

# Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

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## IN THIS ISSUE

|  |      |
|--|------|
| Public Hearings Scheduled .....                                | 843  |
| <b>Emergency Regulations Now in Effect:</b>                    |      |
| Public Service Commission .....                                | 843  |
| Department for Human Resources:                                |      |
| Health Services .....  | 850  |
| Social Insurance .....   | 851  |
| <b>Amended Regulations Now in Effect:</b>                      |      |
| Board of Veterinary Examiners .....                            | 857  |
| Department of Fish and Wildlife Resources .....                | 858  |
| Department for Natural Resources and Environmental Protection: |      |
| Waste Management .....   | 859  |
| Surface Mining Reclamation and Enforcement .....               | 873  |
| Department of Banking and Securities .....                     | 879  |
| Department for Human Resources— Social Insurance .....         | 879  |
| <b>Amended After Hearing:</b>                                  |      |
| Department for Natural Resources and Environmental Protection: |      |
| Air Pollution .....  | 883  |
| Department for Human Resources— Health Services .....          | 885  |
| <b>Proposed Amendments:</b>                                    |      |
| Board of Accountancy .....                                     | 910  |
| Department for Natural Resources and Environmental Protection: |      |
| Air Pollution .....  | 910  |
| Department of Transportation .....                             | 917  |
| Department of Education .....                                  | 918  |
| Department of Labor .....                                      | 919  |
| Department of Insurance .....                                  | 925  |
| Public Service Commission .....                                | 932  |
| Department for Human Resources:                                |      |
| Health Services .....  | 938  |
| Social Insurance .....   | 939  |
| <b>Proposed Regulations Received Through February 15:</b>      |      |
| Department of Transportation .....                             | 952  |
| Department of Education .....                                  | 952  |
| Department of Insurance .....                                  | 954  |
| Department for Human Resources— Social Insurance .....         | 959  |
| <b>Reprint:</b>  |      |
| Public Service Commission .....                                | 961  |
| Minutes of Administrative Regulation Review Subcommittee ..... | 968  |
| <b>CUMULATIVE SUPPLEMENT</b>                                   |      |
| Locator Index— Effective Dates .....                           | J 2  |
| KRS Index .....  | J 6  |
| Subject Index .....  | J 10 |

NOTE: The March meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting—MONDAY, March 1, 1982, at 10 a.m., in Room 104, Capitol Annex.



# Public Hearing Scheduled

## DEPARTMENT OF INSURANCE

A public hearing will be held on April 1, 1982, at the Department of Insurance, 151 Elkhorn Court, Frankfort, on the regulations listed below at the following times:

9:00 a.m. 806 KAR 26:010. Proxies, consents and authorization. [8 Ky.R. 926]  
 9:15 a.m. 806 KAR 9:170. Minimum score of examination for license. [8 Ky.R. 954]  
 9:30 a.m. 806 KAR 9:070. Examination retake limits. [8 Ky.R. 926]  
 9:45 a.m. 806 KAR 9:011. Repeal of 806 KAR 9:010. [8 Ky.R. 954]  
 10:00 a.m. 806 KAR 38:060. Cancellation of enrollees' coverage. [8 Ky.R. 959]  
 10:45 a.m. 806 KAR 2:020. Interest and rewards prohibited. [8 Ky.R. 925]  
 11:00 a.m. 806 KAR 17:070. Filing procedures for health insurance rates; experience data on individual Medicare supplement policies. [8 Ky.R. 955]

# Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR  
 Executive Order 82-94  
 February 8, 1982

## EMERGENCY REGULATION Public Protection and Regulation Cabinet Public Service Commission

WHEREAS, the Public Service Commission is statutorily charged with ensuring the availability of safe, adequate, and reliable gas and electricity utility service to the citizens of the Commonwealth; and

WHEREAS, the rapid rise in the cost of gas and electric utility services, coupled with the recent severe winter weather, has imposed a severe hardship on many persons who are unemployed or subsisting on limited incomes; and

WHEREAS, customers who are unable to pay their gas and electric utility bills are subject to termination of their service after the notice period presently provided by existing Public Service Commission regulations; and

WHEREAS, the termination of heating service during the winter season causes extreme hardship on such persons who have no alternative housing or means of heating readily available; and

WHEREAS, the Public Service Commission has determined through public meetings, petitions and other sources that an immediate need exists to amend its regulations to provide a longer period in which partial payment plans can be negotiated by persons who are certified to be financially needy by the Kentucky Department for Human Resources, Bureau for Social Insurance; and

WHEREAS, the Department for Human Resources, Bureau for Social Insurance, is supportive of the Public Service Commission in this endeavor and has agreed to serve as the certifying agency; and

WHEREAS, the Public Service Commission has determined that an emergency exists and that there is an immediate need to lengthen the required notice period for termination of gas and electric service by the company to certain persons on low or fixed incomes and to establish certain other procedures for assisting these persons to continue to receive gas and electric utility service throughout the winter heating season; and

WHEREAS, the Secretary of the Cabinet for Public Protection and Regulation concurs with the Commission's finding of an emergency and, in conjunction with the Public Service Commission, pursuant to KRS 13.082 and KRS 278.040, has promulgated the regulation hereinabove referenced:

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, do hereby acknowledge the finding of the Public Service Commission and the Secretary of the Cabinet for Public Protection and Regulation that an emergency exists and direct that the attached regulation pertaining to general rules become effective immediately upon being filed 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

## PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission

807 KAR 5:006E. General rules.

RELATES TO: KRS Chapter 278  
 PURSUANT TO: KRS 13.082, 278.280(2)  
 EFFECTIVE: February 8, 1982

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

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to electric, gas, water, sewage and telephone utilities.





make a prompt and complete investigation and advise the complainant thereof. It shall keep a record of all such complaints concerning its utility service which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof.

Section 9. Bill Adjustment. (1) Whenever a meter in service is found upon periodic request or complaint test to be more than two percent (2%) fast, additional tests shall be made at once to determine the average error of the meter. Said tests shall be made in accordance with the commission's regulation applicable to the type of meter involved.

(2) If the result of tests on a customer's meter shows an average error greater than two percent (2%) fast, then the customer's bills, for the period during which the meter error is known to have existed, shall be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill shall be recomputed for one-half (½) of the elapsed time since the last previous test but in no case to exceed twelve (12) months. (See exception in subsection (5) of this section.)

(3) If the result of tests on a customer's meter shows an average error greater than two percent (2%) slow, then the customer's bill, for the period during which the meter error is known to have existed, may be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill may be recomputed for one-half (½) of the elapsed time since the last previous test but in no case to exceed twelve (12) months.

(4) It shall be understood that when a meter is found to have an error in excess of two percent (2%) fast or slow the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test; i.e., it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100 percent as is commercially practicable. Therefore, percent error shall be that amount of error as is indicated by the test.

(5) The burden of maintaining measuring equipment so that it will register accurately is upon the utility; therefore, if meters are found upon test to register fast and if time for periodic test has overrun to the extent that one-half (½) of the time elapsed since the last previous test exceeds twelve (12) months, the refund shall be for the twelve (12) months as specified in subsection (2) of this section and in addition thereto, a like refund for those months exceeding the periodic test period; provided, however, that the commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control.

(6) Each utility shall make a reasonable attempt to determine if the amount of consumption for the current billing period for each customer is unduly excessive. If a comparison of consumption indicates a necessity therefor, a test of the customer's meter shall be made, and if the meter is found to register incorrectly to the customer's prejudice more than two percent (2%), the utility shall recalculate the customer's bills in accordance with the foregoing provisions.

(7) When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in substantially the following form:

On \_\_\_\_\_, 19\_\_\_\_, the meter bearing identification No. \_\_\_\_\_ installed in your building located at \_\_\_\_\_ (Street and Number) in \_\_\_\_\_ (City) was tested at \_\_\_\_\_ (On premises or elsewhere) and found to register \_\_\_\_\_ (Percent fast or slow). The meter was tested on \_\_\_\_\_ (Periodic, Request, Complaint) test.

Based upon this we herewith \_\_\_\_\_ (Charge or Credit) you with the sum of \$ \_\_\_\_\_, which amount has been noted on your regular bill.

Section 10. Customer's Discontinuance of Service. (1) Any customer desiring service discontinued or changed from one address to another shall give the utility three (3) days' notice in person or in writing, provided such notice does not violate contractual obligations.

(2) Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility may, subject to subsection (3) of this section, charge the applicant an amount not to exceed the actual average cost as approved by this commission of making such reconnection.

(3) Any utility desiring to establish a reconnection charge under the provisions of subsection (2) above, shall submit for commission approval a formal application setting out:

(a) The actual average cost of making such reconnections; and

(b) The effect of such charges on the utility's revenues.

Section 11. Discontinuance of Service. (1) The utility may refuse or discontinue to serve an applicant or customer under the following conditions:

(a) For noncompliance with its rules and regulations. However, no utility shall discontinue or refuse service to any customer or applicant for violation of its rules or regulations without first having made a reasonable effort to induce the customer or applicant to comply with its rules and regulations as filed with the commission. After such effort on the part of the utility, service may be discontinued or refused only after the customer shall have been given at least ten (10) days written notice of such intention, mailed to his last known address.

(b) When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, provided that the utility notify the customer or applicant immediately of the reasons for the discontinuance or refusal and the corrective action to be taken by the applicant or customer before service can be restored.

(c) When a customer or applicant refuses or neglects to provide reasonable access to the premises for the purpose of installation, operation, meter reading, maintenance or removal of utility property the utility may discontinue or refuse service only after the customer or applicant shall have been given at least fifteen (15) days' written notice such intention.



service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(4) It shall be the duty of the utility before making service connections to a new customer to ascertain the condition of the meter and service facilities for such customer in order that prior fraudulent use of the facilities, if any, will not be attributed to the new customer, and the new customer shall be afforded the opportunity to be present at such inspections. The utility shall not be required to render service to such customer until all defects in the customer-owned portion of the service, if any, shall have been corrected.

(5) Reconnection. For all cases of refusal or discontinuance of service as herein defined, where the cause for refusal or discontinuance has been corrected and all rules and regulations of the utility and the commission have been complied with, the utility shall promptly render service to the customer or applicant.

(6) When advance notice is required, such notice may be given by the utility by mailing by United States mail, postage prepaid, to the last known address of the applicant or customer.

Section 12. Special Charges. (1) A utility may make a reasonable charge for each of the following trips:

(a) To read a meter when the customer has failed to read the meter for three (3) consecutive billing periods. This pertains only to those utilities whose customers ordinarily read their own meters.

(b) To collect a delinquent bill. This trip may be made only after written notice has been sent to the customer stating that if the bill is not paid by a certain date, the service will be disconnected.

(c) To reconnect a service that has been disconnected for nonpayment of bills or for violation of the utility's rules and regulations. This charge may include the cost of disconnecting the service.

(2) The charges, however, shall be applied uniformly throughout the entire area served by the utility, shall be incorporated in the utility's rules and regulations, shall be subject to the approval of the commission, and shall yield only enough revenue to pay the expenses incurred in rendering these services.

Section 13. Meter Testing. (1) All electric, gas and water utilities furnishing metered service shall provide meter standards and test facilities, as more specifically set out under 807 KAR 5:021E, 807 KAR 5:041E and 807 KAR 5:066E.

(2) A utility may have all or part of its testing of meters performed by another utility or agency approved by the commission for such purpose. Each utility having tests made by another agency or utility shall notify the commission of said arrangements in detail to include make, type and serial number of standards used to make said checks or tests.

(3) No utility shall place in service any basic measurement standard required by these rules unless it has been calibrated by the commission's Meter Standards Laboratory. All utilities or agencies making tests or checks for utility purposes shall notify the commission promptly

of the adoption or deletion of any basic standards requiring calibration by the commission.

(4) Each electric, gas and water utility or agency doing meter testing for a utility shall have in its employ metermen certified by this commission. These certified metermen shall perform such tests as may be necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the regulations of the commission.

(5) A utility or agency desiring to have its employees certified as metermen shall submit the names on the commission's form entitled "Application for Appointment of Metermen" and after compliance with the requirements as noted in this form, the applicant may be certified as a meterman and furnished with a card authorizing him to perform meter tests.

Section 14. Access to Property. The utility shall at all reasonable hours have access to meters, service connections and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation or removal of its property at the time service is to be terminated. Any employee of the utility whose duties require him to enter the customer's premises shall wear a distinguishing uniform or other insignia, identifying him as an employee of the utility, or carry on his person a badge or other identification which will identify him as an employee of the utility, the same to be shown by him upon request.

Section 15. Meter Test Records. (1)(a) Test cards. A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations shall be recorded by the meterman. Such record shall include: Information to identify the unit and its location; the date of tests; the reason for such tests; readings before and after the test; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations employed; indications showing that all required checks have been made; a statement of repairs made, if any; the identifying number of the meter; the type and capacity of the meter; and the constant of the meter.

(b) The complete record of tests of each meter shall be continuous at least two (2) periodic tests and in no case less than two (2) years.

(2) (a) History cards. Each utility shall keep numerically arranged and properly classified card records giving for each meter owned and used by the utility for any purpose the identification number, date of purchase, name of manufacturer, serial number, type, rating, and the name and address of each customer on whose premises the meter has been in service with date of installation and removal. These card records shall also give condensed information concerning all tests and adjustments including dates and general results of such adjustments. The card records shall be of such character that a system can be used that will record the date of the last test and indicate the proper date for the next periodic test required by the applicable regulation of the commission.

(b) When the records required above are kept in a readily available form posting to the history card is not necessary.

(3) Sealing of meters. Upon completion of adjustment and test of any meter under the provisions of the regulations of the commission, the utility shall affix thereto a suitable seal in such a manner that adjustments or registration of the meter cannot be tampered with without breaking the seal. The seal shall be of a type acceptable to the commission.

Section 16. Pole Identification. (1) Each utility owning poles or other structures supporting the company's wires, shall mark every pole or structure located within a built-up community with the initials or other distinguishing mark by which the owner of every such structure may be readily determined. For the purpose of this rule the term "built-up community" shall mean urban areas and those areas immediately adjacent thereto.

(2) Identification marks may be of any type but must be of a permanent material and shall be of such size and so spaced and hereafter maintained so as to be easily read from the surface of the ground at a distance of six (6) feet from the structure.

(3) When utilities' structures are located outside of a built-up community only every tenth structure need be so marked.

(4) All junction structures shall bear the identification mark and structure number of the owner.

(5) Poles need not be marked if they are clearly and unmistakably identifiable as the property of the utility.

(6) Each utility shall either number their structures and maintain a numbering system or use some other method of identification so that each structure in the system may be easily identified.

(7) The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

Section 17. System Maps and Records. (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

(a) Operating districts.

(b) Rate districts.

(c) Communities served.

(d) Location and size of transmission lines, distribution lines and service connections.

(e) Location and layout of all principal items of plant.

(f) The date of construction of all items of plant by year and month.

(2) In each division or district office there shall be available such information relative to the utility's system as will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.

(3) In lieu of showing the above information on maps a card record or suitable means may be used. For all construction the records shall also show the date of construction by month and year.

Section 18. Location of Records. All records required by the regulations of the commission shall be kept in the principal office of the utility or other acceptable safe storage place, and shall be made available to representatives, agents or employees of the commission upon reasonable notice and at all reasonable hours.

Section 19. Request Tests. Each utility shall make a test of any meter upon written request of any customer provided such request is not made more frequently than once each twelve (12) months. The customer shall be given the opportunity of being present at such request tests. If such tests show that the meter was not more than two percent (2%) fast, the utility may make a reasonable charge for the test, the amount of such charge to be set out in the utility's rules and regulations filed with the commission, and subject to the approval of the commission.

Section 20. Complaint Tests. (1) Any customer of the utility may request a meter test by written application to the commission accompanied by payment of such fee for the test as prescribed below. Such request may not be made more frequently than once each twelve (12) months. Upon receipt of such request, the commission will notify the utility to leave the customer's meter in place until completion of such test.

(2) If a meter tested upon complaint of a customer is found to register not more than two percent (2%) fast, the cost of such test shall be borne by the customer. However, if the meter shall be found to register more than two percent (2%) fast, the cost of such test shall be borne by the utility and the amount of the deposit made by the customer shall be refunded.

(3) The charges fixed by the commission for making such tests are as follows:

(a) Electric. Direct current and single phase alternating current watt hour meters operating on circuits of not more than 250 volts:

| Amperes Rated Capacity                       | Fee  |
|--|------|
| 30 and under                                 | \$ 2 |
| Over 30 to 100                               | 4    |
| Each additional 50 amperes or factor thereof | 1    |

Polyphase a.c. watt hour meters and single phase or direct current watt hour meters operating on circuits of over 250 volts with or without instrument transformers:

| Kilowatts Rated Capacity | Fee  |
|--------------------------|------|
| 5 KW and under           | \$ 2 |
| Over 5 to 25             | 4    |
| Over 25 to 100           | 8    |
| Over 100 to 500          | 16   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(b) Gas. Displacement type meters operating on distribution system pressures:

| Capacity in Cu. Ft. Per Hour     | Fee  |
|----------------------------------|------|
| 1,000 cu. ft. per hour and under | \$ 4 |
| Over 1,000 to 10,000             | 8    |
| Over 10,000 to 100,000           | 12   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(c) Water:

| Size                           | Fee  |
|--------------------------------|------|
| Outlet 1 inch or less          | \$ 4 |
| Outlet over 1 inch to 2 inches | 6    |
| Outlet over 2 inch to 3 inches | 8    |
| Outlet over 3 inch to 4 inches | 10   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(d) For meters of a size or capacity not shown herein, the commission will fix a suitable fee upon application.

Section 21. Safety Program. Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

(1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

Section 22. Inspection of Systems. (1) Each utility shall adopt procedures for inspection to assure safe and adequate operation of its facilities and compliance with commission. These procedures shall be filed with the commission.

(2) Each electric utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

(a) At intervals not to exceed six (6) months:

1. Production facilities regularly operated and manned; continuous surveillance, monitoring and inspection as a part of operating procedure.

2. Unmanned production facilities including peaking units not on standby status; units shall be operated and inspected and all monitoring devices shall be checked to determine that there is no evidence of abnormality.

3. Substations where the primary voltage is sixty-nine (69) KV or greater; examination for the purpose of discovering damage to or deterioration of components including structures and fences; checking of all gauges and monitoring devices.

4. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, examination for leaks, condition of case, connections, temperature and overloading.

5. Electric lines operating at sixty-nine (69) KV or greater (including insulators, conductors, and supporting facilities).

(b) At intervals not to exceed one (1) year:

1. Production facilities maintained on a standby status; also inspection and examination prior to any start up, except remotely controlled facilities.

2. Substations where the primary voltage is less than sixty-nine (69) KV but is fifteen (15) KV or greater.

(c) At intervals not to exceed two (2) years: Electric lines operating at voltages of less than sixty-nine (69) KV (including insulators, conductors and supporting facilities).

(d) Other facilities:

1. Utility buildings inspected for compliance with safety codes at intervals not greater than one (1) year.

2. Construction equipment inspected for defects, wear and operational hazards at intervals not greater than quarterly.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(3) Each gas utility shall make systematic inspections of its system for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is prescribed or recommended by the Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, for the various classes of facilities as defined in said standards, in accordance with the inspection procedures described therein.

(4) The following maximum time intervals are prescribed for: certain inspections provided for in Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, with respect to which intervals are not specified; and certain additional inspections not provided for in such code.

(a) At intervals not to exceed one (1) year:

1. Production wells, storage wells and well equipment; visual inspection and examination of all exterior components.

2. Pressure limiting stations, relief devices and pressure regulating stations, including vaults.

3. The curb box on service shall be inspected for accessibility.

(b) Other facilities:

1. Utility buildings inspected for compliance with safety codes at least annually.

2. Construction equipment inspected for defects, wear and operational hazards at least quarterly.

(c) At intervals not to exceed the periodic meter test intervals: individual residential customer service regulators, vents and relief valve vents shall be checked for satisfactory operation.

(d) At intervals of meter change: the curb box on service shall be inspected for operable condition.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(5) (a) Each water utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Source of supply:

a. Dams, physical and structural, annually.

b. Intake structures, physical and structural, annually.

c. Traveling screens, physical and structural and safety of operation, annually.

2. Purification:

a. Sedimentation basins filters and clear wells, physical and structural and safety of operation, annually.

b. Chemical feed equipment, for proper and safe operation, annually.

c. Pumping equipment including electric power wiring and controls, for proper and safe operation, annually.

d. Hydrants, for proper and safe operation, annually.

e. Utility buildings, inspection for compliance with safety codes, annually.

f. Construction equipment, inspection for defects, wear and operational hazards, quarterly.

g. Mains and valves, leaks, annually.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(6) (a) Each telephone utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Aerial plant: Inspection for electrical hazards, proper clearance for electric facilities and climbing safety—Every two (2) years.

2. Underground plant: Inspection for presence of gas, proper clearance from electric facilities and safe working conditions—At least annually.

3. Station equipment and connections: Inspection for external electrical hazards, damaged instruments or wiring, appropriate protection from lightning and safe location of equipment and wiring—When on customer's premises.

4. Utility buildings: Inspection for compliance with safety codes—At least annually.

5. Construction equipment: Inspection for defects, wear and operational hazards—At least quarterly.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

Section 23. Reporting of Accidents. Each utility shall notify the commission of any accident which results in death or serious injury to any person or substantial property damage. Prompt notice of fatal accidents shall be given to the commission by telephone or telegraph.

Section 24. Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

MARLIN M. VOLZ, Chairman

ADOPTED: February 3, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 8, 1982 at 4:30 p.m.

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 82-55

January 22, 1982

EMERGENCY REGULATION  
Department for Human Resources  
Bureau for Health Services

WHEREAS, KRS 211.956 provides a mechanism by which the government of the Commonwealth may assist local emergency medical systems in the payment of trained personnel; and

WHEREAS, without this assistance, sufficient numbers of qualified personnel would be unavailable to adequately staff emergency medical systems in the Commonwealth; and

WHEREAS, the existence of an emergency medical system is vital to an effective health care delivery system, especially in rural areas of the Commonwealth; and

WHEREAS, under the present mechanism for funding, many eligible applicants for the much needed funds have been unable to acquire assistance through this program due to limited funding; and

WHEREAS, the Secretary for Human Resources had determined that the distribution of remaining funds should be done in the most equitable manner possible to assure each applicant some assistance from the state as quickly as possible; and

WHEREAS, the Secretary has promulgated a regulation to accomplish this distribution; and

WHEREAS, the Secretary has found that an emergency exists with respect to the said regulation, and that, therefore, the regulation should, pursuant to Section 13.085(2) of the Kentucky Revised Statutes, 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 with respect to the filing of said regulation pertaining to salary payment assistance and direct said regulation be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor

FRANCES JONES MILLS, Secretary of State

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Health Services

902 KAR 14:015E. Salary payment assistance.

RELATES TO: KRS 211.950 to 211.958

PURSUANT TO: KRS 13.082, 211.952

EFFECTIVE: February 3, 1982

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

NECESSITY AND FUNCTION: KRS 211.952 authorizes the Department for Human Resources to maintain a program for the planning, development, and improvement of emergency medical services throughout the state utilizing, among other factors, the system components described in Public Law 93-154, the Emergency Medical Services Act of 1973. The function of this regulation is to establish standards and criteria governing the allocation of funding assistance for payment of salaries of trained emergency medical services personnel to maintain essential services in accordance with KRS 211.956.

Section 1. Application for Personnel Funding Assistance. Any city or county may apply to the Department for Human Resources with the assistance of the applicable emergency medical services system for funding assistance to maintain an adequate number of trained personnel to staff its ambulance service in accordance with KRS 211.956. The application shall include the total ambulance service operating budget, a summary of the total

city or county general fund budget, and itemization of sources and amounts of city or county revenues utilized in the provision of ambulance services. Application forms may be obtained from the Department for Human Resources.

**Section 2. Funding Criteria and Prioritization.** To qualify for funding assistance pursuant to KRS 211.956, the applicant city or county must budget a minimum of five percent (5%) of its available general fund dollars as budgeted and reported to the Department for Local Government toward the cost of ambulance service operations, except that revenues raised by an ambulance service district tax may be applied to reduce the amount of general funds necessary on a one-for-one direct reduction basis.

(1) The maximum amount of matching funds for which the city or county may qualify shall be determined as follows:

(a) The first five percent (5%) of city or county general funds budgeted and any other funds earmarked for ambulance service, shall be deducted from the total ambulance service operating budget.

(b) The percentage of actual personnel costs to the total ambulance service budget shall be determined, and this percentage applied to the total ambulance service operating cost remaining after deductions in paragraph (a) of this subsection.

(c) The city or county shall be eligible for fifty percent (50%) of the amount derived from paragraphs (a) and (b) of this subsection up to a maximum of \$40,000 per county, including grants to cities within counties.

[(d) Eligible applications shall be ranked in descending order (high to low) by the ratio of the amounts derived from paragraphs (a) and (b) of this subsection to the applicants' general funds.]

(2) *An eligible applicant shall receive a matching portion as determined by the population in need of services within the service location of the applicant (per capita) plus other special indicators of need as determined by the Department, provided that no applicant shall receive more than the amount for which it is eligible as determined by subsection (1) of this section. [Eligible applicants shall be allocated funds based on their priority ranking, the number of eligible applicants, and the amount of funds available.]*

(3) Allocations from the personnel funds to cities or counties where at least fifty percent (50%) of ambulance personnel are volunteers (non-compensated) or in which at least fifty percent (50%) of the ambulance services are operated by volunteers on a twenty-four (24) hour basis elect to apply funding for equipment pursuant to KRS 211.958 shall be prioritized utilizing criteria contained in 902 KAR 14:005E.

**Section 3. Funding Limitations.** Allocations from the personnel funds to cities or counties pursuant to Section 2(3) shall not exceed ten percent (10%) of the total amount available in this fund.

**Section 4. Matching Requirement.** The matching requirement of fifty percent (50%) for personnel salaries shall be budgeted from city or county general funds or from ambulance district tax revenues only.

DAVID T. ALLEN, MD, Commissioner  
ADOPTED: February 1, 1982  
APPROVED: W. GRADY STUMBO, Secretary  
RECEIVED BY LRC: February 3, 1982 at 12:10 p.m.

JOHN Y. BROWN, JR., GOVERNOR  
Executive Order 82-86  
February 3, 1982

EMERGENCY REGULATIONS  
Department for Human Resources  
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible under the provisions of KRS Chapters 194 and 205 for promulgating, by regulation, the policies of the Department with regard to the provision of Aid to Families with Dependent Children; and

WHEREAS, federal law with respect to that program has been amended, effective October 1, 1981; and

WHEREAS, at the current rate of spending the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with appropriation; and

WHEREAS, the Secretary has found that, to reduce the rate of spending and to conform to federal law, it is necessary to implement new regulations governing eligibility for the Aid to Families with Dependent Children; and

WHEREAS, the Secretary has promulgated regulations on Technical Requirements: Standards for Need and Amount; AFDC; and Procedures for Determining Initial and Continuing Eligibility; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulations and that, therefore, said regulations should, pursuant to the provisions of KRS 13.085(2), become effective 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 with respect to the filing of said regulations on Technical Requirements: Standards for Need and Amount; AFDC, and Procedures for Determining Initial and Continuing Eligibility, and hereby direct that said regulations shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

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

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Social Insurance

904 KAR 2:016E. Standards for need and amount, AFDC.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 13.082, 205.200(2)

EFFECTIVE: February 3, 1982

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 required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and



amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006E, Section 3. The incapacitated natural or adoptive parent of the child(ren) who is living in the home and legally married to the specified relative may be included as second parent if the technical eligibility factors are met. The decision regarding application for or continued inclusion of an individual child rests with the parent or other specified relative.

(2) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(3) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month.

(4) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(5) "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

Section 2. Resource Limitations. The amount of real and personal property that can be reserved by each assistance unit shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed \$1,500 equity value; [and]

(e) Farm machinery, livestock, and tools and equipment other than farm, used in a self-employment enterprise; and

(f) [(e)] Items valued at less than fifty dollars (\$50) each.

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the application is denied or assistance discontinued. The time period of ineligibility shall be based on the amount of excess transferred property and begins with the month of transfer. If the amount of excess transferred property does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of natural parent(s), and stepparent(s) living in the home, shall not exceed 150 percent of the assistance standard set forth in Section 8. Disregards specified in Section 4, subsection (1),

shall apply. If total gross income exceeds the 150 percent income limitation standard as shown below, the assistance group is ineligible.

| Number of<br>Eligible Persons | Monthly Gross Income<br>Limitation Standard |
|-------------------------------|---|
| 1 Child                       | \$200                                       |
| 2 Persons                     | \$243                                       |
| 3 Persons                     | \$282                                       |
| 4 Persons                     | \$353                                       |
| 5 Persons                     | \$413                                       |
| 6 Persons                     | \$465                                       |
| 7 or more Persons             | \$518                                       |

(2) Applicant eligibility test. If the gross income is below 150 percent of the assistance standard and the applicant has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4, subsections (1) and (2), shall be compared to the assistance standard set forth in Section 8. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4, subsections (1), (2), and (3). If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. *Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.*

(4) A period of ineligibility shall be established for recipients whose income exceeds the limits set forth in subsection (1) or (3) of this section in accordance with 45 CFR 233.20(a)(3)(D).

Section 4. Excluded/Disregarded Income. All gross non-AFDC income received or anticipated to be received in the month of application or redetermination by the assistance group, natural parent(s) and/or stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test.

(a) Disregards applicable to stepparent income, as set forth in Section 5;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v) and 45 CFR 233.20(a)(11)(i)(b)(1)(i);

(d) Work Incentive Program (WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments;

(e) Reimbursement for training-related expenses made by a manpower agency to applicants in institutional and work experience training;

(f) Value of food coupons;

(g) Non-emergency medical transportation payments;

(h) Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion;

(i) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI



Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education;

- (j) Highway relocation assistance;
- (k) Urban renewal assistance;
- (l) Federal disaster assistance and state disaster grants;
- (m) Home produce for household consumption;
- (n) Experimental housing allowance program payment made under annual contributions contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended; and HUD Section 8 payments for existing housing under Title 24 part 882;
- (o) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;
- (p) Any funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;
- (q) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;
- (r) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Title II and III, pursuant to Section 418 of Public Law 93-113;
- (s) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113;
- (t) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;
- (u) Any payment from Department for Human Resources, Bureau for Social Services, for child foster care, adult foster care, or subsidized adoption;
- (v) Energy assistance payments;
- (w) Earned income tax credit payments.

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conservation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP);

(b) Earnings received from participation in Job Corps by an AFDC child;

(c) Earnings of a child in full-time school attendance or in half-time school attendance, if not working full time;

(d) Standard work expense deduction of seventy-five dollars (\$75) for full-time employment. A forty dollar (\$40) deduction is allowed for part-time employment; and

(e) Child care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment or \$110 per child or incapacitated adult per month for part-time employment.

(3) Benefit calculation. After eligibility is established, exclude/disregard all incomes listed in subsections (1) and (2), as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty dollars (\$30) and one-third ( $\frac{1}{3}$ ) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. This disregard shall not

be applied to an individual after the fourth consecutive month it has been applied to his/her earned income unless he/she has not been a recipient for twelve (12) consecutive months in accordance with 45 CFR 233.20(a)(11)(ii).

(4) Exceptions. Disregards in subsection (2)(d) and (e) and subsection (3)(b) shall not apply, in accordance with 45 CFR 233.20(a)(11)(iii) in any instance where an individual, without good cause:

- (a) Reduces or terminates employment;
- (b) Refuses to accept employment;
- (c) Fails to make a timely report of income; or
- (d) Requests assistance be terminated for the sole purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

Section 5. Stepparent Income and Resources. (1) Income. The gross income of a stepparent living in the home is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first seventy-five dollars (\$75) of the gross earned income of the stepparent who is employed full time or the first forty dollars (\$40) of the gross earned income of the stepparent who is employed part time;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability;

(c) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent receiving Supplemental Security Income under Title XVI.

(2) Resources. Resources belonging exclusively to the stepparent are deemed available to the natural parent and considered in determining eligibility of the natural parent for inclusion in the assistance group. Resources of a stepparent receiving SSI under Title XVI shall not be considered.

Section 6. Alien Income and Resources. The gross non-AFDC income and resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. The provisions of this section shall not apply to those aliens indentified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor and spouse is considered available to the assistance group subject to the following disregards:

(a) Twenty percent (20%) of the total monthly gross earned income, not to exceed \$175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are claimed by the sponsor as dependents in determining his/her federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to non-household

members who are claimed as dependents in determining his/her federal personal income tax liability; and

(d) Actual payments of alimony or child support paid to non-household members.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he/she were an AFDC applicant, less \$1,500.

Section 7. Earned Income Tax Credit. In the case of an applicant or recipient of AFDC, earned income shall include the amount of advance payments of the earned income credit for which he/she is eligible determined in accordance with 45 CFR 233.20(a)(6)(ix).

Section 8. Assistance Standard. The AFDC assistance standard, including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

| Number of Eligible Persons | Monthly Standard |
|----------------------------|------------------|
| 1 Child                    | \$133            |
| 2 Persons                  | \$162            |
| 3 Persons                  | \$188            |
| 4 Persons                  | \$235            |
| 5 Persons                  | \$275            |
| 6 Persons                  | \$310            |
| 7 or more Persons          | \$345            |

Section 9. Foster Care. (1) Payment rates. Payment rates are based on the Department for Human Resources per diem payment rates. The department's rates are based on the age and needs of the child.

(a) A child in foster family care who is eligible for AFDC foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):

| Age     | Regular | Special | Extraordinary |
|---------|---------|---------|---------------|
| 0-5     | \$144   | \$167   | \$228         |
| 6-12    | 160     | 183     | 228           |
| 13-over | 175     | 198     | 228           |

(b) A child in a private child caring institution who is eligible for AFDC foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):

| Age     | Regular | Special |
|---------|---------|---------|
| 0-5     | \$151   | \$212   |
| 6-12    | 175     | 212     |
| 13-over | 192     | 212     |

(2) Income limitations. Gross income shall not exceed 150 percent of the payment rate set forth in subsection (1). If that gross income exceeds the 150 percent income limitation standard as shown below, the child(ren) is ineligible.

| Age  | Foster Family Care |         |               | Institutional Care |         |
|------|--------------------|---------|---------------|--------------------|---------|
|      | Regular            | Special | Extraordinary | Regular            | Special |
| 0-5  | 216                | 251     | 342           | 227                | 318     |
| 6-12 | 240                | 275     | 342           | 263                | 318     |
| 13 + | 263                | 297     | 342           | 288                | 318     |

Section 10. 904 KAR 2:010 and 2:010E, AFDC; standards for need and amount, are hereby repealed.

Section 11. Provisions regarding budgeting methodology contained in Section 3 of this regulation shall be phased in over a three (3) month period beginning February 1, 1982.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 26, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 3, 1981 at 12:10 p.m.

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 2:040E. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2)

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 3, 1982

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 under the provisions of KRS Chapter 205 to administer public assistance programs under Titles IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, and Medical Assistance, hereinafter referred to as MA. In addition the department is required by Title XVI as amended and by KRS 205.245 to provide supplementation to certain aged, blind and disabled individuals. This regulation sets forth the procedures utilized to determine initial and continuing eligibility for assistance under the above programs.

Section 1. Eligibility Determination Process: (1) *Eligibility shall be determined prospectively. In order to receive or continue to receive assistance, a household must meet all of the eligibility criteria for the month payment is intended to cover.*

(2) Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record. The applicant or recipient shall be the primary source of information and shall be required to furnish verification of income, resources, and technical eligibility if he can reasonably be expected to do so, and to give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility. Failure of the applicant or recipient to appear for a scheduled interview, or present required information at the time requested, when informed in writing of the appointment or necessary information to be provided shall be considered a failure by the applicant or recipient to present adequate proof of eligibility.

Section 2. Continuing Eligibility. The recipient shall be responsible for reporting within ten (10) days any change in circumstances which may affect eligibility or the amount of payment. In addition, eligibility shall be reconsidered or redetermined:

(1) When a report is received or information is obtained about changes in circumstances; [and]

(2) Monthly, for AFDC cases not exempted by the appropriate federal agency; and

(3) [(2)] At least every six (6) months for AFDC and every twelve (12) months for MA.

Section 3. Determination of Incapacity or Permanent and Total Disability: (1) A determination that a parent with whom the needy child lives is incapacitated or that the individual requesting medical assistance due to disability is both permanently and totally disabled shall be made by a medical review team following review of both medical and social reports except as listed in subsection (2) of this section.

(2) A parent shall be considered incapacitated without a determination for the medical review team if the parent declares physical inability to work, the worker observes some physical or mental limitation; and the parent:

(a) Is receiving SSI; or

(b) Is age sixty-five (65) or over; or

(c) Has been determined to meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI by either the Social Security Administration or the state supervising ophthalmologist of the Bureau for Social Insurance; or

(d) Has been determined to meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI by either the Social Security Administration or the Medical Review Team of the Bureau for Social Insurance; or

(e) Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board or court of proper jurisdiction with no re-examination requested and there is no visible improvement in condition; or

(f) Is receiving RSDI, federal black lung benefits or railroad retirement benefits based on disability as evidenced by an award letter or benefit check; or

(g) Is currently hospitalized and a statement from the attending physician indicated that incapacity will continue for at least thirty (30) days. If application was made prior to admission, the physician is also requested to indicate if incapacity existed as of application date.

(3) The determination that a parent is not incapacitated will not be made by the local office field staff.

(4) An individual shall be considered permanently and totally disabled if the individual:

(a) Receives RSDI, railroad retirement, or federal black lung benefits based on disability.

(b) Previously received SSI based on disability and discontinuance was due to income or resources, not to improvement in physical condition.

Section 4. Reviews of Supplementation Cases. Aged, blind or disabled supplementation cases shall be periodically reviewed to determine that the special need for which supplementation is granted continues to exist.

Section 5. Procedures contained in subsection 1 of Section 1 and subsection 1 of Section 2 shall be phased in over a three (3) month period beginning February 1, 1982.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 26, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 3, 1982 at 12:10 p.m.

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 82-85

February 3, 1982

#### EMERGENCY REGULATION

Department for Human Resources

Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under Section 194.050 of the Kentucky Revised Statutes, for promulgating, by regulation, the policies of the Department with regard to administration of the Food Stamp Program; and

WHEREAS, the Secretary has found that the current budgetary deficit facing the Commonwealth and the Department should be minimized to the extent possible by prompt action; and

WHEREAS, the Secretary has found that recently promulgated federal regulations necessitates immediate action with respect to said program to bring it into compliance with the federal program; and

WHEREAS, the Secretary has promulgated a regulation on Issuance Procedures to reduce the incidence of loss of food stamp coupons; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to Section 13.085(2) of the Kentucky Revised Statutes, 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 with respect to the filing of said regulation on Issuance Procedures, and hereby direct that said regulation shall become effective upon filing with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor

FRANCES JONES MILLS, Secretary of State

#### DEPARTMENT FOR HUMAN RESOURCES

Bureau for Social Insurance

904 KAR 3:045E. Coupon issuance procedures.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 3, 1982

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 coupon issuance procedures used by the department in the administration of the food stamp program.

**Section 1. Basic Issuance Requirements.** The department is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the department must insure that:

- (1) Only certified households receive benefits;
- (2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;
- (3) Program benefits are distributed in the correct amounts; and
- (4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Parts 274.5 and 274.6 and accurately reported to the Food and Nutrition Service.

**Section 2. Issuance System.** The department shall choose one (1) of the following systems to issue coupons to eligible households:

(1) Direct delivery is a system wherein eligible households pick up and redeem their ATP card at a specified issuance center. Regular mail issuance shall be available to those households which are unable to get to their assigned issuance centers, as determined by the department.

(2) Direct mail is a system wherein coupons are mailed, using at least first class mail, directly to the eligible household.

(a) After two (2) reports of non-delivery from the same household, the department shall mail the household's coupons to the county office for pickup for a period of six (6) monthly issuances. Any household reporting a loss after having been removed from direct mail in a previous period is placed on local office pickup for twelve (12) monthly issuances.

(b) In areas experiencing excessive mail loss, as identified by the department, any household reporting one (1) mail loss is immediately placed on local office pickup for the following six (6) monthly issuances. A household reporting a loss after having been removed from direct mail in a previous period is placed on local office pickup for twelve (12) monthly issuances. When portions of a county experience a high mail loss, all recipients in that portion of the county will either receive their coupons by certified mail or be required to pick up their coupons at a specified location in the county.

**Section 3. Issuance Cycles.** (1) For ongoing cases the monthly coupon packet/ATP card is mailed to the household/issuance center over the first ten (10) to fifteen (15) days of the issuance month, based on the last digit of the recipient's social security number.

(2) New approvals, reapprovals and current month recertifications shall have their coupon packet/ATP card mailed to their home/issuance center within thirty (30) days after the date of application.

(a) Households eligible for expedited service shall have their coupon packet/ATP card made available no later than three (3) days after the date of application.

(b) Residents of drug addiction/alcoholic treatment

centers and group living arrangement facilities eligible for expedited service shall have their coupon packet/ATP card made available no later than seven (7) days after the date of application.

**Section 4. Replacement Issuances.** A total of only two (2) replacements of any kind shall be made during a six (6) month period, except as specified in subsection 4 of this section. Replacements will be issued in accordance with 7 CFR 273.11(g), 274.2(h) and 274.3(c) as follows:

(1) Non-receipt of coupons/ATP cards must be reported in the period of intended use. Replacements shall be issued no more than ten (10) days after report of non-delivery is received and shall be limited to two (2) times during a six (6) month period. If coupons/ATP cards were returned to central office, non-receipt did not occur and the limit stated above does not apply.

(2) Destruction, in an individual household disaster, of coupons/ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

(3) Theft of ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.

(4) Improperly manufactured or mutilated coupons shall be replaced with an amount equal to the affected coupons in accordance with 7 CFR 273.11(g)(5). There is no limit on the number of times this type of replacement may be made.

(5) Food purchased with food stamps which is subsequently destroyed in an individual disaster, as well as in a natural disaster affecting more than one (1) household, which affects the participating household, may be eligible for replacement of the actual value of loss, not to exceed one (1) month's food stamp allotment. The disaster must be reported within ten (10) days and verified. A replacement shall be issued or the opportunity to obtain a replacement given within ten (10) days of the reported loss and shall be limited to two (2) times during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

**Section 5. Authorization-to-Participate Card.** The ATP card is used in areas participating in a direct delivery system.

(1) The ATP card shall be valid for the entire month of issuance unless it is issued after the twenty-fifth (25th) day of the month. Those issued after that date are valid through the last day of the following month.

(2) The household shall be provided with a means of designating an emergency authorized representative who can transact the ATP card in their stead.

(3) Households which report two (2) consecutive mail losses of an ATP card must be provided with an alternate means of delivery.

**Section 6. Coupon Controls.** Regardless of which issuance system is used, the department shall:

(1) Establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with 7 CFR Parts 274.4(a)1 and 2;

(2) Establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR Part 274.4(b);

(3) Arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR Part 274.4(c);

(4) Ensure that coupon issuers and bulk storage points promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR Part 274.5;

(5) Maintain issuance records for a period of three (3)

years from the month of origin as outlined in 7 CFR Part 274.7;

(6) Control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR Part 274.7(b); and

(7) Provide security and control for all issuance accountability documents pursuant to 7 CFR Part 274.7(c).

Section 7. 904 KAR 3:040, Issuance procedures, is hereby repealed.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 29, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 3, 1982 at 12:10 p.m.

## Amended Regulations Now In Effect

### DEPARTMENT OF AGRICULTURE Board of Veterinary Examiners As Amended

201 KAR 16:020. Examination for licensing; reciprocity; fees; re-examinations.

RELATES TO: KRS 321.220, 321.260, 321.270

PURSUANT TO: KRS 321.240

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: KRS 321.190 requires all persons engaging in the practice of veterinary medicine in the State of Kentucky to be licensed by the Kentucky Board of Veterinary Examiners. KRS 321.260 provides that each applicant shall submit to an examination conducted by the board, with the exception of those persons who may obtain a license by reciprocity pursuant to the provisions of KRS 321.220. This regulation sets out the procedures to be followed in obtaining an application, the fees to be charged and procedures relating to the obtaining of a license as a result of this state reciprocating with another state.

Section 1. (1) The board recognizes the following veterinary colleges as having those standards and requirements adequate to comply with the provisions of KRS 321.260. All of the following veterinary colleges have been recognized and approved by the *Kentucky Board of Veterinary Examiners* [American Veterinary Medical Association]. Those colleges are as follows:

(a) [Alabama Polytechnic Institute,] College of Veterinary Medicine, *Auburn University*, Auburn, Alabama.

(b) University of California, School of Veterinary Medicine, Davis, California.

(c) Colorado State *University* [College], Division of Veterinary Medicine, Fort Collins, Colorado.

(d) Cornell University, New York State Veterinary College, Ithaca, New York.

(e) *University of Utrecht, the Netherlands.*

(f) *University of Florida, School of Veterinary Medicine, Gainesville, Florida.*

(g) [(e)] University of Georgia, School of Veterinary Medicine, Athens, Georgia.

(h) [(f)] University of Guelph, Ontario Veterinary College, Guelph Ontario, Canada.

(i) [(g)] University of Illinois, School of Veterinary Medicine, Urbana, Illinois.

(j) [(h)] Iowa State *University* [College], Division of Veterinary Medicine, Ames, Iowa.

(k) [(i)] Kansas State *University* [College], School of Veterinary Medicine, Manhattan, Kansas.

(l) [(j)] Louisiana State University, Baton Rouge, Louisiana.

(m) [(k)] Michigan State College, Division of Veterinary Science, East Lansing, Michigan.

