED BY LRC: August 7, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Banking and Securities

808 KAR 7:030. State-chartered savings and loan associations; operating parity.

RELATES TO: KRS 289.081, 289.291, 289.441, 289.451

PURSUANT TO: KRS 13.082, 289.705

NECESSITY AND FUNCTION: In order that the dual system of savings associations may be preserved, the following regulation authorizing state-chartered savings and loan associations to make adjustable mortgage loans (AMLs) and consumer loans and to offer NOW accounts is necessary to place said state-chartered associations on a substantial, competitive, operating parity with federal savings and loan associations.

Section 1. State-chartered savings and loan associations are hereby authorized to make, purchase or otherwise deal in adjustable mortgage loan instruments subject only to the limitations imposed on such instruments under §545.6 of the Federal Home Loan Bank Board's regulations as amended effective June 30, 1981, including the disclosure requirements therein.

Section 2. State-chartered savings and loan associations are hereby authorized to make secured or unsecured loans for personal, family or household purposes, but assets acquired pursuant to this section shall not exceed such percentage of total assets of the association as permitted for federal associations by the Federal Home Loan Bank Board.

Section 3. State-chartered savings and loan associations are hereby authorized to offer interest-bearing instruments with third party transfer features (NOW Accounts) subject to any interest-rate ceilings imposed by federal law or regulation.

H. FOSTER PETTIT, Secretary

ADOPTED: August 14, 1981

RECEIVED BY LRC: August 14, 1981 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andrew J. Palmer, General Counsel, Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Banking and Securities

808 KAR 10:160. Definitions.

RELATES TO: KRS Chapter 292

PURSUANT TO: KRS 13.082, 292.500(3)

NECESSITY AND FUNCTION: To clarify and define terms used in KRS Chapter 292 and rules and regulations promulgated thereunder.

Section 1. Definitions. When used in KRS Chapter 292 and the rules and regulations promulgated thereunder unless the context otherwise requires:

(1) "Current financial statement" means a balance sheet of the issuer as of a date within four (4) months prior to the filing of the claim of exemption, a profit and loss statement for the three (3) fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three (3) years, and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements that would be required if that business were the issuer. The profit and loss statement shall be audited by an independent, certified public accountant for the latest fiscal year presented.

(2) "Investment intent" or "purchasing for investment" means that securities cannot be purchased with a view to, or for resale in connection with, any distribution. Securities purchased with investment intent cannot be disposed of unless the securities are registered under KRS Chapter 292 or an exemption from the registration requirements of such chapter is available. As a result, the purchaser of these securities must be prepared to bear the economic risk of the investment for an indefinite period of time and have no need of liquidity of the investment. Where securities are purchased under KRS Chapter 292 for investment, investment intent shall be presumed if the purchaser retains such securities for two (2) years from the date of consummation of the sale. However, any disposition of the securities within two (2) years of the date of purchase, in the absence of an unforeseeable change of circumstances, shall create a presumption that the person did not purchase the securities with investment intent.

(3) "Promotional company" means:

(a) A corporation which has no substantial public market for its shares as evidenced by the number of market makers and the trading volume and also has no significant earnings; or

(b) A corporation which has no public market for its shares and no justification for its proposed public offering price on the basis of past earnings.

(4) "Subsidiary" means an affiliate controlled or significantly influenced by the issuer directly, or indirectly through one (1) or more intermediaries.

(5) "Significant subsidiary" means a subsidiary meeting any one (1) of the following conditions:

(a) The assets of the subsidiary, or the investments in and advances to the subsidiary by the issuer and the issuer's other subsidiaries, if any, exceed ten percent (10%) of the assets of the issuer and its subsidiaries on a consolidated basis;

(b) The sales and operating revenues of the subsidiary exceed ten percent (10%) of the sales and operating revenues of the issuer and its subsidiaries on a consolidated basis;

(c) The subsidiary is in control of or can significantly influence one (1) or more other subsidiaries and, together with such subsidiaries would, if considered in the aggregate, constitute a significant subsidiary.