(n) [(l)] University of Minnesota, School of Veterinary Medicine, St. Paul, Minnesota.

(o) *Mississippi State University, Starksville, Mississippi.*

(p) [(m)] University of Missouri, School of Veterinary Medicine, Columbia, Missouri.

(q) [(n)] Ecole Medicine Veterinaire de ma Province de Quebec, Universite de Montreal, La Trappe, Quebec, Canada.

(r) [(o)] Ohio State University, College of Veterinary Medicine, Columbus, Ohio.

(s) [(p)] [University of] Oklahoma *State University*, School of Veterinary Medicine, Stillwater, Oklahoma.

(t) [(q)] University of Pennsylvania, School of Veterinary Medicine, Philadelphia, Pennsylvania.

(u) [(r)] Purdue University, School of Veterinary Science and Medicine, Lafayette, Indiana.

(v) [(s)] University of Saskatchewan, Western College of Veterinary Medicine, Saskatoon, Saskatchewan, Canada.

(w) *University of Tennessee, College of Veterinary Medicine, Knoxville, Tennessee.*

(x) [(t)] Texas Agricultural and Mechanical *University* [College], School of Veterinary Medicine, College Station, Texas.

(y) [(u)] Tuskegee Institute, School of Veterinary Medicine, Tuskegee Institute, Alabama.

(z) [(v)] [State College of] Washington *State University*, College of Veterinary Medicine, Pullman, Washington.

(2) All other veterinary colleges must have academic standards equivalent to the schools listed above in order to be recognized by this board. Evaluation of the academic standards, of veterinary courses and practices of these schools will be made after an application for a license has been received.

Section 2. An application for examination for a license to practice veterinary medicine shall be submitted on an application form prescribed and provided by the board, accompanied by such evidence, statements, or documents as therein required, and shall be filed with the board at its principal office at least thirty (30) days, or in the case of graduates of veterinary colleges outside of the United States, at least ninety (90) days, before the date fixed for the examination. It will be necessary for an applicant to complete the application and forward it, along with the necessary enclosures, to the board's office, within the time described above, whether he desires a license through examination or as a result of reciprocity proceedings.

Section 3. In addition to the examination fee of twenty-five dollars (\$25), all applicants shall be required to pay the fee charged for examination materials furnished to this board. Applicants will be notified of the examination fee and the examination materials fee at the time the application is forwarded to the applicant. All sums payable to the board shall be paid by certified check, cashier's check or postal money order and be payable to the Kentucky State Treasurer.

Section 4. Examinations shall be held at such times and places as shall be determined by the board. A schedule of the date, time and place of the examination shall be mailed to each applicant whose application is accepted by the board.

Section 5. The board shall not refund either the examination fee or the fee for the examination materials, except where good and sufficient cause for refunding all or a portion of the fees is shown to the board within a reasonable time prior to the date of the examination.

Section 6. This state board reciprocates with the states of Illinois, Michigan, Missouri and Ohio. In order for applicant to obtain a license in this state, he must do the following:

(1) Obtain an application from this board;  
(2) Complete the application and return it, along with the enclosures, to the board within the time specified herein;

(3) Show proof that he successfully passed the examination given by the reciprocating state and with which reciprocity is sought;

[(4) Show proof that he has been actively engaged in clinical veterinary medical and/or surgical practice for at least one (1) year in the last preceding four (4) years in that state from which reciprocity is sought;]

(4) [(5)] [(3)] Have the reciprocating state board forward a letter or other documents stating that the applicant is licensed in that state by virtue of an examination, that his license is in good standing, and this board shall further be advised of any derogatory information which may be in that board's file concerning the applicant;

(5) [(6)] Submit a letter of good standing from the state licensing boards in each and every state in which the applicant has been licensed, or if the applicant has permitted his

license to lapse or for any reason is no longer licensed in any of those states, submit a letter from the state board explaining why he is no longer licensed therein;

(6) [(7)] [(4)] Upon receipt of a satisfactory application and information from the reciprocating state board, the Kentucky Board of Veterinary Examiners will schedule a personal interview for the applicant. This personal interview may be conducted by the board [as a whole] or by any person delegated to act for the board. All applicants for license by reciprocity are hereby advised that the granting of licenses by reciprocity is by privilege and not by right and the granting of such licenses rests solely in the discretion of this board.

Section 7. All applicants successfully passing the examination or obtaining a license in this state by virtue of reciprocity procedures shall be required to pay to this board the sum of twenty-five dollars (\$25) [ten dollars (\$10)], which sum will be the fee charged for the issuance of the license certificate and the license certificate shall remain in good standing until the next renewal date. In addition to the reciprocity fee of twenty-five dollars (\$25), those persons granted a license by reciprocity shall pay to this board all costs incurred by the board in processing and handling the application for such a license.

Section 8. Any applicant seeking to have the board consider examination scores forwarded by the Professional Examination Service (National Board scores) must submit scores of examinations conducted within the last five (5) years preceding the date of submission of the scores. Examination scores more than five (5) years old will not be considered by the board. The forwarded scores, in addition to being no more than five (5) years old, must meet the requirements of KRS 321.270(2)(a) and (b).

Section 9. The re-examination fee, when applicable, shall be twenty-five dollars (\$25) and in addition to the re-examination fee, all applicants shall be required to pay the costs charged for re-examination materials furnished to the board. Applicants will be notified of the re-examination costs at the time the application is forwarded to the applicant. All sums payable to the board shall be paid by certified check, cashier's check or postal money order and be payable to the Kentucky State Treasurer.

ALBEN W. BARKLEY II, Chairman

ADOPTED: December 10, 1981

RECEIVED BY LRC: December 14, 1981 at 11:30 a.m.

COMMERCE CABINET  
Department of Fish and Wildlife Resources  
As Amended

301 KAR 1:075. Gigging, hand grabbing or snagging, tickling and noodling.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.235, 150.360, 150.440, 150.445, 150.470

PURSUANT TO: KRS 13.082

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. The Commissioner with the concurrence of the Commission finds it necessary to remove hand grabbing from one river, and to remove the



prohibition of a natural perch or tree as a snagging site. *This amendment is necessary to allow the harvest of rough fishes from a specified section of stream.*

Section 1. As used in this regulation, the word "snagging" means an act of taking fish by using a single hook or one treble hook (except in the main stream of Green River and the main stream of Rolling Fork River where five (5) hooks, either single or treble hooks, may be used) which is attached by line to a pole and is used in a jerking and pulling manner, but does not include the term "snag line" as used in KRS Chapter 150 pertaining to designated commercial fishing streams.

Section 2. A person may gig or snag from the stream or lake banks, but cannot use these fishing methods from a boat or platform, except gigging is permitted from a boat in any lake with a surface acreage of 500 acres or larger during the daylight hours.

Section 3. The season during which gigging and snagging is permitted is March 1 through May 10, annually, except persons may gig rough fish through the ice in these same waters any time the surface is frozen thick enough to stand on, and gigger must gig while supported by the ice.

Section 4. Gigging and/or snagging for rough fish is permitted night and day in all lakes and streams, except where specifically prohibited as described in Sections 2 and 5.

Section 5. Gigging and/or snagging is specifically prohibited in the following streams and their tributaries. (Exceptions: See subsection (1)(b) and subsection (2)(b) below.)

(1) (a) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, and in the Cumberland River in the area below Barkley Dam downstream to US 62 bridge.

(b) Those tributaries to the Cumberland River below Wolf Creek Dam downstream to the Tennessee line, shall be open to gigging and snagging in season, except that portion of each tributary which is within one-half (½) mile of its junction with the Cumberland River.

(2) (a) Within 200 yards of any dam on [or] any stream,

(b) Snagging only is permitted in the Tennessee River below Kentucky Dam subject to restrictions in 301 KAR 1:020.

(3) Little Kentucky River—Trimble,

(4) Goose Creek—Russell and Casey,

(5) Casey Creek—Trigg,

(6) Rough River, below Rough River Dam downstream to where Ky. 54 crosses the stream, and above the first rifle on Rough River Lake,

(7) Middle Fork of the Ky. River, from Buckhorn Dam downstream to Breathitt-Perry County line,

(8) Trammel Creek, upstream from the Butlersville Bridge where KY 1332 crosses the stream [—Allen and Warren],

(9) Peters Creek—Barren and Monroe,

(10) Beaver Dam Creek—Edmonson,

(11) Canada Creek—Wayne,

(12) Shultz Creek—Greenup,

(13) Sulphur Spring Creek—Simpson,

(14) Lick Fork Creek—Simpson,

(15) Sinking Creek—Breckinridge,

(16) Beaver Creek—Barren,

- (17) Big Brush Creek—Green,
- (18) Rough Creek—Hardin,
- (19) Claylick Creek—Crittenden,
- (20) Lynn Camp Creek—Hart,
- (21) Roundstone Creek—Hart,
- (22) Ravens Creek—Harrison,
- (23) Boone Creek—Fayette and Clark,
- (24) Caney Creek—Elliott,
- (25) Greasy Creek—Leslie,
- (26) Laurel Fork Creek—Harlan,
- (27) Beaver Creek—Wayne,
- (28) Craney Creek—Rowan,
- (29) Swift Camp Creek—Wolfe,
- (30) Middle Fork—Powell and Wolfe,
- (31) War Fork—Jackson,
- (32) Indian Creek—Jackson,
- (33) Clover Bottom Creek—Jackson,
- (34) Cane Creek—Laurel,
- (35) Hawk Creek—Laurel,
- (36) Beaver Creek—McCreary,
- (37) Little South Fork—McCreary and Wayne,
- (38) Rock Creek—McCreary,
- (39) Lick Creek—McCreary,
- (40) Bark Camp Creek—Whitley,
- (41) Dogslaughter Creek—Whitley,
- (42) Laurel Creek—Elliott,
- (43) Big Double Creek—Clay,
- (44) Hood Creek—Johnson and Lawrence.

Section 6. All game fish caught by gigging or snagging, except those taken below Kentucky Dam in the Tennessee River, shall be returned to the water immediately, regardless of condition.

Section 7. The tickling and noodling (hand grabbing) season for rough fish only shall be June 10 to August 31 (all dates inclusive) during daylight hours only. Tickling and noodling shall be permitted in all waters except the South Fork of the Kentucky River and tributaries. The daily creel limit for tickling and noodling shall be fifteen (15) rough fish of which not more than five (5) may be catfish.

CARL E. KAYS, Commissioner

CHARLES E. PALMER, JR., Chairman

ADOPTED: December 6, 1981

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: December 11, 1981 at 2 p.m.

#### DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection  
Division of Waste Management  
As Amended

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]

EFFECTIVE: February 1, 1982

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 regula-

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

(3) "Administrator" means the administrator of the United States Environmental Protection Agency, or his designee.

(4) [(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.

(5) [(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.

(6) [(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.

(7) "Base flood" means a flood that has a one (1) percent 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.

(8) "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils.

(9) [(6)] [(5)] "Cell" means a portion of a landfill which is isolated, usually by means of an approved barrier.

(10) [(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.

(11) [(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.

(12) "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

(13) "Constituent" or "hazardous waste constituent"

means a constituent which caused the administrator to list the hazardous waste in 40 CFR Part 261, Subpart D, filed herein by reference, or a constituent listed in Table I of 40 CFR 261.24.

(14) [(9)] "Construction materials" means non-hazardous non-soluble 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.

(15) [(10)] [(7)] "Container" means any portable enclosure in which a material is [can be] stored, [handled,] transported, treated, [or] disposed, or otherwise handled.

(16) "Contaminate" means introduce a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level specified in 401 KAR 2:055, Section 7.

(b) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level specified in 401 KAR 2:055, Section 7.

(17) [(11)] [(8)] "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

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

(19) [(13)] "Cover 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.

(20) "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(21) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

(22) [(15)] [(9)] "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping [release] of [any] solid or hazardous waste [or any constituent thereof] into or on any land or water [the environment].

(23) [(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].

(24) [(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.

(25) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Endangered Species Act, as amended, 16 U.S.C. 1536.



(26) "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in 40 CFR Part 261, Subpart D, filed herein by reference, and to each characteristic identified in Part 261, Subpart C, filed herein by reference.

(27) "EPA identification number" means the number assigned by EPA or the department to each generator, transporter, and treatment, storage, or disposal facility.

(28) "Equivalent method" means any testing or analytical method, approved by the administrator under 40 CFR 260.20 and 40 CFR 260.21, filed herein by reference, or methods in 401 KAR 2:095 or 401 KAR 2:101, approved by the secretary of the department.

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

(29) "Explosive gas" means in 401 KAR 2:055, Section 6(1), methane (CH<sub>4</sub>).

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

(30) [(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.

(31) [(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 (1) or more land landfills, surface impoundments, or combination of them).

(32) "Facility structures" means any buildings and sheds or utility or drainage lines on the solid waste site or facility.

(33) "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the United States Government Printing Office.

(34) [(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.

(35) [(20)] [(14)] "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a [hazardous waste] landfill or sanitary 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.]

(36) [(22)] "Flood plain" means [lowland and relatively flat] areas adjoining inland waters which are inundated by the base flood, unless otherwise specified in 401 KAR 2:095.

(37) [(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.]

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

(39) [(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.]

(40) [(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.]

(41) [(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."

(42) [(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.

(43) [(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 [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.]

(44) [(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 listed in 401 KAR 2:075 [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 contiguous [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-earthen 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. An example is a pipe in which acid is neutralized.

(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 receives, stores, treats, generates or accumulates wastewater treatment sludge, either of which is a hazardous waste.

(45) "Inactive portion" means that portion of a hazardous waste site or facility which is not operated after the effective date of 40 CFR Part 261, filed herein by reference.

(46) [(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.

(47) [(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, con-

taminated 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.]

(48) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained hazardous waste or reagents used to treat the hazardous waste.

(49) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(50) "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(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.]

(51) [(36)] [(30)] "Leachate" means any liquid including any suspended components in the liquid, that has percolated through or drained from [hazardous] waste.

(52) [(37)] [(31)] "Liner" means a continuous layer of natural or man-made material [placed beneath or over a surface impoundment or landfill] which restricts [serves to restrict] the movement of the wastes, waste constituents, or leachate. [from within the surface impoundment or the landfill into the soil, rock or water outside of the surface impoundment or landfill.]

(53) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.

(54) [(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].

(55) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(56) [(39)] [(32)] "Manifest" means the shipping document originated and signed by the generator which con-

tains information required by 401 KAR 2:070.

(57) "Manifest document number" means the serially increasing number assigned to the manifest by the generator for recording and reporting purposes.

(58) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

(59) [(40)] [(33)] "Monitoring" means the act of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(60) [(41)] [(34)] "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(61) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(62) [(42)] [(35)] "New" means any hazardous waste site or facility that commenced construction after November 19, 1980 [October 17, 1979].

(63) [(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.

(64) [(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.]

(65) [(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.

(66) [(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.

(67) [(42)] "Partial closure of a hazardous waste facility" means the closure of a discrete part of a facility in accordance with the applicable closure requirements of 40 CFR Parts 264 or 265, filed herein by reference. [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.]

(68) "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed waste at a solid waste site or facility at the end of each operating day or at such frequencies and in such a manner as to reduce the risks of fire and to impede disease vector's access to the waste.

(69) [(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 and/or do not present a threat of imminent hazard to public health or a substantial environmental impact, in violation of any of the environmental performance standards specified in 401 KAR 2:055.

(70) [(48)] [(41)] "Permittee" means any person holding a valid permit issued by the department to manage, treat, store, and/or dispose of [hazardous] waste.

(71) [(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.

(72) "Pile" means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(73) "Point source" means any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(74) "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of any municipal sewage or industrial wastes of a liquid nature which is owned by the state, any political subdivision, municipality, or other public entity (as defined by Section 502(4) of the Clean Water Act). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(75) [(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.

(76) [(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.

(77) [(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.]

(78) [(53)] "Recharge zone" means an area supplying the water which enters an underground drinking water source [a fresh water aquifer].

(79) "Regional Administrator" means the regional administrator for the EPA region in which the facility is located, or his designee.

(80) [(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.]

(81) [(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.

(82) [(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.]

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

(84) "Sanitary landfill" means a facility for the disposal of solid waste which complies with the "Environmental performance standards" specified in 401 KAR 2:055, Section 6.

(85) [(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.

(86) [(59)] "Salvaging" means the controlled removal of waste materials for utilization [from an area remote from the operating face of the fill] in a manner approved by the department.

(87) [(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.

(88) [(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 or any other such waste having similar characteristics and effects.

(89) [(62)] "Solid waste site or facility" means one (1) of the four (4) [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 proper disposal of inert, non-soluble and non-putrescible 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 with specific approval from the department [not deemed to pose environmental problems from leachate]. Certain putrescible wood product wastes (such as cardboard, paper, sawdust, woodchips, and tree trimming, etc.) may be considered by the department for disposal at inert landfills.

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

(c) "Contained landfill" means a facility for the proper disposal of solid waste including those [which is designed and operated so as to achieve proper disposal of certain] industrial wastes, [or] special wastes, or hazardous wastes exempted by regulation and any non-hazardous waste without case-by-case approval from the department.

(d) "Residual landfill" means a facility for the disposal of specific solid waste(s), including special waste, which is located, designed, constructed, operated, maintained and closed in conformance with the "Environmental performance standards" of 401 KAR 2:055, Section 6(1) and which receives a case-by-case design review by the department.

(e) [(d)] "Landfarming facility" 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 or pieces 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.

(90) [(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.[]]

(91) [(63)] [(49)] "Spill" means any accidental *spilling, leaking, pumping, pouring, emitting, or dumping* of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water [discharge into the environment of any substance which meets the definition of hazardous waste].

(92) [(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.]

(93) [(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.

(94) "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(95) [(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.

(96) [(67)] [(54)] "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(97) "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural or man-made depression and the covering with soil or other suitable material at the end of each operating day such that the waste does not migrate to the surface.

(98) "Underground drinking water source" means:

(a) An aquifer supplying drinking water for human consumption; or

(b) An aquifer in which the groundwater contains less than 10,000 mg/l total dissolved solids.

(99) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "hazardous waste site or facility, injection well.")

(100) [(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.

(101) [(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.

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

(103) "Washout" means the carrying away of waste by waters of the base flood.

(104) "Waste boundary" means either:

(a) The outmost perimeter of the waste (projected in the horizontal plane) as it would exist at completion of the disposal activity; or

(b) An alternative boundary for a facility which may be used in lieu of paragraph (a) when the department finds that such a change would not result in the contamination of groundwater which may be needed or used for human consumption. Such a finding shall be based on an analysis and consideration of all the factors identified in the following subparagraphs of this paragraph that are relevant:

1. The hydrogeological characteristics of the facility and surrounding land including any natural attenuation and dilution characteristics of the aquifer;

2. The volume and physical and chemical characteristics of the leachate;

3. The quantity, quality, and direction of flow of groundwater underlying the facility;

4. The proximity and withdrawal rates of groundwater users;

5. The availability of alternative drinking water supplies;

6. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater;

7. Public health, safety, and welfare effects.

(105) "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

(106) [(71)] [(57)] "Wetlands" means those areas that are inundated by surface water 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.

(107) [(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: December 15, 1981

RECEIVED BY LRC: December 15, 1981 at 4:30 p.m.

DEPARTMENT FOR NATURAL RESOURCES  
AND ENVIRONMENTAL PROTECTION  
Bureau of Environmental Protection  
Division of Waste Management  
As Amended

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]

EFFECTIVE: February 1, 1982

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.

(1) The waste management regulations apply to all waste disposal sites or facilities with the following exceptions:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works for treatment. These regulations do apply to sludges generated by the treatment of domestic sewage.

(b) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended. These regulations do apply to sludges generated by the treatment of industrial wastewater.

(c) Solid or dissolved materials in irrigation return flows.

(d) Source special nuclear or by-product material as defined by the Atomic Energy Act, as amended 42 U.S.C. 2011 et seq.

(e) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process.

(2) Any waste that is not excepted by subsection (1) of this section and that is identified or listed under 401 KAR 2:075 is subject to the waste management regulations pertaining to hazardous waste.

(3) Any waste which is not excepted by subsection (1) and which is not subject to subsection (2) is subject to the waste management regulations pertaining to solid waste except for:

(a) Agricultural wastes including manures and crop residues, returned to the soil as fertilizers or soil conditioners.

(b) Overburden resulting from mining operations intended for return to the mine site and coal mining wastes, refuse, overburden and coal mining by-products.

(c) The location and operation of septic tanks. These regulations do, however, apply to the disposal of septic tank pumpings.

(d) Disposal of waste by underground well injection subject to the regulations (40 CFR Part 146) for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3007 et seq.

Section 2. Variance. A variance, except as provided in 401 KAR 2:060, is a written waiver from any provision of the waste management regulations, except the "Environmental performance standards" (Section 6 of this regulation), and the "Maximum groundwater contaminant levels" (Section 7 of this regulation) upon the finding by the department that the absence of such provision(s) will provide adequate protection to health and the environment in a manner consistent with the purpose of the waste management regulations and KRS Chapter 224.

(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 as prescribed by the department in sufficient detail to describe 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 treat-

ment, 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 considering the potential for fire or other volatilization, and for wind dispersal of waste.]

**Section 6. Environmental Performance Standards.** These standards are for use under the waste management provisions of KRS Chapter 224 in determining which waste disposal sites or facilities pose a reasonable probability of adverse effects on health or the environment. Solid waste disposal sites or facilities failing to satisfy the applicable standards will be considered open dumps which are prohibited by KRS 224.255. Hazardous wastes disposal sites or facilities failing to satisfy the standards of this section will be considered to be in violation of the hazardous waste management provisions of KRS Chapter 224.

(1) No waste disposal site or facility shall:

(a) Restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of waste, so as to pose a hazard to human life, wildlife, or land or water resources.

(b) Cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.

(c) Result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in the Endangered Species Act and subsequent regulations.

(d) Cause a discharge of pollutants into waters of the Commonwealth that is in violation of the requirements of KRS Chapter 224.

(e) Cause a discharge of dredged material or fill material to waters of the Commonwealth that is in violation of the requirements under Section 404 of the Clean Water Act, as amended.

(f) Cause non-point source pollution of waters of the Commonwealth that violates applicable legal requirements established to implement an areawide or statewide water quality management plan that has been approved by the department.

(g) Contaminate an underground drinking water source beyond the waste boundary. The maximum contaminant levels for this paragraph are contained in Section 7 of this regulation.

(h) Exist or occur which applies solid waste or special waste to within three (3) feet (one (1) meter) of the surface of land used for the production of food-chain crops unless in compliance with all the requirements of subparagraphs 1, 2, 3 or with all the requirements of subparagraphs 6, 7, 8, and 9 of this paragraph:

1. The pH of the solid waste or special waste and soil

mixture is 6.5 or greater at the time of each solid waste or special waste application, except for solid waste or special waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

2. And the annual application of cadmium from solid waste or special waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate does not exceed:

| Time Period                   | Annual Cd Application Rate (kg/ha) |
|-------------------------------|------------------------------------|
| Present to June 30, 1984      | 2.0                                |
| July 1, 1984 to Dec. 31, 1986 | 1.25                               |
| Beginning Jan. 1, 1987        | 0.5                                |

3. And the cumulative application of cadmium from the waste does not exceed the levels in either subparagraphs 4 or 5 of this paragraph:

4. Table.

| Soil Cation Exchange Capacity (meg/100g) | Maximum cumulative application (kg/ha) |                         |
|--|--|-------------------------|
|  | Background Soil pH <6.5                | Background Soil pH ≥6.5 |
| <5                                       | 5                                      | 5                       |
| 5-15                                     | 5                                      | 10                      |
| >15                                      | 5                                      | 20                      |

5. For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below: Provided, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food-chain crops are grown.

| Soil Cation Exchange Capacity (meg/100g) | Maximum Cumulative Application (kg/ha) |
|--|--|
| <5                                       | 5                                      |
| 5-15                                     | 10                                     |
| >15                                      | 20                                     |

6. The only food-chain crop produced is animal feed.

7. And the pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food-chain crops are grown.

8. And there is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses.

9. And future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food-chain crops should not be grown due to a possible health hazard.

(i) Exist or occur which applies solid waste or special waste containing concentrations of polychlorinated biphenyls (PCBs) equal to or greater than 10 mg/kg (dry weight) to within three (3) feet (one (1) meter) of the surface of land used for producing animal feed, including

pasture crops for animals raised for milk. Incorporation of the solid waste or special waste into the soil is not required if it is assured that the PCB content is less than 0.2 mg/kg (actual weight) in animal feed or less than 1.5 mg/kg (fat basis) in milk.

(j) Exist or occur unless the on-site population of disease vectors is minimized through the periodic application of cover material or other techniques as appropriate so as to protect public health.

(k) Exist or occur which applies sewage sludge or septic tank pumpings to within three (3) feet (one (1) meter) of the surface of the land unless a method to reduce pathogens has been utilized.

(l) Engage in open burning solid waste, special waste or hazardous wastes. This requirement does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land-clearing debris, diseased trees, debris from emergency clean-up operations, and ordnance.

(m) Violate applicable requirements developed under the state implementation plan approved or promulgated by the department pursuant to KRS Chapter 224.

(n) Exceed the concentration of explosive gases:

1. Twenty-five percent (25%) of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components); and

2. The lower explosive limit for the gases at the facility boundary.

(o) Pose a hazard to the safety of persons or property from fires. This may be accomplished through compliance with paragraphs (l) and (m) of this subsection through the periodic application of cover material or other techniques as appropriate.

(p) Allow uncontrolled public access so as to expose the public to potential health and safety hazards at the disposal site.

(2) In addition to the requirements of subsection (1) of this section, no hazardous waste disposal site or facility, except for facilities regulated pursuant to the interim status standards, shall cause a reasonable probability of adverse effects on groundwater quality, surface water quality, and air quality or cause a reasonable probability of adverse effects due to migration of waste constituents considering:

(a) The volume and physical and chemical characteristics of the waste in the facility, including its potential for migration through soil or through synthetic liner materials and its potential for volatilization and wind dispersal;

(b) The hydrogeological and geological characteristics of the facility and surrounding land, including the topography of the area around the facility;

(c) The quantity, quality and directions of groundwater flow;

(d) The proximity and withdrawal rates of groundwater users;

(e) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

(f) The potential for health risks caused by human exposure to waste constituents;

(g) The potential damage to wildlife, crops, vegetation and physical structures caused by exposure to waste constituents;

(h) The persistence and permanence of the potential adverse effects;

(i) The patterns of rainfall in the region;

(j) The proximity of the facility to surface waters;

(k) The uses of nearby surface waters and any water quality standards established for those surface waters;

(l) The existing quality of surface water, including other sources of contamination and their cumulative impact on surface water;

(m) The potential for migration of waste constituents into sub-surface physical structures; and

(n) The potential for migration of waste constituents into the root zone of food-chain crops and other vegetation.

Section 7. Maximum Groundwater Contaminant Levels. The maximum contaminant levels promulgated herein are for use in determining whether solid waste disposal activities comply with the groundwater criteria of Section 6(1)(g). Analytical methods for these contaminants may be found in 40 CFR 141 which should be consulted in its entirety.

(1) Maximum contaminant levels for inorganic chemicals. The following are the maximum levels of inorganic chemicals other than fluoride:

| Contaminant    | Level (milligrams per liter) |
|----------------|------------------------------|
| Arsenic        | 0.05                         |
| Barium         | 1.0                          |
| Cadmium        | 0.01                         |
| Chromium       | 0.05                         |
| Lead           | 0.05                         |
| Mercury        | 0.002                        |
| Nitrate (as N) | 10.0                         |
| Selenium       | 0.01                         |
| Silver         | 0.05                         |

The maximum contaminant levels for fluoride are:

| Temperature <sup>1</sup> |                    | Level<br>(milligrams per liter) |
|--------------------------|--------------------|---------------------------------|
| Degrees<br>Fahrenheit    | Degrees<br>Celsius |                                 |
| 53.7 and below           | 12 and below       | 2.4                             |
| 53.8 to 58.3             | 12.1 to 14.6       | 2.2                             |
| 58.4 to 63.8             | 14.7 to 17.6       | 2.0                             |
| 63.9 to 70.6             | 17.7 to 21.4       | 1.8                             |
| 70.7 to 79.2             | 21.5 to 26.2       | 1.6                             |
| 79.3 to 90.5             | 26.3 to 32.5       | 1.4                             |

<sup>1</sup> Annual average of the maximum daily air temperature.

(2) Maximum contaminant levels for organic chemicals. The following are the maximum contaminant levels for organic chemicals:

|  | Level (milligrams<br>per liter) |
|--|---------------------------------|
| (a) Chlorinated hydrocarbons:  |                                 |
| Endrin (1,2,3,4,10,10-Hexachloro-6, 7-epoxy-1,4,4a, 5,6,7,8,8a-octahydro-1,4-endo,endo-5,8-dimethano naphthalene) . . . . .      | 0.0002                          |
| Lindane (1,2,3,4,5,6-Hexachlorocyclohexane, gamma isomer) . . . . .  | 0.004                           |
| Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenyl) ethane) . . . . .  | 0.1                             |
| Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>8</sub> -Technical chlorinated camphene, 67 to 69 percent chlorine) . . . . . | 0.005                           |
| (b) Chlorophenoxys:  |                                 |
| 2,4-D (2,4-Dichlorophenoxyacetic acid) . . . . .   | 0.1                             |
| 2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid) . . . . .   | 0.001                           |



(3) *Maximum microbiological contaminant levels.* The maximum contaminant level for coliform bacteria from any one (1) well is as follows:

(a) *Using the membrane filter technique:*

1. Four (4) coliform bacteria per 100 milliliters if one (1) sample is taken; or

2. Four (4) coliform bacteria per 100 milliliters in more than one (1) sample of all the samples analyzed in one (1) month.

(b) *Using the five (5) tube most probable number procedure (the fermentation tube method) in accordance with the analytical recommendations set forth in "Standard Methods for Examination of Water and Waste Water," American Public Health Association, and using a standard sample, each portion being one-fifth (1/5) of the sample.*

1. If the standard portion is ten (10) milliliters, coliform in any five (5) consecutive samples from a well shall not be present in three (3) or more of the twenty-five (25) portions; or

2. If the standard portion is 100 milliliters, coliform in any five (5) consecutive samples from a well shall not be present in five (5) portions in any of five (5) samples or in more than fifteen (15) of the twenty-five (25) portions.

(4) *Maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity.* The following are the maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity:

(a) *Combined radium-226 and radium-228-5 pCi/l:*

(b) *Gross alpha particle activity (including radium-226 but excluding radon and uranium)-15 pCi/l.*

JACKIE SWIGART, Secretary

ADOPTED: December 15, 1981

RECEIVED BY LRC: December 15, 1981 at 4:30 p.m.

DEPARTMENT FOR NATURAL RESOURCES  
AND ENVIRONMENTAL PROTECTION  
Bureau of Environmental Protection  
Division of Waste Management  
As Amended

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)

EFFECTIVE: February 1, 1982

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. *Sections 1, 2 and 3 apply to inert landfills. Sections 1 thru 6 apply to residential landfills. Sections 1 thru 9 apply to contained landfills. Sections 10 thru 12 apply to residual landfills.*

Section 1. Contents of Permit Applications for Inert Landfills. 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 the applicant. If the applicant is a government agency, corporation, company or partnership, include the name and address and phone number of the 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 geological report of the site including but not limited to:*

(a) *A description of all soils at the site, in detail, including their suitability for the proposed site;*

(b) *A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as seismic activity, stability, and karstic weathering; and*

(c) *A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.*

[(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 thereon.

(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-sections 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, total 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 seeding 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 compaction 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 for Inert Landfills.** (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, *excluding any sand or gravel used in a leachate collection system.*

(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 for Inert Landfills.** (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. *In considering such requests the department shall use the standards specified in KRS 224.866.*

(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) A groundwater monitoring plan to include location and specifications of wells, and monitoring parameters and schedules may be required by the department upon examination of geological aspects and other relevant factors. *The monitoring system shall be capable of detecting any contamination of the uppermost aquifer beneath the site.*

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 *underground drinking water sources* [usable groundwater aquifers].

(5) The concentration of methane generated by a residential [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. *There shall be available sufficient material to provide a layer of at least twelve (12) inches of  $1 \times 10^{-7}$  cm/sec. permeability or its equivalent under the waste and to provide a cap above the completed waste cells of six (6) inches of  $1 \times 10^{-7}$  cm/sec. permeability or its equivalent during final closure. An artificial liner or a greater thickness of more permeable material may be judged "equivalent" to twelve (12) inches of  $1 \times 10^{-7}$  cm/sec.* [The site must have at least twelve (12) inches of  $1 \times 10^{-7}$  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 a [an annual] report[.] and [This annual report shall be] submitted to the department 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.

**Section 10. Contents of Permit Application for Residual Landfills.** This section applies to owners and operators of residual landfills that require solid waste site or facility permits. A person or state or federal agency desiring a residual 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 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the land owner.

(5) A copy of the deed to the property or 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 geological report of the site including but not limited to:

(a) A description of all soils at the site, in detail, including their suitability for the proposed site;

(b) A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as: seismic activity, stability, and karstic weathering; and

(c) A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked.

(8) The plans drawn to scale including a closure plan for the site which shall bear the seal of a professional engineer registered in Kentucky.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site.

(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 number of acres to be filled and the total number of acres to be permitted.

(e) A closure plan.

(10) Draft permit conditions for the duration of the facility to assurance compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1).

**Section 11. Residual Landfill Design Requirements.** Residual landfills shall meet the following design requirements:

(1) The engineering design must demonstrate compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1) and reflect a consideration of:

(a) The physical and chemical characteristics of the waste, including compatability, to be disposed of at the facility;

(b) Volume of waste;

- (c) The climatic conditions in the area;
- (d) The permeability of the liner material;
- (e) The properties of the soil underlying the facility;
- (f) Hydrogeological characteristics of the facility including quality, quantity, current use and direction of groundwater flow;

(g) The design of the facility leachate control system, runoff control system, and gas migration control, if required, must consider the physical and chemical characteristics of the waste. The climatic condition of the specific location, the volume of leachate or contaminated runoff that could be produced and available options for managing leachate or contaminated runoff collected at the facility must be considered; and

- (f) The proximity to surface water.

(2) Residual landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(3) The closure plan shall specify the function and design of the final cover for the facility. The closure design should assure compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1) and must reflect consideration of:

- (a) The type and amount of waste in the facility;
- (b) The mobility and expected rates of migration of the waste;
- (c) The site location, topography and surrounding land use, and final site use;
- (d) The climatic conditions in the area;
- (e) The characteristics of the cover material including erodability, slope stability, final surface contours, thickness, porosity, permeability, slope, length of run of slope, and type of vegetation on the cover; and
- (f) The geological and soil profiles and surface and sub-surface hydrology of the site.

Section 12. Residual Landfill Operating Requirements. Residual landfills shall meet the following operational standards:

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

(2) The owner/operator of a residual landfill shall operate the facility in such a manner as to assure compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1).

(3) The owner/operator of the facility must inspect the site and operation at a sufficient frequency to assure compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1).

(4) Closure of the residual landfill.

(a) A residual landfill must be closed in a manner that will assure compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1). The closure shall include the placement of a final cover over the facility as specified in the approved design of the site.

(b) Any necessary corrective work required by the department shall be performed before the residual landfill is accepted as closed and financial responsibility funds released.

(c) The owner/operator of a residual landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location, and time of the operation of the facility and nature of the waste placed in the site and a caution against future disturbance of the

area. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

(5) Post-closure maintenance. A residual landfill shall be maintained for two (2) years following the closure of the site in a manner that complies with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1), and in accordance with any approved post-closure monitoring and maintenance plan approved by the department.

(6) The department may place additional requirements on the owner/operator of a residual landfill in addition to those stated where necessary to insure compliance with the "Environmental performance standards" in 401 KAR 2:055, Section 6(1).

JACKIE SWIGART, Secretary

ADOPTED: December 15, 1981

RECEIVED BY LRC: December 15, 1981 at 4:30 p.m.

**DEPARTMENT FOR NATURAL RESOURCES  
AND ENVIRONMENTAL PROTECTION  
Bureau of Surface Mining Reclamation and Enforcement  
As Amended**

405 KAR 30:130. Oil shale operation permits.

RELATES TO: KRS 350.600

PURSUANT TO: KRS 13.082, 146.270, 151.125, 224.033, 350.028, 350.050, 350.600

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: KRS 350.600 requires the Department for Natural Resources and Environmental Protection to develop regulations for oil shale operations to minimize and prevent their adverse effects on the citizens and the environment of the Commonwealth. This regulation sets forth the requirements for obtaining an oil shale mining permit.

Section 1. Applicability. The provisions of this regulation shall apply to permits for all oil shale operations except for oil shale exploration operations.

Section 2. Permit Required. No person shall engage in oil shale operations without first having obtained a permit from the department.

[Section 3. Term of Permits. [(1) Except for pilot projects,] An oil shale mining permit shall be valid for five (5) years from the date of issuance. A permit shall terminate, if the permittee has not substantially commenced the oil shale operation covered by the permit within three (3) years of the issuance of the permit.]

[(2) Pilot projects. A permit for a pilot project shall be valid for a term of two (2) years from the date of issuance.]

Section 3. [4.] Preliminary Requirements. A person desiring a permit shall submit to the department the necessary preliminary application as prescribed by the department. The preliminary application shall contain pertinent information including, but not limited to, a U.S. Geological Survey seven and one-half (7½) minute topographic map and a 1:6000 map marked to show the boundaries of the area of land to be affected, and the location of the oil shale deposits to be mined, access roads, haul roads, spoil disposal areas, and sedimentation ponds.



Areas so delineated on the map shall be physically marked at the site in a manner prescribed by the department. Personnel of the department shall conduct, within thirty (30) days after filing, an on-site examination of the area with the person or his representatives after which the person may submit a permit application.

Section 4. [5.] Publication of Notice of Intention to Mine. (1) An applicant for a permit shall place an advertisement in the newspaper of largest bona fide circulation, according to the definition of KRS 424.110 to 424.120, in the county or counties wherein the proposed oil shale operation is to be located.

(2) The advertisement shall be published at least once each week for four (4) consecutive weeks, with the first advertisement being published not less than ten (10) nor more than thirty (30) days prior to the filing of the permit application with the department.

(3) The public notice of the intention to file an application shall be entitled "Notice of Intention to Conduct Oil Shale Mining" and shall be in a manner and form prescribed by the department and shall include, but not be limited to, the following:

- (a) The name and address of the applicant;
- (b) The permit application number;
- (c) A description which shall:

1. Clearly describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the proposed permit area;

2. Clearly describe the exact location and boundaries of the proposed permit area; and

3. State the name(s) of the U.S. Geological Survey seven and one-half (7½) minute quadrangle map(s) which contains the area shown or described.

(d) A description of the kind of mining activity proposed, together with a statement of the amount of acreage affected by the proposed operation;

(e) The address of the department to which interested persons may submit written comments on the application; and

(f) The location where a copy of the application is available for public inspection.

(4) The applicant for a permit required under this regulation shall establish the date and place at which the "Notice of Intention to Conduct Oil Shale Mining" was published by attaching to his application an affidavit from the publishing newspaper certifying the time, place and content of the published notice.

(5) Public inspection of the application. The applicant shall make a full copy of the complete application for a permit available for the public to inspect and copy. This shall be done by filing a copy of the application submitted to the department at the courthouse of the county where the mining is proposed to occur.

(6) Any person with an interest which is or may be adversely affected shall have the right to file with the department written comments on the application within thirty (30) days of the final notice of the application in the newspaper.

Section 5. [6.] Contents of the Permit Application. (1) A person desiring a permit shall submit the necessary application as prescribed by the department. The application shall be on forms provided by the department, and originals and copies of the application shall be prepared,

assembled and submitted in the number, form and manner prescribed by the department with such attachments, plans, maps, certifications, drawings, calculations or other such documentation or relevant information as the department may require.

(2) The application shall include the following information:

(a) Each application shall contain the names and addresses of:

1. The permit applicant, including his or her telephone number;

2. Every owner of the surface of the area of land to be affected by the permit;

3. The owners of record of all surface areas contiguous to any part of the proposed permit area;

4. Every owner of the oil shale to be mined;

5. The holders of any leasehold interest in the property to be mined;

6. The contractor or other person, if different from the applicant, who will conduct surface mining activities on behalf of the applicant, including his telephone number; and

7. The resident agent of the applicant who will accept service of process, including his telephone number.

(b) Each application shall contain the following information:

1. A detailed description of the location and area of land to be affected by the operation, specifying the permit boundaries;

2. A description of access to the site from the nearest public highway;

3. The source of the applicant's legal right to mine oil shale on the land affected by the permit;

4. A copy of the applicant's published notice of intention to mine and an affidavit from the publisher, pursuant to Section 5 of this regulation;

5. The name of the proposed mine and the Mine Safety and Health Administration identification number for the mine and all sections, if applicable;

6. Proof, such as a power of attorney or a resolution of the board of directors, that the individual signing the application has the authority to represent the applicant in the permit matter;

7. Whether or not the applicant, any subsidiary, or affiliate; or any officer, partner, or director, or any individual owning, of record or beneficially, ten (10) percent or more of any class of stock of the applicant, holds or has held any other federal or state oil shale or any surface coal mining permit issued by the department and the identification of such permits.

(c) Each application shall contain the following compliance information:

1. A statement of whether the applicant, any subsidiary, or affiliate; or any officer, partner, director, or any individual owning, of record or beneficially, ten (10) percent or more of any class of stock of the applicant, has:

a. Had an oil shale or surface coal mining permit of the United States or any state suspended or revoked; or,

b. Forfeited an oil shale or surface coal mining performance bond or similar security deposited in lieu of bond.

2. If any such suspension, revocation, or forfeiture has occurred, the application shall contain a statement of the facts involved, including:

a. Identification number and date of issuance of the permit, and date and amount of bond or similar security;

b. Identification of the authority that suspended or

revoked the permit or forfeited the bond and the stated reasons for that action;

c. The current status of the permit, bond, or similar security involved;

d. The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

e. The current status and results of these proceedings.

3. Each application shall contain a list of each violation notice pertaining to federal oil shale mining laws and the regulations promulgated pursuant thereto, and oil shale mining laws and applicable regulations of any state, received by the applicant in connection with any oil shale mining operation during the three (3) year period before the application date. Each application shall also contain a list of each violation notice pertaining to air or water environmental protection received by the applicant in connection with any oil shale mining operation during the three (3) year period before the application date. The application shall contain a statement of the facts involved, including:

a. The date of issuance and identity of the issuing regulatory authority, department, or agency;

b. A brief description of the particular violation alleged in the notice;

c. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation; and

d. The current status and results of these proceedings.

(3) Maps. The application shall include *one (1) copy* [five (5) copies] of a United States Geological Survey seven and one-half (7½) minute topographic map or other such map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(4) Enlarged maps. The application shall include *one (1) copy* [five (5) copies] of an enlarged United States Geological Survey seven and one-half (7½) minute topographic map or other such map enlarged to a scale of 1:6000 or larger acceptable to the department and meeting the requirements of paragraphs (a) through (h) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the oil shale mining laws of this state." The certification shall be signed and notarized. The department may reject any map as incomplete if its accuracy is not so attested;

[(b) Identify the area of land to be affected to correspond with the application;]

[(b) [(c)] Show adjacent surface, underground, and in situ mining operations and the boundaries of surface properties and names of owners of the affected area and owners of properties contiguous to any part of the affected area;

[(c) [(d)] Be of a scale between 400 feet to the inch and 600 feet to the inch;

[(d) [(e)] Show the names and locations of all streams, lakes, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, public parks, public property, and utility lines on the area of land affected within 1,000 feet of such area;

[(e) [(f)] Show by appropriate markings the boundaries of the area of land to be affected, the deposit of oil shale to be mined, and the total number of acres involved in the area of land to be affected;

[(f) [(g)] Show the date on which the map was prepared, the north point and the quadrangle name; and

[(g) [(h)] Show the drainage plan on and away from the area of land to be affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

[(5) Transportation plan. The application shall include a transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Department of Transportation) which shall set forth the portions of the public road system, if any, over which the applicant will transport oil shale or any product related to the oil shale mining operation.]

[(a) The plan shall specify the legal weight limits for each portion of any road or bridge over which the applicant proposes to transport oil shale or any product related to the oil shale operation.]

[(b) The plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any road or bridge.]

[(c) The plan shall contain a certification by a duly authorized official of the Kentucky Department of Transportation attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public road system and the accuracy of the specifications of weight limits on such roads and bridges.]

[(5) [(6)] Prime farmland. If the area to be mined has been designated as prime farmland, the application shall include a plan for the mining and restoration of prime farmland consistent with the requirements of 405 KAR 30:280.

[(6) [(7)] Postmining land use plan. The application shall include a plan for postmining land use which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:220 regarding postmining land use.

[(7) [(8)] Use of explosives plan. The application shall include a plan for use of explosives which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:250 with regard to use of explosives.

[(8) [(9)] Topsoil handling and restoration plan. The application shall include a plan for the handling and restoration of topsoil which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:290 with regard to topsoil handling.

[(9) [(10)] Backfilling and grading plan. The application shall include a plan for backfilling and grading which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:390 with regard to backfilling and grading.

[(10) [(11)] Revegetation Plan. The application shall include a plan for the revegetation of all disturbed areas which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:400 with regard to revegetation.

[(11) [(12)] Spoil disposal plan. The application shall include a plan for the disposal of spoil in excess of that required to meet the backfilling and grading requirements of 405 KAR 30:390 [which shall demonstrate to the satisfac-

tion of the department that the proposed operation will comply with the requirements of 405 KAR 30:370 with regard to disposal of spoil].

(12) [(13)] Plan for handling of waste materials and acid-forming and toxic-forming materials. The application shall include a plan for the handling of acid-forming and toxic-forming materials, waste materials or other unstable materials which shall demonstrate to the satisfaction of the department that the operation will comply with the requirements of *applicable laws and regulations* [405 KAR 30:360 with regard to disposal of wastes other than excess spoil material].

(13) [(14)] Surface water control and monitoring plan. The application shall contain a plan for the control and monitoring of surface water, which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of:

(a) 405 KAR 30:300 with regard to protection of the hydrologic system;

(b) 405 KAR 30:320 with regard to water quality standards and surface water monitoring;

(c) 405 KAR 30:330 with regard to sediment control measures; and

(d) 405 KAR 30:310 with regard to diversions of surface flows and water withdrawal.

(14) [(15)] Ground water control and monitoring plan. The application shall include a plan for the control and monitoring of ground water, which shall demonstrate to the satisfaction of the department that the operation will comply with the requirements of:

(a) 405 KAR 30:300 with regard to protection of the hydrologic system;

(b) 405 KAR 30:320 with regard to ground water; and

(c) 405 KAR 30:310 with regard to diversion of underground flows.

(15) [(16)] Air resources protection plan. The application shall include an air resources protection plan which shall demonstrate to the satisfaction of the department that the proposed operation will comply with the requirements of 405 KAR 30:230 with regard to air resources protection.

(16) [(17)] Fish and wildlife plan. The application shall include a fish and wildlife plan which shall demonstrate to the satisfaction of the department that the operation will comply with the requirements of 405 KAR 30:240 with regard to fish and wildlife.

(17) [(18)] In the required operational plans specified in subsections (5) through (15) of this section and in the other requirements of this section, the department may require all such supporting documentation as the department may deem necessary to ensure that the provisions of this chapter will be met. Such documentation may include but not be limited to detailed engineering drawings, engineering calculations, and monitoring and documentation prepared by qualified persons in other appropriate technical fields or sciences.

[(18) [(19)] The application shall be accompanied by a cashier's check or money order payable to the Kentucky State Treasurer in the amount of \$500, plus fifty dollars (\$50) for each acre or fraction thereof of the area to be affected by the operation. No permit application will be processed unless such fees have been paid.]

Section 6. [7.] Procedures for Processing of Application. (1) Five (5) separate copies of the complete application shall be submitted to the department at the location and address prescribed by the department. The department will provide written acknowledgement of receipt of the application.

(2) Within twenty-one (21) days of receipt of an application for a permit to conduct oil shale operations, the department shall provide written notification to the applicant as to the completeness of the application. A determination by the department that the application is complete shall not be construed to mean that the application is technically sufficient.

(3) The department shall act upon a complete application within 120 days after the filing of the complete application.

(4) The department shall approve a complete application filed in accordance with this regulation, if it finds, in writing, that the applicant has demonstrated that the oil shale operation described in the application:

(a) Will be conducted in accordance with applicable statutes and regulations;

(b) Will not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species; and

(c) Will not adversely affect any cultural resources or districts, sites, buildings, structures, or objects listed on the National Register of Historic Places, unless the proposed exploration has been approved by both the department and the agency with management responsibility over such areas.

Section 7. [8.] Notice and Hearing. (1) The department shall notify the applicant and any person who requests such notification, in writing, of its decision to approve or disapprove the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval.

(2) Any person with an interest which is or may be adversely affected by a decision of the department pursuant to paragraph (1) of this section, shall have the opportunity for administrative and judicial review.

Section 8. [9.] Compliance. (1) Permit conditions. Permits issued by the department may contain certain conditions necessary to ensure that the oil shale operation will be conducted in compliance with all applicable statutes and regulations.

(2) All oil shale operations shall be conducted in accordance with all applicable statutes and regulations and any conditions imposed by the department on the permit.

Section 9. [10.] Department Review of Outstanding Permits. (1) The department shall review each permit issued and outstanding under this chapter during the term of the permit. This review shall occur not later than the middle of the permit term.

(2) After this review, the department may, by order, require revision or modification of the permit provisions or may increase the amount of the bond to ensure compliance with all applicable statutes and regulations.

(3) Copies of the decision of the department shall be sent to the permittee.

(4) Any order of the department which requires revision or modification of the permit or increases the amount of the bond shall be based upon written findings and shall be subject to the provisions for administrative and judicial review.

Section 10. [11.] Permit Revisions. (1) A revision to a permit shall be obtained:

(a) For changes in the oil shale operation described in



the original application and approved under the original permit;

(b) When required by an order issued under Section 10; or

(c) When there is an increase of the area under the permit.

(2) The application for a revision shall be filed with the department sixty (60) days prior to the date on which the permittee expects to revise the oil shale operation. The term of a permit shall remain unchanged by a revision.

(3) Application for changes in the method of operation or when required by an order issued under Section 10:

(a) An application for a revision under subsections (1)(a) or (b) of this section shall meet the following requirements:

1. The application for revision shall be submitted in the form prescribed by the department.

2. The permittee shall submit, in the manner prescribed by the department, all revised or updated information required by the department. Such information shall include, but not be limited to, an updated operational plan current to the date of the request for the revision, showing the status and extent of all oil shale operations on the existing permit.

3. The permittee shall provide evidence of any additional bond which the department might require.

4. The permittee shall provide public notice as required under Section 5 of this regulation.

(b) The revision shall be granted provided that:

1. The permittee is in compliance with the terms and conditions of the existing permit.

2. The present oil shale mining and reclamation operation is in compliance with all applicable statutes and regulations.

(c) The permit for the revision may contain conditions necessary to ensure compliance with all applicable statutes and regulations.

(4) Application for a revision to increase the area under permit. Upon application by the operator, the department may amend a valid existing permit so as to increase the permitted area of land to be affected by operations under that permit. Such applications for amendment may be filed at any time during the term of the permit.

(a) Application. The permittee shall file an application in the same form and with the same content as required for an original application under this regulation.

(b) Fees. The application shall be accompanied by a cashier's check or money order payable to the Kentucky State Treasurer in the amount of \$500, plus fifty dollars (\$50) for each acre or fraction thereof of the increased area. No application for a revision will be processed unless such fees have been paid.

(c) The operator shall file with the department a supplemental bond in an amount to be determined as provided under 405 KAR 30:040 for each acre or fraction of an acre of the increased area.

(5) Notice and hearing. (a) The department shall notify the applicant and any person who requests such notification, in writing, of its decision to approve or disapprove the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval.

(b) Any person with an interest which is or may be adversely affected by a decision of the department pursuant to paragraph (1) of this section shall have the opportunity for administrative and judicial review.

Section 11. [12.] Permit Renewals. (1) Any valid permit issued pursuant to KRS 350.600 and the regulations promulgated pursuant thereto shall carry with it the right of successive renewal upon expiration of the term of the permit. Successive renewal shall be available only for those areas specifically within the boundaries of the existing permit.

(2) Any permit renewal shall be for a term not to exceed the period of the original permit.

(3) An application for renewal of a permit shall be filed with the department at least sixty (60) days before the expiration date of the permit.

(4) If an application for renewal of a valid existing permit includes a proposal to extend the operation beyond the boundaries authorized in the existing permit, the portion of the application which addresses any new land areas shall be subject to the full standards applicable to a new application pursuant to KRS 350.600 and the regulations promulgated pursuant thereto, and a new and original application shall be required for such areas.

(5) The permit renewal shall be issued provided that the requirements of paragraphs (a) through (f) of this subsection are met.

(a) The application for renewal shall be submitted in the form prescribed by the department.

(b) The operator shall submit all revised or updated information required by the department. Such information shall include, but not be limited to, an updated operational plan current to the date of request for renewal, showing the status and extent of all oil shale operations on the existing permit.

(c) The permittee is in compliance with the terms and conditions of the existing permit.

(d) The present oil shale operation is in compliance with all applicable statutes and regulations.

(e) The permittee shall provide evidence of any additional bond which the department might require.

(f) The permittee shall provide public notice as provided for under Section 5 of this regulation.

(6) Notice and hearing. (a) The department shall notify the applicant and any person who requests such notification, in writing, of its decision to approve or disapprove the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval.

(b) Any person with an interest which is or may be adversely affected by a decision of the department pursuant to this section shall have the opportunity for administrative and judicial review.

Section 12. [13.] Criteria for Permit Approval and Denial. No application for a permit and no oil shale operation shall be approved or allowed, unless the application affirmatively demonstrates and the department determines on the basis of information set forth in the application, and other available information as necessary, that:

(1) The permit application is accurate, complete and that all requirements of KRS Chapters 151, 224, and 350 and the regulations promulgated pursuant thereto have been complied with.

(2) The oil shale operations proposed can be carried out under the method of operation contained in the application in a manner that will satisfy all requirements of KRS Chapters 151, 224, and 350, and the regulations promulgated pursuant thereto.

(3) The oil shale operations proposed have been designed to minimize adverse effects to the hydrologic balance.

(4) The proposed operation will not constitute a hazard to, or do physical damage to life, to a dwelling house, public building, school, church, cemetery, commercial or

institutional building, public road, stream, lake, other public property or to members of the public, their real and personal property. All necessary measures shall be included in the method of operation in order to eliminate such hazard or damage. If it is not technologically feasible to eliminate such hazard or damage by adopting specifications in the method of operation, then that part of the operation which constitutes the cause of the hazard or damage shall be deleted from the application.

(5) The proposed operation will not adversely affect fragile lands, natural hazard lands, a wild river established pursuant to KRS Chapter 146, or the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or result in the destruction or adverse modifications of the habitat of such a species.

(6) The applicant has with respect to prime farmland obtained either a negative determination or satisfied the requirements of Section 6(6) of this regulation and 405 KAR 30:280.

[(7) The applicant has demonstrated the environmental impacts of the proposed operation as required by 405 KAR 30:020, Section 6(1). If the applicant cannot demonstrate to the satisfaction of the department the extent and magnitude of the environmental impacts of the proposed operation then the limitations of 405 KAR 30:020, Section 6(2) shall apply.]

(7) [(8)] The proposed operation will not be inconsistent with other oil shale operations anticipated to be performed in areas adjacent to the proposed permit area.

(8) [(9)] The proposed permit area is:

(a) Not included within an area designated unsuitable for oil shale operations under 405 KAR 30:190 and 405 KAR 30:200;

(b) Not included within an area under study for designation as unsuitable for oil shale operations in an administrative proceeding begun under 405 KAR 30:190 and 405 KAR 30:200;

(c) Not included within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act [(16 U.S.C. 1276(a))], and the National Recreation Areas designated by Act of Congress;

(d) Not included within 300 feet, measured horizontally, of any public park, public building, school, church, community or institutional building;

(e) Not included within 100 feet, measured horizontally, of a cemetery;

(f) Not within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way. The department may permit such roads to be relocated or, in the area affected, to lie within 100 feet of such road, if the applicant has obtained necessary approval from the governmental authority with jurisdiction over the public road and if after public notice and opportunity for public hearing a written finding is made by the department that the interest of the public and the landowner affected thereby will be protected. The public notice required shall be published in the counties of the affected area in the newspaper(s) of largest bona fide circulation according to the definition in KRS Chapter 424;

(g) Not within 300 feet, measured horizontally, of an occupied dwelling unless the applicant submits with the permit application a written waiver from the owner of the

dwelling consenting to such an operation within a closer distance of the dwelling specified in the waiver. The waiver must be knowingly and intelligently given and be separate from a lease or deed unless the lease or deed contains an explicit waiver; and

(h) Not within 100 feet of an intermittent or perennial stream unless the department specifically authorizes operations at a closer distance to, or through, the stream. Such authorization shall not be given unless the applicant demonstrates to the satisfaction of the department that such authorization is environmentally sound and that all other applicable laws and regulations have been complied with.

### Section 13. [14.] Denial of Permit for Past Violations.

(1) An operator or person whose permit has been revoked or suspended shall not be eligible to receive another permit or begin another operation, or be eligible to have suspended permits or operations reinstated until he shall have complied with all the requirements of KRS Chapter 350 with respect to all permits issued him.

(2) An operator or person who has forfeited any bond shall not be eligible to receive another permit or begin another operation unless the land for which the bond was forfeited has been reclaimed without cost to the state, or the operator or person has paid such sum as the department finds is adequate to reclaim such lands.

(3) If the applicant, operator, any subcontractor of the applicant, or any person acting on behalf of the applicant, has either conducted activities with a demonstrated pattern of willful violations of KRS Chapter 350 or has repeatedly been in non-compliance of KRS Chapter 350, then the application should be denied; provided nothing contained herein shall be construed as to relieve a permittee of responsibility with respect to any permit issued to him.

(4) If the department determines that any activity regulated pursuant to KRS Chapter 350 which is owned or controlled by the applicant is currently in violation of any environmental law or regulation of the Commonwealth, then the department shall require the applicant, before the issuance of the permit, to either:

(a) Submit proof which is satisfactory to the department that the violation:

1. Has been corrected, or

2. Is in the process of being corrected in good faith; or

(b) Establish to the satisfaction of the department that the applicant has filed and is presently pursuing a good faith administrative or judicial appeal to contest the validity of the violation.

(5) If the applicant submits the proof specified in either subparagraph 2 of subsection (4)(a) or subsection (4)(b) of this section, then the department may issue the permit with an appropriate condition that either the reclamation work be continued in good faith until completion or that, if the applicant loses his action contesting the violation, such violation be corrected within a specified time. Failure to comply with any conditions shall be grounds for revocation of the permit.

(6) If the applicant disagrees with the department's determination under this section then the applicant has the right to request an administrative hearing pursuant to KRS 224.081(2).

JACKIE A. SWIGART, Secretary

ADOPTED: December 14, 1981

RECEIVED BY LRC: December 14, 1981 at 4 p.m.

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

808 KAR 10:010. Forms for application, registration; reporting and compliance.

RELATES TO: KRS Chapter 292

PURSUANT TO: KRS 13.082, 292.500(3)

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: To promulgate and make available to persons affected by the Kentucky Securities Act the forms necessary for registration, reporting and general compliance.

Section 1. The following forms are *incorporated* [filed] herein by reference, for use by those persons affected by the Act. The requirements and instructions contained in the forms shall have the same force and effect as rules and regulations duly promulgated. *Information on obtaining the forms is available through the National Association of Securities Dealers (NASD), 1735 K Street, N.W., Washington, D.C. 20006 (or any regional NASD office) or [Copies may be obtained] from the Department of Banking and Securities, 911 Leewood Drive, Frankfort, Kentucky 40601.*

(1) *Form BD; Application for Registration as Broker-Dealer.*

[(1) Form 33 (amended); Application for Registration as Broker-Dealer.]

(2) *Form U-4 (1981 Rev.); Application for Registration as Agent or Transfer of an Agent.*

[(2) Form 33-b; For Individuals, Partners, Officers, Trustees and Directors of a Corporation.]

(3) *Form 33-e (amended); Application for Renewal of Broker-Dealer and Agent Licenses.*

[(3) Form 33-c; Application for Registration as Agent.]

(4) *Form ADV; Application for Registration of an Investment Adviser (may be obtained from Securities and Exchange Commission, Branch of BD and IA Registration, Washington, D.C. 20549).*

[(4) Form 33-e (amended); Application for Renewal of Broker-Dealer's and Agent's Licenses.]

(5) *Form 33-h-1; Application for Renewal of Investment Adviser's License.*

[(5) Form 33-f; Application for Transfer of Agent.]

(6) *Form 34; Report to be Filed by an Issuing Company Registered for the Purpose of Selling Its Own Securities.*

[(6) Form 33-h; Application for Registration of Investment Adviser.]

(7) *Form 35-a; Application for Registration by Notification (Non-Issuer Distribution).*

[(7) Form 33-h-1; Application for Renewal of Investment Adviser's License.]

(8) *Form U-1; Application for Registration of Securities by Notification or Coordination.*

[(8) Form 34; Report to be Filed by an Issuing Company Registered for the Purpose of Selling Its Own Securities.]

(9) *Form ICURA (Investment Company Uniform Report and/or Application); Application for Annual Renewals of Investment Company Registrations.*

[(9) Form 35; Application for Registration of Securities by Notification.]

(10) *Form 37 (amended); Application for Registration of Securities of Qualification.*

[(10) Form 35-a; Registration by Notification (Non-Issuer Distribution).]

(11) *Form 38-a; Impounding Agreement.*

[(11) Form 36 (amended); Application for Registration of Securities by Coordination.]

(12) *Form U-2; Consent to Service of Process and Jurisdiction (Investment Adviser, Broker-Dealer or Issuer).*

[(12) Form 36-a (amended); Application for Annual Registration of Securities by Coordination.]

(13) *Form U-2A; Resolution (Investment Adviser, Broker-Dealer or Issuer.)*

[(13) Form 37 (amended); Application for Registration of Securities by Qualification.]

[(14) Form 38-a; Impounding Agreement.]

(15) *Form 43; Consent to Service of Jurisdiction and Process (Issuer).]*

[(16) Form 43-a; Resolution (Investment Adviser or Issuer).]

[(17) Form 431A; Consent to Service of Jurisdiction and Process Investment Adviser).]

TRACY FARMER, Secretary

ADOPTED: December 11, 1981

RECEIVED BY LRC: December 15, 1981 at 4:05 p.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**  
**As Amended**

904 KAR 1:010. Payment for physicians' services.

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment: (1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

(2) Prevailing charge refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each medical procedure are derived from the overall pattern existing within the state [each medical service area].

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1974, the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1973.

(2) Effective October 1, 1974, the Title XIX prevailing fee maximums were generated from the same historical

data as referenced in subsection (1) of this section.

(3) Effective October 1, 1974, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(4) Effective October 1, 1974, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(5) Percentile:

(a) The Title XIX prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

(b) The Title XVIII, Part B, prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

Section 4. Maximum Reimbursement for Covered Procedures. (1) Reimbursement for covered procedures is limited to the lowest of the following:

(a) Actual charge for service rendered as submitted on billing statement;

(b) The physician's median charge for a given service derived from claims processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made. [; or]

[(c) The physician's reasonable charge recognized under Part B, Title XVIII.]

(2) In no case may payment exceed the [aggregate] prevailing charge established [recognized] under Part B, Title XVIII for similar service on a statewide basis [in the same locality].

[(3) In instances where a reasonable charge for a specific medical procedure for a given physician has not been established under Part B, Title XVIII, the prevailing charge recognized under Part B, Title XVIII, for a similar procedure is utilized.]

(3) [(4)] In instances where a [neither a reasonable charge nor] prevailing charge has not been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(4) [(5)] The upper limit for new physicians shall not exceed the fiftieth (50th) percentile.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first fifty dollars (\$50) of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of fifty dollars (\$50) per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of fifty dollars (\$50) per procedure is established at sixty (60) percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is made in accordance with Sections 1 through 4 and Section 5(1) within the individual's deductible and coinsurance liability.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: December 2, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: December 4, 1981 at 10:30 a.m.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Social Insurance  
As Amended

904 KAR 1:027. Payment for dental services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for dental services.

Section 1. Out-of-Hospital Care. (1) The department shall reimburse participating dentists for covered services rendered to eligible medical assistance recipients at rates based on the dentist's usual customary, reasonable, and prevailing charges.

(2) Definitions: For purpose of determination of payment:

(a) "Usual and customary charge" refers to the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.

(b) "Prevailing charge" refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each dental procedure are derived from the overall pattern existing within the state [each medical service area].

(3) Method and source of information on charges:

(a) Effective with fee revisions December 1, 1974 and after, individual fee profiles for participating dentists will be generated from historical data accumulated from charges submitted and processed by the Medical Assistance Program during all of the calendar year preceding the start of the fiscal year in which the determination is made.

(b) Effective with revisions December 1, 1974 and after, Title XIX prevailing fee maximums will be generated from the same historical data as referenced in paragraph (a) above.

(c) Effective with revisions December 1, 1974 and after, when applicable, Title XVIII, Part B current aggregate [reasonable charge profiles and current] prevailing charge data will be utilized by the Medical Assistance Program[, to comply with 42 CFR 447.341].

(d) Percentile. The Title XIX prevailing charges were established by utilizing the statistical computation of the 50th and 75th percentile.

(4) Maximum reimbursement for covered procedures: Reimbursement for covered procedures shall be limited to the lowest of the following:

(a) The actual charge for services rendered as submitted on the billing statement.

(b) The dentist's median charge for a given service derived from claims processed during all of the calendar year preceding the start of the fiscal year in which the determination is made.

(c) The Title XIX prevailing fee maximum for a given service, derived from claims processed as described in paragraph (b) above.

[(d) The dentist's reasonable charge recognized under Part B, Title XVIII when applicable.]

Section 2. Hospital Inpatient Care. (1) Hospitalized inpatient care refers to those services provided inpatients. It does not include dental services provided in the outpatient, extended care or home health units of hospitals. All fees for "hospitalized inpatient care" are on a per admission basis, i.e., any dentist or oral surgeon submitting a claim for a payment of either of the two (2) benefits under hospitalized inpatient care must agree to accept that single program benefit payment for all his professional services rendered to that patient during that admission.

(2) An oral surgeon submitting a claim for payment shall be paid for all in-hospital dental services as an "attendance fee" or "consultation fee." The "attendance fee" shall be fifty dollars (\$50) and the "consultation fee" shall be twenty-five dollars (\$25).

(3) A general dentist may submit a claim for hospital inpatient services [only for multiple extractions] for the patient termed "medically a high risk." Medically high risk is defined as a patient in one (1) of the following classifications:

- (a) Heart disease;
- (b) Respiratory disease;
- (c) Chronic bleeder;
- (d) Uncontrollable patient (retardate, emotionally disturbed); or
- (e) Other (car accident, high temperature, massive infection, etc.).

(4) A general dentist shall receive "attendance fee" or "consultation fee" for the hospital inpatient service in the amount of forty dollars (\$40) as "attendance fee" and twenty dollars (\$20) as "consultation fee."

(5) "Attendance fee" is considered to be full payment for daily attendance of a hospital inpatient, per admission, regardless of length of stay, diagnosis, or type of professional service rendered. This fee is to be requested by the attending dentist or oral surgeon for any given admission.

(6) "Consultation fee" is considered to be in full payment of consultation provided on behalf of a hospital inpatient or at the request of the consulting physician/oral surgeon/dentist. This fee may be paid to more than one (1) physician/oral surgeon/dentist per admission. The fee is thus considered full payment for all consultation provided by a given physician/oral surgeon/dentist (other than the attending oral surgeon/dentist) during a given admission. For purpose of payment in this program the administration of anesthesia by a physician/oral surgeon will be considered consultation.

Section 3. Dentures. [Effective July 1, 1979,] The maximum program payment for complete upper and lower dentures is \$250.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: December 2, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: December 4, 1981 at 10:30 a.m.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Social Insurance  
As Amended

904 KAR 1:040. Payments for vision care services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for vision care services.

Section 1. Allowable Charge Determinations. Reimbursement shall be made to optometrists and ophthalmic dispensers on the basis of usual, customary and allowable charges, except that reimbursement for materials is at the laboratory cost of the materials not to exceed upper limits as set by the department.

Section 2. Definitions. For purposes of determination of payment the following definitions shall be applicable:

(1) "Usual and customary charge" means the uniform amount the individual optometrist or ophthalmic dispenser charges in the majority of cases for a specific covered procedure or service.

(2) "Allowable charges" are those charges computed on the basis of the provider's past charge history, determined on a statewide basis [by medical service area], and which do not exceed:

- (a) The median charge for the service; or
- (b) The [area] seventy-fifth (75th) percentile (or fiftieth (50th) percentile for newly participating providers) charge for the service; or
- (c) The Title XVIII-B (Medicare) [aggregate] [reasonable or] prevailing charge for the service determined on a statewide basis.

(3) The "median charge" is the arithmetic median of all billed charges for a given individual procedure billed by a given optometrist in a calendar year.

(4) The "seventy-fifth (75th) percentile" or "fiftieth (50th) percentile" is the charge that is equal to or greater than seventy-five (75) or fifty (50) percent of all charges, respectively, computed on the basis of all submitted charges for each procedure [within a given area].

Section 3. Maximum Reimbursement for Covered Procedures and Materials for Optometrists.

(1) Reimbursement for covered services, except materials, is limited to the lowest of the following:

- (a) The actual charge for the service rendered as submitted on the billing statement; or
- (b) The allowable charge, as defined in Section 2.

(2) Reimbursement for materials (eyeglasses and/or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the department. A laboratory invoice, or proof of actual acquisition cost of materials, must accompany the billing form.

Section 4. Maximum Reimbursement for Covered Procedures and Materials for Ophthalmic Dispensers. (1) Payment for covered services (a dispensing service fee or a repair service fee) rendered by licensed ophthalmic dispensers to eligible recipients is limited to the lowest of the following:

- (a) The actual charge for the service rendered as submitted on the billing statement; or
  - (b) The allowable charge, as defined in Section 2.
- (2) Reimbursement for materials (eyeglasses and/or



parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the department. A laboratory invoice, or proof of actual acquisition cost of materials, must accompany the billing form.

Section 5. Reimbursement for Other Supplies and Materials. Other supplies and materials such as cleaning fluid, cleaning cloth, carrying cases, etc., which are not eyeglasses or replacement/repair parts for eyeglasses, are considered to be provided in conjunction with and paid for as a part of the vision services rendered, and additional charges may not be made to the department or the recipient for these items.

Section 6. Effect of Third Party Liability. When payment for a covered service is due and payable from a third party source, such as private insurance, or some other third party with a legal obligation to pay, the amount payable by the department shall be reduced by the amount of the third party payment.

Section 7. Limitations. (1) Program reimbursement for eyeglasses must be inclusive. The cost of both laboratory materials and dispensing fees must be billed to either the program or the recipient. If any portion of the amount is billed to or paid by the recipient, no responsibility for reimbursement shall attach to the department and no bill for the service shall be paid by the department. This limitation shall not, however, preclude the issuance of billings for the purpose of establishing the liability of, and/or collecting from, liable third parties.

(2) Telephone contacts are excluded from payment.

(3) Contact lenses are excluded from payment.

(4) Safety glasses are excluded from payment, unless the recipient is blind in one (1) eye and safety glasses are prescribed for protection.

WILLIAM L. HUFFMAN, Commissioner  
ADOPTED: December 2, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: December 4, 1981 at 10:30 a.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Social Insurance  
As Amended

904 KAR 1:045. Payments for mental health center services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 1, 1982

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for mental health center services.

Section 1. Mental Health Centers. In accordance with

42 CFR 447.321, the department shall make payment to providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractual arrangements as the department may require of this class of provider) set by the department, on the following basis:

(1) Payment shall be made on the basis of reasonable allowable costs.

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," *herein incorporated by reference*, developed and issued by the department, supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable.

(4) The upper limit for allowable costs shall be set at [110 percent of] the median visit cost, for the four (4) different service areas reimbursed under the program (inpatient, outpatient, partial hospitalization, and personal care), with the upper limit imposed on a prospective basis at the time final rates are determined.

(5) Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state, and legal fees for unsuccessful lawsuits.

Section 2. Implementation of Payment System. (1) The system shall utilize a method whereby community mental health centers are reimbursed on a prospective basis based on [prior year] actual allowable cost.

(2) The department may establish an interim rate at the end of each fiscal year until such time as a final prospective rate is determined with interim payments adjusted to the final prospective rate as necessary.

(3) The vendor shall complete an annual cost report on forms provided by the department not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the department at the end of each fiscal reporting period, and at such intervals as the department may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the department.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The department shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the department's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: December 2, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: December 4, 1981 at 10:30 a.m.



# Amended After Hearing

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

401 KAR 59:105. New process gas streams.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new process gas streams.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means any process gas stream which:

(1) Is not elsewhere subject to a standard of performance within this chapter with respect to hydrogen sulfide, sulfur dioxide, or carbon monoxide; and

(2) Commenced on or after the classification date defined below.

(3) *With respect to carbon monoxide, the provisions of this regulation shall apply to each affected facility which has a potential to emit more than 1,000 tons per year of carbon monoxide and is located in an area classified non-attainment for carbon monoxide in 401 KAR 51:010.*

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) "Classification date" means *June 6, 1979*. [the effective date of this regulation.]

(2) "Process gas stream" means any gas stream emitted from any process including, but not limited to, petroleum refineries, by-product coke plants, grey iron cupolas, blast furnace, basic oxygen steel furnace and coal conversion plants, except process upset gas as defined in this section.

(3) "Process upset gas" means any gas generated by a process unit as a result of startup, shutdown, upset, or malfunction.

(4) "Process unit" means any segment of the plant in which a specific processing operation is conducted.

Section 3. Standard for Hydrogen Sulfide. No person shall cause, suffer, allow or permit the emission [or combustion] of hydrogen sulfide in a process gas stream to exceed ten (10) grains per 100 dscf (165 ppm by volume) at zero percent oxygen except that sources whose combined process gas stream emission rate totals less than two (2) tons per day of hydrogen sulfide shall *either reduce such emissions by eighty-five (85) percent or control such emissions such that hydrogen sulfide in the gas stream emitted into the ambient air does not exceed ten (10) grains per 100 dscf (165 ppm by volume) at zero percent oxygen.*

Section 4. Standard for Sulfur Dioxide. No person shall cause, suffer, allow or permit the emission of sulfur dioxide in a process gas stream to exceed 28.63 grains per 100 dscf (250 ppm by volume) at zero percent oxygen except that sources whose combined process gas stream emission rate totals less than four (4) tons per day of sulfur dioxide shall reduce such emissions by eighty-five (85) percent. *Sources which have a potential to emit less than 100 tons per year of sulfur dioxide shall be exempt from this standard.*

Section 5. Standard for Carbon Monoxide. No person shall cause, suffer, allow, or permit the emission of carbon monoxide in a process gas stream or a waste gas stream, unless the gases are burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

Section 6. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 3, 4 and 5 shall be conducted according to the following methods, filed by reference in 401 KAR 50:015:

(1) Reference Method 11 for Hydrogen Sulfide. The sample shall be drawn from a point near the centroid of the gas line. The minimum sampling time shall be ten (10) minutes and the minimum sample volume shall be 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

(2) Reference Method 6 for Sulfur Dioxide. Reference Method 1 shall be used for velocity traverses and Reference Method 2 for determining velocity and volumetric flow rate. The sampling site for determining sulfur dioxide concentration by Reference Method 6 shall be the same as for determining volumetric flow rate by Reference Method 2. The sampling point in the duct for determining sulfur dioxide concentration by Reference Method 6 shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (thirty-nine (39) inches) if the cross-sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume shall be 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Three (3) runs will constitute compliance test. Samples shall be taken at approximately one (1) hour intervals.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

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

401 KAR 61:035. Existing process gas streams.

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 process gas streams.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means any process gas stream which:

(1) Is not elsewhere subject to a standard of performance within this chapter with respect to hydrogen sulfide, sulfur dioxide, or carbon monoxide; and

(2) Commenced before the classification date defined below.

(3) *The provisions of this regulation shall apply to each affected facility which emits hydrogen sulfide or sulfur dioxide and is located in a county classified as Class I or VA with respect to sulfur dioxide in 401 KAR 50:025; or*

(4) *Has a potential to emit more than 1,000 tons per year of [Emits] carbon monoxide generated during the operation of any grey iron cupola, blast furnace, basic oxygen steel furnace, coal conversion plants, catalyst regeneration of a petroleum cracking system, or other petroleum process and is located in an area classified non-attainment with respect to carbon monoxide in 401 KAR 51:010.*

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or 401 KAR 50:025.

(1) "Classification date" *June 6, 1979* [means the effective date of this regulation].

(2) "Process gas stream" means any gas stream emitted from any process, including, but not limited to, petroleum refineries, by-product coke plants, grey iron cupolas, blast furnaces, coal conversion plants and basic oxygen steel furnaces, except process upset gas as defined in this section and the combustion products of purchased coke oven gas.

(3) "Process upset gas" means any gas generated by a process unit as a result of startup, shutdown, upset, or malfunction.

(4) "Process unit" means any segment of the plant in which a specific processing operation is conducted.

Section 3. Standard for Hydrogen Sulfide. No person shall cause, suffer, allow or permit the emission [or combustion] of hydrogen sulfide in a process gas stream to exceed ten (10) grains per 100 dscf (165 ppm by volume) at zero percent oxygen.

Section 4. Standard for Sulfur Dioxide. No person shall cause, suffer, allow or permit the emission of sulfur dioxide in a process gas stream to exceed 239 grains per 100 dscf (2,000 ppm by volume) at zero percent oxygen.

Section 5. Standard for Carbon Monoxide. No person shall cause, suffer, allow, or permit the emission of carbon

monoxide in a process gas stream or a waste gas stream, unless the gases are burned at 1,300°F for 0.5 seconds or greater in a direct flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

Section 6. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 3 and 4 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(1) Reference Method 11 for hydrogen sulfide. The sample shall be drawn from a point near the centroid of the gas line. The minimum sampling time shall be ten (10) minutes and the minimum sample volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately one (1) hour intervals.

(2) Reference Method 6 for sulfur dioxide. Reference Method 1 shall be used for velocity traverses and Reference Method 2 for determining velocity and volumetric flow rate. The sampling site for determining SO<sub>2</sub> concentration by Reference Method 6 shall be the same as for determining the volumetric flow rate by Reference Method 2. The sampling point in the duct for determining SO<sub>2</sub> concentration by Reference Method 6 shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (thirty-nine (39) inches) if the cross-sectional area is five (5) square meters or more and the centroid is more than one (1) meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be ten (10) minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two (2) samples shall constitute one (1) run. Three (3) runs will constitute compliance test. Samples shall be taken at approximately one (1) hour intervals.

Section 7. Compliance Timetable. Those affected facilities subject to the standards in this regulation shall achieve compliance with those standards within eighteen (18) months of *June 6, 1979* [the effective date of this regulation].

(1) Hydrogen sulfide and sulfur dioxide. The provisions of Sections 3 and 4 are applicable *on June 6, 1979* [upon the effective date of this regulation] with respect to affected facilities located in counties classified as Class I with respect to sulfur dioxide. The owner or operator of an affected facility located in a Class VA county with respect to sulfur dioxide shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with Sections 3 and 4 no later than September 1, 1979.

(b) Award the control system contract no later than October 1, 1979.

(c) Initiate on-site construction or installation of emission control equipment no later than September 1, 1980.

(d) On-site construction or installation of emission control equipment shall be completed no later than December 1, 1980.

(e) Final compliance shall be achieved no later than February 1, 1981.

(2) Carbon monoxide. The owner or operator of an affected facility shall be required to complete the following:

(a) Submit a final control plan for achieving compliance with Section 5 no later than September 1, 1979.

(b) Award the control system contract no later than October 1, 1979.

(c) Initiate on-site construction or installation of emission control equipment no later than July 1, 1980.

(d) On-site construction or installation of emission control equipment shall be completed no later than October 1, 1980.

(e) Final compliance shall be achieved no later than December 1, 1980.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**  
**Amended After Hearing**

**902 KAR 20:026. Operations and services; skilled nursing facilities.**

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

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

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

Section 1. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative services and have a variety of medical conditions.

Section 2. Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(3) "Facility" means a skilled nursing facility.

(4) "License" means an authorization issued by the Board for the purpose of operating a skilled nursing facility and offering skilled nursing services.

(5) "Occupational therapist" means a person who is registered by the American Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in or has completed the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(6) "Speech pathologist" means a person who:

(a) Meets the education and experience requirements for a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a Registered Records Administrator or an Accredited Record Technician by the American Medical Record Association.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(3) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Personnel policies, practices and procedures that support sound patient care.

(b) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of significant changes in patient status, patient charges, billings, and other related administrative matters.

(c) Patient care policies. The facility shall have written policies to govern the skilled nursing care and related medical and other services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered nurses and other health personnel (e.g., social workers, dietitians, pharmacists, speech pathologists and audiologists, physical and occupational therapists and mental health personnel). Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists who serve as a *pharmacy and therapeutics committee*. A physician or a registered nurse shall be responsible for assuring compliance with and an-

nual review of these policies. In addition to written policies for services, the facility shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.

2. Medication stop orders;
3. Medical records;
4. Transfer agreement;
5. Utilization review; and
6. Use of restraints.

(d) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(e) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who require medical and continuous skilled nursing care and who currently require primarily convalescent or rehabilitative services for a variety of medical conditions. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. The facility shall obtain a medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or intermediate care facility (a current hospital discharge summary containing the above information shall be acceptable).

(c) If the physician's orders for the immediate care of a patient are unobtainable at the time of admission, the facility shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(6) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(7) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients, shall establish responsibility for notifying the other institution promptly of the impending

transfer of a patient, and shall arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(d) When a transfer is to another level of care within the facility, the complete patient record or a current summary thereof shall be transferred with the patient.

(e) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(f) Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(8) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, evaluation of performance, records of in-service training and ongoing education, along with employee's name, address and social security number.

(c) Health requirements. All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(d) Staffing classification requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

3. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

c. Assigning and supervising all levels of nursing personnel;

d. Participating in planning and budgeting for nursing care;

e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory group;

f. Coordinating nursing services with other patient care services;

g. Planning and conducting orientation programs for new nursing personnel and continuing inservice education for all nursing personnel;

h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

i. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

5. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times and who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

6. Pharmacist. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician

qualified in physical medicine who will determine goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subparagraph 7a of Section 3(8)(d) may be assigned duties appropriate to their training and experience.

8. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

9. The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the facility, or a person who has training and experience in related fields to find community resources, to be responsible for the social services. If the facility does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(e) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for non-professional nursing personnel shall begin during the orientation period, to include demonstration, practice and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one (1) from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(9) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.



2. Admitting medical evaluation including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, or an intermediate care facility if done within five (5) days prior to admission.)

3. The physician's orders for medication, diet, and therapeutic services. These shall be dated and signed by the physician.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication or prescription number, dosage and name of prescribing physician.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

8. Nursing supervisor's written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services.

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary completed, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

#### Section 4. Provision of Services. (1) Physician services.

(a) The health care of each patient shall be under supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the ninetieth day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

#### (2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

#### (3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written



order of the physician which indicates anticipated goals and prescribed specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which include:

a. Services in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for obtaining, dispensing and administering of drugs and biologicals, *which have been developed with the advice of a staff pharmacist, or a consultant pharmacist, in cooperation with the facility's pharmacy and therapeutics committee* [or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists].

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facili-

ty's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy or stop orders. The *registered [charge] nurse or the pharmacist shall review each patient's medication profile at least monthly.* [and] The prescribing physician [together] shall review each patient's medications at the time of the medical evaluation pursuant to Section 4(1)(b). The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314). Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients

until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

f. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance, remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Department for Human Resources.

4. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (½) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such reports shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

5. Communicable diseases.

a. No patient shall knowingly be admitted to the facility with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations except a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

b. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: Patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding

ding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the

dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories, and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing

and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience

discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

Section 5. 902 KAR 20:025E and 902 KAR 20:025, Extended care and recuperation center; services and operations, are [is] hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: February 10, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

Certificate of Need and Licensure Board

Amended After Hearing

902 KAR 20:048. Operations and services; nursing homes.

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

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3) NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for the operation of existing nursing homes and the services to be provided by existing nursing homes. This regulation does not address the establishment of new nursing homes.

Section 1. Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to

place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Facility" means a nursing home facility.

(5) "License" means an authorization issued by the Board for the purpose of operating a nursing home and offering nursing home services.

(6) "PRN medications" means medications administered as needed.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

**Section 3. Administration and Operation.** (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a variety of medical conditions and require medical services, continuous medical services, and inpatient care but do not currently require inpatient hospital services. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within forty-eight (48) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.



(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing personnel.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel.

h. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

l. *Assuring that a monthly review[ing] of each patient's medications is completed* and notifying the physician when changes are appropriate.

6. Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising nurse may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

7. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

8. Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

9. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with



qualifications other than those described in subparagraph 9a of Section 3(9)(c) may be assigned duties appropriate to their training and experience.

10. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

11. Each facility shall designate a person for the following areas who will be responsible for:

- a. Medical records;
- b. Arranging for social services; and
- c. Developing and implementing the activities program and therapeutic recreation.

12. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN

medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

#### Section 4. Provision of Services. (1) Physician services.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first sixty (60) days following admission. Subsequent to the sixtieth day following admission, the patients shall be evaluated by a physician every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

#### (2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

a. Service in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which include:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A [The] registered nurse or pharmacist shall review each patient's medication profile at least monthly. [and] The prescribing physician shall review the patient's medical profile at least every two (2) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medica-

tions are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314) or by personnel who have completed a state approved training program. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

4. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Department for Human Resources.

5. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half ( $\frac{1}{2}$ ) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

6. Communicable diseases.

a. No patient shall knowingly be admitted to the facility with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations except a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

b. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a

laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be

evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Transportation

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(11) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food

and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

c. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility

free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or



unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

Section 5. 902 KAR 20:047E and 902 KAR 20:047, Nursing homes; operations and services, are [is] hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: February 10, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

**DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Health Services  
Certificate of Need and Licensure Board  
Amended After Hearing**

902 KAR 20:051. Operation and services; intermediate care.

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

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

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

Section 1. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Facility" means an intermediate care facility.

(5) "License" means an authorization issued by the Board for the purpose of operating an intermediate care facility and offering intermediate care services.

(6) "PRN medications" means medications administered as needed.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence. The administrator shall not be the nursing services supervisor in a facility with more than sixty (60) beds.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS



Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. The facility shall admit only persons who have a physical or mental condition which requires intermittent nursing services and continuous supervision of activities of daily living. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within seventy-two (72) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term facility if done within fourteen (14) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training in rehabilitative nursing. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing care.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

h. Assuring that a written monthly assessment of the patient's general condition is completed.

i. Assuring that the establishment, review and modification of nursing care plans for each patient is done by licensed nursing personnel.

j. Assuring that all medications are administered by licensed personnel or by other personnel who have completed a state-approved training program.

k. Assuring that a monthly review[ing] of each patient's medications is completed and notifying the physician when changes are appropriate.

6. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

8. Each facility shall designate a person for the following areas who will be responsible for:

- a. Medical records;
- b. Arranging for social services; and
- c. Developing and implementing the activities program and therapeutic recreation.

9. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within fourteen (14) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) General requirements.

(a) Patient care equipment. There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. The equipment shall include:

1. Wheelchairs with brakes;
2. Walkers;
3. Bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside commodes;
8. Foot cradles;
9. Foot boards;
10. Under-the-mattress bed boards;
11. Trapeze frames;
12. Transfer board; and

13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization.

(b) Communicable diseases.

1. No patient shall knowingly be admitted to the facility with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations except a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

2. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

## (c) Use of restraints or protective devices.

1. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care.

2. No form of restraints or protective devices shall be used except upon written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half ( $\frac{1}{2}$ ) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

(2) Physician services. All patients shall be under the medical supervision of a licensed physician. These services shall include:

(a) Physician's visit for medical evaluation as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician in the patient's medical report.

(b) Physician services for medical emergencies available on a twenty-four (24) hour, seven (7) days-a-week basis.

(3) Nursing services. Nursing services shall include:

(a) The establishment of a nursing care plan for each patient. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals and nursing care needs;

(b) Rehabilitative nursing care to achieve and maintain the highest degree of nursing, self-care and independence. Rehabilitative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measures shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(c) Administration of medications including oral, rectal, hypodermic, and intramuscular;

(d) Written monthly assessment of the patient's general condition by licensed nursing personnel;

(e) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets;

(f) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(g) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

(4) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. *A registered [The] nurse or the pharmacist [consultant and the prescribing physician] shall review each [the] patient's medical profile monthly [at least every three (3) months]. Medications shall be reviewed at least quarterly by the attending or staff physician.* The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications shall be released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state-approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed

nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse.

a. The nursing station shall have items required for the proper administration of medications.

b. Medications prescribed for one (1) patient shall not be administered to any other patient.

c. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician and a predischarge program under the supervision of a licensed nurse.

d. Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient; the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Department for Human Resources.

(5) Personal care services.

(a) All facilities shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(6) Dental services. The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services provided shall be recorded in the patient's record.

(7) Social services. The facility shall provide or arrange for social services as needed by the patient.

(a) Social services shall be integrated with other elements of the plan of care.

(b) A plan for such care shall be recorded in the patient's record and periodically evaluated in conjunction with the patient's total plan of care.

(c) Social services records shall be maintained as an integral part of case record maintained on each patient.

(8) Activities and therapeutic recreation.

(a) All facilities shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All facilities shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the facility, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for patients and their guests.

7. The facility shall provide supplies and equipment for the activities program.

8. Reading materials, radios, games and TV sets shall be provided for the patients.

9. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area of private consultation shall be made available.

10. The facility shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety.

(9) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(10) Residential care services. All facilities shall provide residential care services to all patients including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services.

(a) Room accommodations.

1. Each patient shall be provided a standard size bed at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered by the facility as often as is necessary. Patients' personal clothing shall be laundered by the facility unless the patient or the patient's family accepts this responsibility. Patients capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Patient's personal clothing laundered by the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance.



When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left-over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing and Regulation, Office of the Inspector General, Department for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and revocation of food service permits.

Section 5. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

Section 6. 902 KAR 20:050E and 902 KAR 20:050, Intermediate care facilities; operations and services, are [is] hereby repealed.

FRANK W. BURKE, SR., Chairman

ADOPTED: February 10, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

## DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

Certificate of Need and Licensure Board

Amended After Hearing

902 KAR 20:054. Health maintenance organizations; operations and services.

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

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

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

Section 1. Scope of Operation and Services. A health maintenance organization provides, directly or through arrangements with others, health care services to individuals voluntarily enrolled with such an organization on a per capita or a predetermined, fixed prepayment rate. These services shall include outpatient services including physician services and primary health care, inpatient services, diagnostic laboratory and radiology services, health education, and emergency medical services.