H. FOSTER PETTIT, Secretary

ADOPTED: August 14, 1981

RECEIVED BY LRC: August 14, 1981 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andrew J. Palmer, General Counsel, Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Banking and Securities

808 KAR 10:170. Exemption claims from securities registration; form.

RELATES TO: KRS 292.400

PURSUANT TO: KRS 13.082, 292.500(3)

NECESSITY AND FUNCTION: To outline the informational requirements and the form for a claim of exemption from securities registration under subsections (9), (12) and (14) of KRS 292.400.

Section 1. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.400(9).

(1) The claim of exemption required to be filed pursuant to KRS 291.415(1) shall contain the following:

(a) The filing fee;

(b) A declaration that the KRS 292.400(9) exemption will be relied upon;

(c) A sample copy of the security that will be issued;

(d) A copy of the Articles of Incorporation and By-laws of the issuer or the equivalent governing instruments;

(e) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;

(f) A representation that the offerees and purchasers shall have access to information concerning the issuer;

(g) Copies of all advertising or other material to be distributed in connection with the offering;

(h) A copy of the subscription agreement or other similar agreement;

(i) A copy of any proposed agreement or proposed form of agreement with a securities broker-dealer or underwriter;

(j) A copy of the preliminary or definitive Trust Indenture and/or Trust Agreement, if any;

(k) An opinion of counsel attesting to the authority of the issuer to offer and sell the securities and stating that after the sale the securities will be valid, binding obligations of the issuer in accordance with the issuer's governing documents. A letter from an authorized officer or the governing body of the issuer may in certain circumstances be accepted in lieu of this opinion;

(l) A representation that any commissions or other remuneration to be paid in connection with the offer or sale of the securities will be paid only to persons licensed pursuant to KRS 292.330.

(2) The director may require additional information, documentation and undertakings or waive any of the above requirements. The director may require that the name and address of each purchaser and date of each such purchase be submitted to complete the filing.

(3) For a claim of exemption pursuant to KRS 292.400(9) for an offering of securities of a church or other religious institution, a proposed issuer should be in substantial compliance with the North American Securities Administrators Association's Guidelines for Offerings of Church Bonds relative to disclosure in offering circulars and financial condition (Commerce Clearing House Blue Sky Law Reporter).

Section 2. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.400(12).

(1) The claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:

- (a) The filing fee;
- (b) A declaration that the KRS 292.400(12) exemption will be relied upon;
- (c) A sample copy of the security that will be issued;
- (d) A copy of the Articles of Incorporation and By-laws of the issuer or the equivalent governing instruments;
- (e) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;
- (f) A representation that the offerees and purchasers shall have access to information concerning the issuer;
- (g) Current financial statements of the issuer;
- (h) A copy of the subscription agreement or other similar agreement;
- (i) A statement as to how the proceeds of the issue will be used; and
- (j) A representation that any commission or other remuneration to be paid in connection with the offer or sale of the securities will be paid only to persons licensed pursuant to KRS 292.330.

(2) The director may require additional information and documentation or waive any of the above requirements. The director may require that the name and address of each purchaser and the date of each such purchase be submitted to complete the filing.

Section 3. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.400(14).

(1) The claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:

(a) The claim of exemption shall be accompanied by the filing fee required by KRS 292.415(2);

(b) A declaration that the KRS 292.400(14) exemption will be relied upon; and

(c) A declaration as to how the issuer satisfies each of the specific requirements of KRS 292.400(14), which declaration shall be signed by a principal officer of the issuer.

(2) The director may require additional information, documentation or undertakings to be filed.

(3) The exemption shall be available for a period of five (5) years unless material changes regarding the issuer which relate to the statutory requirements of the exemption make the exemption unavailable. The \$100 filing fee shall be waived for the last four (4) years of the exemption period.

(4) The issuer will notify the director annually (approximately one (1) year from the effective date of the exemption) that the conditions of the exemption are still being complied with and that the issuer is still relying upon and claiming the exemption.

(5) If the exemption becomes unavailable at any time as a result of material changes affecting the issuer's statutory exemption, the issuer shall immediately notify the director.