Section 2. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Commissioner" means the Commissioner of the Department of Insurance.

(3) "Enrollee" means a person who is enrolled in a health maintenance organization.

(4) "Health care services" means any services included in the furnishing to any individual of medical, optometric, or dental care, or hospitalization or incident to the furnishing of such care or hospitalization; as well as the furnishing to any person of any and all other services and goods for the preventing, alleviating, curing, or healing of human illness, physical disability or injury.

(5) "Provider" means a licensed individual physician or group of physicians, licensed health facilities or services, and other licensed health professionals who have entered into an agreement with a health maintenance organization for the purpose of providing health services to enrollees.

[(6) "Primary health care" means services that provide the entry point into the health care delivery system for ambulatory persons of all ages. Primary health care emphasizes a preventive health care program and consists of diagnostic and therapeutic services of sufficiently broad scope to accommodate the basic health needs of the enrollee.]



### Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for compliance with federal, state and local laws and regulations pertaining to the operation of health maintenance organizations.

(b) All services covered by the benefit plans of the health maintenance organizations shall be provided in accordance with applicable laws and regulations relating thereto. When the health maintenance organization provides health services directly through its own health facilities or clinics, such facilities or clinics shall comply with applicable requirements of the Certificate of Need and Licensure Law. Any service which the health maintenance organization includes in the covered benefits plan shall be provided by duly licensed institutions, services, or practitioners where such licensure is required by law.

(2) Administrator. The health maintenance organization shall have an administrator who shall be responsible for the operation of the health maintenance organization and shall delegate such responsibility in his or her absence.

(3) Certificate of authority. The health maintenance organization shall have evidence that a certificate of authority has been issued and that the coverage of their benefits plan and rate schedules have received approval from the commissioner prior to licensing and relicensing of the organization by the board. The board may revoke the license or take other appropriate action if a health maintenance organization has its certificate of authority revoked or suspended by the commissioner.

(4) Administrative policies and procedures. The health maintenance organization shall have written policies to include:

(a) A current description of its operational and organizational structure.

(b) Procedures for hearing and resolving grievances between the organization (including the staff of the health maintenance organization and providers) and the enrollees of the organization. Such procedures shall assure that grievances and complaints are kept in a separate file and transmitted in a timely manner to appropriate decision making levels within the organization which has authority to take corrective action; and

(c) A written description provided to enrollees of services covered in the benefits plan of the health maintenance organization which also indicates how, where, and from whom services may be obtained. *This description shall include instructions and procedures to enrollees on obtaining medically necessary emergency services other than through health maintenance organization providers (e.g., physicians or services outside the area served by the health maintenance organization) when the enrollee's health would be jeopardized before services could be obtained through such providers.*

(d) Written policies and procedures to carry out [an ongoing] utilization studies [review program for its health services] with reference to the quality[,] assurances [appropriateness, and effectiveness] of such services.

[(e) Instructions to enrollees on obtaining medically necessary emergency services other than through health maintenance organization providers when the enrollee's health would be jeopardized before such services could be obtained through such providers.]

(5) Enrollee policies. The health maintenance organization shall have written policies regarding the rights and responsibilities of enrollees to assure that each enrollee:

(a) Is fully informed of these rights and of all rules governing enrollee conduct and responsibilities;

(b) Is fully informed of services made available by the health maintenance organization and of the payments applicable for basic and supplemental services;

[(c) Is fully informed of his medical condition unless medically contraindicated (as documented in his medical record) and is afforded the right to be fully informed of this medical treatment and other alternatives if available and to refuse to participate in experimental research;]

(c) [(d)] Is encouraged and assisted to understand and exercise his enrollee rights and to this end may voice grievances and recommend changes in policies and services;

(d) [(e)] Is assured confidential treatment of his records and disclosures, and is afforded the opportunity to approve or refuse their release to any individual not involved in his care except as required by law or third party payment contract; and

(e) [(f)] Is treated with consideration, respect, and with full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(6) *Enrollee records. The health maintenance organization shall maintain a medical record of all services provided to enrollees including diagnosis, treatment and recommended follow-up.*

(7) [(6)] *Medical records. When the health maintenance organization provides services directly, medical records shall be maintained as required by the applicable licensure regulation (e.g., primary care, ambulatory care, etc.).*

[(a) Medical records shall be kept directly by the health maintenance organization or made available by the providers of services through a written agreement. Medical records shall contain at least the following:]

[1. Identification and social data, evidence of consent forms, pertinent medical history, assessment of the health status and health care needs of the patient, and a brief summary of the episode, disposition, and instructions to the patient for each patient contact;]

[2. Reports of physical examinations, diagnostic and laboratory test results, and consultative findings;]

[3. All orders, reports of treatments rendered and medications given and other pertinent information necessary to monitor the patient's progress; and]

[4. Signatures of the physician or other health care professionals on each order written or treatment provided.]

[(b) The health maintenance organization shall maintain the confidentiality of medical record information.]

[(c) Medical records shall be retained for a minimum of five (5) years or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the longer.]

### Section 4. Provisions of Service. The health maintenance organization shall provide services directly or through contract with appropriately licensed providers.

(1) A health maintenance organization *shall provide* [may offer a comprehensive range of health care services, but] as a minimum the following basic services [shall be provided] in the covered benefits plan:

(a) Outpatient services including physician services [and primary health care];

(b) Inpatient services;

(c) Diagnostic laboratory and radiology services [in support of basic health services];

(d) Health education and education in the appropriate use of health services and in the contribution each person can make to the maintenance of their own health; and

(e) Emergency medical services.

(2) The health maintenance organization shall have procedures through which enrollees can obtain medically necessary emergency services for which its members have contracted through physicians or services that do not have contracts with the health maintenance organization (e.g., physicians or services outside the geographic area served by the health maintenance organization) when the enrollees condition would be jeopardized before he could obtain such services through a health maintenance organization provider.

[(3) When services are not provided directly the health maintenance organization shall have written contracts with all providers which specify the services to be provided and address the responsibility for keeping medical records and for notifying the health maintenance organization of services provided to enrollees. The contract shall include provisions that grant access to the enrollee's medical records when necessary by the health maintenance organization and the licensure agency and assure that services will be provided by appropriate licensed personnel in appropriately licensed facilities.]

(3) [(4)] Within the area served by the health maintenance organization basic health care services for which the enrollees have contracted shall:

(a) Be available and accessible to each of the health maintenance organization's enrollees promptly as appropriate with respect to its geographic location, hours of operation, and provisions for after-hours services (medically necessary emergency services must be available and accessible twenty-four (24) hours a day, seven (7) days a week) [including some provision for evening hours. "Accessible" shall mean that no special type of transportation is required other than public or personal transportation].

(b) Be provided in a manner which assures continuity.

Section 5. 902 KAR 20:057E and 902 KAR 20:057, Health maintenance organizations; operations and services, are hereby repealed.

FRANK W. BURKE, SR. Chairman

ADOPTED: December 14, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

#### DEPARTMENT FOR HUMAN RESOURCES

Bureau for Health Services

Certificate of Need and Licensure Board

Amended After Hearing

902 KAR 20:140. Operation and services; hospices.

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

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

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

Section 1. Scope of Operation and Services. A hospice is a centrally administered program of palliative and supportive services, including skilled nursing services, to meet the physical, psychological, social, and spiritual needs of

terminally ill persons and their families on a twenty-four (24) hour, seven (7) day a week, on-call basis. Services are provided in the home or in an inpatient setting by a medically supervised, interdisciplinary team of professional and lay personnel during the final stages of illness, at death, and through bereavement.

Section 2. Definitions. (1) "Administrator" means a person who has served as a hospice administrator under a state approved hospice program or has at least a Bachelor of Arts or Bachelor of Science degree in a health care, human services, or administrative area or has equivalent administrative work experience in a health care facility.

(2) "Bereavement" means the period of time during which a person (or group of people) experiences, responds emotionally to, and adjusts to the loss by death of another person.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Palliative care" means care directed at reducing or abating pain and other troubling symptoms of the disease process in order to achieve relief of distress.

(5) "Terminally ill" means a person who is experiencing an illness for which therapeutic strategies directed toward care and control of disease are no longer effective.

(6) "Volunteer" means a lay or professional person who contributes time and talent to the hospice program without economic remuneration (e.g., physician, concerned citizens, clergy).

Section 3. Administration and Organization. (1) A hospice program shall seek licensure to operate as:

(a) A free-standing hospice [not affiliated with another health care facility]; or

(b) A hospice *operated by* [affiliated with] a hospital, long term care facility, home health agency, or health maintenance organization, or other licensed health care facility or service.

(2) The licensee shall be legally responsible for the operation of the hospice and for compliance with federal, state, and local laws and regulations pertaining to the operation of the service.

(3) The licensee shall have permanent facilities for the administration of the program and storage of the patient records.

(4) The licensee shall establish policies for the administration and operation of the service. The policies shall include:

(a) Acceptance of patients;

(b) Development of a plan of care through the interdisciplinary team;

(c) Quality care audits for direct service;

(d) Personnel policies and procedures which include position descriptions, a description of lines of authority, wage and salary ranges, benefits, evaluation and grievance procedures, and orientation and training programs; and

(e) Use of volunteers, voluntary selection criteria, training and roles in the hospice program.

(5) Contracted services. If a hospice contracts for services, such contracts shall be in writing and shall:

(a) Designate clearly the services to be provided;

(b) Describe how the personnel under contract will provide the service and how they will be supervised;

(c) Provide education about hospice care, for participating personnel, conducted by the hospice staff; and

(d) Describe the process of coordination for medical recordkeeping, patient evaluation and care planning.

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

(1) "Affected facility" means a coating line for fabric, vinyl, or paper.

(2) "Applicator" means the mechanism or device used to apply the coating including but not limited to: roll, knife, or rotogravure coater.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any coatings containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;  
(b) Process storage;  
(c) Applicators;  
(d) Drying operations including, but not limited to: flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;

(f) Leaks, spills and disposal of volatile organic compounds;

(g) Processing and handling of recovered volatile organic compounds;

(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;

(i) If any portion of the series of equipment and/or operations qualifies for an exemption according to Section 5, then that portion shall be considered to be a separate coating line.

(j) *An affected facility which is capable of performing both paper coating and paper printing will be considered as performing a paper printing operation subject to 401 KAR 59:212.*

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

(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(7) "Fabric coating" means the coating of a textile substrate to impart properties that are not initially present, such as strength, stability, water or acid repellancy, or appearance.

(8) "Vinyl coating" means the coating of vinyl coated fabric or vinyl sheets which includes decorative or protective topcoats or printing.

(9) "Paper coating" means the application of a uniform layer of material across the entire width of a web of paper, pressure sensitive tapes regardless of substrate, related web coating processes on plastic film such as typewriter ribbons, photographic film, magnetic tape, and decorative coatings on metal foil such as gift wrap and packaging, but does not include the printing of paper.

(10) "Knife coating" means the application of a coating material to a substrate by means of drawing the substrate

beneath a knife that spreads the coating evenly over the full width of the substrate.

(11) "Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

(12) "Rotogravure coating" means the application of a *uniform layer of [coating] material across [to] a substrate* by means of a roll coating technique in which the *entire [pattern to be applied is etched on the] coating roll is uniformly etched with recessed cells and no pattern or design is present*. The coating material is picked up in these *recessed cells [areas]* and is transferred to the substrate.

(13) "Classification date" means *June 29, 1979* [the effective date of this regulation].

(14) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

(15) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication, *specialty*, and packaging printing as defined in 401 KAR 59:212.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 5.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 5. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

(a) ASTM D 1644-75 Method A;

(b) ASTM D 1475-60(74);

(c) ASTM D 2369-73; or

(d) Federal Standard 141 a, Method 4082.1.

Section 5. Exemptions. (1) Any affected facility coating fabric or paper shall be exempt from the provisions of Section 3 if the volatile organic compound content of the coating is less than 0.35 kg/l of coating (2.9 lb/gal), excluding water, delivered to the applicators associated with the coating line.

(2) Any affected facility coating vinyl shall be exempt from the provisions of Section 3 if the volatile organic compound content of the coating is less than 0.45 kg/l of coating (3.8 lb/gal) excluding water, delivered to the applicators associated with the coating line.

(3) An owner or operator electing to qualify for an extension under this section must achieve final compliance for that affected facility by December 1, 1981.

*Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.*

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Larry Wilson, Supervisor, Development and Evaluation Branch, Division of Air Pollution, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 59:212. New graphic arts facilities using rotogravure and flexography.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new graphic arts facilities which use rotogravure and flexography.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:

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

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

(3) The provisions of this regulation shall not apply to affected facilities in the following counties: Garrard, Graves, Hopkins, Laurel, Montgomery, Nelson, Pulaski,

Scott, Taylor, Trigg, and Union prior to designation of such counties non-attainment for ozone under 401 KAR 51:010.

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

(1) "Affected facility" means a printing line for packaging rotogravure, publication rotogravure, *specialty rotogravure*, and flexographic printing.

(2) "Applicator" means the mechanism or device used to apply the ink.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Printing line" means a series of equipment and/or operations used to apply, dry, or cure any inks containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;

(b) Process storage;

(c) Applicators;

(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;

(f) Leaks, spills and disposal of volatile organic compounds;

(g) Processing and handling of recovered volatile organic compounds;

(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) printing line, its volatile organic compound emissions shall be assigned to each printing line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each printing line;

(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate printing line;

(j) All units in a machine which has both coating and printing units will be considered as performing a printing operation.

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

(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain inks, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(7) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication, *specialty*, and packaging printing.

(8) "Coating" means the application of a uniform layer of material across the entire width of a web.

(9) "Classification date" means *February 4, 1981* [the effective date of this regulation].

(10) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic com-

## (6) Medical records.

(a) A medical record shall be maintained for every individual who is accepted as a hospice patient. The medical records shall include:

1. Written referral from the attending physician of the patient to the hospice program.
2. Medical history.
3. Social and psychological information on the patient and family.
4. All doctors orders and the approved care plan.
5. Documentation of all medical services provided.
- (b) All medical records shall be kept confidential and retained for a minimum of five (5) years, or in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

## (7) Personnel. The hospice shall have:

(a) A medical director who is a licensed physician, available on at least a consultative basis who:

1. Is responsible for directing medical aspects of the hospice care program; and
2. Participates in the development of medical policies and procedures.

(b) An administrator who is responsible for the daily operation of the hospice and the implementation of policies and procedures for all activities and services whether provided directly by hospice personnel or by contract.

(c) A patient-care coordinator who is a registered nurse available on a full or part-time basis and knowledgeable of home-based skilled nursing services for the terminally ill.

Section 4. Services. (1) The hospice program shall provide palliative and supportive services including skilled nursing services to meet the physical, psychological, social, and spiritual needs of terminally ill persons and their families. Hospice services shall:

(a) Be available on a twenty-four (24) hour, seven (7) day a week, on-call basis;

(b) Be provided by an interdisciplinary team which shall include:

1. The patient and the patient's family, if willing to participate.
2. The medical director (the patient's attending physician, and other staff physicians may also be members of the team).
3. A nurse.
4. A social worker.
5. A representative of the clergy if the patient so chooses.
6. Volunteers, if available.

(2) Patients may be admitted to a hospice program only upon referral from a physician and upon the request of the patient and family. The patient's attending physician shall

be responsible for the direct medical care of the patient's illness.

(3) The hospice shall provide the following services directly:

(a) Coordination of the medical aspects of the hospice program;

(b) Patient/family assessment of physical, psychological, spiritual, social, and economic needs;

(c) Development and coordination of a care plan which includes the delineation of responsibilities of each team member and provides for regularly scheduled team meetings for planning and evaluation as well as for individual case management;

(d) Patient counseling and bereavement counseling of the family; and

(e) Education and training services for staff, volunteers, and family members.

(4) *Skilled nursing services* [The following services] shall be provided directly or through contract as indicated by the patient's [and family] needs. [:]

(5) *The following services shall be provided directly, through contract, or through referral as indicated by the patient and family needs:*

[(a) Skilled nursing in the home and in an inpatient setting.]

(a) [(b)] Nutrition services.

(b) [(c)] Homemaker, home health aide services.

(c) [(d)] Physical therapy services.

(d) [(e)] Respiratory therapy.

(e) [(f)] Speech therapy.

(6) *The hospice shall follow up on patients given referrals to determine whether services were provided and shall make appropriate entries into the patient's medical records for services provided on a referral basis.*

(7) [(5)] The patient's plan of care shall be reviewed by the attending physician in consultation with agency professional personnel at such intervals as the severity of the patient's illness requires, but in all cases, at least once every two (2) months. Verbal authorization to change the plan of care shall be reviewed and signed by the attending physician within seven (7) days after the order is issued.

(8) [(6)] Original orders for drugs and changes in orders for drugs shall be signed by the physician and made a part of the patient's medical record. Verbal authorization by the physician to change drug orders shall be reviewed and signed by the physician within seven (7) days after the order is issued.

FRANK W. BURKE, SR., Chairman

ADOPTED: January 20, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 3, 1982 at 4:30 p.m.

# Proposed Amendments

## DEPARTMENT OF FINANCE Division of Occupations and Professions Board of Accountancy (Proposed Amendment)

201 KAR 1:045. Subjects of examination; grading; re-examination.

RELATES TO: KRS 325.265, 325.270

PURSUANT TO: KRS 325.240

NECESSITY AND FUNCTION: To promulgate administrative regulations of the State Board of Accountancy of Kentucky. This regulation pertains to subjects of examination, grading and re-examination.

Section 1. Examinations will include questions or problems on the following subjects:

- (1) Accounting practice;
- (2) Theory of accounts;
- (3) Auditing;
- (4) Business law.

Section 2. The candidate will be required to make a grade of not less than seventy-five (75) percent in each subject before he will be declared to have passed the examination.

Section 3. A candidate who fails to receive a conditional credit or credits in any examination shall have the right to re-examination.

Section 4. A candidate who fails to pass all subjects, but who receives a passing grade in two (2) or more subjects, or accounting practice alone, shall receive a conditional credit for such subject or subjects provided such candidate obtains a score of [averages] fifty (50) percent or more on the parts failed. This minimum [average] grade requirement is waived if three (3) parts are passed at a single sitting.

Section 5. To add to conditioned status, the candidate must obtain a grade of seventy-five (75) or more in the parts passed and a [an average] grade of fifty (50) in all parts not passed. While a [an average] grade of less than fifty (50) prevents the candidate from adding to his conditional status, it alone does not remove or cancel conditioned status previously attained.

Section 6. A candidate who receives such conditional credit or credits must pass the remaining subjects within the six (6) [five (5)] examinations next succeeding the examination at which the first conditional credit was earned. [The board may grant a candidate the right to sit for the sixth examination next succeeding the examination at which the first conditional credit was earned upon good cause shown for failure to attend or complete the fifth examination.] In the event of the failure of a candidate thus to pass the examination within the above prescribed period, he will be considered to have failed the examination. Such a candidate may, however, thereafter make a new application, which shall be reviewed by the board as in the case of any new applicant.

Section 7. At any sitting, the candidate must sit for all parts for which he has not yet received a passing grade. The failure of a candidate to submit a paper in regard to any part of an examination will disqualify all papers submitted by that candidate at that examination unless the board, in its discretion, finds good cause not to disqualify the papers submitted.

Section 8. Any person licensed to practice law in this state need not be examined in the subject of business law. An applicant claiming waiver of the examination in business law by virtue of this section must include with his application a certification from the Kentucky State Bar Association to the effect that such candidate is duly licensed to practice law in this state and is in good standing as provided in KRS 30.170.

Section 9. A candidate for the certificate of certified public accountant who has written the uniform examination under the jurisdiction of another state and has failed to receive a passing grade in all subjects, but has passed two (2) or more subjects, or accounting practice alone, may in the discretion of the board be given conditional credit for parts passed, provided that the applicant met all requirements of the Kentucky law and regulations, except for residence, at the time of writing the examination.

JAMES T. AHLER, Executive Director

ADOPTED: February 5, 1982

RECEIVED BY LRC: February 8, 1982 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. James T. Ahler, Executive Director, Kentucky State Board of Accountancy, 310 W. Liberty Street, Suite 315, Louisville, Kentucky 40202.

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

401 KAR 59:210. New fabric, vinyl and paper surface coating operations.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound emissions from new fabric, vinyl or paper surface coating operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced on or after the classification date defined below which is located:

- (1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
- (2) In any other county and is a part of a major source of volatile organic compounds.



pounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

(11) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(12) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(13) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(14) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves intaglio or recessed image areas in the form of cells.

(15) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(16) "Specialty rotogravure printing" means all rotogravure printing except packaging rotogravure and publication rotogravure printing. It includes, but is not limited to, rotogravure printing on paper cups and plates, patterned giftwrap, wallpaper and floor coverings.

### Section 3. Standard for Volatile Organic Compounds.

(1) No person shall cause, allow, or permit an affected facility for publication rotogravure printing to discharge into the atmosphere more than twenty-five (25) percent by weight of the volatile organic compounds net input into the affected facility.

(2) No person shall cause, allow, or permit an affected facility for packaging rotogravure printing or specialty rotogravure printing to discharge into the atmosphere more than thirty-five (35) percent by weight of the volatile organic compounds net input into the affected facility.

(3) No person shall cause, allow, or permit an affected facility for flexographic printing to discharge into the atmosphere more than forty (40) percent by weight of the volatile organic compounds net input in the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the

department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 5.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the inks used at an affected facility to verify that the inks meet the requirements in Section 5. The following methods of analyses, filed by reference in 401 KAR 50:015, for inks shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

- (a) ASTM D 1644-75 Method A;
- (b) ASTM D 1475-60(74);
- (c) ASTM D 2369-73; or
- (d) Federal Standard 141 a, Method 4082.1.

Section 5. Exemptions. Any affected facility shall be exempt from the provisions of Section 3 if the printing systems:

(1) Utilize a water-borne ink whose volatile portion consists of seventy-five (75) volume percent water and twenty-five (25) volume percent organic solvent (or a lower volatile organic compound content) in all printing units;

(2) Achieve a seventy (70) volume percent overall reduction of solvent usage (compared to all solvent-borne ink usage); or

(3) Utilize inks which contain sixty (60) percent or more non-volatile material.

Section 6. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Larry Wilson, Supervisor, Development and Evaluation Branch, Division of Air Pollution, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 61:120. Existing fabric, vinyl and paper surface coating operations.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of volatile organic compound

emissions from existing fabric, vinyl or paper surface coating operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

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

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

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

(1) "Affected facility" means a coating line for fabric, vinyl, or paper.

(2) "Applicator" means the mechanism or device used to apply the coating including but not limited to: roll, knife, or rotogravure coater.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any coatings containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;

(b) Process storage;

(c) Applicators;

(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;

(f) Leaks, spills and disposal of volatile organic compounds;

(g) Processing and handling of recovered volatile organic compounds;

(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;

(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate coating line.

(j) *An affected facility which is capable of performing both paper cutting and paper printing will be considered as performing a paper printing operation subject to 401 KAR 61:122.*

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

(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(7) "Fabric coating" means the coating of a textile substrate to impart properties that are not initially present, such as strength, stability, water or acid repellancy, or appearance.

(8) "Vinyl coating" means the coating of vinyl coated fabric or vinyl sheets which includes decorative or protective topcoats or printing.

(9) "Paper coating" means the application of a uniform layer of material across the entire width of a web of paper, pressure sensitive tapes regardless of substrate, related web coating processes on plastic film such as typewriter ribbons, photographic film, magnetic tape, and decorative coatings on metal foil such as gift wrap and packaging, but does not include the printing of paper.

(10) "Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a knife that spreads the coating evenly over the full width of the substrate.

(11) "Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

(12) "Rotogravure coating" means the application of a uniform layer of [coating] material across [to] a substrate by means of a roll coating technique in which the entire [pattern to be applied is etched on the] coating roll is uniformly etched with recessed cells and no pattern or design is present. The coating material is picked up in these recessed cells [areas] and is transferred to the substrate.

(13) "Classification date" means June 29, 1979 [the effective date of this regulation].

(14) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

(15) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication, specialty, and packaging printing as defined in 401 KAR 61:122.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

- (a) ASTM D 1644-75 Method A;
- (b) ASTM D 1475-60(74);
- (c) ASTM D 2369-73; or
- (d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

- (1) Submit a final control plan for achieving compliance with this regulation no later than September 1, 1979.
- (2) Award the control system contract or the exempt coatings and any accompanying process change contracts no later than May 1, 1980.
- (3) Initiate on-site construction or installation of emission control equipment or process changes for exempt coatings no later than November 1, 1980.
- (4) On-site construction or installation of emission control equipment or process changes for exempt coatings shall be completed no later than August 1, 1981.
- (5) Final compliance shall be achieved no later than December 1, 1981.

Section 6. Exemptions. (1) Any affected facility coating fabric or paper shall be exempt from the provisions of Section 3 if the volatile organic compound content of the coating is less than 0.35 kg/l of coating (2.9 lb/gal), excluding water, delivered to the applicators associated with the coating line.

(2) Any affected facility coating vinyl shall be exempt from the provisions of Section 3 if the volatile organic compound content of the coating is less than 0.45 kg/l of coating (3.8 lb/gal) excluding water, delivered to the applicators associated with the coating line.

*Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.*

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Larry Wilson, Supervisor, Development and Evaluation Branch, Division of Air Pollution, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

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

401 KAR 61:122. Existing graphic arts facilities using rotogravure and flexography.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from existing graphic arts facilities which use rotogravure and flexography.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

- (1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or
- (2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.
- (3) The provisions of this regulation shall not apply to affected facilities in the following counties: Garrard, Graves, Hopkins, Laurel, Montgomery, Nelson, Pulaski, Scott, Taylor, Trigg, and Union prior to designation of such counties non-attainment for ozone under 401 KAR 51:010.

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

(1) "Affected facility" means a printing line for packaging rotogravure, publication rotogravure, *specialty rotogravure*, and flexographic printing.

(2) "Applicator" means the mechanism or device used to apply the ink.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Printing line" means a series of equipment and/or operations used to apply, dry, or cure any inks containing volatile organic compounds. This shall include, but is not limited to:

- (a) Mixing operations;
- (b) Process storage;
- (c) Applicators;
- (d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;
- (e) Clean up operations;
- (f) Leaks, spills and disposal of volatile organic compounds;
- (g) Processing and handling of recovered volatile organic compounds;
- (h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) printing line, its volatile organic compound emissions shall be assigned to each printing line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each printing line;
- (i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section

6, then that portion shall be considered to be a separate printing line;

(j) All units in a machine which has both coating and printing units will be considered as performing a printing operation.

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

(6) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain inks, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(7) "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage. It applies to flexographic and rotogravure processes as applied to publication, *specialty* and packaging printing.

(8) "Coating" means the application of a uniform layer of material across the entire width of a web.

(9) "Classification date" means *February 4, 1981* [the effective date of this regulation].

(10) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compounds net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

(11) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(12) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(13) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(14) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves intaglio or recessed image areas in the form of cells.

(15) "Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(16) "*Specialty rotogravure printing*" means all rotogravure printing except packaging rotogravure and publication rotogravure printing. It includes, but is not limited to, rotogravure printing on paper cups and plates, patterned giftwrap, wallpaper and floor coverings.

### Section 3. Standard for Volatile Organic Compounds.

(1) No person shall cause, allow, or permit an affected facility for publication rotogravure printing to discharge into the atmosphere more than twenty-five (25) percent by weight of the volatile organic compounds net input into the affected facility.

(2) No person shall cause, allow, or permit an affected facility for packaging rotogravure printing or *specialty rotogravure printing* to discharge into the atmosphere more than thirty-five (35) percent by weight of the volatile organic compounds net input into the affected facility.

(3) No person shall cause, allow, or permit an affected facility for flexographic printing to discharge into the atmosphere more than forty (40) percent by weight of the volatile organic compounds net input in the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, performance tests as specified by the department shall be conducted in order to determine the efficiency of the control device.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the inks used at an affected facility to verify that the inks meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for inks shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

- (a) ASTM D 1644-75 Method A;
- (b) ASTM D 1475-60(74);
- (c) ASTM D 2369-73; or
- (d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than April 15, 1981.

(2) Award the control system contract or the exempt inks and any other accompanying process change contracts no later than June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment or process changes for exempt inks no later than December 1, 1981.

(4) On-site construction or installation of emission control equipment or process changes for exempt inks shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. Any affected facility shall be exempt from the provisions of Section 3 if the printing systems:

(1) Utilize a water-borne ink whose volatile portion consists of seventy-five (75) volume percent water and twenty-

five (25) volume percent organic solvent (or a lower volatile organic compound content) in all printing units;

(2) Achieve a seventy (70) volume percent overall reduction of solvent usage (compared to all solvent-borne ink usage); or

(3) Utilize inks which contain sixty (60) percent or more non-volatile material.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1982

RECEIVED BY LRC: February 12, 1982 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Larry Wilson, Supervisor, Development and Evaluation Branch, Division of Air Pollution, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

**DEPARTMENT OF TRANSPORTATION**  
Bureau of Vehicle Regulation  
(Proposed Amendment)

**601 KAR 1:090. Exempted commodities.**

RELATES TO: KRS Chapter 281

PURSUANT TO: KRS 13.082, 281.625(7)

NECESSITY AND FUNCTION: KRS 281.625(7) requires the Bureau of Vehicle Regulation to promulgate regulations designating exempted commodities which are normally and usually not transported by common carriers by motor vehicle.

Section 1. In General. The following commodities are hereby specifically designated as exempted commodities pursuant to KRS 281.625:

(1) Airplanes; automobiles and trucks; barrels, used, empty; barrel staves; beer; bituminous concrete or bituminous asphalt surface; blocks, concrete and cinder; blood, human; human bio-specimens, which include blood samples, urine samples, body fluids and human tissue samples; boats, used and assembled, owned by individuals and transported for personal purposes; buildings, used, intact or in section; and brick.

(2) Cement in bags and sacks and other containers in lots, the aggregate weight of which does not exceed 10,000 pounds; chrome ore in bulk in its crude state; clay; coal; coke; commercial papers and documents not normally and ordinarily used in banks and banking institutions, written instruments and inter-office communications ordinarily used in business houses other than banks, not including delivery of newly manufactured items; concrete products, pre-stressed or pre-cast, weighing more than 2,000 pounds; cotton, in bales; cottonseed hulls; crossties; culvert, sewer pipe or gas line pipe, together with couplings and other

items necessary for installing, including culvert, sewer pipe or gas line pipe, knocked down or nesting; and currency, coinage and other forms of legal tender, together with negotiable securities, transported by armored cars.

(3) Distillery swill (slop); feed, both in bulk and in bags; *and feed ingredients which are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production*; fertilizer; fluorspar; fly ash, in bags and sacks and other containers, the aggregate weight of which does not exceed 10,000 pounds; fresh meat, including smoked meats, frozen fish, lard and cheese for peddler route distribution only; fruits and vegetables, in bulk; garbage; grain; grass sod; and gravel.

(4) Hauling or towing of wrecked or disabled motor vehicles; heavy steel items and metal products, each item weighing more than 2,000 pounds or exceeding ten (10) feet in length or four (4) feet in width but including no item exceeding 10,000 pounds in weight; hides, green; highway markers (concrete); industrial alcohol, in bulk, transportation of which is licensed by the Alcoholic Beverage Control Board under the provisions of KRS 243.030(17); license tags and decals to be issued pursuant to KRS Chapter 186; lime, in bags and sacks and other containers, the aggregate weight of which does not exceed 10,000 pounds; livestock; logs; and lumber, rough.

(5) Magazines; magnesite in bulk in its crude state; materials, supplies and equipment used exclusively for the construction, reconstruction or maintenance of any public highway, road or street; milk and cream, in bulk, or in five (5) gallon cans or greater, or in bottles, but excluding cases of canned milk or cream; newspapers; peat moss; piling; posts (wood); and poultry (live).

(6) Race horses; rock, salt, rock, crushed and screened, not farther processed or refined, unfit for human consumption; sand; sawdust; scrap metal and scrap paper, loose or in bundles; seed, in bulk; stove bolts; and stone.

(7) Tanks and boilers, over 500 gallons capacity; telegraph poles; telephone poles; tobacco, unmanufactured; tobacco hogsheads, new and used, empty; trees and shrubs; United States Mail and Parcel Post; voting machines; water; well rigs, including machinery and equipment; and wool, unprocessed.

Section 2. Limited Exempted Commodities. The following commodities are hereby specifically designated as exempted commodities pursuant to KRS 281.625 and limited by the definition contained in 601 KAR 1:035: emigrant movables, materials used in handling unmanufactured tobacco.

JAMES F. RUNKE, Commissioner

ADOPTED: February 3, 1982

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: February 12, 1982 at 1:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Steve Reeder, Deputy Secretary for Legal Affairs, Department of Transportation, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

DEPARTMENT OF TRANSPORTATION  
Bureau of Highways  
(Proposed Amendment)

603 KAR 5:096. Highway classifications.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.222

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

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

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

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

KY 80

AAA—From jct. US 45 in Mayfield to jct. US 421 near Manchester.

AAA—From Perry-Leslie Co. Line, via Combs to WCL of Hindman] to jct. US 23 near Allen in Floyd Co.

AA—From jct. KY 58 in Columbus to jct. US 45 in Mayfield.

AA—From jct. US 421 near Manchester, via Hyden to Perry Co. Line.

[AA—From WCL of Hindman to jct. US 23 at Allen in Floyd Co.]

AA—From jct. US 460 at Belcher in Pike Co. to Virginia State Line near Elkhorn City.

KY 416

AAA—From jct. US 41, 0.46 mile w of the Pennyryle Parkway, to jct. KY 2096, near east side of Pennyryle Parkway (Henderson Co.).

A—From jct. US 41A, 1.6 miles s of Cairo in Henderson Co. to jct. US 41, w of Pennyryle Parkway; and from jct. KY 2096 to nw bank of Green River near the Daviess Co. Line.

KY 810

AAA—From the Money Cliff Rd. (CR 5210) to jct. US 62 sw of Kuttaw (Lyon Co.).

A—From begin state maintenance at boat ramp at Lake Barkley to the Money Cliff Rd. [jct. US 62 sw of Kuttawa.]

KY 2096

AAA—From jct. KY 2097 in Henderson Co. at entrance to Big Rivers Steam Plant, extending n to jct. KY 416 [Anaconda Aluminum Plant entrance].

[A—From Anaconda Aluminum Plant entrance to jct. KY 416.]

\* COMPILER'S NOTE: Only those particular highways affected by the proposed amendment are shown here. 603 KAR 5:096 is printed in full in Volume 3, "Kentucky Administrative Regulations Service."

FRANK R. METTS, Secretary

ADOPTED: December 23, 1981

RECEIVED BY LRC: January 20, 1982 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40622.

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

704 KAR 10:022. Elementary, middle and secondary schools standards.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to grading, classifying, and accrediting all common schools. This regulation implements this duty by prescribing general standards to be used in evaluation of elementary, middle and secondary schools.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the [1980] Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools, as amended [adopted] on January 12, 1982 [June 4, 1980], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

Section 2. The 1981 Experimental Revised Standards for Accrediting School Districts, as adopted by the State Board on May 26, 1981, are incorporated herein by reference, and filed with the Legislative Research Commission. The Experimental Revised Standards are to be used on a pilot basis, in lieu of the standards adopted in Section 1, in no more than twenty-five (25) school districts, selected on a volunteer basis, during the 1981-82 school year.

Section 3. "The Merit Rating Procedural Information and General Criteria for Guidance Programs" and "Merit Rating Guidelines for Kentucky Schools," as amended [adopted] on January 12, 1982 [July 2, 1980], are presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 4. A copy of all documents incorporated in this



regulation may be obtained from the Department of Education.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 12, 1982

RECEIVED BY LRC: February 8, 1982 at 2:30 p.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  
Occupational Safety and Health  
(Proposed Amendment)

### 803 KAR 2:015. General industry standards.

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. Consistent with this authority the following regulations contain those standards to be enforced by the Division of Occupational Safety and Health Compliance. The Occupational Safety and Health Standards Board hereby adopts the following regulations applicable to general industry.

Section 1. Batteries. Changing and charging storage batteries (for automotive-type battery charging installations, [and] in-vehicle charging of batteries, and *battery jump starting of vehicles*). [:]

[(1) Battery charging installations shall be located in areas designated for that purpose.]

[(2) In-vehicle charging shall be done in areas designated for that purpose.]

[(1) [(3)] Facilities shall be provided for flushing electrolyte from the eyes and skin with water *when changing or charging storage batteries*. An adequate water supply shall be within *the work area* [twenty-five (25) feet of any part of the area designated above].

[(2) [(4)] No battery shall be charged or discharged within a closed or unvented container. The batteries shall be charged:

(a) In the open; or

(b) In a mechanically-ventilated space; or

(c) In a space providing at least twenty (20) cubic feet per ampere of charging capacity.

[(3) [(5)] A face shield or goggles shall be provided and available at each charging unit. The use of the face shield or goggles shall be required for connection and disconnection of vehicle or charger leads to the battery terminals and for the addition or pouring of electrolyte.

[(4) *Employees shall wear face shields or goggles during installation and removal of batteries from vehicles, while connecting and disconnecting battery charger or jumper cable leads, and while handling electrolyte.*

(5) *Employees shall be instructed to:*

(a) *Turn off the battery charger to connect or disconnect the battery;*

(b) *Wash acid spills immediately; and*

(c) *Flush electrolyte from eyes and skin with water for ten (10) minutes.*

[(6) Tools and other metallic objects not in actual use shall be kept away from the top terminal section of the battery.]

[(7) The following instructions shall be posted at each charging installation and on each battery charger:]

[WEAR FACE SHIELD

(Batteries May Explode)

“TURN OFF CHARGER TO

CONNECT OR DISCONNECT BATTERY”

“WASH ACID SPILLS IMMEDIATELY”

“FIRST AID FOR ACID IN EYES OR ON SKIN

QUICKLY FLUSH WITH WATER FOR TEN (10) MINUTES”]

Section 2. Confined Spaces. Definitions: A confined space is a space having limited means of ingress and/or egress and so enclosed that adequate dilution ventilation cannot be obtained by natural air movement, or mechanically induced movement. In order to be a confined space for purposes of this standard, a space must be subject to the accumulation of toxic, combustible, or corrosive agents, or to a deficiency of oxygen. Any of the following, among others, may be a confined space if it meets the criteria set forth in the definition above:

(1) Storage tanks, tank cars, process vessels, bins, trailers and other tank-like compartments usually with one (1) or more manholes for entry.

(2) Open topped spaces of more than four (4) feet in depth such as bins, silos, pits, vats, tubs, vaults, vessels or floating roof storage tanks.

(3) Ventilation or exhaust ducts, manholes, sewers, underground utility tunnels, pipelines and similar structures.

(4) Ovens, furnaces, kilns and similar structures.

Section 3. Confined Space Entry; Non-Utility Operations: Except as provided in Section 4, entry into a confined space shall not be made unless the following procedures have been accomplished.

(1) Insure that all lines containing harmful agents, e.g., supply, discharge, overflow, vent, drain or similar connections entering the space are physically separated or blocked by means of blinds or other devices, capable of insuring complete closure.

(2) Fixed mechanical devices and/or equipment which utilize electric, air or hydraulic power shall be placed in zero (0) mechanical state by disconnecting. Electrical service equipment, excluding lighting, shall be padlocked or tagged.

(3) The internal atmosphere shall be tested for combustible gas, toxics and corrosives where there is reason to suspect their presence and, except when adequate natural air movement or adequate continuous forced ventilation is provided, the atmosphere shall also be tested for oxygen deficiency.

(4) Ventilation:

(a) If the tests made in accordance with subsection (3) above indicate that the atmosphere is unsafe, before any employee is permitted to enter the confined space, the space shall be ventilated until the concentration of hazardous substance is reduced to a safe level or removed, and ventilation shall be continued as long as recurrence of the hazard is probable.

(b) As an alternative to ventilation or if the ventilation does not adequately reduce or remove the hazardous substance, an employee may enter a confined space only if that employee wears a supplied air respirator, approved by NIOSH for that purpose. If the employee utilizes a self-contained respirator, sufficient primary air capacity shall be available as well as reserve capacity to perform the task inside the confined space. Under no circumstances shall the wearer of the respirator be permitted to remain in the confined space when the primary air system is depleted or is being replaced. The reserve air supply shall be used only in the event of an emergency.

(5) No employee shall enter a confined space unless:

(a) Provisions have been made for constant communication with an employee in the immediate vicinity not in the confined space; and

(b) Provision has been made for adequate rescue procedure including rescue equipment specifically designed for rescue from the confined space in which work is being performed; and

(c) The employees working inside and outside the confined space have been adequately trained in rescue procedures; the training having been renewed at least yearly.

(6) An employee entering a confined space for rescue shall wear a respirator that meets NIOSH certification and shall have sufficient capacity to effect the rescue from the confined space.

(7) Lighting:

(a) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(b) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices shall have insulation equal to that of the electrical cord.

(c) Working spaces, walkways, and similar locations shall be kept clear of cords so as not to create a hazard to employees.

(d) Portable electric lighting used in moist and/or other hazardous locations, as, for example, drums, tanks, and vessels, shall be operated at a maximum of twelve (12) volts.

Section 4. Emergency Confined Space Entry. (1) Definition. "Emergency" is a sudden and unexpected condition requiring immediate action.

(2) The employer shall establish a written procedure covering confined space entry under emergency conditions. The emergency may exclude Section 3(1), (3) and (4)(a).

Section 5. Confined Space Entry: Utility Operations Including Gas, Water and Sewage: (For Electric Utility Operations See 1926.956(b). For Tele-Communication Utility Operations See 1910.268(o).)

(1) When work by a gas, water, or sewage utility is performed in a manhole, unvented vault, tunnel, pit, or pipeline, the following steps shall be taken before an employee enters:

(a) The internal atmosphere shall be tested for combustible gas, toxics and corrosives where there is reason to suspect their presence and, except when adequate natural air movement or adequate continuous forced ventilation is provided, the atmosphere shall also be tested for oxygen deficiency;

(b) When unsafe conditions are detected by testing or

other means, the work area shall be adequately ventilated and otherwise made safe before entry.

(2) An adequate continuous supply of air shall be provided while work is performed under any of the following conditions:

(a) Where combustible or explosive gas vapors have been initially detected and subsequently reduced to a safe level by ventilation;

(b) Where organic solvents are used in the work procedures;

(c) Where open flame torches are used in the work procedures;

(d) Where the manhole is located in that portion of a public right of way open to vehicular traffic and/or exposed to seepage of gas or gases, or

(e) Where a toxic gas or oxygen deficiency is found.

(3) An employee with basic first-aid and rescue training shall be available in the immediate vicinity to render emergency assistance as may be required. The employee whose presence is required in the immediate vicinity for the purposes of rendering emergency assistance is not to be precluded from occasionally entering to provide assistance other than in an emergency. The requirement of this paragraph does not preclude a qualified employee, working alone, from entering for brief periods of time for the purpose of inspection, housekeeping, taking readings, or similar work if testing for oxygen deficiency, combustible gas and suspected toxic substances has been performed.

(4) Ladders or other safe means shall be used to enter and exit manholes exceeding four (4) feet in depth.

(5) When open flames are used, the following precautions shall be taken to protect against the accumulation of combustible gas:

(a) A test for combustible gas shall be made immediately before using the open flame device, and at least once per hour while using the device; and

(b) A fuel tank (e.g., acetylene) may not be in the manhole unless in actual use.

Section 6. This regulation shall not pre-empt any specific applicable standard; and shall not preclude any specific applicable standard now in effect.

Section 7. Safety and Testing of Supply Lines in Excess of 600 Volts. (1) Definitions:

(a) Disconnected means disconnected from any electrical source of supply;

(b) Guarded: Protected by personnel, covered, fenced, or enclosed by means of suitable castings, barrier, rails, screens, mats, platforms, or other suitable devices in accordance with standard barricading techniques designed to prevent dangerous approach or contact by persons or objects. (Note: Wires, which are insulated but not otherwise protected, are not considered as guarded);

(c) Hold cards (also called "hold tags"): A card or tagtype device, usually having a predominant color of white or red which warns against or which cautions against the operation of a particular switch, device, circuit, tool, machine, etc.;

(d) Near: A distance no closer than that shown in the table in subsection (3)(c) of this section;

(e) Qualified person: A person who, because of experience and training is familiar with the construction and operation of the apparatus or equipment and the hazards involved in the performance of the job.

(2) Purpose:

(a) The intent and purpose of this regulation is to provide and establish safety procedures for testing equipment

to protect electrical workers from hazards resulting from exposure to high voltage;

(b) This regulation shall apply to non-utility electrical workers who are engaged in electrical construction and/or maintenance of electrical conductors and equipment rated at 600 volts and above.

(3) Energized conductors and equipment:

(a) Only qualified employees shall work on or near high voltage conductors or equipment;

(b) Personal protective equipment shall be provided by the employer and used by the employee when working on or near energized, ungrounded high voltage conductors or equipment;

(c) No employee shall approach or take any conductive object, without an approved insulating handle, within the minimum distance specified in the table below, unless the energized part is insulated or guarded from the employee, or the employee is effectively insulated from the live parts. Rubber gloves (sleeves if necessary) rated for the voltage involved shall be considered effective insulation of the employee from the energized part.

#### Minimum Clear Distance From Live Parts

| Voltage Phase to Phase<br>(Kilovolts) | Distance Phase to Employee |
|---------------------------------------|----------------------------|
| 0.6 to 34.5                           | 2'                         |
| 34.5 to 46                            | 2½'                        |
| 46 to 69                              | 3'                         |
| 69 to 115                             | 3' 4"                      |
| 115 to 138                            | 3' 6"                      |
| 138 to 169                            | 3' 8"                      |

(4) De-energized conductor or equipment:

(a) Existing conditions shall be determined before starting work on electrical conductor and/or equipment;

(b) Before any work is performed, all electrical switches, breakers and associated disconnecting devices shall be opened, made inoperable and hold tagged out by the person in charge. Employees shall be trained and thoroughly instructed in the tagging procedure. One (1) qualified person, for example: foreman, general foreman or first class electrician, of each crew shall be responsible for attaching hold tags and/or hold cards to the disconnecting means. When more than one (1) crew is involved in the work, multiple hold tags or hold cards shall be placed in the handle of the disconnecting equipment. The use of such tags must be respected. Equipment or items so tagged must not be activated or used without full and proper authority of a responsible person whose signature appears on the tag;

(c) Conductors shall be short circuited and grounded wherever possible;

(d) Capacitors may be components of apparatus of the disconnected electrical system. Before employees are allowed to work, the capacitors shall be discharged, short circuited and grounded;

(e) When de-energizing conductors and equipment and the means of disconnecting from the energy source is not visible open, a voltage test shall be made before starting work. An operational check shall be made of the voltage tester prior to and following the voltage test to determine reliability of the testing device. The test device must be handled and used while wearing or using approved protective equipment during the test;

(f) All conductors and equipment shall be treated as energized until tested, short circuited and effectively grounded except when the circuit involved is isolated from

all possible sources of energizing voltage from another circuit, induced voltage or back feed;

(g) The voltage condition of de-energized conductors and/or equipment shall be determined with testing equipment designed for the applicable voltage;

(h) Upon completion of work on de-energized conductors and equipment, the person responsible shall ascertain that all employees under his jurisdiction are clear and that all protective short circuit and grounding lines are removed. The qualified person(s) shall then remove his hold tag(s). Only at this time shall conductors and equipment be re-energized.

Section 9. Safety Belts, Lanyards and Lifelines. (1) Employees working from open-sided unguarded floors, pipe racks, and ledges, platforms, walkways, machinery, stockshelves, or similar unguarded working surfaces which are elevated ten (10) feet or more above a lower level shall be secured by safety belts and lanyards, lifelines where necessary, or shall be protected by safety nets.

(2) Lanyards shall have a nominal breaking strength of 5,400 lbs. The combination of safety belts and lanyards, lifelines where necessary, shall be designed to permit a fall of not more than five (5) feet.

(3) All safety belt and lanyard hardware, except rivets, shall be capable of withstanding a tensile loading of 4,000 lbs. without cracking, breaking or taking a permanent deformation.

(4) Lifelines, where necessary, shall be secured above the point of operation to an anchorage of structural member capable of supporting a minimum dead weight of 5,400 lbs.

(5) This standard shall not pre-empt any applicable standard now in effect.

JOHN CALHOUN WELLS, Commissioner

ADOPTED: January 28, 1982

APPROVED:

TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

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

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

803 KAR 2:020. 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 *Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration* [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" is amended as follows [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.]

(5) [(8)] 29 CFR 1910.95 "Hearing Conservation Program" paragraph (c) through (s) and appendices A, C, D, E, G, H, and I as published in the Federal Register, Volume 46, Number 162, August 21, 1981 and the "Correction to Appendix A" as published in the Federal Register, Volume 46, Number 176, September 11, 1981 are adopted by reference and amended as follows:

(a) 29 CFR 1910.95(j)(3) shall read: "Audiometric tests shall be performed by a licensed or certified audiologist, otolaryngologist, or other qualified physician, or by a technician who is certified by the Council of Accreditation in Occupational Hearing Conservation, or who has satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining, and checking the calibration and functional operation of audiometers. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or qualified physician."

(b) 29 CFR 1910.95(k)(1) shall read: "Audiometric tests shall be pure tone, air conduction, hearing threshold examinations, with test frequencies including as a minimum 500, 1000, 2000, 3000, 4000 and 6000 Hz. Testing at 8000

Hz must be included in the audiometric test within three (3) years of the effective date of this standard. Tests at each frequency shall be taken separately for each ear."

(c) 29 CFR 1910.95(o)(1) shall read: "The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace."

(d) 29 CFR 1910.95(s)(1) shall read: "Paragraphs (c) through (r) of this section shall become effective January 15, 1982 unless otherwise noted below."

(e) 29 CFR 1910.95(s)(2) shall read: "Monitoring conducted pursuant to paragraph (e) of this section shall be completed by July 15, 1982."

(f) 29 CFR 1910.95(s)(3) shall read: "Baseline audiograms required by paragraphs (j) of this section shall be completed by January 15, 1983."

(6) [(9)] 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.

(7) [(10)] 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."

[(11) 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.]

[(12) 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.]

[(13) 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.]

(8) [(14)] 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."

(9) [(15)] 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."

[(16) 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.]

[(10) [(17) Revision to 29 CFR 1910.156 "Fire brigades" as printed in the Federal Register, Volume 45, Number 179, Friday, September 12, 1980;]

[(a) is adopted by reference.]

[(b)] 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."

[(18) 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.]

[(19) 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.]

[(20) 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.]

[(21) 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.]

[(22) 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.]

[(23) 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.]

[(24) 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.]

[(25) 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.]

[(26) 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.]

[(27) 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.]

[(28) 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.]

[(29) 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.]

(11) [(30) 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 an isolated secondary."]

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

(12) [(31)] 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."

[(32) Revisions to 29 CFR 1910 Subpart S "Electrical" are adopted by reference as follows:]

[(a) As published in the Federal Register, Volume 46, Number 11, Friday, January 16, 1981 which include:]

- [1. 1910.301 "Introduction"]
- [2. 1910.302 "Electrical utilization systems"]
- [3. 1910.303 "General requirements"]
- [4. 1910.304 "Wiring design and protection"]
- [5. 1910.305 "Wiring methods, components, and equipment for general use"]
- [6. 1910.306 "Specific purpose equipment and installations"]

[7. 1910.307 "Hazardous (classified) locations"]

[8. 1910.308 "Special systems"]

[9. 1910.399 "Definitions applicable to this subpart"]

[10. Appendix A—Reference documents.]

(13) [(b)] Corrections to 29 CFR 1910 Subpart S "Electrical" as published in the Federal Register, Volume 46, Number 152, August 7, 1981 are adopted by reference.

[(33) 29 CFR 1910.423 Commercial Diving Operations; Corrections, Federal Register, Volume 45, Number 121, June 20, 1980, is adopted by reference.]

[(34) 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.]

[(35) 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.]

[(36) 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.]

[(37) 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.]

(14) [(38)] 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.

(15) [(39)] 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."

[(40) 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.]

[(41) 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.]

[(42) 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.]

[(43) 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.]

[(44) 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.]

[(45) 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.]

[(46) 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.]

[(47) 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.]

[(48) 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.]

[(49) 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.]

[(50) 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.]

[(51) 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.]

[(52) 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.]

(16) [(53)] 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Revisions as published in the Federal Register, Volume 46, Number 238, Friday, December 11, 1981, are adopted by reference. [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) "Table 1—Implementation Schedule" is amended to read:



TABLE 1—Implementation Schedule

| INDUSTRY <sup>1</sup>  | COMPLIANCE DATES |               |               |
|--|------------------|---------------|---------------|
|  | 200<br>g/m       | 100<br>g/m    | 50<br>g/m     |
| Primary lead production  | (2)              | June 29, 1984 | June 29, 1991 |
| Secondary lead production  | (2)              | June 29, 1984 | June 29, 1986 |
| Lead acid battery manufacture  | (2)              | June 29, 1983 | June 29, 1986 |
| Automobile manufacture/solder grinding   | (2)              | N/A           | June 29, 1988 |
| Electronics, gray iron foundries, ink manufacture, paints and coatings manufacture, wallpaper manufacture, can manufacture, and printing   | (2)              | N/A           | June 29, 1982 |
| Lead pigment manufacture, non-ferrous foundries, leaded steel manufacture, lead chemical manufacture, ship building and ship repair, battery breaking in the collection and processing of scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), secondary smelting of copper, and lead casting | (2)              | N/A           | N/A           |
| All other industries   | (2)              | N/A           | June 11, 1984 |

<sup>1</sup> Includes ancillary activities located on the same worksite.

(2) On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

[(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.]

[(54) 29 CFR 1910.1028 "Occupational Exposure to Benzene," and footnote 1, Table Z-2 are deleted in their entirety.]

[(55) 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.]

[(56) 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.]

[(57) 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.]

[(58) 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."]

[(59) 29 CFR 1910.1046 "Exposure to cotton dust in cotton gins" is revoked.]

JOHN CALHOUN WELLS, Commissioner

ADOPTED: January 28, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9:20 a.m.

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

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (Proposed Amendment)

806 KAR 2:020. Interests and rewards prohibited.

RELATES TO: KRS 304.2-080

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation requires Department of Insurance personnel to file an affidavit showing a lack of financial interest in the insurance industry in order to assure the commissioner of full compliance with KRS 304.2-080.

Section 1. The Commissioner of Insurance and every deputy, examiner, actuary, assistant, or employee of the Department of Insurance, shall, *within twenty (20) days of employment* [on July 1st of each year,] prepare and file, on a form prescribed by the Commissioner of Insurance, an affidavit wherein such person states, under oath, whether or not he or a *member of his immediate family* [his spouse] is connected with the management of, or is financially interested, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy.

Section 2. Such person shall, within ten (10) days of any change in the facts recited therein, refile such affidavit indicating such change.

Section 3. *The original* [Copies] of the affidavit shall be retained in the personnel files of the Department of Insurance [and the originals shall be on file in the Department of Personnel, as public records].

Section 4. The furnishing of technical advisors or the payment of the expenses of advisory boards or expenses of the departmental employees in connection therewith shall not be deemed to be a fee, compensation, loan, gift, or other thing of value within the meaning of KRS 304.2-080(2).

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department of Insurance  
(Proposed Amendment)

**806 KAR 9:070. Examination retake limits.**

RELATES TO: KRS 304.9-160, 304.9-190, 304.9-320, 304.9-430

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation reasonably restricts the number of times an applicant [applicants] for an agent's, a solicitor's, a consultant's, or an adjuster's license may take the appropriate [an] examination required by the Kentucky Insurance Code or regulations promulgated thereunder [KRS 304.9-160].

Section 1. Applicants to take the examinations required by KRS 304.9-160, 304.9-320, and 806 KAR 9:030 shall be permitted to take or retake an examination a combined total of three (3) times within four (4) months of the submission of an application. After a waiting period of six (6) months [one (1) month], a new application may be submitted.

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department of Insurance  
(Proposed Amendment)

**806 KAR 26:010. Proxies, consents and authorizations.**

RELATES TO: KRS 304.26-050

PURSUANT TO: KRS 13.082, 304.2-110, 304.26-050

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.26-050 gives the commissioner the authority to regulate any form of proxies, consents and authorizations. This regulation sets out the requirements for proxies and their solicitation, consents, and authorizations.

Section 1. Application of Regulation. This regulation is applicable to each domestic stock insurer which has any class of equity security held of record by 100 or more persons; provided, however, that this regulation shall not apply to any insurer if ninety-five (95) percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than 500 persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable regulations promulgated thereunder, shall be exempt from the provisions of this regulation with respect to any class of securities subject to SEC jurisdiction.

Section 2. Proxies, Consents and Authorizations. No domestic stock insurer, or any director, officer or employee of such insurer subject to Section 1 hereof, or any other person shall solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of such insurer held of record by 100 or more persons in contravention of this regulation and especially Sections 11 and 12.

Section 3. Disclosure of Equivalent Information. Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to Section 1 hereof are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with this regulation prior to any annual or other meeting of such security holders, such insurer shall, in accordance with this regulation and such further regulations as the commissioner may adopt, file with the commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. Such insurer shall transmit a written statement containing the information specified in subsection (4) of Section 5 to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.

Section 4. Definitions. (1) The definitions and instructions set out in Schedule SIS, as promulgated by the Na-

tional Association of Insurance Commissioners, shall be applicable for purposes of this regulation.

(2) The terms "solicit" and "solicitation" for purposes of this regulation shall include:

(a) Any request for proxy, whether or not accompanied by or included in a form of proxy; or

(b) Any request to execute or not to execute, or to revoke a proxy; or

(c) The furnishing of a proxy or other communications to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(3) The terms "solicit" and "solicitation" shall not include:

(a) Any solicitation by a person in respect to equity security of which he is the beneficial owner;

(b) Action by a broker or other person in respect to equity security carried in his name or in the name of his nominee in forwarding to the beneficial owner of such equity security soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(c) The furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

**Section 5. Information to be Furnished to Security Holders.** (1) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Section 11 of this regulation.

(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to subsection (1) hereof shall be accompanied or preceded by an annual report (in preliminary or final form) to such security holders containing such financial statements for the last fiscal year as are referred to in Schedule SIS under the heading "Financial Reporting to Security Holders." Subject to the foregoing requirements with respect to financial statement, the annual report to security holders may be in any form deemed suitable by the management.

(3) Two (2) copies of each report sent to the security holders pursuant to this section shall be mailed to the commissioner, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to subsection (1) of Section 7 of this regulation, whichever date is later.

(4) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least twenty (20) days prior to the meeting date, an information statement as required by Section 3, containing the information called for by all of the subsections of Section 11, other than subsections (1), (3) and (4) thereof, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If such information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such security holders in the form provided in subsection (2) hereof.

**Section 6. Requirements as to Proxy.** (1) The form of proxy:

(a) Shall indicate in bold-face type whether or not the proxy is solicited on behalf of the management;

(b) Shall provide a specifically designated blank space for dating the proxy; and

(c) Shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or security holders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection (3) hereof.

(2) (a) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold-face type how it is intended to vote the shares or authorization presented by the proxy in each such case.

(b) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for elections to office shall be deemed to grant such authority, provided the form of proxy so states in bold-face type.

(3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware, a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(4) No proxy shall confer authority:

(a) To vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement; or

(b) To vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. The limitation in paragraph (a) above shall not prevent the authority conferred from applying to a person substituted for a nominee who, prior to the election, has clearly manifested his unwillingness to serve or whose service would be a physical impossibility.

(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection (2) hereof a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(6) The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented.

**Section 7. Material Required to be Filed.** (1) Two (2) preliminary copies of the information statement or the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently

therewith shall be filed with the commissioner at least thirty (30) days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(2) Two (2) preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to security holders subsequent to the proxy statements shall be filed with the commissioner at least ten (10) days (exclusive of Saturdays, Sundays, or holidays) prior to the date copies of this material are first sent or given to security holders or a shorter period prior to such date as the commissioner may authorize upon a showing of good cause therefor.

(3) Two (2) definitive copies of the information statement or the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to security holders, shall be filed with, or mailed for filing to, the commissioner not later than the date such material is first sent or given to the stockholders.

(4) Where any information statement or proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two (2) of the copies shall be marked to clearly show such changes.

(5) Copies or replies to inquiries from security holders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this section.

(6) Notwithstanding the provisions of subsections (1) and (2) hereof and of subsection (5) of Section 10 of this regulation, copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by subsection (3) hereof not later than the date such material is used or published. The provisions of subsections (1) and (2) hereof and subsection (5) of Section 10 shall apply, however, to any reprints or reproductions of all or any part of such material.

**Section 8. False or Misleading Statements.** No proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to this regulation, shall contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.

**Section 9. Prohibition of Certain Solicitations.** No person making a solicitation which is subject to this regulation shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

**Section 10. Special Provisions Applicable to Election Contests.** (1) **Applicability.** This section shall apply to any solicitation subject to this regulation by any person or group for the purpose of opposing a solicitation subject to this regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(2) Participant or participant in a solicitation. For purposes of this section the terms "participant" and "participant in a solicitation" include:

(a) The insurer;

(b) Any person or organization retained or employed by a participant to solicit security holders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;

(c) Any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment;

(d) Any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

(e) Any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

(3) Filing of information required by Section 12.

(a) No solicitation subject to this section shall be made by any person other than the management of an insurer unless at least five (5) business days prior thereto, or such shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner, by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by Section 12 of this regulation and a copy of any material proposed to be distributed to security holders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to security holders should be deferred until the commissioner's comments have been received and complied with.

(b) Within five (5) days after a solicitation subject to this section is made by the management of an insurer, or such longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by Section 12.

(c) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Section 12 shall be filed with the commissioner, by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(d) If, subsequent to the filing of the statement required by paragraphs (a), (b) and (c) of this subsection, additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner, by or on behalf of such person, a statement in duplicate containing the information specified by Section 12 within three (3) business days after such person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

(e) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the commissioner.

(f) Each statement and amendment thereto filed pursuant to this subsection shall be part of the public files of the commissioner.

(4) Solicitations prior to furnishing required written proxy statement. Notwithstanding the provisions of subsec-

tion (1) of Section 5, a solicitation subject to this section may be made prior to furnishing security holders a written proxy statement containing the information specified in Section 11 of this regulation with respect to such solicitation, provided that:

(a) The statements required by subsection (3) hereof are filed by or on behalf of each participant in such solicitation.

(b) No form of proxy is furnished to shareholders prior to the time the written proxy statement required by subsection (1) of Section 5 is furnished to such persons: provided, however, that this paragraph (b) shall not apply where a proxy statement then meeting the requirements of Section 11 has been furnished to security holders.

(c) At least the information specified in paragraphs (b) and (c) of the statements required by subsection (3) hereof to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to security holders in connection with the solicitation.

(d) A written proxy statement containing the information specified in Section 11 with respect to a solicitation is sent or given security holders at the earliest practicable date.

(5) Solicitations prior to furnishing required written proxy statement; filing requirements. Two (2) copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by subsection (1) of Section 5 shall be filed with the commissioner in preliminary form at least five (5) business days prior to the date definitive copies of such material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

(6) Application of this section to report. Notwithstanding the provisions of subsections (2) and (3) of Section 5, two (2) copies of any portion of the report referred to in subsection (2) of Section 5 which comments upon or refers to any solicitation subject to this section, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the commissioner as proxy material subject to this regulation. Such portion of the report shall be filed with the commissioner in preliminary form at least five (5) business days prior to the date copies of the report are first sent or given to security holders.

#### Section 11. Information Required in Proxy Statement.

(1) Revocability of proxy. Make a positive statement similar to, "This proxy may be revoked at will, prior to the voting for which it is given; upon notice to the Secretary of the Company." KRS 271A.165 requires proxies be revocable at will.

(2) Dissenters' rights of appraisal. Outline briefly the rights of appraisal or similar rights of dissenting security holders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such security holders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

(3) Persons making solicitations not subject to Section 10:

(a) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the

management and indicate the action which he intends to oppose.

(b) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(4) Interest of certain persons in matters to be acted upon. Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

(5) Voting securities.

(a) State, as to each class of voting securities of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(b) Give the date as of which the record list of security holders entitled to vote at the meeting will be determined. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors, under KRS 271A.180 the persons solicited must have cumulative voting rights. Make a statement that they have such rights and state briefly the technique of cumulative voting.

(6) Nominees and directors. If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

(a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five (5) years, unless he is now a director and was elected to his present term of office by a vote of security holders at a meeting for which proxies were solicited under this regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of equity security of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such equity securities make a statement to that effect.

(7) Remuneration and other transactions with management and others:

(a) This subsection shall apply only to each director whose aggregate remuneration exceeds \$40,000 [\$20,000] and to each of the three (3) highest paid officers whose aggregate annual remuneration exceeds \$40,000 [\$20,000].

(b) Furnish the information reported or required in Item 1 of Schedule SIS under the heading "Information Regar-

ding Management and Directors" if action is to be taken with respect to:

1. The election of directors;
2. Any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate;
3. Any pension or retirement plan in which any such person will participate; or
4. The granting or extension to any such person of any options, warrants or rights to purchase any equity securities other than warrants or rights issued to security holders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than management, information shall be furnished only as to Item 1-A of the aforesaid heading of Schedule SIS.

(8) Bonus, profit sharing and other remuneration plans. If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of each participation.

(b) The amounts which would have been distributed under the plan during the last calendar year to:

1. Each person named in subsection (7) of this section;
2. Directors and officers as a group; and
3. All other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this subsection, the nature of such amendments should be specified.

(9) Pension and retirement plan. If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) State:

1. The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period;
2. The estimated annual payment to be made with respect to current services; and
3. The amount of such annual payments to be made for the benefit of:

- a. Each person named in subsection (7) of this section;
- b. Directors and officers as a group; and
- c. Employees as a group.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b)3 of this subsection, the nature of such amendments should be specified.

(10) Options, warrants, or rights. If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase equity securities of the insurer or any subsidiary or affiliate, other than warrants issued to all security holders on a pro rata basis, furnish the following information:

(a) The title and amount of equity security called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the equity security called for or to be called for by the warrants, as of the latest practicable date.

(b) If known, state separately the amount of equity security called for or to be called for by warrants received or to be received by the following persons, naming each such person:

1. Each person named in subsection (7) of this section; and
2. Each other person who will be entitled to acquire five (5) percent or more of the equity security called for or to be called for by such warrants.

(c) If known, state also the total amount of equity security called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(11) Authorization or issuance of equity securities.

(a) If action is to be taken with respect to the authorization or issuance of any equity security of the insurer, furnish the title, amount and description of the equity security to be authorized or issued.

(b) If the equity securities are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

(c) If the equity securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

(12) Mergers, consolidations, acquisitions and similar matters.

(a) If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

1. The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting security holders in order to perfect such rights.
2. The material features of the plan or agreement.
3. The business done by the company to be acquired or whose assets are being acquired.
4. If available, the high and low sales prices for each quarterly period within two (2) years.
5. The percentage of outstanding shares which must approve the transaction before it is consummated.

(b) For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

1. A comparative balance sheet as of the close of the last two (2) fiscal years.
2. A comparative statement of operating income and expenses for each of the last two (2) fiscal years and, as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share.
3. A pro forma combined balance sheet, and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.



(13) Restatement of accounts. If action is to be taken with respect to the restatement of any assets, capital, or surplus of the insurer, furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(14) Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reason for submitting it to a vote of security holders and what action is intended to be taken by the management in the event of a negative vote on the matter by security holders.

(15) Amendment of charter, by-laws, or other documents. If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

Section 12. Information to be included in statements filed by or on behalf of a participant (other than the insurer) in a proxy solicitation in an election contest.

(1) Insurer. State the name and address of the insurer.

(2) Identity and background:

(a) State the following:

1. Your name and business address.

2. Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(b) State the following:

1. Your resident address.

2. Information as to all material occupations, positions, offices and employments during the last ten (10) years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past ten (10) years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past ten (10) years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this paragraph need not be included in the proxy statement or other proxy soliciting material.

(3) Interest in equity securities of the insurer:

(a) State the amount of each class of equity security of the insurer which you own beneficially, directly or indirectly.

(b) State the amount of each class of equity security of the insurer which you own of record but not beneficially.

(c) State with respect to the equity security specified in paragraphs (a) and (b) the amounts acquired within the past two (2) years, the date of acquisition and the amounts acquired on each date.

(d) If any part of the purchase price or market value of any of the equity security specified in paragraph (c) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such equity security, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker, or dealer, briefly describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any equity security of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of equity security of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of equity security of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly, or indirectly.

(4) Further matters:

(a) Describe the time and circumstance under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, to yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person:

1. With respect to any future employment by the insurer or its subsidiaries or affiliates; or

2. With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(5) Signature. The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

(Date)

(Signature of participant  
or authorized representative.)

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED:

TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Public Service Commission**  
**(Proposed Amendment)**

**807 KAR 5:006. General rules.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 13.082, 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to electric, gas, water, sewage and telephone utilities.

Section 1. General Provisions. (1) The adoption of regulations by the commission shall not preclude the commission from altering or amending the same in whole or in part, or from requiring any other or additional service, equipment, facility, or standards, either upon request, or upon its own motion, or upon the application of the utility. No regulation of the commission shall in any way relieve a utility from any of its duties under the laws of this state.

(2) Whenever standards or codes are referred to in the commission's regulations it is understood that utilities employing competent corps of engineers are not to be prohibited thereby from continuing or initiating experimental work and installations which tend to improve, decrease the cost of, or increase the safety of their service.

Section 2. Definitions. In addition to the definitions as set out in KRS 278.010, the following definitions shall be used in interpreting the commission's regulations:

(1) "Commission" means the Public Service Commission.

(2) "Utility" means an energy utility as defined in KRS 278.010(4) or a combined energy-non-energy utility as provided in KRS 278.040(2).

(3) "Combined energy-non-energy utility" means a utility which is an energy utility that also renders service as a non-energy utility as provided in KRS 278.040(2).

(4) "Customer" means any person, firm, corporation or body politic supplied service by any electric, gas or combined energy-non-energy utility.

Section 3. Reports. (1) Financial and statistical reports. Every utility shall file annually a financial and statistical report upon forms to be furnished by the commission. Said report shall be based upon the accounts set up in conformity with the commission's order adopting uniform classification of accounts for utilities. This report shall be filed on or before March 31, each year. For good cause shown, the commission may, upon application in writing, allow a reasonable extension of time for such filing.

(2) Report of meters, customers and refunds. Every utility shall make periodical reports on such forms as may be prescribed, of meter tests, number of customers and amount of refunds.

(3) Other reports. Every utility shall make such other reports as the commission may at its discretion from time to time require.

(4) All records and reports shall be retained in accordance with the uniform system of accounts unless otherwise specified herein.

Section 4. Service Information. (1) The utility shall, on request, give its customers or prospective customers such information as is reasonably possible in order that they

may secure safe, efficient and continuous service. The utility shall inform its customers of any change made or proposed in the character of its service which might affect the efficiency, safety, or continuity of operation.

(2) Prior to making any substantial change in the character of the service furnished, which would affect the efficiency, adjustment, speed or operation of the equipment or appliances of any customer, the utility shall obtain the approval of the commission. The application shall show the nature of the change to be made, the number of customers affected, and the manner in which they will be affected.

(3) The utility shall inform each applicant for service of the type, class and character of service that is available to him at his location.

Section 5. Special Rules or Requirements. (1) No utility shall establish any special rule or requirement without first obtaining the approval of the commission on proper application.

(2) A customer who has complied with the regulations of the commission shall not be denied service for failure to comply with the rules of the utility which have not been made effective in the manner prescribed by the commission.

Section 6. Meter Readings and Information. (1) Information on bills. Each bill rendered periodically by utilities shall show the class of service, the present and last preceding meter readings, the date of the present reading, the number of units consumed, the meter constant, if any, the net amount for service rendered, all taxes, the adjustments, if any, and the gross amount of the bill. The date after which a penalty may apply to the gross amount must be indicated. Estimated or calculated bills shall be distinctly marked as such. The rate schedule under which the bill is computed shall be furnished under one (1) of the following methods:

(a) By printing rate schedule on the bill.

(b) By publishing in a newspaper of general circulation once each year or when rate is changed.

(c) By mailing to each customer once each year or when rate is changed.

(d) By providing a place on each bill where a customer may indicate his desire for a copy of the applicable rates and furnishing same by return first class mail.

(2) Meter readings. The registration of each meter shall read in the same units as used for billing unless a conversion factor be shown on the billing forms and if the meter does not read direct, the constant shall be plainly marked on the face of the meter dial.

(3) Flat rates. Flat rates for unmetered service shall approximate as close as possible the utility's rates for metered service and the rate schedule shall clearly set out the basis upon which consumption is estimated.

(4) Utilities now using or desiring to adopt mechanical billing or other billing systems of such a nature as to render compliance with all of the terms of subsection (1) of this section impracticable may make application to the commission for relief from part of these terms. For good cause shown, the commission may allow the omission of part of these requirements. Each utility shall submit the form of bill to be used by it to the commission for its approval.

Section 7. Deposits. (1) A utility may require from any customer or applicant for service a minimum cash deposit or other guaranty to secure payment of bills of an amount not to exceed two-twelfths (2/12) of the estimated annual

bill of such customer or applicant, where bills are rendered monthly or an amount not to exceed three-twelfths (3/12) of the estimated annual bill of such customer or applicant, where bills are rendered bimonthly or an amount not to exceed four-twelfths (4/12) of the estimated bill of such customer or applicant where bills are rendered quarterly.

(2) The utility shall issue to every customer from whom a deposit is received a certificate of deposit, showing the name of the customer, location of initial premises occupied, date and amount of the deposit.

**Section 8. Complaints.** Upon complaint to the utility by a customer either at its office or in writing, the utility shall make a prompt and complete investigation and advise the complainant thereof. It shall keep a record of all such complaints concerning its utility service which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof.

**Section 9. Bill Adjustment.** (1) Whenever a meter in service is found upon periodic request or complaint test to be more than two percent (2%) fast, additional tests shall be made at once to determine the average error of the meter. Said tests shall be made in accordance with the commission's regulation applicable to the type of meter involved.

(2) If the result of tests on a customer's meter shows an average error greater than two percent (2%) fast, then the customer's bills, for the period during which the meter error is known to have existed, shall be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill shall be recomputed for one-half (1/2) of the elapsed time since the last previous test but in no case to exceed twelve (12) months. (See exception in subsection (5) of this section.)

(3) If the result of tests on a customer's meter shows an average error greater than two percent (2%) slow, then the customer's bill, for the period during which the meter error is known to have existed, may be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill may be recomputed for one-half (1/2) of the elapsed time since the last previous test but in no case to exceed twelve (12) months.

(4) It shall be understood that when a meter is found to have an error in excess of two percent (2%) fast or slow the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test; i.e., it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100 percent as is commercially practicable. Therefore, percent error shall be that amount of error as is indicated by the test.

(5) The burden of maintaining measuring equipment so that it will register accurately is upon the utility; therefore, if meters are found upon test to register fast and if time for periodic test has overrun to the extent that one-half (1/2) of the time elapsed since the last previous test exceeds twelve (12) months, the refund shall be for the twelve (12) months as specified in subsection (2) of this section and in addition thereto, a like refund for those months exceeding the periodic test period; provided, however, that the commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control.

(6) Each utility shall make a reasonable attempt to determine if the amount of consumption for the current billing period for each customer is unduly excessive. If a comparison of consumption indicates a necessity therefor, a test of the customer's meter shall be made, and if the meter is found to register incorrectly to the customer's prejudice more than two percent (2%), the utility shall recalculate the customer's bills in accordance with the foregoing provisions.

(7) When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in substantially the following form:

On \_\_\_\_\_, 19\_\_\_\_, the meter bearing  
identification No. \_\_\_\_\_ installed in your building  
located at \_\_\_\_\_  
(Street and Number)  
in \_\_\_\_\_ was tested  
(City)  
at \_\_\_\_\_ and found to  
(On premises or elsewhere)  
register \_\_\_\_\_.  
(Percent fast or slow)  
The meter was tested on \_\_\_\_\_  
(Periodic, Request, Complaint)  
test.

Based upon this we herewith \_\_\_\_\_  
(Charge or Credit)  
you with the sum of \$ \_\_\_\_\_, which amount  
has been noted on your regular bill.

**Section 10. Customer's Discontinuance of Service.** (1) Any customer desiring service discontinued or changed from one address to another shall give the utility three (3) days' notice in person or in writing, provided such notice does not violate contractual obligations.

(2) Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility may, subject to subsection (3) of this section, charge the applicant an amount not to exceed the actual average cost as approved by this commission of making such reconnection.

(3) Any utility desiring to establish a reconnection charge under the provisions of subsection (2) above, shall submit for commission approval a formal application setting out:

- (a) The actual average cost of making such reconnections; and
- (b) The effect of such charges on the utility's revenues.

**Section 11. Discontinuance of Service.** (1) The utility may refuse or discontinue to serve an applicant or customer under the following conditions:

(a) For noncompliance with its rules and regulations. However, no utility shall discontinue or refuse service to any customer or applicant for violation of its rules or regulations without first having made a reasonable effort to induce the customer or applicant to comply with its rules and regulations as filed with the commission. After such effort on the part of the utility, service may be discontinued or refused only after the customer shall have been given at least ten (10) days written notice of such intention, mailed to his last known address.

(b) When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, provided that the utility notify the customer or applicant immediately of the reasons for the discontinuance or refusal and the corrective action to be taken by the applicant or customer before service can be restored.

(c) When a customer or applicant refuses or neglects to provide reasonable access to the premises for the purpose of installation, operation, meter reading, maintenance or removal of utility property the utility may discontinue or refuse service only after the customer or applicant shall have been given at least fifteen (15) days' written notice of such intention.

(d) A utility shall not be required to furnish service to any applicant when such applicant is indebted to the utility for service furnished until such applicant shall have paid such indebtedness.

(e) A utility may refuse or discontinue service to a customer or applicant if the customer or applicant does not comply with state, municipal or other codes, rules and regulations applying to such service.

(2) A gas or electric utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least ten (10) days' written notice, but the cut-off shall not be effected before twenty-seven (27) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from the original bill. If prior to discontinuance of service, there is delivered to the utility office, payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until thirty (30) days elapse from the time of the utility's notification to the customer in writing of the existence of local, state and federal programs, providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. Service shall not be discontinued where the customer and the utility have reached agreement on a partial payment plan pursuant to paragraph (b) herein. The written notice for any discontinuance of service shall advise the customer of his rights under paragraphs (a) and (b) herein and of his right to dispute the reasons for such discontinuance.

(b) Every gas and electric utility subject to the jurisdiction of the commission shall have an employee available during regular working hours to answer questions regarding a customer's bill and to resolve disputes over the amount of such bill. Such employee shall be authorized to negotiate partial payment plans of an outstanding bill and accept payments where the customer has shown good faith in attempting to meet his financial obligations to the utility. Said employee shall be authorized by the utility to consider and shall consider proposals by the customer for a partial payment plan and retention of service. *Federal and statewide energy assistance programs are administered by the Kentucky Department for Human Resources, Bureau for Social Insurance. Upon written certification from one*

*(1) of its offices or verification supplied by the customer, a customer who is eligible for energy assistance under the Bureau's guidelines or is certified as being in genuine financial need, defined as any current recipient of Aid to Families with Dependent Children, Medicaid, Food Stamps, or with gross income at or below 130 percent of the poverty level, and who has been given a ten (10) day notice for nonpayment of a gas or electric bill for service billed or received between December 1 and March 1, shall be allowed thirty (30) days in addition to such ten (10) day period in which to negotiate a partial payment plan with the utility. Where the customer exhibits good faith by offering to make a present payment commensurate with his or her ability to do so and by agreeing to a repayment schedule which would permit the customer to become current in the payment of his or her gas or electric bills as soon as possible but no later than October 15, the utility shall accept such partial payment plan. In addition to advising the customer of his or her rights under paragraphs (a) and (b) of this subsection, as required by paragraph (a) above, the ten (10) day or another notice shall inform the customer of the telephone number and address of the nearest office of the Kentucky Department for Human Resources, Bureau for Social Insurance. Referral of such customer to such office of the Department for Human Resources may be made by a church, by a charitable or social organization, by a unit of state or local government, or by any other person. Each jurisdictional gas and electric utility shall develop a budget payment plan whereby a customer may elect to pay a fixed amount each month on a yearly basis in lieu of monthly billings based on actual usage. The provisions of this section relating to partial payments and budget plans shall apply only to a utility's residential customers. It shall be the responsibility of the utility to disseminate information to its customers regarding the availability of such budget payment plan. If the commission finds, upon application a budget plan for residential customers would materially impair or damage the utility's credit or operations, then it may grant the utility an exemption from the requirements of the budget plan. No exemption may extend beyond one (1) year without another application by the utility and a finding by the commission that said exemption should be allowed.*

(c) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(3) A water, sewage or telephone utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least forty-eight (48) hours written notice, but the cut-off shall not be effected before twenty (20) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from the original bill. If prior to discontinuance of service, there is delivered to the utility office payment of the

amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until ten (10) days elapse from the time of the utility's notification.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(4) It shall be the duty of the utility before making service connections to a new customer to ascertain the condition of the meter and service facilities for such customer in order that prior fraudulent use of the facilities, if any, will not be attributed to the new customer, and the new customer shall be afforded the opportunity to be present at such inspections. The utility shall not be required to render service to such customer until all defects in the customer-owned portion of the service, if any, shall have been corrected.

(5) Reconnection. For all cases of refusal or discontinuance of service as herein defined, where the cause for refusal or discontinuance has been corrected and all rules and regulations of the utility and the commission have been complied with, the utility shall promptly render service to the customer or applicant.

(6) When advance notice is required, such notice may be given by the utility by mailing by United States mail, postage prepaid, to the last known address of the applicant or customer.

Section 12. Special Charges. (1) A utility may make a reasonable charge for each of the following trips:

(a) To read a meter when the customer has failed to read the meter for three (3) consecutive billing periods. This pertains only to those utilities whose customers ordinarily read their own meters.

(b) To collect a delinquent bill. This trip may be made only after written notice has been sent to the customer stating that if the bill is not paid by a certain date, the service will be disconnected.

(c) To reconnect a service that has been disconnected for nonpayment of bills or for violation of the utility's rules and regulations. This charge may include the cost of disconnecting the service.

(2) The charges, however, shall be applied uniformly throughout the entire area served by the utility, shall be incorporated in the utility's rules and regulations, shall be subject to the approval of the commission, and shall yield only enough revenue to pay the expenses incurred in rendering these services.

Section 13. Meter Testing. (1) All electric, gas and water utilities furnishing metered service shall provide meter standards and test facilities, as more specifically set out under 807 KAR 5:021, 807 KAR 5:041 and 807 KAR 5:066.

(2) A utility may have all or part of its testing of meters

performed by another utility or agency approved by the commission for such purpose. Each utility having tests made by another agency or utility shall notify the commission of said arrangements in detail to include make, type and serial number of standards used to make said checks or tests.

(3) No utility shall place in service any basic measurement standard required by these rules unless it has been calibrated by the commission's Meter Standards Laboratory. All utilities or agencies making tests or checks for utility purposes shall notify the commission promptly of the adoption or deletion of any basic standards requiring calibration by the commission.

(4) Each electric, gas and water utility or agency doing meter testing for a utility shall have in its employ metermen certified by this commission. These certified metermen shall perform such tests as may be necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the regulations of the commission.

(5) A utility or agency desiring to have its employees certified as metermen shall submit the names on the commission's form entitled "Application for Appointment of Metermen" and after compliance with the requirements as noted in this form, the applicant may be certified as a meterman and furnished with a card authorizing him to perform meter tests.

Section 14. Access to Property. The utility shall at all reasonable hours have access to meters, service connections and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation or removal of its property at the time service is to be terminated. Any employee of the utility whose duties require him to enter the customer's premises shall wear a distinguishing uniform or other insignia, identifying him as an employee of the utility, or carry on his person a badge or other identification which will identify him as an employee of the utility, the same to be shown by him upon request.

Section 15. Meter Test Records. (1)(a) Test cards. A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations shall be recorded by the meterman. Such record shall include: Information to identify the unit and its location; the date of tests; the reason for such tests; readings before and after the test; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations employed; indications showing that all required checks have been made; a statement of repairs made, if any; the identifying number of the meter; the type and capacity of the meter; and the constant of the meter.

(b) The complete record of tests of each meter shall be continuous at least two (2) periodic tests and in no case less than two (2) years.

(2) (a) History cards. Each utility shall keep numerically arranged and properly classified card records giving for each meter owned and used by the utility for any purpose the identification number, date of purchase, name of manufacturer, serial number, type, rating, and the name and address of each customer on whose premises the meter has been in service with date of installation and removal. These card records shall also give condensed information concerning all tests and adjustments including dates and general results of such adjustments. The card records shall be of such character that a system can be used that will record the date of the last test and indicate the proper date



for the next periodic test required by the applicable regulation of the commission.

(b) When the records required above are kept in a readily available form posting to the history card is not necessary.

(3) Sealing of meters. Upon completion of adjustment and test of any meter under the provisions of the regulations of the commission, the utility shall affix thereto a suitable seal in such a manner that adjustments or registration of the meter cannot be tampered with without breaking the seal. The seal shall be of a type acceptable to the commission.

Section 16. Pole Identification. (1) Each utility owning poles or other structures supporting the company's wires, shall mark every pole or structure located within a built-up community with the initials or other distinguishing mark by which the owner of every such structure may be readily determined. For the purpose of this rule the term "built-up community" shall mean urban areas and those areas immediately adjacent thereto.

(2) Identification marks may be of any type but must be of a permanent material and shall be of such size and so spaced and hereafter maintained so as to be easily read from the surface of the ground at a distance of six (6) feet from the structure.

(3) When utilities' structures are located outside of a built-up community only every tenth structure need be so marked.

(4) All junction structures shall bear the identification mark and structure number of the owner.

(5) Poles need not be marked if they are clearly and unmistakably identifiable as the property of the utility.

(6) Each utility shall either number their structures and maintain a numbering system or use some other method of identification so that each structure in the system may be easily identified.

(7) The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

Section 17. System Maps and Records. (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

- (a) Operating districts.
- (b) Rate districts.
- (c) Communities served.
- (d) Location and size of transmission lines, distribution lines and service connections.
- (e) Location and layout of all principal items of plant.
- (f) The date of construction of all items of plant by year and month.

(2) In each division or district office there shall be available such information relative to the utility's system as will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.

(3) In lieu of showing the above information on maps a card record or suitable means may be used. For all construction the records shall also show the date of construction by month and year.

Section 18. Location of Records. All records required by the regulations of the commission shall be kept in the principal office of the utility or other acceptable safe storage place, and shall be made available to represen-

tatives, agents or employees of the commission upon reasonable notice and at all reasonable hours.

Section 19. Request Tests. Each utility shall make a test of any meter upon written request of any customer provided such request is not made more frequently than once each twelve (12) months. The customer shall be given the opportunity of being present at such request tests. If such tests show that the meter was not more than two percent (2%) fast, the utility may make a reasonable charge for the test, the amount of such charge to be set out in the utility's rules and regulations filed with the commission, and subject to the approval of the commission.

Section 20. Complaint Tests. (1) Any customer of the utility may request a meter test by written application to the commission accompanied by payment of such fee for the test as prescribed below. Such request may not be made more frequently than once each twelve (12) months. Upon receipt of such request, the commission will notify the utility to leave the customer's meter in place until completion of such test.

(2) If a meter tested upon complaint of a customer is found to register not more than two percent (2%) fast, the cost of such test shall be borne by the customer. However, if the meter shall be found to register more than two percent (2%) fast, the cost of such test shall be borne by the utility and the amount of the deposit made by the customer shall be refunded.

(3) The charges fixed by the commission for making such tests are as follows:

(a) Electric. Direct current and single phase alternating current watt hour meters operating on circuits of not more than 250 volts:

| Amperes Rated Capacity                       | Fee  |
|--|------|
| 30 and under                                 | \$ 2 |
| Over 30 to 100                               | 4    |
| Each additional 50 amperes or factor thereof | 1    |

Polyphase a.c. watt hour meters and single phase or direct current watt hour meters operating on circuits of over 250 volts with or without instrument transformers:

| Kilowatts Rated Capacity | Fee  |
|--------------------------|------|
| 5 KW and under           | \$ 2 |
| Over 5 to 25             | 4    |
| Over 25 to 100           | 8    |
| Over 100 to 500          | 16   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(b) Gas. Displacement type meters operating on distribution system pressures:

| Capacity in Cu. Ft. Per Hour     | Fee  |
|----------------------------------|------|
| 1,000 cu. ft. per hour and under | \$ 4 |
| Over 1,000 to 10,000             | 8    |
| Over 10,000 to 100,000           | 12   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.



|                                |      |
|--------------------------------|------|
| (c) Water:                     |      |
| Size                           | Fee  |
| Outlet 1 inch or less          | \$ 4 |
| Outlet over 1 inch to 2 inches | 6    |
| Outlet over 2 inch to 3 inches | 8    |
| Outlet over 3 inch to 4 inches | 10   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(d) For meters of a size or capacity not shown herein, the commission will fix a suitable fee upon application.

Section 21. Safety Program. Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

(1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

Section 22. Inspection of Systems. (1) Each utility shall adopt procedures for inspection to assure safe and adequate operation of its facilities and compliance with commission rules. These procedures shall be filed with the commission.

(2) Each electric utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

(a) At intervals not to exceed six (6) months:

1. Production facilities regularly operated and manned; continuous surveillance, monitoring and inspection as a part of operating procedure.

2. Unmanned production facilities including peaking units not on standby status; units shall be operated and inspected and all monitoring devices shall be checked to determine that there is no evidence of abnormality.

3. Substations where the primary voltage is sixty-nine (69) KV or greater; examination for the purpose of discovering damage to or deterioration of components including structures and fences; checking of all gauges and monitoring devices.

4. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, examination for leaks, condition of case, connections, temperature and overloading.

5. Electric lines operating at sixty-nine (69) KV or greater (including insulators, conductors, and supporting facilities).

(b) At intervals not to exceed one (1) year:

1. Production facilities maintained on a standby status; also inspection and examination prior to any start up, except remotely controlled facilities.

2. Substations where the primary voltage is less than sixty-nine (69) KV but is fifteen (15) KV or greater.

(c) At intervals not to exceed two (2) years: Electric lines operating at voltages of less than sixty-nine (69) KV (including insulators, conductors and supporting facilities).

(d) Other facilities:

1. Utility buildings inspected for compliance with safety codes at intervals not greater than one (1) year.

2. Construction equipment inspected for defects, wear and operational hazards at intervals not greater than quarterly.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(3) Each gas utility shall make systematic inspections of its system for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is prescribed or recommended by the Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, for the various classes of facilities as defined in said standards, in accordance with the inspection procedures described therein.

(4) The following maximum time intervals are prescribed for: certain inspections provided for in Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, with respect to which intervals are not specified; and certain additional inspections not provided for in such code.