H. FOSTER PETTIT, Secretary

ADOPTED: August 14, 1981

RECEIVED BY LRC: August 14, 1981 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Andrew J. Palmer, General Counsel, Department of
Banking and Securities, 911 Leawood Drive, Frankfort,
Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Department of Banking and Securities

808 KAR 10:190. Securities registration exemptions for certain business transactions.

RELATES TO: KRS 292.410(1)

PURSUANT TO: KRS 13.082, 292.500(3)

NECESSITY AND FUNCTION: To outline the informational requirements and the form for a claim of exemption from securities registration under subsections (i), (j) and (k) of KRS 292.410(1); and to declare that registration is not necessary in the public interest for certain types of business transactions with limited securities implications pursuant to KRS 292.410(1)(q).

Section 1. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.410(1)(i).

(1) The claim of exemption required to be filed with the director under KRS 292.415(1), where an offeror claims an exemption under KRS 292.410(1)(i), shall contain the following:

(a) The filing fee;

(b) A declaration that the KRS 292.410(1)(i) exemption will be relied upon;

(c) A representation that offers will be made to not more than twenty-five (25) persons in this state during the period of twelve (12) consecutive months from the effective date of the exemption;

(d) A representation that no commission or other remuneration will be paid or given directly or indirectly for soliciting any prospective buyer in this state;

(e) A representation that the seller believes that all the buyers in this state are purchasing for investment;

(f) A representation that each buyer will sign an appropriate "investment intent letter," a copy of which shall be included in the claim of exemption, stating in part that the buyer is not taking with a view to distribution;

(g) A representation that securities to be issued will bear an appropriate restrictive legend, a copy of which shall be submitted with the claim of exemption;

(h) A copy of the Articles of Incorporation, By-laws, limited partnership agreement, or other organizational document which reflects the security holders' rights;

(i) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;

(j) Current financial statements of the issuer shall be filed with the director and contained in the disclosure document;

(k) A representation that the offerees and purchasers shall have access to information concerning the issuer;

(l) A representation that no public advertising or solicitation will be employed in effecting the proposed transaction; and

(m) If available, a sample copy of the security.

(2) The director may in particular cases require additional information and undertakings or waive any of the above requirements. The director may require that the names and addresses of offerees, actual purchasers and the dates of such purchases be submitted to complete the claim of exemption.

Section 2. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.410(1)(j).

(1) A claim of exemption filed pursuant to KRS 292.415(1) shall contain:

- (a) The filing fee;
- (b) A declaration that the KRS 292.410(1)(j) exemption will be relied upon;
- (c) A copy of the preorganization certificate;
- (d) A representation that no commission or other remuneration will be paid or given directly or indirectly for soliciting the prospective subscribers;
- (e) A representation that the number of subscribers will not exceed twenty-five (25);
- (f) A representation that no payment is to be made for the security by any subscriber; and
- (g) A statement as to whether registration, or reliance upon a specific exemption, will ultimately be used to sell the security.

(2) The director may require additional information and documentation or waive any of the above requirements. The director may require that the name and address of each purchaser and the date of each such purchase be submitted to complete the filing.

Section 3. The following provisions shall apply to matters relating to an exemption from registration pursuant to KRS 292.410(1)(k).

(1) A claim of exemption filed pursuant to 292.415(1) shall contain:

- (a) The filing fee;
- (b) A declaration that the KRS 292.410(1)(k) exemption will be relied upon;
- (c) A statement disclosing the circumstances under which the outstanding shares were originally placed with the existing security holders, which statement shall indicate whether the shares were issued pursuant to a registration statement or in reliance upon an exemption from registration;
- (d) A prospectus, offering circular, or memorandum making such full disclosure of material facts, including a discussion of all salient risk factors;
- (e) The names and number of shares or rights held by existing security holders in this state unless such information is not readily available, in which event the director shall be so advised; and
- (f) A representation as to whether or not a commission or other remuneration (other than a standby commission) is to be paid or to be given directly or indirectly for soliciting any security holder in this state.

(2) The director may require additional information and documentation or waive any of the above requirements. The director may require that the name and address of each purchaser and the date of each such purchase be submitted to complete the filing.

H. FOSTER PETTIT, Secretary

ADOPTED: August 14, 1981

RECEIVED BY LRC: August 14, 1981 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Andrew J. Palmer, General Counsel, Department of Banking and Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:090. Drug formulary: therapeutic equivalence evaluations.

RELATES TO: KRS 217.814 to 217.894, 217.990(9),(10), KRS 12.025, and Executive Order 80-925
PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council, whose functions have been transferred to the Division for Medical Assistance, Bureau for Social Insurance, Department for Human Resources, by Executive Order 80-925, to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the Council (now the Division for Medical Assistance) to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. In addition, KRS 217.824(3) authorizes the Council (now the Department for Human Resources) to promulgate administrative regulations to be filed with the Legislative Research Commission as provided in KRS Chapter 13. The purpose of this regulation is to adopt the therapeutic equivalence evaluations as published in "Approved Prescription Drug Products With Therapeutic Equivalence Evaluations" issued by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Drugs, dated 1980 and all subsequent supplements thereto as the Kentucky Drug Formulary.

Section 1. Definitions. The following words and phrases shall have the following meanings, unless the context requires otherwise:

(1) "FDA List" means the therapeutic equivalence evaluations as set forth in the document entitled "Approved Prescription Drug Products with Therapeutic Equivalence Evaluations" as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Drugs, dated 1980 and all subsequent supplements thereto.

(2) "Pharmacist" means any person licensed as such by the Kentucky Board of Pharmacy.

Section 2. The Department for Human Resources adopts the FDA List as the Kentucky Drug Formulary.

Section 3. A pharmacist shall dispense prescriptions in accordance with the provisions of KRS 217.822 using the FDA List as a reference of therapeutically equivalent drugs and pharmaceuticals. A pharmacist may dispense a drug product of any distributor for whom the manufacturer is an approved application holder on the FDA List.

Section 4. Copies of the FDA List may be obtained from: U.S. Government Printing Office, Washington, D.C. 20402. A copy of the FDA List shall be available for public inspection at the Department for Human Resources, Bureau for Social Insurance, Division for Medical Assistance, 275 East Main Street, Frankfort, Kentucky 40621.

Section 5. The following regulations are hereby repealed:

- 902 KAR 1:010 Distribution of generic drug formulary
- 902 KAR 1:011 Acetazolamide
- 902 KAR 1:012 Metaproterenol
- 902 KAR 1:014 Methocarbamol

902 KAR 1:015 Tripeleminamine hydrochloride
 902 KAR 1:016 Methenamine mandelate
 902 KAR 1:017 Amoxicillin trihydrate
 902 KAR 1:018 Norethindrone with mestranol
 902 KAR 1:019 Nylidrin hydrochloride
 902 KAR 1:020 Ampicillin
 902 KAR 1:021 Phentermine hydrochloride
 902 KAR 1:025 Pentaerythritol tetranitrate
 902 KAR 1:027 Dicyclomine hydrochloride
 902 KAR 1:030 Erythromycin
 902 KAR 1:032 Meperidine hydrochloride
 902 KAR 1:035 Chlorpheniramine maleate
 902 KAR 1:037 Griseofulvin
 902 KAR 1:040 Penicillin-G
 902 KAR 1:042 Piperazine citrate
 902 KAR 1:045 Doxycycline
 902 KAR 1:047 Theophylline
 902 KAR 1:050 Penicillin-V
 902 KAR 1:052 Pilocarpine hydrochloride
 902 KAR 1:055 Meclizine hydrochloride
 902 KAR 1:057 Potassium chloride
 902 KAR 1:060 Sodium pentobarbital
 902 KAR 1:061 Minocycline hydrochloride
 902 KAR 1:070 Sodium secobarbital
 902 KAR 1:075 Prednisone
 902 KAR 1:080 Acetaminophen
 902 KAR 1:081 Acetaminophen with codeine
 902 KAR 1:085 Isosorbide dinitrate
 902 KAR 1:090 Trisulfapyrimidine
 902 KAR 1:101 Diphenoxylate hydrochloride
 902 KAR 1:102 Folic acid
 902 KAR 1:110 Diphenhydramine hydrochloride
 902 KAR 1:125 Trihexyphenidyl hydrochloride
 902 KAR 1:130 Chlorpromazine hydrochloride
 902 KAR 1:135 Doxepin hydrochloride
 902 KAR 1:140 Sulfisoxazole tablet
 902 KAR 1:141 Sulfisoxazole and phenazopyridine hydrochloride
 902 KAR 1:142 Cyclandelate
 902 KAR 1:150 Hydrochlorothiazide tablet
 902 KAR 1:160 Oxytetracycline hydrochloride capsule