(a) At intervals not to exceed one (1) year:

1. Production wells, storage wells and well equipment; visual inspection and examination of all exterior components.

2. Pressure limiting stations, relief devices and pressure regulating stations, including vaults.

3. The curb box on service shall be inspected for accessibility.

(b) Other facilities:

1. Utility buildings inspected for compliance with safety codes at least annually.

2. Construction equipment inspected for defects, wear and operational hazards at least quarterly.

(c) At intervals not to exceed the periodic meter test intervals: individual residential customer service regulators, vents and relief valve vents shall be checked for satisfactory operation.

(d) At intervals of meter change: the curb box on service shall be inspected for operable condition.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(5) (a) Each water utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Source of supply:

a. Dams, physical and structural, annually.

- b. Intake structures, physical and structural, annually.
- c. Traveling screens, physical and structural and safety of operation, annually.

2. Purification:

- a. Sedimentation basins filters and clear wells, physical and structural and safety of operation, annually.
- b. Chemical feed equipment, for proper and safe operation, annually.
- c. Pumping equipment including electric power wiring and controls, for proper and safe operation, annually.
- d. Hydrants, for proper and safe operation, annually.
- e. Utility buildings, inspection for compliance with safety codes, annually.

- f. Construction equipment, inspection for defects, wear and operational hazards, quarterly.

g. Mains and valves, leaks, annually.

- (b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

- 1. All portions of the system (including those listed above) which are the subject of the report.

- 2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(6) (a) Each telephone utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

- 1. Aerial plant: Inspection for electrical hazards, proper clearance for electric facilities and climbing safety—Every two (2) years.

- 2. Underground plant: Inspection for presence of gas, proper clearance from electric facilities and safe working conditions—At least annually.

- 3. Station equipment and connections: Inspection for external electrical hazards, damaged instruments or wiring, appropriate protection from lightning and safe location of equipment and wiring—When on customer's premises.

- 4. Utility buildings: Inspection for compliance with safety codes—At least annually.

- 5. Construction equipment: Inspection for defects, wear and operational hazards—At least quarterly.

- (b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

- 1. All portions of the system (including those listed above) which are the subject of the report.

- 2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

Section 23. Reporting of Accidents. Each utility shall notify the commission of any accident which results in death or serious injury to any person or substantial property damage. Prompt notice of fatal accidents shall be given to the commission by telephone or telegraph.

Section 24. Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

MARLIN M. VOLZ, Chairman

ADOPTED: February 11, 1982

APPROVED:

TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 12 noon.  
SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary, Public Service Commission, P.O. Box 615,  
730 Schenkel Lane, Frankfort, Kentucky 40602.

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

902 KAR 4:020. Care of eyes.

RELATES TO: KRS 211.180

PURSUANT TO: KRS 13.082, 194.050, 211.090

NECESSITY AND FUNCTION: KRS 211.180 directs the Department for Human Resources to prevent and control communicable, chronic and degenerative diseases and to protect the health of infants. The purpose of this regulation is to protect the eyes of the newborn in order to reduce the risk of blindness.

*Section 1. Approved Agents. The Kentucky Department for Human Resources hereby designates and approves any of the following agents as the standard prophylactic against ophthalmia neonatorum when administered in accordance with the manufacturer's instructions; to wit:*

- (1) Silver Nitrate ( $\text{AgNO}_3$ ) - (1%) aqueous solution;
- (2) Erythromycin - (0.5%) ophthalmic ointment;
- (3) Tetracycline - (1%) ophthalmic ointment;
- (4) Erythromycin - (0.5%) ophthalmic drops; and
- (5) Tetracycline - (1%) ophthalmic drops.

[Section 1. Care of Eyes of Newborn. The physician or midwife in attendance at childbirth shall use the following procedure: Cleanse around the eyes of the newborn infant immediately after birth with sterile water, wipe dry with clear absorbent cotton, open the eyelids carefully and deposit one (1) or two (2) drops of one (1) percent solution of Silver Nitrate ( $\text{AgNO}_3$ ) into the conjunctival sac. Single dose containers of Silver Nitrate ( $\text{AgNO}_3$ ) shall be used. Subsequent irrigation of the eyes is not recommended.]

*Section 2. Care of Eyes of Newborn. Prophylaxis shall be given shortly after birth and shall be applied as follows:*

- (1) Silver nitrate.

(a) The physician, nurse or midwife shall carefully clean eyelids and surrounding skin with sterile cotton, which may be moistened with sterile water.

(b) Gently open baby's eyelids and instill one (1) or two (2) drops of silver nitrate on the conjunctival sac. Carefully manipulate lids to insure spread of the drops. Repeat in other eye. Single dose containers of silver nitrate shall be used.

(c) After one (1) minute, gently wipe excess silver nitrate from eyelids and surrounding skin with sterile water. Subsequent irrigation of the eyes is not recommended.

- (2) Ophthalmic ointment (Erythromycin or Tetracycline).

(a) Carefully clean eyelids and surrounding skin with sterile cotton, which may be moistened with sterile water.

(b) Gently open baby's eyelids and place a thin line of ointment, at least one-half (½) inch (one (1) to two (2) cm), along the junction of the bulbar and palpebral conjunctiva of the lower lid. Try to cover the whole conjunctival area. Carefully manipulate lids to ensure spread of the ointment. Be careful not to touch the eyelids or eyeballs with the tip of the tube. Repeat in the other eye. Use one (1) tube per baby.

(c) After one (1) minute, gently wipe excess ointment from eyelids and surrounding skin with sterile water. Subsequent irrigation of the eyes is not recommended.

(3) Ophthalmic drops (Erythromycin or Tetracycline). Apply as silver nitrate.

DAVID T. ALLEN, MD, Commissioner

ADOPTED: February 5, 1982

APPROVED: W. GRADY STUMBO, MD, Secretary

RECEIVED BY LRC: February 11, 1982 at 9:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky, 40621.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Social Insurance  
(Proposed Amendment)

904 KAR 1:012. In-patient hospital services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to in-patient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay. In-patient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of fourteen (14) days per admission. A recipient may transfer from a "lesser" hospital to a "greater" hospital when such is essential for the patient to receive necessary care. In addition, for neonatal care related to any of the diagnoses specified in Section 4 of this regulation, an infant recipient may transfer from a "greater" hospital to a "lesser" hospital. Such transfers and admissions shall begin anew the fourteen (14) day per admission limitation; in such situations, the maximum covered in-patient hospital stay that may result is a total of twenty-eight (28) days for the two (2) admissions. Each admission shall be reviewed by the Kentucky Peer Review Organization and assigned a length of stay date in order to qualify for reimbursement. The admission shall again be reviewed on or before the

assigned length of stay date if further admission necessitates. Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.

Section 2. Covered Admissions. Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an out-patient basis. Admissions relating to only observation or diagnostic purposes or for elective cosmetic, plastic or reconstructive surgeries shall not be covered.

Section 3. In-patient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.

(2) Private duty nursing.

(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an in-patient.

(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.

(5) Private accommodations unless medically necessary and so ordered by the attending physician.

(6) The following listed surgical procedures, except when a life-threatening situation exists or there is another primary purpose for the admission:

(a) Biopsy: breast, cervical node, cervix, lesions (skin, subcutaneous, submucous), lymph node (except high axillary excision, etc), and muscle.

(b) Cauterization or cryotherapy: lesions (skin, subcutaneous, submucous), moles, polyps, warts/concylomas, anterior nose bleeds, and cervix.

(c) Circumcision.

(d) Dilation: dilation and curettage (diagnostic and/or therapeutic non-obstetrical); dilation/probing of lacrimal duct.

(e) Drainage by incision or aspiration: cutaneous, subcutaneous, and joint.

(f) Exam under anesthesia (pelvic).

(g) Excision: bartholin cyst, condylomas, foreign body, lesions lipoma, nevi (moles), sebaceous cyst, polyps, and subcutaneous fistulas.

(h) Extraction: foreign body, and teeth (per existing policy).

(i) Graft, skin (pinch, splint or full thickness up to defect size three-fourths (¾) inch diameter).

(j) Hymenotomy.

(k) Manipulation and/or reduction with or without x-ray; cast change: dislocations depending upon the joint and indication for procedure, and fractures.

(l) Meatotomy/urethral dilation, removal calculus and drainage of bladder without incision.

(m) Myringotomy with or without tubes, otoplasty.

(n) Oscopy with or without biopsy (with or without salpingogram): arthroscopy, bronchoscopy, colonoscopy, culdoscopy, cystoscopy, esophagoscopy, endoscopy, gastroscopy, hysteroscopy, laryngoscopy, laparoscopy, peritoneoscopy, otoscopy, and sigmoidoscopy or proctosidmoidoscopy.

(o) Removal; IUD, and fingernail or toenails.

- (p) Tenotomy hand or foot.
- (q) Vasectomy.
- (r) Z-plasty for relaxation or scar/contracture.

Section 4. Neonatal Diagnosis Appropriate for Additional Stay in A "Lesser" Hospital. (1) Fetus or newborn affected by maternal conditions which may be unrelated to present pregnancy.

(2) Fetus or newborn affected by maternal complications of pregnancy.

(3) Fetus or newborn affected by complications or placenta, cord, and membranes.

(4) Fetus or newborn affected by other complications of labor and delivery.

(5) Slow fetal growth and fetal malnutrition.

(6) Disorders relating to short gestation and unspecified low birthweight.

(7) Disorders relating to long gestation and high birthweight.

(8) Birth trauma.

(9) Intrauterine hypoxia and birth asphyxia.

(10) Respiratory distress syndrome.

(11) Other respiratory conditions of fetus and newborn.

(12) Infections specific to the perinatal period.

(13) Fetal and neonatal hemorrhage.

(14) Hemolytic disease of fetus or newborn, due to isoimmunization.

(15) Other perinatal jaundice.

(16) Endocrine and metabolic disturbances specific to the fetus and newborn.

(17) Hematological disorders of fetus and newborn.

(18) Perinatal disorders of digestive system.

(19) Conditions involving the integument and temperature regulation of fetus and newborn.

(20) Congenital anomalies and related surgical procedures.

(21) Other and ill-defined conditions originating in the perinatal period.

Section 5. Definitions Relating to Neonatal Care and Admissions. (1) "Infant" means a child not more than twelve (12) months of age.

(2) "Greater" hospital means a hospital capable of providing a higher or more intensive level of care than the hospital with which it is being compared.

(3) "Lesser" hospital means a hospital which normally provides a lower or less intensive level of care than the hospital with which it is being compared.

Section 6. The provisions of Sections 1 through 5 of this regulation, as amended, shall be effective May 1, 1982.

JOHN CUBINE, Commissioner

ADOPTED: February 12, 1982

APPROVED: W. GRADY STUMBO, Secretary

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES  
Bureau for Social Insurance  
(Proposed Amendment)

904 KAR 1:084. Payment for medical assistance services furnished out of state.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the conditions under which the Medical Assistance Program will pay for covered medical services furnished eligible recipients who are out of state.

Section 1. General. The state will furnish (pay for) covered Medicaid services to a recipient who is a resident of Kentucky while that resident is in another state only to the extent provided for in Section 2 of this regulation.

Section 2. Criteria for Coverage While Out of State. (1) Payment is made if covered medical services are needed because of a medical emergency.

(2) Payment is made if medical services are needed because the recipient's health would be endangered if he were required to travel to Kentucky for the medical service. With regard to long-term care patients, it shall be the policy of the department to pay for the medical services only until such time as the patient's medical condition has stabilized so as to permit the patient's safe return to Kentucky; it is expected that such period of time shall be sixty (60) days or less; continuation of payment shall be contingent upon presentation of medical evidence acceptable to the department which justifies an additional stay in a facility outside the state.

(3) Payment is made when the state determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other state; provided, however, that this provision shall not be construed or interpreted in such a manner as to circumvent or negate the provisions and intent of this regulation.

(4) Payment is made when it is general practice for recipients in a particular locality to use medical resources in another state.

Section 3. Exception. For individuals in long-term care out of state prior to the effective date of this regulation, and for whom the department is at that time paying for the cost of care, the department may continue to pay for the cost of care for so long as the department deems such payments to be appropriate. Children in subsidized adoption or foster care status shall be exempt from the restrictions shown in this regulation.

Section 4. Cooperation with Other States. The department shall facilitate the furnishing of medical services to

individuals who are present in Kentucky and are eligible for Medicaid under another state's Medicaid plan.

JOHN CUBINE, Commissioner

ADOPTED: February 12, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**  
**(Proposed Amendment)**

904 KAR 2:006. 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 and IV-E 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, 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 parent 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, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

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

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

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

(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 in his/her foster home.

**Section 4. Age and School Attendance.** A child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19). 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. Strikers. (1) Benefits shall be denied to any family for any month in which any legally liable caretaker relative, with whom the child is living is, on the last day of such month, participating in a strike; and

(2) No individual's needs shall be considered in determining amount of benefits if, on the last day of such month, such individual is participating in a strike.

(3) Strike shall be defined to include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 7. Work Registration. (1) Unless exempt under the criteria, as specified in Title IV 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. Participation in a strike shall not constitute good cause.

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

(a) An individual under age sixteen (16);

(b) A child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation;

(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 parent or other caretaker relative of a child under six (6) who personally provides full-time care of the child with only very brief and infrequent absences from the child;

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

(i) An individual who is employed not less than thirty (30) hours per week, in unsubsidized employment expected to last a minimum of thirty (30) days, except when there is a temporary break in employment expected to last longer than ten (10) days.

Section 8. 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 232.40, 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'/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 9. 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 10. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 11. 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 12. Eligibility Criteria for Foster Care. To be eligible for foster care *the following conditions must exist* [the child must meet the technical requirements of the regular AFDC program as set forth in this regulation. In addition, the child must have been]:

(1) *The child must meet the technical requirements of Sections 2, 3, and 4 of this regulation, but for his/her removal from the home of a specified relative; [Removed from the home after April 30, 1961; and]*



(2) *Removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent(s) or legal guardian(s) or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child; [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) *Such child's placement and care in a foster family home or child care institution is the responsibility of:*

(a) *The department, or*

(b) *Any other public agency with whom the department has made an agreement which is still in effect; and [Receiving AFDC as of the month in which court action was initiated, or if not, would have received AFDC if application had been made; or if not living with a relative at the time of court action, did live with such relative within six (6) months prior to the month of initiation of court action and was eligible or would have been eligible for AFDC if application had been made.]*

(4) *Such child:*

(a) *Received AFDC in or for the month in which a voluntary agreement was entered or court proceedings leading to the initial removal of the child were initiated; or*

(b) *Would have received AFDC in or for such month if application had been made therefor; or*

(c) *Had been living with a specified relative within six (6) months prior to the month in which a voluntary agreement was entered or court proceedings leading to the initial removal of the child were initiated, and would have received AFDC in or for such month had he/she been living with such relative and application therefor had been made.*

JOHN CUBINE, Acting Commissioner

ADOPTED: February 8, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**  
**(Proposed Amendment)**

**904 KAR 2:016. Standards for need and amount, AFDC.**

RELATES TO: KRS 205.200(2), 205.210(1)  
PURSUANT TO: KRS 13.082, 205.200(2)

NECESSITY AND FUNCTION: The Department for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC,

in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006[E], Section 3. The incapacitated natural or adoptive parent of the child(ren) who is living in the home and legally married to the specified relative may be included as second parent if the technical eligibility factors are met. The decision regarding application for or continued inclusion of an individual child rests with the parent or other specified relative.

(2) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(3) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month.

(4) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(5) "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

Section 2. Resource Limitations. The amount of real and personal property that can be reserved by each assistance unit shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed \$1,500 equity value; [and]

(e) *Farm machinery, livestock, and tools and equipment other than farm, used in a self-employment enterprise; and*

(f) [(e)] Items valued at less than fifty dollars (\$50) each.

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the application is denied or assistance discontinued. The time period of ineligibility shall be based on the amount of excess transferred property and begins with the month of transfer. If the amount of excess transferred property does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of natural parent(s), and stepparent(s) living in the home, shall not exceed 150 percent of the assistance standard set forth in Section 8. Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the 150 percent

income limitation standard as shown below, the assistance group is ineligible.

| Number of Eligible Persons | Monthly Gross Income Limitation Standard |
|----------------------------|--|
| 1 Child                    | \$200                                    |
| 2 Persons                  | \$243                                    |
| 3 Persons                  | \$282                                    |
| 4 Persons                  | \$353                                    |
| 5 Persons                  | \$413                                    |
| 6 Persons                  | \$465                                    |
| 7 or more Persons          | \$518                                    |

(2) Applicant eligibility test. If the gross income is below 150 percent of the assistance standard and the applicant has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4, subsections (1) and (2), shall be compared to the assistance standard set forth in Section 8. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4, subsections (1), (2), and (3). If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. *Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.*

(4) A period of ineligibility shall be established for recipients whose income exceeds the limits set forth in subsection (1) or (3) of this section in accordance with 45 CFR 233.20(a)(3)(D).

**Section 4. Excluded/Disregarded Income.** All gross non-AFDC income received or anticipated to be received in the month of application or redetermination by the assistance group, natural parent(s) and/or stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test.

(a) Disregards applicable to stepparent income, as set forth in Section 5;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v) and 45 CFR 233.20(a)(11)(i)(b)(1)(i);

(d) Work Incentive Program (WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments;

(e) Reimbursement for training-related expenses made by a manpower agency to applicants in institutional and work experience training;

(f) Value of food coupons;

(g) Non-emergency medical transportation payments;

(h) Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion;

(i) Educational grants, loans, scholarships, including

payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grants;

(m) Home produce for household consumption;

(n) Experimental housing allowance program payment made under annual contributions contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended; and HUD Section 8 payments for existing housing under Title 24 part 882;

(o) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(p) Any funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

(q) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(r) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Title II and III, pursuant to Section 418 of Public Law 93-113;

(s) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113;

(t) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(u) Any payment from Department for Human Resources, Bureau for Social Services, for child foster care, adult foster care, or subsidized adoption;

(v) Energy assistance payments;

(w) Earned income tax credit payments; [.]

(x) *Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEP), the Youth Community Conservation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP).*

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

[(a) Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conservation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP);]

(a) [(b)] Earnings received from participation in Job Corps by an AFDC child;

(b) [(c)] Earnings of a child in full-time school attendance or in half-time school attendance, if not working full time;

(c) [(d)] Standard work expense deduction of seventy-five dollars (\$75) for full-time employment. A forty dollar (\$40) deduction is allowed for part-time employment; and

(d) [(e)] Child care as a work expense is allowed not to exceed \$160 per child or incapacitated adult per month for full-time employment or \$110 per child or incapacitated adult per month for part-time employment.

(3) Benefit calculation. After eligibility is established,

exclude/disregard all incomes listed in subsections (1) and (2), as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty dollars (\$30) and one-third ( $\frac{1}{3}$ ) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. This disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his/her earned income unless he/she has not been a recipient for twelve (12) consecutive months in accordance with 45 CFR 233.20(a)(11)(ii).

(4) Exceptions. Disregards in subsection (2)(c) and (d) [(d) and (e)] and subsection (3)(b) shall not apply, in accordance with 45 CFR 233.20(a)(11)(iii) in any instance where an individual, without good cause:

(a) Reduces or terminates employment;

(b) Refuses to accept employment;

(c) Fails to make a timely report of income; or

(d) Requests assistance be terminated for the sole purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

**Section 5. Stepparent Income and Resources.** (1) Income. The gross income of a stepparent living in the home is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first seventy-five dollars (\$75) of the gross earned income of the stepparent who is employed full time or the first forty dollars (\$40) of the gross earned income of the stepparent who is employed part time;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability;

(c) Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent receiving Supplemental Security Income under Title XVI.

(2) Resources. Resources belonging exclusively to the stepparent are deemed available to the natural parent and considered in determining eligibility of the natural parent for inclusion in the assistance group. Resources of a stepparent receiving SSI under Title XVI shall not be considered.

**Section 6. Alien Income and Resources.** The gross non-AFDC income and resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. The provisions of this section shall not apply to those aliens identified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor and spouse is considered available to the assistance group subject to the following disregards:

(a) Twenty percent (20%) of the total monthly gross earned income, not to exceed \$175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are claimed by the sponsor as dependents in determining his/her federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to non-household members who are claimed as dependents in determining his/her federal personal income tax liability; and

(d) Actual payments of alimony or child support paid to non-household members.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he/she were an AFDC applicant, less \$1,500.

**Section 7. Earned Income Tax Credit.** In the case of an applicant or recipient of AFDC, earned income shall include the amount of advance payments of the earned income credit for which he/she is eligible determined in accordance with 45 CFR 233.20(a)(6)(ix).

**Section 8. Assistance Standard.** The AFDC assistance standard, including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

| Number of Eligible Persons | Monthly Standard |
|----------------------------|------------------|
| 1 Child                    | \$133            |
| 2 Persons                  | \$162            |
| 3 Persons                  | \$188            |
| 4 Persons                  | \$235            |
| 5 Persons                  | \$275            |
| 6 Persons                  | \$310            |
| 7 or more Persons          | \$345            |

**[Section 9. Foster Care. (1) Payment rates.** Payment rates are based on the Department for Human Resources per diem payment rates. The department's rates are based on the age and needs of the child.]

[(a) A child in foster family care who is eligible for AFDC foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):]

| [Age    | Regular | Special | Extraordinary |
|---------|---------|---------|---------------|
| 0-5     | \$144   | \$167   | \$228         |
| 6-12    | 160     | 183     | 228           |
| 13-over | 175     | 198     | 228]          |

[(b) A child in a private child caring institution who is eligible for AFDC foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):]

| [Age    | Regular | Special |
|---------|---------|---------|
| 0-5     | \$151   | \$212   |
| 6-12    | 175     | 212     |
| 13-over | 192     | 212]    |



[(2) Income limitations. Gross income shall not exceed 150 percent of the payment rate set forth in subsection (1). If that gross income exceeds the 150 percent income limitation standard as shown below, the child(ren) is ineligible.]

| Age  | [Foster Family Care |         |               | Institutional Care |         |
|------|---------------------|---------|---------------|--------------------|---------|
|      | Regular             | Special | Extraordinary | Regular            | Special |
| 0-5  | 216                 | 251     | 342           | 227                | 318     |
| 6-12 | 240                 | 275     | 342           | 263                | 318     |
| 13+  | 263                 | 297     | 342           | 288                | 318]    |

Section 9. [10.] 904 KAR 2:010 and 2:010E, AFDC; standards for need and amount, are hereby repealed.

JOHN CUBINE, Acting Commissioner

ADOPTED: February 8, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance (Proposed Amendment)

##### 904 KAR 2:020. Child support.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. The Department is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving Aid to Families with Dependent Children, hereinafter referred to as AFDC, as a result of desertion or abandonment or due to birth out-of-wedlock and for non-AFDC children on application. KRS 205.795 [207.795] empowers the Secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Responsible local [law enforcement] official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities and has entered into a written agreement with the IV-D agency.

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

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

(14) "Paternity blood tests" shall mean those tests used in contested paternity actions including, but not limited to, [and shall include] ABO and Human Leucocyte Antigen (HLA) tests administered by qualified laboratories or medical personnel.

Section 4. Initiation of Child Support Action. Child support activity shall be initiated upon referral of forms from the Title IV-A agency [to the IV-D agency] or upon application of a non-AFDC recipient to the IV-D agency or its authorized representative.

Section 5. Safeguarding Information. Pursuant to 45 CFR 302.18 and consistent with KRS 205.175 and 205.990, the department will disclose information regarding recipients of child support services only to public officials or



the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the child support program or other federally assisted programs which provide cash benefits or services to needy individuals. Pursuant to 45 CFR 302.18(b), the IV-D agency may not disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient.

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

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

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

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

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

(2) If both the amount of the current month's child support collection and [collected equals] the court ordered amount equal or [and] exceed[s] the AFDC grant, the IV-D agency will notify the IV-A agency, as required by 45 CFR 302.32.

Section 10. Non-AFDC Recipients. The IV-D agency will provide all services to individuals who are not recipients of AFDC benefits as provided in 45 CFR 302.33(a) and pursuant to 45 CFR 302.33(b)(1) [the services will be provided without cost to the applicant except as provided in 45 CFR 302.35(e) and 42 USC 453(e)(2)]. Any cost associated with the provision of child support services shall be offset through the use of a flat dollar application fee, not to exceed twenty dollars (\$20). The flat dollar fee will be charged for those services as described in 45 CFR 302.33, 45 CFR 302.35(e), 402 USC 453(e)(2), and Section 9 of PL 96-611, Sections 663 and 654.

Section 11. Cooperative Agreements. Pursuant to 45 CFR 302.34, 42 USC 654(7) and KRS 205.800, [an opportunity will be provided to] all eligible local [law enforcement] officials may [to] enter into a written agreement with the department to cooperate in activities relative to the child support program when approved by the department.

When [law enforcement] officials enter into an agreement with the department, federal financial participation (FFP) for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the department. If no agreement is executed, referrals for child support activities may [will still] be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 12. Distribution of Child Support Payments. Distribution of child support payments received by the department are made in accordance with 45 CFR 302.32, 302.38, and 302.51.

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

(2) If the IV-A agency determines that the recipient has good cause for not cooperating but that additional child support action would not harm the child, the IV-D agency may proceed in the name of the department for the use of and in behalf of the minor dependent child pursuant to federal laws and regulations.

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

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

Section 15. [16.] Paternity Blood Testing. Pursuant to 45 CFR 303.5(c) the IV-D agency shall identify laboratories within the state which perform legally and medically acceptable blood tests, including [both] ABO and HLA tests, which tend to include [identify] or exclude an alleged father in paternity proceedings under KRS Chapter 406. The IV-D agency shall make a list of such laboratories available upon request. In addition, the department shall provide a list of all such laboratories to the Kentucky Bar Association and to the Administrative



Office of the Courts for distribution to appropriate agencies and individuals on an annual basis.

JOHN CUBINE, Acting Commissioner

ADOPTED: February 9, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

**DEPARTMENT FOR HUMAN RESOURCES**  
Bureau for Social Insurance  
(Proposed Amendment)

904 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2)

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Titles IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, and Medical Assistance, hereinafter referred to as MA. In addition the department is required by Title XVI as amended and by KRS 205.245 to provide supplementation to certain aged, blind and disabled individuals. This regulation sets forth the procedures utilized to determine initial and continuing eligibility for assistance under the above programs.

Section 1. Eligibility Determination Process. (1) *Eligibility shall be determined prospectively. In order to receive or continue to receive assistance, a household must meet all of the eligibility criteria for the month payment is intended to cover.*

(2) Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record. The applicant or recipient shall be the primary source of information and shall be required to furnish verification of income, resources, and technical eligibility if he can reasonably be expected to do so, and to give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility. Failure of the applicant or recipient to appear for a scheduled interview, or present required information at the time requested, when informed in writing of the appointment or necessary information to be provided shall be considered a failure by the applicant or recipient to present adequate proof of eligibility.

Section 2. Continuing Eligibility. The recipient shall be responsible for reporting within ten (10) days any change in circumstances which may affect eligibility or the amount of payment. In addition, eligibility shall be reconsidered or redetermined:

(1) When a report is received or information is obtained about changes in circumstances; [and]

(2) Monthly, for AFDC cases not exempted by the appropriate federal agency; and

(3) [(2)] At least every six (6) months for AFDC and every twelve (12) months for MA.

Section 3. Determination of Incapacity or Permanent and Total Disability: (1) A determination that a parent with whom the needy child lives is incapacitated or that the individual requesting medical assistance due to disability is both permanently and totally disabled shall be made by a medical review team following review of both medical and social reports except as listed in subsection (2) of this section.

(2) A parent shall be considered incapacitated without a determination for the medical review team if the parent declares physical inability to work, the worker observes some physical or mental limitation; and the parent:

(a) Is receiving SSI; or

(b) Is age sixty-five (65) or over; or

(c) Has been determined to meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI by either the Social Security Administration or the state supervising ophthalmologist of the Bureau for Social Insurance; or

(d) Has been determined to meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI by either the Social Security Administration or the Medical Review Team of the Bureau for Social Insurance; or

(e) Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board or court of proper jurisdiction with no re-examination requested and there is no visible improvement in condition; or

(f) Is receiving RSDI, federal black lung benefits or railroad retirement benefits based on disability as evidenced by an award letter or benefit check; or

(g) Is currently hospitalized and a statement from the attending physician indicated that incapacity will continue for at least thirty (30) days. If application was made prior to admission, the physician is also requested to indicate if incapacity existed as of application date.

(3) The determination that a parent is not incapacitated will not be made by the local office field staff.

(4) An individual shall be considered permanently and totally disabled if the individual:

(a) Receives RSDI, railroad retirement, or federal black lung benefits based on disability.

(b) Previously received SSI based on disability and discontinuance was due to income or resources, not to improvement in physical condition.

Section 4. Reviews of Supplementation Cases: Aged, blind or disabled supplementation cases shall be periodically reviewed to determine that the special need for which supplementation is granted continues to exist.

JOHN CUBINE, Acting Commissioner

ADOPTED: February 9, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.



**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**  
**(Proposed Amendment)**

**904 KAR 3:010. Definitions.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

**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 definitions for terms used by the department in regulations pertaining to the food stamp program.

Section 1. Definition of terms utilized in regulations relating to the food stamp program are as follows:

(1) "Application for participation" means the form designed or approved by Food and Nutrition Service, hereinafter referred to as FNS, which is completed by a household member or authorized representative; or for household consisting solely of public assistance recipients, it may also mean the application form used to apply for public assistance, including attachments approved by FNS, which is completed by a household member or authorized representative.

(2) "Authorization to participate card," ATP, means the document which is issued by the state agency to a certified household to show the allotment the household is authorized to receive on presentation of such document.

(3) "Authorized representative" means an individual designated by a household member to act on behalf of the household in one (1) or all of the following capacities: making application for the program, obtaining the coupons, using the coupons.

(4) "Certification" means the action necessary to determine eligibility of a household. Such action includes interviews, verification and decisions.

(5) "Communal dining facility" means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for supplemental security income (SSI) recipients and their spouses, a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate state or local agency to offer meals at concessional prices to elderly persons or SSI recipients and their spouses.

(6) "Coupons" mean any stamp, coupon or type of certificate issued in accordance with the Food and Nutrition Service regulations for the purchase of eligible food.

(7) "Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the department or agencies designated by the Governor as responsible for the administration of the state's programs for alcoholics and drug addicts.

(8) "Elderly person" means a person sixty (60) years of age or older.

(9) "Eligible foods" means any of the following:

(a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(b) Seeds and plants to grow foods for the personal consumption of eligible households;

(c) Meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals; or meals served by a communal dining facility for the elderly, for SSI households or both, to households eligible to use coupons for communal dining;

(d) Meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to eligible households [eligible to use coupons to purchase those meals]; [or]

(e) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled recipients of benefits under Title II or Title XVI of the Social Security Act; or [.]

(f) *Meals prepared and served by an authorized shelter for battered women and children to its eligible residents.*

(10) "Federal fiscal year" means a period of twelve (12) calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

(11) "FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

(12) "Food Stamp Act" means the Food Stamp Act of 1977 (Pub. L. 95-113) including any subsequent amendment thereto.

(13) "Group living arrangement" means a public or private nonprofit residential setting that serves no more than sixteen (16) residents and is appropriately certified. Residents must be blind or disabled and receiving benefits under Title II or Title XVI of the Social Security Act to be eligible for food stamps.

(14) "Head of household" is the person in whose name the application for participation is made.

(15) "Household" means any of the following individuals or groups of individuals provided that such individuals or groups are not residents of an institution, and provided that separate household status shall not be granted to a spouse of a member of the household, to children under eighteen (18) years of age under the parental control of a member of the household, to non-elderly parents (regardless of their marital status) and children who live together, or to a boarder:

(a) An individual living alone;

(b) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;

(c) A group of individuals living together for whom food is customarily purchased in common and for whom meals are prepared together for home consumption.

(16) "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

(17) "Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, United States Department of Justice.

(18) "Institution of higher education" means any institution providing post high school education, which normally requires a high school diploma or equivalency certificate for a student to enroll, including but not limited to colleges, universities, and vocational or technical schools.

(19) "Low-income household" means any household whose gross income does not exceed 130 percent of the Office of Management and Budget poverty guidelines, with

the following exceptions: Households in which one (1) of the members is sixty (60) years of age or older, or one (1) of the members receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act shall not have net income exceeding 100 percent of the Office of Management and Budget poverty guidelines.

(20) "Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which the department has contracted for the preparation of meals at concessional prices to elderly persons and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

(21) "Medicaid" means medical assistance under Title XIX of the Social Security Act, as amended.

(22) "Non-Assistance household" hereinafter referred to as NA, means a household containing members who are not included in a public assistance household, hereinafter referred to as PA, grant.

(23) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

(24) "Non-household member" means individuals residing with a household but not considered household members in determining the household's eligibility or allotment. Non-household members who are otherwise eligible may participate in the program as separate households.

(a) Roomers. Individuals to whom a household furnishes lodging, but not meals, for compensation.

(b) Boarders. Individuals to whom a household furnishes lodging and meals with the following restrictions;

1. Boarder status shall not be granted to a spouse of a member of the household, non-elderly parents (regardless of marital status) and children who live together even if they do not prepare or eat meals together, or to children under eighteen (18) years of age under the parental control of a member of the household.

2. Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals.

(c) Live-in-attendants. Individuals who reside with a household to provide medical, housekeeping, child care or other similar personal services.

(d) Ineligible aliens. Individuals who do not meet the citizenship or eligible alien status.

(e) Ineligible students. Students not meeting eligibility requirements as set forth in 7 CFR 273.5.

(f) Disqualified individuals. Individuals disqualified for fraud, or for failure to meet social security number requirements as set forth in 7 CFR 273.6.

(g) Others. Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household.

(25) "Overissuance" means the amount by which coupons issued to a household exceeds the amount such household was eligible to receive.

(26) "Public assistance" hereinafter referred to as PA, means any of the programs authorized by the Social Security Act of 1935, as amended; old age assistance, aid to families with dependent children (AFDC), including AFDC for children of unemployed parents, aid to the blind, aid to the permanently and totally disabled and aid to aged, blind or disabled.

(27) "Shelter for battered women and children" means a public or private nonprofit residential facility that serves

battered women and children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

(28) [(27)] "Spouse" refers to either of two (2) individuals:

(a) Who would be defined as married to each other under applicable state law; or

(b) Who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

(29) [(28)] "Striker" means anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees, unless otherwise exempt from work registration for reasons other than employment.

(30) [(29)] "Supplemental security income (SSI)" means monthly cash payments made under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind and disabled.

(31) [(30)] "Thrifty food plan" means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty-four (54), a child six (6) through eight (8), and a child nine (9) through eleven (11) years of age, determined in accordance with the Secretary of United States Department of Agriculture's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary of the United States Department of Agriculture shall make household-size adjustment in the thrifty food plan taking into account economies of scale.

(32) [(31)] "Underissuance" means the amount by which the allotment to which the household was entitled exceeds the allotment which the household received.

JOHN CUBINE, Acting Commissioner

ADOPTED: February 9, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance (Proposed Amendment)

904 KAR 3:035. Certification process.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

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 certification process used by the department in the administration of the food stamp program.

**Section 1. Eligibility and Benefit Levels.** Eligibility and benefit levels shall be determined by the department by considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Parts 273.3, 273.10(a), 273.10(b), 273.10(c), 273.10(d) and 273.10(e) shall be used to determine eligibility and calculate net income and benefit levels.

**Section 2. Certification Periods.** The department shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Part 273.10(f)(3)(4)(5)(6). Households in which all members are included in a PA grant shall be certified for one (1) year, except that the food stamp case shall be recertified at the same time they are redetermined for PA.

**Section 3. Certification Notices to Households.** The department shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility.
- (2) Notice of denial.
- (3) Notice of pending status.

**Section 4. Application for Recertification.** The department shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2) and Part 273.14.

**Section 5. Certification Process for Specific Households.** The following households have circumstances that are substantially different from other households and therefore require special certification procedures:

- (1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).
- (2) Households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with members which have been disqualified from program participation due to fraud or failure to provide a Social Security number shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with ineligible aliens or other non-household members will be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) *Residents of shelters for battered women and children shall have their case processed in accordance with 7 CFR 273.11(g).*

(8) [(7)] Households consisting only of Supplemental Security Income (SSI) applicants or recipients shall have their case processed in accordance with 7 CFR 273.2(k).

(9) [(8)] Households with a member who is on strike shall have their case processed in accordance with 7 CFR 273.1(g).

(10) [(9)] Households requesting replacement allotments [for stolen or destroyed coupons or improperly manufactured or mutilated coupons] shall be processed in accordance with 7 CFR 273.11(h), 274.2(h) and 274.3(c) [(g)].

**Section 6. Reporting Changes.** Certified households are required to report within ten (10) days, those changes in household circumstances specified in 7 CFR Part 273.12(a). The department shall use the change report form designated by FNS and shall act on reported changes in accordance with 7 CFR Part 273.12(c). The department shall comply with other change reporting provisions outlined in 7 CFR Part 273.12.

JOHN CUBINE, Acting Commissioner

ADOPTED: February 9, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

# Proposed Regulations

## DEPARTMENT OF TRANSPORTATION Bureau of Highways Division of Project Development

603 KAR 5:115. Coal-haul highway system; reporting requirements.

RELATES TO: KRS 42.455(8)

PURSUANT TO: KRS 13.082, 42.455(8), 174.080

NECESSITY AND FUNCTION: KRS 42.455 designates the Kentucky Department of Transportation as the agency responsible for the identification of public highways, roads and streets that comprise the official coal-haul highway system. In order to discharge this responsibility, the Department must gather pertinent information from all coal shippers or owners regarding the movement of coal in Kentucky. This regulation specifies the procedures and intervals to be used in reporting this information to the Department of Transportation.

Section 1. Definitions. The following are definitions as used in this regulation:

(1) "Owner" means any individual, partnership, joint venture, association or corporation who owns the coal at the time of transport.

(2) "Interval" means a quarterly (three (3) months) reporting period.

Section 2. Reporting Requirements. (1) On or before the twentieth day of the month following the interval in which any coal is shipped over public highways, roads, or streets by or on behalf of any owner from a mine mouth or pit to a processing plant, tippie, loading dock, or customer, or from any of the foregoing locations to another of such locations, the owner shall file a report on Form TD 59-100 (Coal Severor and/or Route and Tonnage Report) or other form designated by the Department. This report is to be filed with the Kentucky Department of Transportation, Bureau of Highways, Division of Project Development and contain information required by the Department relative to the ton miles of coal transported on the public highways, streets, and roads of each county in or through which coal was transported.

(2) The owner is responsible for obtaining and reporting the origin, the destination, the tons and approximate highway mileage on each route or road for all coal transported on public highways or streets when the coal is sold by a person or organization, such as a broker, or when the coal is transported by another individual or firm engaged in trucking coal for hire.

(3) An owner who is not engaged in the transportation of coal in any way must notify the Department of the precise nature of his operations in order that his address may be removed either temporarily or permanently from the mailing list of those firms to which forms are periodically sent. Likewise, owners who ship no coal dur-

ing an interval shall inform the Department of that fact on or before the due date for that interval's report.

DEAN HUFF, Commissioner

ADOPTED: December 28, 1981

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: January 20, 1982 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

## EDUCATION AND ARTS CABINET Department of Education Bureau of Education for Exceptional Children

707 KAR 1:090. Kentucky School for the Deaf; code of conduct.

RELATES TO: KRS 167.150, 167.170

PURSUANT TO: KRS 13.082, 156.070, 167.150

NECESSITY AND FUNCTION: KRS 167.150 authorizes the State Board of Education, upon recommendation of the Superintendent of Public Instruction, to prescribe curriculum and rules for the government and discipline of pupils who attend the Kentucky School for the Blind or the Kentucky School for the Deaf; and KRS 167.170 gives the State Board the power of expulsion from those two schools. This regulation implements such authority by prescribing the "Kentucky School for the Deaf Student Handbook/Code of Conduct."

Section 1. The "Kentucky School for the Deaf Student Handbook/Code of Conduct" is hereby adopted and incorporated herein by reference. Copies of this handbook may be obtained from the Superintendent, Kentucky School for the Deaf, Danville, Kentucky 40422.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 12, 1982

RECEIVED BY LRC: February 8, 1982 at 2:30 p.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 Education for Exceptional Children**

**707 KAR 1:100. Kentucky School for the Deaf; admission policy.**

RELATES TO: KRS 167.150

PURSUANT TO: KRS 13.082, 156.070, 167.150

NECESSITY AND FUNCTION: KRS 167.150 authorizes the State Board of Education, upon recommendation of the Superintendent of Public Instruction, to prescribe admission policies for pupils to attend the Kentucky School for the Deaf. This regulation implements that function.

**Section 1. Statement of Purpose.** The educational programs at the Kentucky School for the Deaf (KSD) are designed to provide a variety of educational placements for hearing impaired children. KSD's goal is to provide a comprehensive educational program that includes college preparatory courses and vocational instruction that meets the State Board of Education Program of Studies requirements. Additionally, a developmental program, educational program and a pre-vocational work experience program are available for lower functioning deaf students to prepare them for independent or semi-independent living and to qualify them for employment, vocational training or placement in a sheltered workshop.

**Section 2. Referral Procedures.** An application form for admission should be requested from KSD. Prospective students may be referred to the school by parents or legal guardians or by local school districts or other agencies in cooperation with the student's parents. Subsequent to the initial referral, determinations regarding placement of the child shall be made in accordance with procedures outlined in 707 KAR 1:003 and 707 KAR 1:051. Available written reports on prospective students are requested for review by KSD's Child Study Center prior to scheduling of the preadmission evaluation of the child. These reports may include, but are not limited to, the following areas and are a part of the Intake History:

- (1) Educational history to include reports from programs attended previously.
- (2) Detailed family history to include medical, developmental, social and behavioral history of the child.
- (3) Audiological evaluation.
- (4) Psychological evaluation.
- (5) Communication evaluation to include formal and informal data relative to expressive and receptive language (gestures, sign language, reading, writing), speech evaluation and any other pertinent information relating to the child's communication functioning level.
- (6) Complete physical examination to include:
  - (a) Physical development;
  - (b) Digestive and/or intestinal difficulties, as indicated;
  - (c) Neurological information;
  - (d) Seizure history and expectation;
  - (e) Medications;
  - (f) Bowel and bladder;
  - (g) Cardiac information and history;
  - (h) Hereditary problems;
  - (i) Visual screening; and
  - (j) Mobility.

**Section 3. Initial Evaluation Procedures.** (1) Upon receipt of the completed application form which includes

parental permission to evaluate the child, KSD personnel will review the application form and existing information and begin scheduling for the necessary assessments. Each child who comes to KSD for evaluation must be accompanied by a parent or guardian or a social worker or local school district representative. Depending upon the extent of the available assessment information, the assessment period at the school may range from one (1) day to several weeks.

(2) The individual assessment, to include but not be limited to educational and psychological testing, will be administered in the child's native language or other non-discriminatory mode.

(3) Informal and formal observation techniques will play a major role in the assessment procedure. The evaluation may include participation in leisure time activities, meals, and adaptation to a residence in the appropriate dormitory.

(4) At the conclusion of the evaluation period, a KSD admissions meeting will be conducted by a multidisciplinary team and all the assessment information will be reviewed. A representative from the prospective student's local education agency may be invited to attend the admissions meeting.

**Section 4. Eligibility Criteria for Admissions.** (1) The primary sensory handicap of the student must be deafness. Admission to KSD shall be provided tuition-free to Kentucky residents, and Kentucky residents shall be given first consideration for any available openings at the school. Out-of-state students shall be eligible for admission after qualified Kentucky residents are accepted, and tuition fees for those students shall be determined by the State Board of Education, pursuant to KRS 167.150.

(2) The student must fall in the age range between five (5) and twenty (20) years inclusive.

(3) The prospective student must possess a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and which adversely affects educational performance. A concomitant handicapping condition will not exclude the individual; however, hearing impairment must be the primary handicapping condition.

(4) The prospective student must meet the following criteria as related to intellectual functioning and adaptive behavior:

(a) Be able to adjust socially and psychologically to the school environment, presenting no deficits in adaptive behavior which would interfere with either the student's or other student's educational endeavors.

(b) On a standardized instrument for the evaluation of intellectual functioning, achieve at the educable mentally handicapped (as defined in 707 KAR 1:057) level or above. In the event it is not possible to determine a child's level of intellectual functioning and level of adaptive behavior due to his inability to carry out the tasks presented during psychological testing and educational evaluation, the student may be accepted on a trial evaluation upon the recommendation of the KSD Admissions Committee if he/she appears to be a potential candidate.

(c) Exhibit the following prerequisites: Be schedule-trained in toileting; accept solid foods; be able to spoon feed and drink from a cup; need minimal assistance in bathing, dressing, and grooming; express his/her needs through natural gestures/signs/vocalizations; show a differential reaction to a familiar adult and accept stimulation; and walk or move independently about the school in a wheelchair.



(d) Process sufficient visual acuity to enable him/her to utilize visual stimuli found in classrooms for the deaf.

(5) Children with significant medical problems cannot be considered for admission to the residential program. Significant health problems may include, but are not limited to, planned hospitalization for twenty (20) days or more during an academic year, chronic moderate to severe respiratory difficulties, semiconsciousness and/or the requirements of sustained medical support services beyond the capability of the school's infirmary. Prospective students, also, must not require skilled nursing care.

Section 5. Placement. If a student is determined eligible for admission to KSD, educational placement within the school will be determined by each child's Individualized Education Plan as developed by KSD, local school districts and the parents or guardians pursuant to 707 KAR 1:051.