902 KAR 1:170 Propoxyphene hydrochloride capsule
 902 KAR 1:175 Propoxyphene hydrochloride with APC
 902 KAR 1:180 Tetracycline hydrochloride
 902 KAR 1:190 Meprobamate tablet
 902 KAR 1:200 Phenazopyridine hydrochloride tablet
 902 KAR 1:210 Nitroglycerin
 902 KAR 1:220 Propantheline bromide
 902 KAR 1:230 Dimenhydrinate tablet
 902 KAR 1:240 Aminosalicilic acid tablet
 902 KAR 1:250 Dextroamphetamine sulfate tablet
 902 KAR 1:260 Isoniazid tablet
 902 KAR 1:270 Pseudoephedrine hydrochloride
 902 KAR 1:280 Chloral hydrate
 902 KAR 1:290 Ferrous sulfate
 902 KAR 1:291 Ferrous gluconate
 902 KAR 1:300 Dioctyl sodium sulfosuccinate
 902 KAR 1:301 Dioctyl sodium sulfosuccinate with casanthranol
 902 KAR 1:312 Oxyphenbutazone tablet
 902 KAR 1:314 Phenylbutazone tablet
 902 KAR 1:316 Amitriptyline hydrochloride tablet
 902 KAR 1:318 Dexamethasone
 902 KAR 1:320 Imipramine hydrochloride tablet
 902 KAR 1:322 Triprolidine and pseudoephedrine hydrochloride
 902 KAR 1:324 Hyoscyamine sulfate
 902 KAR 1:326 Glutethimide
 901 KAR 1:328 Chlordiazepoxide hydrochloride
 902 KAR 1:330 Niacin
 902 KAR 1:331 Dicloxacillin sodium
 902 KAR 1:332 Nystatin

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: July 29, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 30, 1980 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the August 5, 1981 Meeting

(Subject to subcommittee approval at its September 2, 1981 meeting.)

The Administrative Regulation Review Subcommittee held its scheduled meeting on Wednesday, August 5, 1981, at 10 a.m., in Room A, Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senators James Bunning, Helen Garrett and William Quinlan; and Representatives James E. Bruce, Albert Robinson and Gregory D. Stumbo.

Guests: Addie Stokley and Martin Glazer, Board of Claims; A. R. Romine, J. F. Runkes and Richard Isaacs, Department of Transportation; Mack Morgan and John Hinkle, Kentucky Retail Federation; Don McCormick, Department of Fish and Wildlife Resources; Alta Hounz, Barbara Southworth and Annette Castle, Kentucky Board of Nursing; Jay Runyon, Kentucky Power Company; Ron Sheets, Kentucky Association of Electric Co-

ops; Ann Scholl and Kathryn Sallee, Kentucky Nurses Association; Ronda Paul and Andy Palmer, Department of Banking; L. W. True, Robert Spillman, James White, Gary Bale, Sidney Simandle, and Don Hunter, Department of Education; David Allen, Larry McCarthy, Robert Young, Richard King, Greg Lawther, Donna Smith, Ked Fitzpatrick, Diane Simmons, and Terry Morrison, Department for Human Resources; Charles Hume, Kentucky Public Health Association; Patricia Gleich, Gateway District Health Department; Les Nesterfield, Department of Housing; and Coleman Coffey, Farmer and Humble, CPA's.

LRC Staff: O. Joseph Hood, Susan Harding, Cindy De Reamer, Garnett Evins, Jim Peyton, Mary Yaeger and Scott Payton.

Press: Jack Brammer, *Lexington Leader*, and Brian Malloy, UPI.

Chairman Brinkley announced that all members were present and called the meeting to order. On motion of

Representative Bruce, seconded by Representative Stumbo, the minutes of the July meeting were approved.

The following emergency regulations were reviewed by the subcommittee.

DEPARTMENT OF FISH AND WILDLIFE

Game

301 KAR 2:046E. Taking of migratory wildlife. (This regulation was acceptable to the subcommittee.)

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Social Insurance

Public Assistance

904 KAR 2:088E. Home energy assistance program (HEAP). (The subcommittee took no action on this regulation.)

Food Stamp Program

904 KAR 3:060E. Administrative fraud hearings. (The subcommittee took no action on this regulation.)

The following regulations were deferred until the September meeting:

DEPARTMENT OF FINANCE

Division of Occupations and Professions

Board of Examiners and Registration of Architects

201 KAR 19:025. Application for examinations.

201 KAR 19:035. Qualifications for examination.

201 KAR 19:040. Types of examinations required.

201 KAR 19:085. Fees.

Chairman Brinkley requested the Regulation Compiler to contact the issuing agency and request that they have their representative present at the September meeting in order that action may be taken on the proposed regulations.

The following regulation was deferred until the October meeting on motion of Senator Bunning, seconded by Representative Bruce, to allow the issuing agency to prepare guidelines setting forth the maximum to be charged for inspection on each class of recreational vehicle:

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Mobile Homes and Recreational Vehicles

815 KAR 25:020. Recreational vehicles.

The following regulation was withdrawn by the issuing agency:

PUBLIC PROTECTION AND REGULATION CABINET

Department of Banking and Securities

Savings and Loans

808 KAR 7:020. State-chartered savings and loan associations.

The following regulation was not accepted by the subcommittee and returned to the issuing agency on motion of Representative Bruce, seconded by Representative Stumbo:

DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services

District Boards of Health

902 KAR 8:010. Membership. (This regulation was not accepted for non-conformance with statutory authority.)

The following regulations were accepted by the subcommittee and ordered filed:

BOARD OF CLAIMS

Practice and Procedure

108 KAR 1:010. Board of operation and claim procedures. (As amended.)

DEPARTMENT OF FINANCE

Division of Occupations and Professions

Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners. (This regulation was accepted by the subcommittee on the condition that reference material is filed within thirty (30) days with the Regulation Compiler.)

DEPARTMENT OF TRANSPORTATION

Division of Aeronautics and Airport Zoning

Airport Safety Standards

602 KAR 20:020. Issuance of landing area designation.

Bureau of Highways

Traffic

603 KAR 5:070. Truck dimension limits.

603 KAR 5:110. Permits for moving mobile homes.

DEPARTMENT OF EDUCATION

Bureau of Instruction

Instructional Services

704 KAR 3:304. Required program of studies.

Elementary and Secondary Education Act

704 KAR 10:022. Elementary, middle and secondary schools standards.

Teacher Certification

704 KAR 20:005. Kentucky standards for preparation program approval.

Department for Vocational Education

Administration

705 KAR 1:010. Annual Program Plan.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Banking and Securities

Administration

808 KAR 1:060. Remote service units. (Senator Bunning and Representative Robinson voted "No".)

808 KAR 1:080. Investments in bank service corporations by state-chartered banks.

Credit Unions

808 KAR 3:030. Conduct of examination of records.

Securities

808 KAR 10:150. Registration exemptions. (As amended.)

DEPARTMENT FOR HUMAN RESOURCES**Bureau for Health Services****Emergency Medical Technicians**

902 KAR 13:030. Fees.

Certificate of Need and Licensure Board

902 KAR 20:006. Certificate of need process.

902 KAR 20:012. Hospital examination services. (As amended.)

Bureau for Social Insurance**Medical Assistance**

904 KAR 1:033. Payments for dual licensed pediatric facility services.

904 KAR 1:054. Primary care center services.

Public Assistance

904 KAR 2:010. AFDC; standards for need and amount.

On motion of Representative Bruce, seconded by Senator Bunning, the meeting was adjourned at 12:45 p.m., until September 2, 1981.

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