Section 6. Change of Placement. A placement review may be initiated to determine if continued placement in KSD is appropriate. Review procedures shall be in accordance with the admission and release committee process as set forth in 707 KAR 1:051. Situations which lead to a review of placement may include, but not be limited to, the following:

(1) Destructive or physically aggressive or other unacceptable behavior that threatens the safety or well-being of the child or others and that cannot be brought under control through the use of behavior modification or medication.

(2) Inability to respond to developmental training as prescribed by the child's Individualized Education Plan (self-care, including feeding, dressing, personal hygiene).

(3) Failure after a reasonable period to make minimum progress toward behavioral or educational (i.e., self-help, language, gross and fine motor, cognitive, social/emotional) objectives that have been established for the child in his/her Individualized Education Plan.

(4) Development of significant medical problems as described in Section 4(4) of this regulation.

(5) Deviant sexual behavior that has an adverse influence on the sexual behavior of other children.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 12, 1982

RECEIVED BY LRC: February 8, 1982 at 2:30 p.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.

reasonable rules and regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. KRS 304.9-105(5)(b) requires proof of financial responsibility be furnished prior to issuance of a license. 806 KAR 9:010 permitted the notice of examination results to suffice as an interim license. Since the notice may be sent before financial responsibility is established, it allows persons to act as agents without furnishing proof of financial responsibility. 806 KAR 9:010 is being repealed because it conflicts with KRS 304.9-105(5)(b).

Section 1. 806 KAR 9:010, Interim license, is hereby repealed.

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 9:170. Minimum score of examination for license.

RELATES TO: KRS 304.9-160, 304.9-320, 304.9-430

PURSUANT TO: KRS 13.082, 340.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code. This regulation establishes a passing score for the examination for licenses for agents, solicitors, consultants, and adjusters.

Section 1. Every applicant for a license who is required to take a written examination must answer correctly seventy (70) percent of the questions to pass.

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 9:011. Repeal of 806 KAR 9:010.

RELATES TO: KRS 304.9-080, 304.9-200, 304.9-390

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Insurance**

806 KAR 17:070. Filing procedures for health insurance rates; experience data on individual Medicare supplement policies.

RELATES TO: KRS 304.14-120, 304.14-130, 304.17-380, 304.17-400

PURSUANT TO: KRS 13.082, 304.2-110, 304.17-400

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation provides additional filing procedures for health insurance rates, and provides standards for the annual filing of experience data on individual Medicare supplement policies.

Section 1. Definitions. For purposes of this regulation, the following terms shall have the meanings herein provided:

(1) "Present value" means the amount of money needed as of the valuation date to produce, when accumulated at interest, a specified amount on a specific future date. The "present value of future benefits" and "present value of future premiums" are sums of such values which should take into account not only the interest assumption but the assumed persistency and mortality of the business.

(2) "Accumulated value" means the amount of which a sum of money would have increased as of the valuation date, if invested at a specific date in the past, subject to the investment earnings attributable to the policies.

(3) "Loss ratio" means the ratio of the sum of incurred losses and the change in policy reserves divided by the earned premiums.

(4) A "qualified actuary" is a member of the American Academy of Actuaries, a fellow or associate of the Society of Actuaries, the Institute of Actuaries, the Faculty of Actuaries, the Casualty Actuarial Society, or a fellow or member of the Conference of Actuaries in Public Practice.

Section 2. Classification of Policies. For the purposes of this regulation, policies are classified by type of benefit, renewal clause and average annual premium.

(1) Types of benefits recognized are:

(a) Medical expense, including hospital indemnity policies, as well as hospital, surgical, major medical or any other policies providing insurance against the expenses resulting from accident or sickness;

(b) Medicare supplement policies; and

(c) Loss of income and all other.

(2) Categories of renewal clause are as follows:

OR—Optionally renewable: renewal of individual policies is at the option of the insurance company.

CR—Conditionally renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.

GR—Guaranteed renewable: renewable cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC—Non-cancellable: renewal cannot be declined nor can rates be revised by the insurance company.

(3) Recognized categories by average annual premium per policy are:

(a) Less than \$100;

(b) At least \$100 but less than \$200;  
 (c) \$200 or more.

Section 3. Maintenance, Reporting and Evaluation of Experience Data. (1) Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. Excepting as provided below, the data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except that data for calendar years prior to the most recent five (5) years may be combined. In the case of individual Medicare supplement policies, and for any other form in which the effect of selection or the operation of a pre-existing condition exclusion is a rating factor, records shall be maintained by duration, i.e., the experience of the policies issued in a specific calendar year shall be maintained from year to year in the same manner.

(2) In order to monitor the claims experience of all individual Medicare supplement policies, each insurer must file experience data annually on "experience reporting form" (Appendix A), which shall be labeled as such and be in such form as the commissioner may from time to time determine and prescribe. A separate form shall be used to report the experience of policies issued during each calendar year, except that data for calendar years prior to the most recent five (5) years may be combined.

(3) In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:

(a) Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.

(b) Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.

(c) The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations, if experience by duration is shown.

(d) The mix of business by risk classification.

Section 4. Filing of Rates. Every policy, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not directly or indirectly produce a change in the benefit level. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement shall also be filed.

(1) The following items shall be included in individual health insurance rate filing submissions for rates on a new product:

(a) Policy form, application, endorsements, "face sheet and verification form" and filing fee.

(b) Rate sheet.

(c) Actuarial memorandum.

1. Brief description of the type of policy, benefits, renewability, general marketing method, and issue age limits.

2. Brief description of how rates were determined, including the general description and source of each assumption.



tion used. If assumptions are materially different from the company's experience on similar policies, the reasons for their choice should be explained. Margins, both implicit and explicit, should be estimated. For expenses, show those which are percent of premium, dollars per policy and/or dollars per unit of benefit, separately, by policy year.

3. Estimated average annual premium per policy.

4. Anticipated loss ratio, including a brief description of how it was calculated, and a projection of year-by-year expected loss ratios.

5. Anticipated loss ratio presumed reasonable according to Section 5 of this regulation.

6. If subparagraph 4 is less than subparagraph 5, supporting documentation for the use of the proposed premium rates.

7. An actuarial report signed by a qualified actuary as to whether or not, to the best of the actuary's knowledge and judgment, the rate submission is in compliance with the applicable laws and regulations of the state and the benefits are reasonable in relation to the premiums.

8. Comparison of the rates with those of any similar policies currently or recently issued by the company.

(d) A statement as to the status of the filing in the company's home state, and a statement as to any variations in rates and/or loss ratio assumptions required by or used in other states.

(2) The following items shall be included in individual health insurance rate filing submissions for rate increases on an existing product:

(a) New rate sheet, "face sheet and verification form" and filing fee.

(b) Actuarial memorandum.

1. Brief description of the type of policy, benefits, renewability, general marketing method, issue age limits, the first and last year the policy form was issued, and the anticipated loss ratio of its original rates.

2. Scope and reason for rate revision including a statement of whether the revision applies only to new business, only to in-force business, or to both, and outline of all past rate increases on this form.

3. Estimated average annual premium per policy, before and after rate increase. Comparison of proposed rate scale with current rate scale.

4. Past experience, in the format of the "experience reporting form," and any other available data the insurer may wish to provide. If policy reserves are other than net level reserves based on the rate assumptions underlying the existing rates, an estimate of the effect of using such reserves should be provided.

5. Brief description of how revised rates were determined, including the general description and source of each assumption used. For expenses, include percent of premium, dollars per policy, and/or dollars per unit of benefit as separate items. Also, the unamortized initial expenses to be recovered from future premiums should be shown.

6. The anticipated future loss ratio described in Section 5(2)(a) of this regulation and description of how it was calculated.

7. The anticipated loss ratio which combines cumulative and future experience described in Section 5(2)(b) of this regulation, and description of how it was calculated.

8. Anticipated loss ratio presumed reasonable according to Section 5 of this regulation.

9. If subparagraph 6 or subparagraph 7 is less than sub-

paragraph 8, supporting documentation for the use of such premium rates.

(10) An actuarial report signed by a qualified actuary as to whether or not, to the best of the actuary's knowledge and judgment, the rate submission is in compliance with the applicable laws and regulations of the state and the benefits are reasonable in relation to the premiums.

11. The number of policies in force in Kentucky and approximate annual premiums.

(c) A statement as to the status of the filing in the company's home state, and a statement as to any variations in rates and/or loss ratio assumptions required by or used in other states.

Section 5. Reasonableness of Benefits in Relation to Premiums. (1) New forms.

(a) With respect to a new form other than a Medicare supplement form under which the average annual premium (as defined below) is expected to be at least \$200, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table:

| Type of Coverage         | Renewal Clause |     |     |     |
|--------------------------|----------------|-----|-----|-----|
|                          | OR             | CR  | GR  | NC  |
| Medical Expense          | 60%            | 55% | 55% | 50% |
| Loss of Income and Other | 60%            | 55% | 50% | 45% |

(b) For a policy form, including riders and endorsements, under which the expected average annual premium per policy is \$100 or more but less than \$200, subtract five (5) percentage points from the numbers in the table above, or less than \$100, subtract ten (10) percentage points.

(c) The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation).

(d) The loss ratio for a Medicare supplement policy shall be as provided in 806 KAR 17:060, regardless of renewal clause or average premium.

(2) Rate revisions. Excepting as provided below, with respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the above standards for new forms.

(a) The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;

(b) The anticipated loss ratio derived by dividing "A" by "B" where:

1. "A" is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits, and

2. "B" is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums, such present values to be taken over the entire period for which the revised rates are computed to provide coverage, and such accumulated benefits and premiums and

premiums from the last date as of which an accounting has been made to the effective date of the revision.

(3) Anticipated loss ratios other than those indicated in subsection (1) or (2) will require justification based on the special circumstances that may be applicable.

(a) Examples of coverages for which a lower loss ratio may receive special consideration are as follows:

1. Accident only;
2. Short term non-renewable, e.g., airline trip, student accident;
3. Specified peril, e.g., common carrier;
4. Other special risks.

(b) Examples of other factors for which lower loss ratios may receive special consideration are as follows:

1. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;
2. Extraordinary expenses;
3. High risk of claim fluctuation because of the low loss frequency or the catastrophic, or experimental nature of the coverage;
4. Product features such as long elimination periods, high deductibles and high maximum limits;
5. The industrial or debit method of distribution;
6. Forms issued prior to the effective date of these guidelines.

(c) Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of unacceptable large rate increases. Companies will be requested to implement rate increases of more than thirty (30) percent over two (2) or more years.

(d) Examples of factors for which higher loss ratios may be required:

1. Forms on which all initial expenses have been amortized.

2. Forms on which rates have been increased to at least double their original level.

Section 6. Miscellaneous Considerations. (1) Additional data which may be included in support of rate filings includes, but is not limited to, substitution of actual claim run-offs for claim reserves and liabilities, in order to avoid the problems of short-term developments, accident-year loss ratios supporting trends, the operation of any experience funds or stabilization reserves, adjustment of premiums to an annual mode basis.

(2) All additional data must be reconciled, as appropriate, to the required data, and any missing data explained.

Section 7. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

(See Appendix A on following page.)

## ADMINISTRATIVE REGISTER

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
FRANKFORT, KENTUCKY 40601

APPENDIX A  
ACCIDENT & HEALTH POLICY  
EXPERIENCE REPORTING FORM

COMPANY \_\_\_\_\_

COMPANY OFFICER RESPONSIBLE FOR PREPARING  
THIS REPORT:

NAIC COMPANY CODE \_\_\_\_\_

NAME \_\_\_\_\_

POLICY FORM \_\_\_\_\_

TITLE \_\_\_\_\_

POLICIES ISSUED DURING \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

| Year<br>(1) | Paid or<br>Written<br>Premium<br>(2) | Increase<br>In Premium<br>Reserves<br>(3) | Earned<br>Premium<br>(2) - (3)<br>(4) | Dividends<br>(5) | Paid<br>Claims<br>(6) | Increase<br>In Policy<br>Reserves<br>(7) | Increase<br>In Claim<br>Reserves<br>(8) | Incurred<br>Claims<br>(6) + (7) + (8)<br>(9) | Loss<br>Ratio<br>(9) ÷ (4)<br>(10) |
|-------------|--------------------------------------|---|---------------------------------------|------------------|-----------------------|--|---|--|------------------------------------|
|             |                                      |   |                                       |                  |                       |  |   |  |                                    |
|             |                                      |   |                                       |                  |                       |  |   |  |                                    |
|             |                                      |   |                                       |                  |                       |  |   |  |                                    |

## C U M U L A T I V E

Instructions:

1. Reporting form should be on 8½ x 11 stock.
2. Reserve bases should be given on a separate page, also on 8½ x 11 stock.
3. All figures in columns (2) - (10) may be rounded to three significant digits, with appropriate footnoting.
4. The first calendar year's experience on policies issued during that year should be entered on the first line of the form, with successive years' experience reported separately on the lines below.
5. Additional pages may be used where necessary.



**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Insurance**

**806 KAR 38:060. Cancellation of enrollees' coverage.**

RELATES TO: KRS 304.38-180(2)

PURSUANT TO: KRS 304.2-110, 304.38-180(2), 304.38-150

NECESSITY AND FUNCTION: KRS 304.38-180(2) prohibits cancellation by a health maintenance organization of an enrollee's coverage except for failure to pay for such coverage or for such other reasons as may be promulgated in regulations issued by the Commissioner. This regulation establishes the grounds for cancellation of coverage and the procedures to be followed.

Section 1. Grounds for disenrollment. No health maintenance organization licensed under KRS 304.38-010, et seq. shall disenroll any enrollee for any reason other than one (1) or more of the following:

(1) Nonpayment of subscriber fees. Coverage may be terminated if the enrollee fails to make timely payment of a subscriber fee when due; provided, however, that such termination will be without prejudice to any claim originating while the coverage is still in force.

(2) Misrepresentation. Coverage may be terminated if it is found that an enrollee's application contains material misrepresentations designed to cause the plan to issue the coverage when it would not have ordinarily done so.

(3) Dependent child. A dependent child's enrollment may be terminated upon any of the following occurrences:

- (a) Marriage;
- (b) Attainment of the limiting age in the contract;
- (c) Termination of legal residence with the enrollee;
- (d) Determination that the child is no longer totally disabled;
- (e) Valid termination of the enrollee's coverage; or
- (f) Termination of the child's dependent status as defined by the Internal Revenue Code of the United States.

(4) Spouse. Coverage for a spouse may terminate on the date the enrollee is legally divorced from his or her spouse.

(5) Group contract. Termination of a group contract may automatically terminate all group members' coverage as of the date of termination.

(6) Medicare eligibility. Coverage under a basic contract may terminate upon an enrollee's eligibility for Medicare provided the enrollee is offered the option of converting to a Medicare supplement policy.

(7) Moving out of the service area. An enrollee may be terminated whenever he no longer has a residence or works in the service area.

(8) Disregard rules. Coverage may be terminated if an enrollee fails to abide by the terms of the subscription agreement and in doing so prevents the organization from providing service to himself or other enrollees in a reasonable manner.

Section 2. Conversion Rights. No enrollee covered under a group contract or certificate and subject to KRS 304.38-191, 304.38-192 and 304.18-110 shall be terminated for any of the reasons set out in Section 1, subsections (3), (4), (5) or (6) of this regulation unless he fails to exercise his conversion rights under KRS 304.38-192 and 304.18-110.

Section 3. Disenrollment Procedures. (1) No enrollee may be disenrolled unless prior thereto he has been given written notice thirty-one (31) days in advance of the disenrollment.

(2) Such notice must be specific as to the reason for such disenrollment, and shall inform the enrollee of his right to appeal the disenrollment to the Commissioner of Insurance by filing a written objection thereto with the Commissioner within ten (10) days of receiving notice.

(3) If the Commissioner finds after a hearing that the enrollee's disenrollment is not valid, the enrollee's coverage will be ordered reinstated without interruption of coverage; and

(4) Upon a finding that the enrollee's coverage was unjustifiably terminated, all costs of the proceeding may be assessed against the health maintenance organization. In addition, such a finding may constitute grounds for suspension or revocation of the health maintenance organization's certificate of authority as provided in KRS 304.38-130 or an administrative fine in lieu thereof pursuant to KRS 304.2-140.

DANIEL D. BRISCOE, Commissioner

ADOPTED: February 11, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: February 12, 1982 at 9 a.m.

SUBMIT COMMENT TO: Daniel D. Briscoe, Commissioner of Insurance, P.O. Box 517, 151 Elkhorn Court, Frankfort, Kentucky 40601.

See public hearing scheduled on page 843.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Social Insurance**

**904 KAR 3:045. Coupon issuance procedures.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

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 coupon issuance procedures used by the department in the administration of the Food Stamp Program.

Section 1. Basic Issuance Requirements. The department is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the department must insure that:

- (1) Only certified households receive benefits;
- (2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;
- (3) Program benefits are distributed in the correct amounts; and
- (4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Parts 274.5 and 274.6 and accurately reported to the Food and Nutrition Service.

Section 2. Issuance System. The department shall choose one (1) of the following systems to issue coupons to eligible households:

(1) Direct delivery is a system wherein eligible households pick up and redeem their ATP card at a specified issuance center. Regular mail issuance shall be available to those households which are unable to get to their assigned issuance centers, as determined by the department.

(2) Direct mail is a system wherein coupons are mailed, using at least first class mail, directly to the eligible household.

(a) After two (2) reports of non-delivery from the same household, the department shall mail the household's coupons to the county office for pickup for a period of six (6) monthly issuances. Any household reporting a loss after having been removed from direct mail in a previous period is placed on local office pickup for twelve (12) monthly issuances.

(b) In areas experiencing excessive mail loss, as identified by the department, any household reporting one (1) mail loss is immediately placed on local office pickup for the following six (6) monthly issuances. A household reporting a loss after having been removed from direct mail in a previous period is placed on local office pickup for twelve (12) monthly issuances. When portions of a county experience a high mail loss, all recipients in that portion of the county will either receive their coupons by certified mail or be required to pick up their coupons at a specified location in the county.

Section 3. Issuance Cycles. (1) For ongoing cases the monthly coupon packet/ATP card is mailed to the household/issuance center over the first ten (10) to fifteen (15) days of the issuance month, based on the last digit of the recipient's social security number.

(2) New approvals, reapprovals and current month recertifications shall have their coupon packet/ATP card mailed to their home/issuance center within thirty (30) days after the date of application.

(a) Households eligible for expedited service shall have their coupon packet/ATP card made available no later than three (3) days after the date of application.

(b) Residents of drug addiction/alcoholic treatment centers and group living arrangement facilities eligible for expedited service shall have their coupon packet/ATP card made available no later than seven (7) days after the date of application.

Section 4. Replacement Issuances. A total of only two (2) replacements of any kind shall be made during a six (6) month period, except as specified in subsection 4 of this section. Replacements will be issued in accordance with 7 CFR 273.11(g), 274.2(h) and 274.3(c) as follows:

(1) Non-receipt of coupons/ATP cards must be reported in the period of intended use. Replacements shall be issued no more than ten (10) days after report of non-delivery is received and shall be limited to two (2) times during a six (6) month period. If coupons/ATP cards were returned to central office, non-receipt did not occur and the limit stated above does not apply.

(2) Destruction, in an individual household disaster, of coupons/ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.

Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

(3) Theft of ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.

(4) Improperly manufactured or mutilated coupons shall be replaced with an amount equal to the affected coupons in accordance with 7 CFR 273.11(g)(5). There is no limit on the number of times this type of replacement may be made.

(5) Food purchased with food stamps which is subsequently destroyed in an individual disaster, as well as in a natural disaster affecting more than one (1) household, which affects the participating household, may be eligible for replacement of the actual value of loss, not to exceed one (1) month's food stamp allotment. The disaster must be reported within ten (10) days and verified. A replacement shall be issued or the opportunity to obtain a replacement given within ten (10) days of the reported loss and shall be limited to two (2) times during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

Section 5. Authorization-to-Participate Card. The ATP card is used in areas participating in a direct delivery system.

(1) The ATP card shall be valid for the entire month of issuance unless it is issued after the twenty-fifth (25th) day of the month. Those issued after that date are valid through the last day of the following month.

(2) The household shall be provided with a means of designating an emergency authorized representative who can transact the ATP card in their stead.

(3) Households which report two (2) consecutive mail losses of an ATP card must be provided with an alternate means of delivery.

Section 6. Coupon Controls. Regardless of which issuance system is used, the department shall:

(1) Establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with 7 CFR Parts 274.4(a)1 and 2;

(2) Establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR Part 274.4(b);

(3) Arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR Part 274.4(c);

(4) Ensure that coupon issuers and bulk storage points promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR Part 274.5;

(5) Maintain issuance records for a period of three (3) years from the month of origin as outlined in 7 CFR Part 274.7;

(6) Control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR Part 274.7(b); and

(7) Provide security and control for all issuance accountability documents pursuant to 7 CFR Part 274.7(c).

Section 7. 904 KAR 3:040, Issuance procedures, is hereby repealed.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 29, 1982

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 11, 1982 at 9:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

## Reprint

**\* COMPILER'S NOTE:** Due to a substantive correction in Section 11(2)(a) and (c), 807 KAR 5:006 is reprinted. This regulation will be considered at the March 1, 1982, Administrative Regulation Review Subcommittee meeting.

### PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission

807 KAR 5:006. General rules.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 13.082, 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to electric, gas, water, sewage and telephone utilities.

Section 1. General Provisions. (1) The adoption of regulations by the commission shall not preclude the commission from altering or amending the same in whole or in part, or from requiring any other or additional service, equipment, facility, or standards, either upon request, or upon its own motion, or upon the application of the utility. No regulation of the commission shall in any way relieve a utility from any of its duties under the laws of this state.

(2) Whenever standards or codes are referred to in the commission's regulations it is understood that utilities employing competent corps of engineers are not to be prohibited thereby from continuing or initiating experimental work and installations which tend to improve, decrease the cost of, or increase the safety of their service.

Section 2. Definitions. In addition to the definitions as set out in KRS 278.010, the following definitions shall be used in interpreting the commission's regulations:

(1) "Commission" means the Public Service Commission.

(2) "Utility" means an energy utility as defined in KRS 278.010(4) or a combined energy-non-energy utility as provided in KRS 278.040(2).

(3) "Combined energy-non-energy utility" means a utility which is an energy utility that also renders service as a non-energy utility as provided in KRS 278.040(2).

(4) "Customer" means any person, firm, corporation or body politic supplied service by any electric, gas or combined energy-non-energy utility.

Section 3. Reports. (1) Financial and statistical reports. Every utility shall file annually a financial and statistical report upon forms to be furnished by the commission. Said report shall be based upon the accounts set up in conformity with the commission's order adopting uniform classification of accounts for utilities. This report shall be filed on or before March 31, each year. For good cause shown, the commission may, upon application in writing, allow a reasonable extension of time for such filing.

(2) Report of meters, customers and refunds. Every utility shall make periodical reports on such forms as may be prescribed, of meter tests, number of customers and amount of refunds.

(3) Other reports. Every utility shall make such other reports as the commission may at its discretion from time to time require.

(4) All records and reports shall be retained in accordance with the uniform system of accounts unless otherwise specified herein.

Section 4. Service Information. (1) The utility shall, on request, give its customers or prospective customers such information as is reasonably possible in order that they may secure safe, efficient and continuous service. The utility shall inform its customers of any change made or proposed in the character of its service which might affect the efficiency, safety, or continuity of operation.

(2) Prior to making any substantial change in the character of the service furnished, which would affect the efficiency, adjustment, speed or operation of the equipment or appliances of any customer, the utility shall obtain the approval of the commission. The application shall show the nature of the change to be made, the number of customers affected, and the manner in which they will be affected.

(3) The utility shall inform each applicant for service of

the type, class and character of service that is available to him at his location.

Section 5. Special Rules or Requirements. (1) No utility shall establish any special rule or requirement without first obtaining the approval of the commission on proper application.

(2) A customer who has complied with the regulations of the commission shall not be denied service for failure to comply with the rules of the utility which have not been made effective in the manner prescribed by the commission.

Section 6. Meter Readings and Information. (1) Information on bills. Each bill rendered periodically by utilities shall show the class of service, the present and last preceding meter readings, the date of the present reading, the number of units consumed, the meter constant, if any, the net amount for service rendered, all taxes, the adjustments, if any, and the gross amount of the bill. The date after which a penalty may apply to the gross amount must be indicated. Estimated or calculated bills shall be distinctly marked as such. The rate schedule under which the bill is computed shall be furnished under one (1) of the following methods:

- (a) By printing rate schedule on the bill.
- (b) By publishing in a newspaper of general circulation once each year or when rate is changed.
- (c) By mailing to each customer once each year or when rate is changed.
- (d) By providing a place on each bill where a customer may indicate his desire for a copy of the applicable rates and furnishing same by return first class mail.

(2) Meter readings. The registration of each meter shall read in the same units as used for billing unless a conversion factor be shown on the billing forms and if the meter does not read direct, the constant shall be plainly marked on the face of the meter dial.

(3) Flat rates. Flat rates for unmetered service shall approximate as close as possible the utility's rates for metered service and the rate schedule shall clearly set out the basis upon which consumption is estimated.

(4) Utilities now using or desiring to adopt mechanical billing or other billing systems of such a nature as to render compliance with all of the terms of subsection (1) of this section impracticable may make application to the commission for relief from part of these terms. For good cause shown, the commission may allow the omission of part of these requirements. Each utility shall submit the form of bill to be used by it to the commission for its approval.

Section 7. Deposits. (1) A utility may require from any customer or applicant for service a minimum cash deposit or other guaranty to secure payment of bills of an amount not to exceed two-twelfths ( $2/12$ ) of the estimated annual bill of such customer or applicant, where bills are rendered monthly or an amount not to exceed three-twelfths ( $3/12$ ) of the estimated annual bill of such customer or applicant, where bills are rendered bimonthly or an amount not to exceed four-twelfths ( $4/12$ ) of the estimated bill of such customer or applicant where bills are rendered quarterly.

(2) The utility shall issue to every customer from whom a deposit is received a certificate of deposit, showing the name of the customer, location of initial premises occupied, date and amount of the deposit.

Section 8. Complaints. Upon complaint to the utility by

a customer either at its office or in writing, the utility shall make a prompt and complete investigation and advise the complainant thereof. It shall keep a record of all such complaints concerning its utility service which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof.

Section 9. Bill Adjustment. (1) Whenever a meter in service is found upon periodic request or complaint test to be more than two percent (2%) fast, additional tests shall be made at once to determine the average error of the meter. Said tests shall be made in accordance with the commission's regulation applicable to the type of meter involved.

(2) If the result of tests on a customer's meter shows an average error greater than two percent (2%) fast, then the customer's bills, for the period during which the meter error is known to have existed, shall be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill shall be recomputed for one-half ( $1/2$ ) of the elapsed time since the last previous test but in no case to exceed twelve (12) months. (See exception in subsection (5) of this section.)

(3) If the result of tests on a customer's meter shows an average error greater than two percent (2%) slow, then the customer's bill, for the period during which the meter error is known to have existed, may be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill may be recomputed for one-half ( $1/2$ ) of the elapsed time since the last previous test but in no case to exceed twelve (12) months.

(4) It shall be understood that when a meter is found to have an error in excess of two percent (2%) fast or slow the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test; i.e., it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100 percent as is commercially practicable. Therefore, percent error shall be that amount of error as is indicated by the test.

(5) The burden of maintaining measuring equipment so that it will register accurately is upon the utility; therefore, if meters are found upon test to register fast and if time for periodic test has overrun to the extent that one-half ( $1/2$ ) of the time elapsed since the last previous test exceeds twelve (12) months, the refund shall be for the twelve (12) months as specified in subsection (2) of this section and in addition thereto, a like refund for those months exceeding the periodic test period; provided, however, that the commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control.

(6) Each utility shall make a reasonable attempt to determine if the amount of consumption for the current billing period for each customer is unduly excessive. If a comparison of consumption indicates a necessity therefor, a test of the customer's meter shall be made, and if the meter is found to register incorrectly to the customer's prejudice more than two percent (2%), the utility shall recalculate the customer's bills in accordance with the foregoing provisions.

(7) When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in substantially the following form:



On \_\_\_\_\_, 19\_\_\_\_, the meter bearing identification No. \_\_\_\_\_ installed in your building located at \_\_\_\_\_ (Street and Number) in \_\_\_\_\_ (City) was tested at \_\_\_\_\_ (On premises or elsewhere) and found to register \_\_\_\_\_ (Percent fast or slow). The meter was tested on \_\_\_\_\_ (Periodic, Request, Complaint) test.

Based upon this we herewith \_\_\_\_\_ (Charge or Credit) you with the sum of \$ \_\_\_\_\_, which amount has been noted on your regular bill.

Section 10. Customer's Discontinuance of Service. (1) Any customer desiring service discontinued or changed from one address to another shall give the utility three (3) days' notice in person or in writing, provided such notice does not violate contractual obligations.

(2) Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility may, subject to subsection (3) of this section, charge the applicant an amount not to exceed the actual average cost as approved by this commission of making such reconnection.

(3) Any utility desiring to establish a reconnection charge under the provisions of subsection (2) above, shall submit for commission approval a formal application setting out:

(a) The actual average cost of making such reconnections; and

(b) The effect of such charges on the utility's revenues.

Section 11. Discontinuance of Service. (1) The utility may refuse or discontinue to serve an applicant or customer under the following conditions:

(a) For noncompliance with its rules and regulations. However, no utility shall discontinue or refuse service to any customer or applicant for violation of its rules or regulations without first having made a reasonable effort to induce the customer or applicant to comply with its rules and regulations as filed with the commission. After such effort on the part of the utility, service may be discontinued or refused only after the customer shall have been given at least ten (10) days written notice of such intention, mailed to his last known address.

(b) When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, provided that the utility notify the customer or applicant immediately of the reasons for the discontinuance or refusal and the corrective action to be taken by the applicant or customer before service can be restored.

(c) When a customer or applicant refuses or neglects to provide reasonable access to the premises for the purpose of installation, operation, meter reading, maintenance or removal of utility property the utility may discontinue or refuse service only after the customer or applicant shall have been given at least fifteen (15) days' written notice of such intention.

(d) A utility shall not be required to furnish service to any applicant when such applicant is indebted to the utility for service furnished until such applicant shall have paid such indebtedness.

(e) A utility may refuse or discontinue service to a customer or applicant if the customer or applicant does not comply with state, municipal or other codes, rules and regulations applying to such service.

(2) A gas or electric utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least ten (10) days' written notice, but the cut-off shall not be effected before twenty-seven (27) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from the original bill. If prior to discontinuance of service, there is delivered to the utility office, payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until thirty (30) days elapse from the time of the utility's notification to the customer in writing of the existence of local, state and federal programs, providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. Service shall not be discontinued where the customer and the utility have reached agreement on a partial payment plan pursuant to paragraph (b) herein. The written notice for any discontinuance of service shall advise the customer of his rights under paragraphs (a) and (b) herein and of his right to dispute the reasons for such discontinuance.

(b) Every gas and electric utility subject to the jurisdiction of the commission shall have an employee available during regular working hours to answer questions regarding a customer's bill and to resolve disputes over the amount of such bill. Such employee shall be authorized to negotiate partial payment plans of an outstanding bill and accept payments where the customer has shown good faith in attempting to meet his financial obligations to the utility. Said employee shall be authorized by the utility to consider and shall consider proposals by the customer for a partial payment plan and retention of service. Each jurisdictional gas and electric utility shall develop a budget payment plan whereby a customer may elect to pay a fixed amount each month on a yearly basis in lieu of monthly billings based on actual usage. The provisions of this section relating to partial payments and budget plans shall apply only to a utility's residential customers. It shall be the responsibility of the utility to disseminate information to its customers regarding the availability of such budget payment plan. If the commission finds, upon application a budget plan for residential customers would materially impair or damage the utility's credit or operations, then it may grant the utility an exemption from the requirements of the budget plan. No exemption may extend beyond one (1) year without another application by the utility and a finding by the commission that said exemption should be allowed.

(c) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal



means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(3) A water, sewage or telephone utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least forty-eight (48) hours written notice, but the cut-off shall not be effected before twenty (20) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from the original bill. If prior to discontinuance of service, there is delivered to the utility office payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until ten (10) days elapse from the time of the utility's notification.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(4) It shall be the duty of the utility before making service connections to a new customer to ascertain the condition of the meter and service facilities for such customer in order that prior fraudulent use of the facilities, if any, will not be attributed to the new customer, and the new customer shall be afforded the opportunity to be present at such inspections. The utility shall not be required to render service to such customer until all defects in the customer-owned portion of the service, if any, shall have been corrected.

(5) Reconnection. For all cases of refusal or discontinuance of service as herein defined, where the cause for refusal or discontinuance has been corrected and all rules and regulations of the utility and the commission have been complied with, the utility shall promptly render service to the customer or applicant.

(6) When advance notice is required, such notice may be given by the utility by mailing by United States mail, postage prepaid, to the last known address of the applicant or customer.

Section 12. Special Charges. (1) A utility may make a reasonable charge for each of the following trips:

(a) To read a meter when the customer has failed to read the meter for three (3) consecutive billing periods. This per-

tains only to those utilities whose customers ordinarily read their own meters.

(b) To collect a delinquent bill. This trip may be made only after written notice has been sent to the customer stating that if the bill is not paid by a certain date, the service will be disconnected.

(c) To reconnect a service that has been disconnected for nonpayment of bills or for violation of the utility's rules and regulations. This charge may include the cost of disconnecting the service.

(2) The charges, however, shall be applied uniformly throughout the entire area served by the utility, shall be incorporated in the utility's rules and regulations, shall be subject to the approval of the commission, and shall yield only enough revenue to pay the expenses incurred in rendering these services.

Section 13. Meter Testing. (1) All electric, gas and water utilities furnishing metered service shall provide meter standards and test facilities, as more specifically set out under 807 KAR 5:021, 807 KAR 5:041 and 807 KAR 5:066.

(2) A utility may have all or part of its testing of meters performed by another utility or agency approved by the commission for such purpose. Each utility having tests made by another agency or utility shall notify the commission of said arrangements in detail to include make, type and serial number of standards used to make said checks or tests.

(3) No utility shall place in service any basic measurement standard required by these rules unless it has been calibrated by the commission's Meter Standards Laboratory. All utilities or agencies making tests or checks for utility purposes shall notify the commission promptly of the adoption or deletion of any basic standards requiring calibration by the commission.

(4) Each electric, gas and water utility or agency doing meter testing for a utility shall have in its employ metermen certified by this commission. These certified metermen shall perform such tests as may be necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the regulations of the commission.

(5) A utility or agency desiring to have its employees certified as metermen shall submit the names on the commission's form entitled "Application for Appointment of Metermen" and after compliance with the requirements as noted in this form, the applicant may be certified as a meterman and furnished with a card authorizing him to perform meter tests.

Section 14. Access to Property. The utility shall at all reasonable hours have access to meters, service connections and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation or removal of its property at the time service is to be terminated. Any employee of the utility whose duties require him to enter the customer's premises shall wear a distinguishing uniform or other insignia, identifying him as an employee of the utility, or carry on his person a badge or other identification which will identify him as an employee of the utility, the same to be shown by him upon request.

Section 15. Meter Test Records. (1)(a) Test cards. A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations shall be recorded by the meterman. Such record shall include: Information to identify the unit and its location; the date

of tests; the reason for such tests; readings before and after the test; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations employed; indications showing that all required checks have been made; a statement of repairs made, if any; the identifying number of the meter; the type and capacity of the meter; and the constant of the meter.

(b) The complete record of tests of each meter shall be continuous at least two (2) periodic tests and in no case less than two (2) years.

(2) (a) History cards. Each utility shall keep numerically arranged and properly classified card records giving for each meter owned and used by the utility for any purpose the identification number, date of purchase, name of manufacturer, serial number, type, rating, and the name and address of each customer on whose premises the meter has been in service with date of installation and removal. These card records shall also give condensed information concerning all tests and adjustments including dates and general results of such adjustments. The card records shall be of such character that a system can be used that will record the date of the last test and indicate the proper date for the next periodic test required by the applicable regulation of the commission.

(b) When the records required above are kept in a readily available form posting to the history card is not necessary.

(3) Sealing of meters. Upon completion of adjustment and test of any meter under the provisions of the regulations of the commission, the utility shall affix thereto a suitable seal in such a manner that adjustments or registration of the meter cannot be tampered with without breaking the seal. The seal shall be of a type acceptable to the commission.

Section 16. Pole Identification. (1) Each utility owning poles or other structures supporting the company's wires, shall mark every pole or structure located within a built-up community with the initials or other distinguishing mark by which the owner of every such structure may be readily determined. For the purpose of this rule the term "built-up community" shall mean urban areas and those areas immediately adjacent thereto.

(2) Identification marks may be of any type but must be of a permanent material and shall be of such size and so spaced and hereafter maintained so as to be easily read from the surface of the ground at a distance of six (6) feet from the structure.

(3) When utilities' structures are located outside of a built-up community only every tenth structure need be so marked.

(4) All junction structures shall bear the identification mark and structure number of the owner.

(5) Poles need not be marked if they are clearly and unmistakably identifiable as the property of the utility.

(6) Each utility shall either number their structures and maintain a numbering system or use some other method of identification so that each structure in the system may be easily identified.

(7) The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

Section 17. System Maps and Records. (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

- (a) Operating districts.
- (b) Rate districts.
- (c) Communities served.
- (d) Location and size of transmission lines, distribution lines and service connections.
- (e) Location and layout of all principal items of plant.
- (f) The date of construction of all items of plant by year and month.
- (2) In each division or district office there shall be available such information relative to the utility's system as will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.
- (3) In lieu of showing the above information on maps a card record or suitable means may be used. For all construction the records shall also show the date of construction by month and year.

Section 18. Location of Records. All records required by the regulations of the commission shall be kept in the principal office of the utility or other acceptable safe storage place, and shall be made available to representatives, agents or employees of the commission upon reasonable notice and at all reasonable hours.

Section 19. Request Tests. Each utility shall make a test of any meter upon written request of any customer provided such request is not made more frequently than once each twelve (12) months. The customer shall be given the opportunity of being present at such request tests. If such tests show that the meter was not more than two percent (2%) fast, the utility may make a reasonable charge for the test, the amount of such charge to be set out in the utility's rules and regulations filed with the commission, and subject to the approval of the commission.

Section 20. Complaint Tests. (1) Any customer of the utility may request a meter test by written application to the commission accompanied by payment of such fee for the test as prescribed below. Such request may not be made more frequently than once each twelve (12) months. Upon receipt of such request, the commission will notify the utility to leave the customer's meter in place until completion of such test.

(2) If a meter tested upon complaint of a customer is found to register not more than two percent (2%) fast, the cost of such test shall be borne by the customer. However, if the meter shall be found to register more than two percent (2%) fast, the cost of such test shall be borne by the utility and the amount of the deposit made by the customer shall be refunded.

(3) The charges fixed by the commission for making such tests are as follows:

(a) Electric. Direct current and single phase alternating current watt hour meters operating on circuits of not more than 250 volts:

| Amperes Rated Capacity                       | Fee  |
|--|------|
| 30 and under                                 | \$ 2 |
| Over 30 to 100                               | 4    |
| Each additional 50 amperes or factor thereof | 1    |

Polyphase a.c. watt hour meters and single phase or direct current watt hour meters operating on circuits of over 250 volts with or without instrument transformers:

| Kilowatts Rated Capacity | Fee  |
|--------------------------|------|
| 5 KW and under           | \$ 2 |
| Over 5 to 25             | 4    |
| Over 25 to 100           | 8    |
| Over 100 to 500          | 16   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(b) Gas. Displacement type meters operating on distribution system pressures:

| Capacity in Cu. Ft. Per Hour     | Fee  |
|----------------------------------|------|
| 1,000 cu. ft. per hour and under | \$ 4 |
| Over 1,000 to 10,000             | 8    |
| Over 10,000 to 100,000           | 12   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(c) Water:

| Size                           | Fee  |
|--------------------------------|------|
| Outlet 1 inch or less          | \$ 4 |
| Outlet over 1 inch to 2 inches | 6    |
| Outlet over 2 inch to 3 inches | 8    |
| Outlet over 3 inch to 4 inches | 10   |

Plus one-half (½) of the cost of transportation of the commission representative between the office of the commission and the point of test.

(d) For meters of a size or capacity not shown herein, the commission will fix a suitable fee upon application.

Section 21. Safety Program. Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

(1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

Section 22. Inspection of Systems. (1) Each utility shall adopt procedures for inspection to assure safe and adequate operation of its facilities and compliance with commission rules. These procedures shall be filed with the commission.

(2) Each electric utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

(a) At intervals not to exceed six (6) months:

1. Production facilities regularly operated and manned; continuous surveillance, monitoring and inspection as a part of operating procedure.

2. Unmanned production facilities including peaking units not on standby status; units shall be operated and inspected and all monitoring devices shall be checked to determine that there is no evidence of abnormality.

3. Substations where the primary voltage is sixty-nine (69) KV or greater; examination for the purpose of discovering damage to or deterioration of components in-

cluding structures and fences; checking of all gauges and monitoring devices.

4. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, examination for leaks, condition of case, connections, temperature and overloading.

5. Electric lines operating at sixty-nine (69) KV or greater (including insulators, conductors, and supporting facilities).

(b) At intervals not to exceed one (1) year:

1. Production facilities maintained on a standby status; also inspection and examination prior to any start up, except remotely controlled facilities.

2. Substations where the primary voltage is less than sixty-nine (69) KV but is fifteen (15) KV or greater.

(c) At intervals not to exceed two (2) years: Electric lines operating at voltages of less than sixty-nine (69) KV (including insulators, conductors and supporting facilities).

(d) Other facilities:

1. Utility buildings inspected for compliance with safety codes at intervals not greater than one (1) year.

2. Construction equipment inspected for defects, wear and operational hazards at intervals not greater than quarterly.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(3) Each gas utility shall make systematic inspections of its system for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is prescribed or recommended by the Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, for the various classes of facilities as defined in said standards, in accordance with the inspection procedures described therein.

(4) The following maximum time intervals are prescribed for: certain inspections provided for in Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, with respect to which intervals are not specified; and certain additional inspections not provided for in such code.

(a) At intervals not to exceed one (1) year:

1. Production wells, storage wells and well equipment; visual inspection and examination of all exterior components.

2. Pressure limiting stations, relief devices and pressure regulating stations, including vaults.

3. The curb box on service shall be inspected for accessibility.

(b) Other facilities:

1. Utility buildings inspected for compliance with safety codes at least annually.

2. Construction equipment inspected for defects, wear and operational hazards at least quarterly.

(c) At intervals not to exceed the periodic meter test intervals: individual residential customer service regulators, vents and relief valve vents shall be checked for satisfactory operation.

(d) At intervals of meter change: the curb box on service shall be inspected for operable condition.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(5) (a) Each water utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Source of supply:

a. Dams, physical and structural, annually.

b. Intake structures, physical and structural, annually.

c. Traveling screens, physical and structural and safety of operation, annually.

2. Purification:

a. Sedimentation basins filters and clear wells, physical and structural and safety of operation, annually.

b. Chemical feed equipment, for proper and safe operation, annually.

c. Pumping equipment including electric power wiring and controls, for proper and safe operation, annually.

d. Hydrants, for proper and safe operation, annually.

e. Utility buildings, inspection for compliance with safety codes, annually.

f. Construction equipment, inspection for defects, wear and operational hazards, quarterly.

g. Mains and valves, leaks, annually.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(6) (a) Each telephone utility shall make systematic inspections of its system in the manner set out below for the

purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Aerial plant: Inspection for electrical hazards, proper clearance for electric facilities and climbing safety—Every two (2) years.

2. Underground plant: Inspection for presence of gas, proper clearance from electric facilities and safe working conditions—At least annually.

3. Station equipment and connections: Inspection for external electrical hazards, damaged instruments or wiring, appropriate protection from lightning and safe location of equipment and wiring—When on customer's premises.

4. Utility buildings: Inspection for compliance with safety codes—At least annually.

5. Construction equipment: Inspection for defects, wear and operational hazards—At least quarterly.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer:

1. All portions of the system (including those listed above) which are the subject of the report.

2. Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

Section 23. Reporting of Accidents. Each utility shall notify the commission of any accident which results in death or serious injury to any person or substantial property damage. Prompt notice of fatal accidents shall be given to the commission by telephone or telegraph.

Section 24. Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

MARLIN M. VOLZ, Chairman

ADOPTED: January 13, 1982

APPROVED: TRACY FARMER, Secretary

RECEIVED BY LRC: January 14, 1982 at 4 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary, Public Service Commission, P.O. Box 615, 730 Schenkel Lane, Frankfort, Kentucky 40602.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

## Minutes of the February 1, 1982 Meeting

(Subject to subcommittee approval at the March meeting.)

The Administrative Regulation Review Subcommittee held its regular meeting on Wednesday, February 1, 1982, at 10 a.m., in Room 104 of the Capitol Annex. Present were:

**Members:** Representative William T. Brinkley, Chairman; Senators James Bunning and Helen Garrett; Representatives James E. Bruce and Albert Robinson.

**Guests:** Charles Bratton, Kentucky Employees Retirement System; Marshall Swain and Gary Bale, Department of Education; Don McCormick, Department of Fish and Wildlife; Clarkson Beard, State Racing Commission; Ronda Paul, Department of Banking and Securities; Thomas Emerson and Donald Applegate, Board of Veterinary Examiners; Kenneth Hahn, Karen Armstrong-Cummings, Steven Taylor, Richard Shoenegren, and Joshua Santana, Department for Natural Resources and Environmental Protection; Sharon Ware, Ben McCray, Anita Payton, Greg Lawther, Ked Fitzpatrick, Sharon Rodriguez and Diane Simmons, Department for Human Resources; Sheila Farthing, Harry Enoch, Judy Hower, John Mitchell, and Mickey Jones, Department of Energy; Etta Ruth Kepp, Environmental Quality Commission; Ken Hart, Independent Coal Producers Association; G. F. Manzelman and Juan Vilasquez, Phillips Petroleum Company; Beverly Rutenbeck, Mobil, Mining and Coal Division; Ronald Sanders, Engineering Resources, Inc.; Einer Lindquist, Cliffs Engineering; Bill Caylor, Kentucky Coal Association; Gene Samsel and Clinton Twilley, Dames & Moore; Mike Bennett, Kentucky Coal Journal; Tony Sholar, Chamber of Commerce; Eugene Mooney; and Ann Reid.

**Staff:** Susan Harding, Cindy De Reamer, O. Joseph Hood, Garnett Evins and Scott Payton.

**Press:** Diana Taylor, Associated Press; Al Cross, Courier-Journal; and Alan Myerson, Lexington Herald.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Robinson, seconded by Senator Garrett the minutes of the January meeting were approved.

The members agreed to take no action on the following emergency regulations:

#### DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

##### Bureau of Surface Mining and Reclamation

##### Strip Mining of Coal

405 KAR 1:005E. Applicability of chapter

##### Surface Effects of Non-Coal Mining

405 KAR 3:005E. Applicability of chapter.

##### General Provisions

405 KAR 7:020E. Definitions and abbreviations.

405 KAR 7:030E. Applicability.

405 KAR 7:040E. General obligations of operators and permittees.

405 KAR 7:060E. Experimental practices mining.

405 KAR 7:080E. Small operator assistance.

405 KAR 7:090E. Hearings.

405 KAR 7:100E. Notice of citizen suits.

405 KAR 7:110E. Petitions for rulemaking.

##### Permits

405 KAR 8:010E. General provisions for permits.

405 KAR 8:020E. Coal exploration.

405 KAR 8:030E. Surface coal mining permits.

405 KAR 8:040E. Underground coal mining permits.

405 KAR 8:050E. Permits for special categories of mining.

##### Bond and Insurance Requirements

405 KAR 10:010E. General requirements for performance bond and liability insurance.

405 KAR 10:020E. Amount and duration of performance bond.

405 KAR 10:030E. Type, terms and conditions of performance bonds and liability insurance.

405 KAR 10:040E. Procedures, criteria and schedule for release or credit of performance bond.

405 KAR 10:050E. Bond forfeiture.

##### Inspection and Enforcement

405 KAR 12:010E. General provisions for inspection and enforcement.

405 KAR 12:020E. Enforcement.

405 KAR 12:030E. Public participation in inspection and enforcement.

##### Performance Standards for Surface Mining Activities

405 KAR 16:010E. General provisions.

405 KAR 16:020E. Contemporaneous reclamation.

405 KAR 16:030E. Signs and markers.

405 KAR 16:040E. Casing and sealing of drilled holes.

405 KAR 16:050E. Topsoil.

405 KAR 16:060E. General hydrologic requirements.

405 KAR 16:070E. Water quality standards and effluent limitations.

405 KAR 16:080E. Diversions.

405 KAR 16:090E. Sedimentation ponds.

405 KAR 16:100E. Permanent and temporary impoundments.

405 KAR 16:110E. Surface and groundwater monitoring.

405 KAR 16:120E. Use of explosives.

405 KAR 16:130E. Disposal of excess spoil.

405 KAR 16:140E. Disposal of coal processing waste.

405 KAR 16:150E. Disposal of waste other than coal processing waste, soil or rock.

405 KAR 16:160E. Coal processing waste dams and impoundments.

405 KAR 16:170E. Air resources protection.

405 KAR 16:180E. Protection of fish, wildlife, and related environmental values.

405 KAR 16:190E. Backfilling and grading.

405 KAR 16:200E. Revegetation.

405 KAR 16:210E. Postmining land use capability.

405 KAR 16:220E. Roads.

405 KAR 16:250E. Other facilities.

##### Performance Standards for Underground Mining Activities

405 KAR 18:010E. General provisions.

405 KAR 18:020E. Contemporaneous reclamation.

405 KAR 18:030E. Signs and markers.

405 KAR 18:040E. Casing and sealing of underground openings.

405 KAR 18:050E. Topsoil.

405 KAR 18:060E. General hydrologic requirements.

405 KAR 18:070E. Water quality standards and effluent limitations.

405 KAR 18:080E. Diversions.



- 405 KAR 18:090E. Sedimentation ponds.  
 405 KAR 18:100E. Permanent and temporary impoundments.  
 405 KAR 18:110E. Surface and groundwater monitoring.  
 405 KAR 18:120E. Use of explosives.  
 405 KAR 18:130E. Disposal of underground development waste and excess spoil.  
 405 KAR 18:140E. Disposal of coal processing waste.  
 405 KAR 18:150E. Disposal of waste other than coal processing waste, soil or rock.  
 405 KAR 18:160E. Coal processing waste dams and impoundments.  
 405 KAR 18:170E. Air resources protection.  
 405 KAR 18:180E. Protection of fish, wildlife and related environmental values.  
 405 KAR 18:190E. Backfilling and grading.  
 405 KAR 18:200E. Revegetation.  
 405 KAR 18:210E. Subsidence control.  
 405 KAR 18:220E. Postmining land use capability.  
 405 KAR 18:230E. Roads.  
 405 KAR 18:260E. Other facilities.  
**Special Performance Standards**  
 405 KAR 20:010E. Coal exploration.  
 405 KAR 20:020E. Concurrent surface and underground mining.  
 405 KAR 20:030E. Auger mining.  
 405 KAR 20:040E. Prime farmland.  
 405 KAR 20:050E. Mountaintop removal.  
 405 KAR 20:060E. Steep slopes.  
 405 KAR 20:070E. Offsite coal processing plants and support facilities.  
 405 KAR 20:080E. In situ processing.  
**Areas Unsuitable for Mining**  
 405 KAR 24:020E. Petition requirements.  
 405 KAR 24:030E. Process and criteria for designating lands unsuitable for surface mining operations.  
 405 KAR 24:040E. Permit application review.

The following regulation was withdrawn at the request of the issuing agency:

**DEPARTMENT FOR HUMAN RESOURCES**  
 Bureau for Social Insurance

**Public Assistance**

- 904 KAR 2:016. Standards for need and amount; AFDC.

The following regulations were deferred at the request of the issuing agency:

**DEPARTMENT OF TRANSPORTATION**  
 Bureau of Highways

**Maintenance**

- 603 KAR 3:010. Advertising devices on interstates.

**DEPARTMENT FOR HUMAN RESOURCES**  
 Bureau for Social Insurance

**Medical Assistance**

- 904 KAR 1:090. Drug formulary; therapeutic equivalence evaluations.

The following regulations were deferred until the May meeting:

**EDUCATION AND ARTS CABINET**  
 Kentucky School Building Authority  
 School Building Construction  
 723 KAR 1:005. Funding procedures.

**KENTUCKY EMPLOYEES' RETIREMENT SYSTEM**  
 General Rules

- 105 KAR 1:070. Allocation of special appropriation for military service credit.

The following regulations were deferred until the March meeting:

**DEPARTMENT FOR NATURAL RESOURCES  
 AND ENVIRONMENTAL PROTECTION**  
 Bureau of Environmental Protection  
 Hazardous Material and Waste Management  
 401 KAR 2:101. Standards for landfarming facilities.

**PUBLIC PROTECTION AND REGULATION CABINET**  
 Department of Banking and Securities  
 Finance Charges

- 808 KAR 4:020. Compliance with Federal Consumer Credit Protection Act.  
**Securities**  
 808 KAR 10:200. Investment advisers' minimum liquid capitalization.

The following regulation was deferred until action has been taken by the General Assembly on a previously proposed amendment:

**PUBLIC PROTECTION AND REGULATION CABINET**  
 State Racing Commission  
 Thoroughbred Racing Rules  
 810 KAR 1:018. Medication; testing procedures.

The following regulation was approved as amended by the subcommittee and ordered filed:

**DEPARTMENT FOR NATURAL RESOURCES  
 AND ENVIRONMENTAL PROTECTION**  
 Bureau of Surface Mining and Reclamation  
 Oil Shale Operations  
 405 KAR 30:130. Oil shale operation permits. (As Amended.)

The following regulations were deferred until the March meeting:

**DEPARTMENT FOR NATURAL RESOURCES  
 AND ENVIRONMENTAL PROTECTION**  
 Bureau of Surface Mining and Reclamation  
 Oil Shale Operations  
 405 KAR 30:010. Definitions.  
 405 KAR 30:020. General provisions.  
 405 KAR 30:040. Amount and duration of performance bonds.  
 405 KAR 30:060. Form, terms and conditions of performance bonds and liability insurance.  
 405 KAR 30:070. Procedures, criteria and schedule for release of performance bonds.  
 405 KAR 30:080. Bond forfeiture.  
 405 KAR 30:090. General provisions for inspection and enforcement.  
 405 KAR 30:100. Enforcement.

405 KAR 30:110. Public participation in inspection and enforcement.

405 KAR 30:140. Written approval required for transfer of permit; successor in interest.

405 KAR 30:150. Oil shale records open to public inspection; confidential nature of certain data.

405 KAR 30:170. Citizen demands for enforcement.

405 KAR 30:180. Petitions for rulemaking.

405 KAR 30:190. Process and criteria for designating lands unsuitable for oil shale operations.

405 KAR 30:200. Petition requirements to designate lands unsuitable.

405 KAR 30:210. Signs and markers.

405 KAR 30:220. Postmining land use.

405 KAR 30:230. Air resources protection.

405 KAR 30:240. Protection of fish, wildlife, and related environmental values.

405 KAR 30:250. Use of explosives.

405 KAR 30:260. Access roads, haul roads, overland conveyor systems, pipelines, and other transport facilities.

405 KAR 30:270. Casting and sealing of drilled holes.

405 KAR 30:280. Prime farm land.

405 KAR 30:290. Topsoil.

405 KAR 30:300. Protection of the hydrologic system.

405 KAR 30:310. Diversion of flows and water withdrawal.

405 KAR 30:320. Water quality standards, effluent limitations, and monitoring.

405 KAR 30:330. Sediment control measures.

405 KAR 30:340. Leachate control.

405 KAR 30:350. Permanent impoundments.

405 KAR 30:390. Backfilling and grading.

405 KAR 30:400. Revegetation.

405 KAR 30:410. In situ operations.

The following regulation was rejected by the subcommittee for non-conformance with statutory authority and legislative intent. Specifically, the subcommittee believes the 200 square feet hard cover lot minimum required in Section 3(b) and the 150 square feet requirement in Section 3(c) to be neither reasonable nor appropriate:

#### DEPARTMENT OF TRANSPORTATION

##### Bureau of Vehicle Regulation

##### Motor Vehicle Dealers

601 KAR 20:070. Suitable premises; signs; multibusinesses.

The following regulations were approved by the subcommittee and ordered filed:

#### KENTUCKY EMPLOYEES' RETIREMENT SYSTEM

##### General Rules

105 KAR 1:010. Contributions and interest rates.

105 KAR 1:040. Actuarial assumptions and tables.

105 KAR 1:061. Repeal of 105 KAR 1:030, 1:050 and 1:060.

#### DEPARTMENT OF FINANCE

##### Division of Occupations and Professions

##### Board of Veterinary Examiners

201 KAR 16:020. Examination for licensing; reciprocity; fees; re-examinations. (As Amended.)

201 KAR 16:030. License, annual renewal notice.

201 KAR 16:040. Examination and registration of animal technicians.

#### CABINET FOR DEVELOPMENT

##### Department of Fish and Wildlife Resources

##### Fish

301 KAR 1:075. Giggling, hand grabbing or snagging, tickling and noodling. (Technical Amendment.)

##### Hunting and Fishing

301 KAR 3:053. Spring gun and archery season for wild turkey.

#### PUBLIC PROTECTION AND REGULATION CABINET

##### Department of Banking and Securities

##### Securities

808 KAR 10:010. Forms for application, registration; reporting and compliance. (As Amended.)

808 KAR 10:190. Securities registration exemptions for certain business transactions.

#### DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

##### Bureau of Environmental Protection

##### Hazardous Material and Waste Management

401 KAR 2:050. Waste management definitions. (As Amended.) (Senator Garrett voted no.)

401 KAR 2:055. Waste management provisions. (Senator Garrett voted no.)

401 KAR 2:090. Solid waste disposal permit process. (Senator Garrett voted no.)

401 KAR 2:095. Application, design and operating standards for sanitary landfills. (As Amended.) (Senator Garrett voted no.)

401 KAR 2:105. Solid waste disposal fees. (Senator Garrett voted no and Representative Bruce passed.)

401 KAR 2:111. Certification for operators of solid waste disposal facilities. (Senator Garrett and Representative Bruce voted no.)

#### DEPARTMENT FOR HUMAN RESOURCES

##### Bureau for Health Services

##### Certificate of Need and Licensure Board

902 KAR 20:008. License and fee schedule.

902 KAR 20:009. Facility specifications; hospitals.

902 KAR 20:016. Hospitals; operations and services.

902 KAR 20:086. Operation and services; intermediate care facilities for mentally retarded and developmentally disabled.

##### Bureau for Social Insurance

##### Medical Assistance

904 KAR 1:004. Resource and income standard of medically needy.

904 KAR 1:010. Payments for physicians' services. (As Amended.)

904 KAR 1:011. Technical eligibility requirements.

904 KAR 1:026. Dental services.

904 KAR 1:027. Payments for dental services. (As Amended.)

904 KAR 1:040. Payments for vision care services. (As Amended.)

904 KAR 1:045. Payments for mental health center services. (As Amended.)

**Public Assistance**

904 KAR 2:006. AFDC technical requirements.

904 KAR 2:007. Repeal of 904 KAR 2:008.

904 KAR 2:046. Adverse action; conditions.

904 KAR 2:050. Time and manner of payments.

904 KAR 2:082. Repeal of 904 KAR 2:081 and 904 KAR 2:081E.

**Food Stamp Program**

904 KAR 3:010. Definitions.

904 KAR 3:020. Eligibility requirements.

904 KAR 3:030. Application process.

904 KAR 3:035. Certification process.

904 KAR 3:050. Additional provisions.

On motion of Representative Robinson, seconded by Senator Garrett, the meeting adjourned at 2:40 p.m., to meet again on Monday, March 1, 1982, at 10 a.m., in Room 104.



*Administrative Register* <sup>of</sup> *kentucky*

**Cumulative Supplement**

Locator Index—Effective Dates ..... J 2

KRS Index ..... J 6

Subject Index to Volume 8..... J 10



# Locator Index—Effective Dates

NOTE: Emergency regulations expire upon being repealed, replaced or sine die adjournment of the next regular session of the General Assembly.

## Volume 7

| Emergency Regulation | 7 Ky.R. Page No. | Effective Date | Emergency Regulation | 7 Ky.R. Page No. | Effective Date | Regulation     | 7 Ky.R. Page No. | Effective Date |
|----------------------|------------------|----------------|----------------------|------------------|----------------|----------------|------------------|----------------|
| 103 KAR 35:020E      | 394              | 10-6-80        | 902 KAR 20:050E      | 138              | 7-24-80        | 723 KAR 1:005  |                  |                |
| 200 KAR 2:006E       | 288              | 9-4-80         | 902 KAR 20:057E      | 154              | 8-8-80         | Amended        | 49               |                |
| 200 KAR 5:308E       | 395              | 9-19-80        | 902 KAR 20:059E      | 157              | 8-8-80         | Withdrawn      |                  | 9-1-81         |
| Replaced             |                  | 10-7-81        | 902 KAR 20:070E      | 165              | 8-8-80         | 807 KAR 5:067  | 793              | 9-2-81         |
| 401 KAR 51:016E      | 293              | 9-11-80        | 902 KAR 20:075E      | 172              | 8-8-80         | 810 KAR 1:018  |                  |                |
| 401 KAR 51:051E      | 293              | 9-11-80        | 902 KAR 20:077E      | 172              | 8-8-80         | Amended        | 256              |                |
| 807 KAR 5:001E       | 709              | 3-4-81         | 902 KAR 20:085E      | 179              | 8-8-80         | Withdrawn      |                  | 11-21-80       |
| 807 KAR 5:006E       | 714              | 3-4-81         | 902 KAR 20:090E      | 183              | 8-8-80         | Amended        | 672              |                |
| 807 KAR 5:011E       | 721              | 3-4-81         | 902 KAR 20:095E      | 185              | 8-8-80         | Rejected       | 893              | 4-1-81         |
| 807 KAR 5:016E       | 725              | 3-4-81         | 904 KAR 1:020E       | 587              | 1-7-81         | Resubmitted    |                  | 4-23-81        |
| 807 KAR 5:021E       | 726              | 3-4-81         | Replaced             | 910              | 7-1-81         | Rejected       |                  | 5-8-81         |
| 807 KAR 5:026E       | 735              | 3-4-81         | 904 KAR 1:022E       | 802              | 4-1-81         | 815 KAR 7:050  | 866              |                |
| 807 KAR 5:031E       | 737              | 3-4-81         | 904 KAR 1:024E       | 804              | 4-1-81         | 815 KAR 20:030 |                  |                |
| 807 KAR 5:036E       | 738              | 3-4-81         | 904 KAR 2:007E       | 897              | 4-27-81        | Amended        | 684              |                |
| 807 KAR 5:041E       | 739              | 3-4-81         |                      |                  |                | Rejected       | See 8 Ky.R.      | 10-7-81        |
| 807 KAR 5:046E       | 746              | 3-4-81         | Regulation           | 7 Ky.R. Page No. | Effective Date | 815 KAR 20:050 |                  |                |
| 807 KAR 5:051E       | 746              | 3-4-81         | 201 KAR 19:025       |                  |                | Amended        | 220              | 10-1-80        |
| 807 KAR 5:056E       | 747              | 3-4-81         | Amended              | 913              | 9-2-81         | Amended        | 845              |                |
| 807 KAR 5:061E       | 748              | 3-4-81         | 201 KAR 19:035       |                  |                | 815 KAR 20:141 |                  |                |
| 807 KAR 5:066E       | 753              | 3-4-81         | Amended              | 913              | 9-2-81         | Amended        | 213              | 8-6-80         |
| 807 KAR 5:071E       | 758              | 3-4-81         | 201 KAR 19:040       |                  |                | Amended        | 851              | 8-3-81         |
| 815 KAR 20:030E      | 898              | 5-1-81         | Amended              | 913              | 9-2-81         | Withdrawn      |                  |                |
| 902 KAR 14:005E      | 396              | 10-14-80       | 201 KAR 19:045       |                  |                | 904 KAR 1:022  |                  |                |
| 902 KAR 14:015E      | 397              | 10-14-80       | Amended              | 913              | 9-2-81         | Amended        | 857              |                |
| 902 KAR 20:007E      | 79               | 7-24-80        | 201 KAR 19:085       |                  |                | 904 KAR 1:024  |                  |                |
| 902 KAR 20:010E      | 80               | 8-8-80         | Repealed             | 913              | 9-2-81         | Amended        | 357              | 11-6-80        |
| 902 KAR 20:015E      | 93               | 8-8-80         | 401 KAR 59:250       | 937              |                | Amended        | 857              |                |
| 902 KAR 20:020E      | 98               | 7-24-80        | Withdrawn            |                  |                | 904 KAR 1:060  |                  |                |
| 902 KAR 20:025E      | 106              | 8-8-80         | 401 KAR 59:255       | 939              | 9-2-81         | Amended        | 580              |                |
| 902 KAR 20:045E      | 127              | 7-24-80        |                      |                  |                |                |                  |                |
| 902 KAR 20:047E      | 136              | 7-24-80        |                      |                  |                |                |                  |                |

## Volume 8

| Emergency Regulation | 8 Ky.R. Page No. | Effective Date | Emergency Regulation | 8 Ky.R. Page No. | Effective Date | Emergency Regulation | 8 Ky.R. Page No. | Effective Date |
|----------------------|------------------|----------------|----------------------|------------------|----------------|----------------------|------------------|----------------|
| 301 KAR 2:046E       | 141              | 7-31-81        | 405 KAR 16:070E      | 701              | 12-29-81       | 405 KAR 18:180E      | 746              | 12-29-81       |
| Expired              |                  | 12-8-81        | 405 KAR 16:080E      | 701              | 12-29-81       | 405 KAR 18:190E      | 747              | 12-29-81       |
| 302 KAR 20:110E      | 626              | 12-23-81       | 405 KAR 16:090E      | 703              | 12-29-81       | 405 KAR 18:200E      | 748              | 12-29-81       |
| 302 KAR 20:120E      | 626              | 12-23-81       | 405 KAR 16:100E      | 704              | 12-29-81       | 405 KAR 18:210E      | 750              | 12-29-81       |
| 303 KAR 1:100E       | 143              | 8-5-81         | 405 KAR 16:110E      | 705              | 12-29-81       | 405 KAR 18:220E      | 751              | 12-29-81       |
| 405 KAR 1:005E       | 627              | 12-29-81       | 405 KAR 16:120E      | 706              | 12-29-81       | 405 KAR 18:230E      | 753              | 12-29-81       |
| 405 KAR 3:005E       | 628              | 12-29-81       | 405 KAR 16:130E      | 709              | 12-29-81       | 405 KAR 18:260E      | 755              | 12-29-81       |
| 405 KAR 7:020E       | 629              | 12-29-81       | 405 KAR 16:140E      | 712              | 12-29-81       | 405 KAR 20:010E      | 756              | 12-29-81       |
| 405 KAR 7:030E       | 636              | 12-29-81       | 405 KAR 16:150E      | 714              | 12-29-81       | 405 KAR 20:020E      | 757              | 12-29-81       |
| 405 KAR 7:040E       | 636              | 12-29-81       | 405 KAR 16:160E      | 714              | 12-29-81       | 405 KAR 20:030E      | 758              | 12-29-81       |
| 405 KAR 7:060E       | 639              | 12-29-81       | 405 KAR 16:170E      | 715              | 12-29-81       | 405 KAR 20:040E      | 758              | 12-29-81       |
| 405 KAR 7:080E       | 640              | 12-29-81       | 405 KAR 16:180E      | 716              | 12-29-81       | 405 KAR 20:050E      | 760              | 12-29-81       |
| 405 KAR 7:090E       | 642              | 12-29-81       | 405 KAR 16:190E      | 716              | 12-29-81       | 405 KAR 20:060E      | 760              | 12-29-81       |
| 405 KAR 7:100E       | 647              | 12-29-81       | 405 KAR 16:200E      | 718              | 12-29-81       | 405 KAR 20:070E      | 761              | 12-29-81       |
| 405 KAR 7:110E       | 648              | 12-29-81       | 405 KAR 16:210E      | 721              | 12-29-81       | 405 KAR 20:080E      | 762              | 12-29-81       |
| 405 KAR 8:010E       | 649              | 12-29-81       | 405 KAR 16:220E      | 723              | 12-29-81       | 405 KAR 24:020E      | 763              | 12-29-81       |
| 405 KAR 8:020E       | 658              | 12-29-81       | 405 KAR 16:250E      | 725              | 12-29-81       | 405 KAR 24:030E      | 764              | 12-29-81       |
| 405 KAR 8:030E       | 661              | 12-29-81       | 405 KAR 18:010E      | 725              | 12-29-81       | 405 KAR 24:040E      | 766              | 12-29-81       |
| 405 KAR 8:040E       | 669              | 12-29-81       | 405 KAR 18:020E      | 726              | 12-29-81       | 603 KAR 5:110E       | 41               | 6-30-81        |
| 405 KAR 8:050E       | 678              | 12-29-81       | 405 KAR 18:030E      | 726              | 12-29-81       | Replaced             | 13               | 8-5-81         |
| 405 KAR 10:010E      | 682              | 12-29-81       | 405 KAR 18:040E      | 727              | 12-29-81       | 807 KAR 5:006E       | 843              | 2-8-82         |
| 405 KAR 10:020E      | 683              | 12-29-81       | 405 KAR 18:050E      | 728              | 12-29-81       | 902 KAR 14:015E      | 850              | 2-3-82         |
| 405 KAR 10:030E      | 684              | 12-29-81       | 405 KAR 18:060E      | 729              | 12-29-81       | 902 KAR 20:017E      |                  | 8-8-80         |
| 405 KAR 10:040E      | 686              | 12-29-81       | 405 KAR 18:070E      | 731              | 12-29-81       | Repealed             | 219              | 11-5-81        |
| 405 KAR 10:050E      | 688              | 12-29-81       | 405 KAR 18:080E      | 732              | 12-29-81       | 902 KAR 20:020E      |                  |                |
| 405 KAR 12:010E      | 689              | 12-29-81       | 405 KAR 18:090E      | 733              | 12-29-81       | Repealed             | 376              | 1-6-82         |
| 405 KAR 12:020E      | 690              | 12-29-81       | 405 KAR 18:100E      | 735              | 12-29-81       | 902 KAR 20:030E      |                  | 7-24-80        |
| 405 KAR 12:030E      | 693              | 12-29-81       | 405 KAR 18:110E      | 736              | 12-29-81       | Repealed             | 227              | 11-5-81        |
| 405 KAR 16:010E      | 694              | 12-29-81       | 405 KAR 18:120E      | 737              | 12-29-81       | 902 KAR 20:035E      |                  | 7-24-80        |
| 405 KAR 16:020E      | 695              | 12-29-81       | 405 KAR 18:130E      | 739              | 12-29-81       | Repealed             | 222              | 11-5-81        |
| 405 KAR 16:030E      | 696              | 12-29-81       | 405 KAR 18:140E      | 742              | 12-29-81       | 902 KAR 20:040E      |                  | 7-24-80        |
| 405 KAR 16:040E      | 697              | 12-29-81       | 405 KAR 18:150E      | 744              | 12-29-81       | Repealed             | 232              | 11-5-81        |
| 405 KAR 16:050E      | 697              | 12-29-81       | 405 KAR 18:160E      | 744              | 12-29-81       | 902 KAR 20:045E      |                  |                |
| 405 KAR 16:060E      | 698              | 12-29-81       | 405 KAR 18:170E      | 745              | 12-29-81       | Repealed             | 391              | 1-6-82         |



## ADMINISTRATIVE REGISTER

J3

| Emergency Regulation | 8 Ky.R. Page No. | Effective Date | Regulation     | 8 Ky.R. Page No. | Effective Date | Regulation     | 8 Ky.R. Page No. | Effective Date |
|----------------------|------------------|----------------|----------------|------------------|----------------|----------------|------------------|----------------|
| 902 KAR 20:055E      |                  | 7-24-80        | 102 KAR 1:195  | 784              |                | 401 KAR 2:050  |                  |                |
| Repealed             | 234              | 11-5-81        | 103 KAR 8:090  |                  |                | Amended        | 158              |                |
| 902 KAR 20:059E      |                  |                | Amended        | 68               | 9-2-81         | Amended        | 441              |                |
| Repealed             | 412              | 1-6-82         | 103 KAR 16:140 |                  |                | Amended        | 859              | 2-1-82         |
| 902 KAR 20:065E      |                  | 8-8-80         | Repealed       | 175              | 10-7-81        | 401 KAR 2:055  |                  |                |
| Repealed             | 240              | 11-5-81        | 103 KAR 16:141 | 175              | 10-7-81        | Amended        | 163              |                |
| 902 KAR 20:077E      |                  |                | 103 KAR 18:030 |                  |                | Amended        | 447              |                |
| Repealed             | 414              | 1-6-82         | Amended        | 153              | 10-7-81        | Amended        | 865              | 2-1-82         |
| 902 KAR 20:080E      |                  | 7-24-80        | 105 KAR 1:010  |                  |                | 401 KAR 2:060  |                  |                |
| Repealed             | 243              | 11-5-81        | Amended        | 494              | 2-1-82         | Amended        | 505              |                |
| 902 KAR 20:090E      |                  |                | 105 KAR 1:040  |                  |                | 401 KAR 2:063  | 542              |                |
| Repealed             | 418              | 1-6-82         | Amended        | 497              | 2-1-82         | 401 KAR 2:070  |                  |                |
| 902 KAR 20:095E      |                  |                | 105 KAR 1:061  | 542              | 2-1-82         | Amended        | 508              |                |
| Repealed             | 418              | 1-6-82         | 105 KAR 1:070  | 542              |                | 401 KAR 2:073  | 542              |                |
| 902 KAR 20:100E      |                  | 8-8-80         | 106 KAR 1:020  |                  |                | 401 KAR 2:075  |                  |                |
| Repealed             | 245              | 11-5-81        | Amended        | 1                | 6-3-81         | Amended        | 513              |                |
| 902 KAR 20:105E      |                  | 8-8-80         | 108 KAR 1:010  |                  |                | 401 KAR 2:090  | 175              |                |
| Repealed             | 251              | 11-5-81        | Amended        | 6                |                | Amended        | 450              | 2-1-82         |
| 902 KAR 20:110E      |                  | 8-8-80         | Amended        | 148              | 8-5-81         | 401 KAR 2:095  | 176              |                |
| Repealed             | 254              | 11-5-81        | Reprinted      | 259              |                | Amended        | 452              |                |
| 904 KAR 1:003E       | 263              | 9-30-81        | 200 KAR 4:005  |                  |                | Amended        | 869              | 2-1-82         |
| Repealed             | 335              | 10-30-81       | Amended        | 3                | 6-3-81         | 401 KAR 2:101  | 179              |                |
| 904 KAR 1:004E       | 266              | 9-16-81        | 200 KAR 5:308  |                  |                | Amended        | 456              |                |
| Amended              | 428              | 12-14-81       | Amended        | 153              | 10-7-81        | 401 KAR 2:105  | 181              |                |
| Replaced             | 527              | 2-1-82         | 200 KAR 6:030  |                  |                | Amended        | 458              | 2-1-82         |
| 904 KAR 1:010E       | 268              | 9-30-81        | Repealed       | 193              | 11-5-81        | 401 KAR 2:111  | 181              |                |
| 904 KAR 1:011E       | 335              | 10-30-81       | 200 KAR 6:035  |                  |                | Amended        | 459              | 2-1-82         |
| Amended              | 430              | 12-14-81       | Amended        | 193              | 11-5-81        | 401 KAR 59:105 |                  |                |
| Replaced             | 614              | 2-1-82         | 201 KAR 1:045  |                  |                | Amended        | 517              |                |
| 904 KAR 1:026E       | 269              | 9-30-81        | Amended        | 910              |                | Amended        | 883              |                |
| 904 KAR 1:027E       | 271              | 9-30-81        | 201 KAR 2:050  |                  |                | 401 KAR 59:210 |                  |                |
| Replaced             | 880              | 2-1-82         | Amended        | 154              | 10-7-81        | Amended        | 910              |                |
| 904 KAR 1:033E       | 43               | 6-30-81        | 201 KAR 9:095  | 374              |                | 401 KAR 59:212 |                  |                |
| Replaced             | 29               | 8-5-81         | Withdrawn      |                  | 1-26-82        | Amended        | 912              |                |
| 904 KAR 1:040E       | 272              | 9-30-81        | 201 KAR 11:016 | 784              |                | 401 KAR 61:035 |                  |                |
| 904 KAR 1:045E       | 337              | 10-16-81       | 201 KAR 11:045 |                  |                | Amended        | 518              |                |
| 904 KAR 2:005E       | 273              | 9-16-81        | Amended        | 780              |                | Amended        | 884              |                |
| Repealed             | 432              | 12-14-81       | 201 KAR 16:020 |                  |                | 401 KAR 61:120 |                  |                |
| 904 KAR 2:006E       | 432              | 12-14-81       | Amended        | 347              |                | Amended        | 913              |                |
| 904 KAR 2:010E       | 44               | 7-1-81         | Withdrawn      |                  | 12-10-81       | 401 KAR 61:122 |                  |                |
| Replaced             | 31               | 8-5-81         | Amended        | 499              |                | Amended        | 915              |                |
| Amended              | 276              | 9-16-81        | 201 KAR 16:030 |                  |                | 401 KAR 61:132 |                  |                |
| Repealed             | 434              | 12-14-81       | Amended        | 500              | 2-1-82         | Amended        | 7                |                |
| 904 KAR 2:016E       | 434              | 12-14-81       | 201 KAR 16:040 |                  |                | Amended        | 318              | 12-2-81        |
| Amended              | 851              | 2-3-82         | Amended        | 501              | 2-1-82         | 401 KAR 61:165 |                  |                |
| 904 KAR 2:040E       | 854              | 2-3-82         | 201 KAR 18:040 |                  |                | Amended        | 164              | 11-5-81        |
| 904 KAR 2:045E       | 278              | 9-16-81        | Amended        | 194              |                | 401 KAR 63:030 | 86               |                |
| Repealed             | 279              | 10-8-81        | Amended        | 343              | 11-5-81        | Withdrawn      |                  | 11-30-81       |
| 904 KAR 2:046E       | 279              | 10-8-81        | 201 KAR 20:057 | 33               | 8-5-81         | 405 KAR 30:010 | 87               |                |
| 904 KAR 2:081E       |                  |                | 201 KAR 20:070 |                  |                | Amended        | 460              |                |
| Repealed             | 622              | 2-1-82         | Amended        | 780              |                | 405 KAR 30:020 | 91               |                |
| 904 KAR 2:088E       | 144              | 8-4-81         | 201 KAR 20:110 |                  |                | Amended        | 465              |                |
| Repealed             | 421              | 1-6-82         | Amended        | 781              |                | 405 KAR 30:025 | 573              |                |
| 904 KAR 3:010E       | 280              | 9-30-81        | 201 KAR 23:030 |                  |                | 405 KAR 30:030 | 92               |                |
| 904 KAR 3:020E       | 282              | 9-30-81        | Amended        | 154              | 10-7-81        | Withdrawn      |                  | 12-13-81       |
| 904 KAR 3:030E       | 284              | 9-30-81        | 201 KAR 23:050 |                  |                | 405 KAR 30:035 | 574              |                |
| 904 KAR 3:035E       | 285              | 9-30-81        | Amended        | 155              | 10-7-81        | 405 KAR 30:040 | 93               |                |
| 904 KAR 3:040E       | 338              | 10-30-81       | 201 KAR 23:070 |                  |                | Amended        | 467              |                |
| Replaced             | 330              | 12-2-81        | Amended        | 155              | 12-2-81        | 405 KAR 30:050 | 575              |                |
| 904 KAR 3:045E       | 855              | 2-3-82         | 301 KAR 1:055  |                  |                | 405 KAR 30:060 | 94               |                |
| 904 KAR 3:050E       | 286              | 9-30-81        | Amended        | 323              | 12-2-81        | Amended        | 468              |                |
| 904 KAR 3:060E       | 146              | 7-16-81        | 301 KAR 1:075  |                  |                | 405 KAR 30:070 | 95               |                |
| Replaced             | 83               | 12-2-81        | Amended        | 502              |                | Amended        | 469              |                |
|                      |                  |                | Amended        | 858              | 2-1-82         | 405 KAR 30:080 | 96               |                |
| Regulation           | 8 Ky.R. Page No. | Effective Date | 301 KAR 1:145  |                  |                | 405 KAR 30:090 | 96               |                |
| 12 KAR 1:020         |                  |                | Amended        | 195              | 11-5-81        | Amended        | 470              |                |
| Amended              | 778              |                | 301 KAR 2:047  |                  |                | 405 KAR 30:100 | 97               |                |
| 12 KAR 1:105         |                  |                | Amended        | 4                | 6-3-81         | Amended        | 471              |                |
| Amended              | 778              |                | 301 KAR 2:085  |                  |                | 405 KAR 30:110 | 98               |                |
| 31 KAR 1:020         |                  |                | Repealed       | 209              | 11-5-81        | 405 KAR 30:120 | 98               |                |
| Amended              | 1                | 6-3-81         | 301 KAR 2:086  | 209              | 11-5-81        | Withdrawn      |                  | 12-14-81       |
| 45 KAR 1:010         |                  |                | 301 KAR 3:053  |                  |                | 405 KAR 30:121 | 576              |                |
| Repealed             | 341              | 11-5-81        | Amended        | 503              | 2-1-82         | 405 KAR 30:125 | 578              |                |
| 45 KAR 1:020         | 207              |                | 302 KAR 1:040  | 212              | 11-5-81        | 405 KAR 30:130 | 100              |                |
| Amended              | 341              | 11-5-81        | 302 KAR 1:050  | 213              | 11-5-81        | Amended        | 472              |                |
| 102 KAR 1:057        |                  |                | 302 KAR 20:010 |                  |                | Amended        | 873              | 2-1-82         |
| Amended              | 779              |                | Amended        | 157              | 10-7-81        | 405 KAR 30:140 | 105              |                |
| 102 KAR 1:190        | 784              |                | 302 KAR 20:110 | 784              |                | 405 KAR 30:150 | 106              |                |
|                      |                  |                | 302 KAR 20:120 | 785              |                | 405 KAR 30:160 | 106              |                |
|                      |                  |                |                |                  |                | Withdrawn      |                  | 12-13-81       |



## ADMINISTRATIVE REGISTER

| Regulation     | 8 Ky.R.<br>Page No. | Effective<br>Date | Regulation     | 8 Ky.R.<br>Page No. | Effective<br>Date | Regulation     | 8 Ky.R.<br>Page No. | Effective<br>Date |
|----------------|---------------------|-------------------|----------------|---------------------|-------------------|----------------|---------------------|-------------------|
| 405 KAR 30:170 | 108                 |                   | 704 KAR 3:280  |                     |                   | 804 KAR 6:010  |                     |                   |
| Amended        | 477                 |                   | Repealed       | 183                 | 11-5-81           | Amended        | 200                 | 12-2-81           |
| 405 KAR 30:180 | 109                 |                   | 704 KAR 3:281  | 183                 | 11-5-81           | 804 KAR 9:010  |                     |                   |
| 405 KAR 30:190 | 110                 |                   | 704 KAR 3:300  |                     |                   | Amended        | 18                  | 10-7-81           |
| Amended        | 478                 |                   | Repealed       | 137                 | 9-2-81            | 805 KAR 4:010  |                     |                   |
| 405 KAR 30:200 | 111                 |                   | 704 KAR 3:301  | 137                 | 9-2-81            | Amended        | 171                 |                   |
| 405 KAR 30:210 | 112                 |                   | 704 KAR 3:304  |                     |                   | Amended        | 287                 | 10-7-81           |
| Amended        | 479                 |                   | Amended        | 15                  | 8-5-81            | 805 KAR 5:010  |                     |                   |
| 405 KAR 30:220 | 113                 |                   | 704 KAR 4:010  |                     |                   | Amended        | 356                 | 1-6-82            |
| 405 KAR 30:230 | 114                 |                   | Amended        | 71                  | 9-2-81            | 806 KAR 2:020  |                     |                   |
| 405 KAR 30:240 | 114                 |                   | 704 KAR 4:020  |                     |                   | Amended        | 925                 |                   |
| 405 KAR 30:250 | 115                 |                   | Amended        | 15                  |                   | 806 KAR 9:011  | 954                 |                   |
| 405 KAR 30:260 | 117                 |                   | Withdrawn      |                     | 9-24-81           | 806 KAR 9:070  |                     |                   |
| 405 KAR 30:270 | 118                 |                   | 704 KAR 5:050  |                     |                   | Amended        | 926                 |                   |
| 405 KAR 30:280 | 119                 |                   | Amended        | 106                 |                   | 806 KAR 9:170  | 954                 |                   |
| Amended        | 480                 |                   | Withdrawn      |                     | 11-10-81          | 806 KAR 17:070 | 955                 |                   |
| 405 KAR 30:290 | 122                 |                   | Amended        | 349                 | 1-6-82            | 806 KAR 26:010 |                     |                   |
| Amended        | 483                 |                   | 704 KAR 10:022 |                     |                   | Amended        | 926                 |                   |
| 405 KAR 30:300 | 123                 |                   | Amended        | 17                  | 8-5-81            | 806 KAR 38:060 | 959                 |                   |
| 405 KAR 30:310 | 124                 |                   | Amended        | 918                 |                   | 807 KAR 5:001  | 786                 |                   |
| Amended        | 485                 |                   | 704 KAR 20:005 |                     |                   | 807 KAR 5:006  | 791                 |                   |
| 405 KAR 30:320 | 125                 |                   | Amended        | 17                  | 8-5-81            | Reprint        | 961                 |                   |
| Amended        | 486                 |                   | Amended        | 167                 | 10-7-81           | Amended        | 932                 |                   |
| 405 KAR 30:330 | 127                 |                   | 704 KAR 20:229 |                     |                   | 807 KAR 5:011  | 797                 |                   |
| Amended        | 488                 |                   | Amended        | 72                  | 9-2-81            | 807 KAR 5:016  | 802                 |                   |
| 405 KAR 30:340 | 128                 |                   | 704 KAR 20:230 |                     |                   | 807 KAR 5:021  | 803                 |                   |
| Amended        | 489                 |                   | Amended        | 72                  | 9-2-81            | 807 KAR 5:026  | 811                 |                   |
| 405 KAR 30:350 | 128                 |                   | 704 KAR 20:235 |                     |                   | 807 KAR 5:031  | 813                 |                   |
| 405 KAR 30:360 | 130                 |                   | Amended        | 73                  | 9-2-81            | 807 KAR 5:041  | 814                 |                   |
| Withdrawn      |                     | 12-14-81          | 704 KAR 20:245 |                     |                   | 807 KAR 5:046  | 821                 |                   |
| 405 KAR 30:370 | 130                 |                   | Amended        | 74                  | 9-2-81            | 807 KAR 5:051  | 822                 |                   |
| Withdrawn      |                     | 12-14-81          | 704 KAR 20:255 |                     |                   | 807 KAR 5:054  | 216                 |                   |
| 405 KAR 30:380 | 132                 |                   | Amended        | 75                  | 9-2-81            | Amended        | 837                 |                   |
| Withdrawn      |                     | 12-14-81          | 705 KAR 1:010  |                     |                   | 807 KAR 5:056  | 822                 |                   |
| 405 KAR 30:390 | 133                 |                   | Amended        | 18                  | 8-5-81            | 807 KAR 5:061  | 823                 |                   |
| Amended        | 489                 |                   | 705 KAR 7:020  |                     |                   | 807 KAR 5:066  | 828                 |                   |
| 405 KAR 30:400 | 134                 |                   | Amended        | 350                 |                   | 807 KAR 5:071  | 833                 |                   |
| Amended        | 490                 |                   | 707 KAR 1:090  | 952                 |                   | 807 KAR 5:076  | 835                 |                   |
| 405 KAR 30:410 | 136                 |                   | 707 KAR 1:100  | 953                 |                   | 808 KAR 1:060  |                     |                   |
| 601 KAR 1:010  |                     |                   | 723 KAR 1:005  |                     |                   | Amended        | 19                  | 8-5-81            |
| Repealed       | 12                  | 8-5-81            | Amended        | 522                 |                   | 808 KAR 1:080  | 34                  | 8-5-81            |
| 601 KAR 1:090  |                     |                   | 803 KAR 1:088  |                     |                   | 808 KAR 2:030  | 137                 | 9-2-81            |
| Amended        | 68                  | 9-2-81            | Repealed       | 196                 | 11-5-81           | 808 KAR 3:030  |                     |                   |
| Amended        | 917                 |                   | 803 KAR 1:090  |                     |                   | Amended        | 20                  | 8-5-81            |
| 601 KAR 20:070 |                     |                   | Amended        | 196                 | 11-5-81           | Amended        | 202                 | 11-5-81           |
| Amended        | 195                 |                   | 803 KAR 2:015  |                     |                   | 808 KAR 4:020  | 479                 |                   |
| Rejected       | 968                 | 2-1-82            | Amended        | 919                 |                   | 808 KAR 7:020  | 34                  |                   |
| 602 KAR 20:020 |                     |                   | 803 KAR 2:020  |                     |                   | Withdrawn      |                     | 8-5-81            |
| Amended        | 9                   | 8-5-81            | Amended        | 167                 | 10-7-81           | 808 KAR 7:030  | 183                 | 10-7-81           |
| 603 KAR 3:010  |                     |                   | Amended        | 350                 | 1-6-82            | 808 KAR 8:010  | 138                 | 9-2-81            |
| Amended        | 9                   |                   | Amended        | 921                 |                   | 808 KAR 10:010 |                     |                   |
| Withdrawn      |                     | 8-3-81            | 803 KAR 2:030  |                     |                   | Amended        | 523                 |                   |
| Amended        | 519                 |                   | Amended        | 354                 | 1-6-82            | Amended        | 879                 | 2-1-82            |
| 603 KAR 5:070  |                     |                   | 803 KAR 2:032  |                     |                   | 808 KAR 10:150 | 35                  |                   |
| Amended        | 12                  | 8-5-81            | Amended        | 171                 | 10-7-81           | Amended        | 149                 | 8-5-81            |
| Amended        | 782                 |                   | 804 KAR 1:010  |                     |                   | 808 KAR 10:160 | 183                 | 10-7-81           |
| 603 KAR 5:096  |                     |                   | Repealed       | 438                 | 12-2-81           | 808 KAR 10:170 | 184                 | 10-7-81           |
| Amended        | 348                 | 1-6-82            | 804 KAR 1:020  |                     |                   | 808 KAR 10:190 | 185                 | 10-7-81           |
| Amended        | 783                 |                   | Repealed       | 438                 | 12-2-81           | Amended        | 524                 | 2-1-82            |
| Amended        | 918                 |                   | 804 KAR 1:030  |                     |                   | 808 KAR 10:200 | 579                 |                   |
| 603 KAR 5:115  | 952                 |                   | Amended        | 198                 | 12-2-81           | 810 KAR 1:013  |                     |                   |
| 603 KAR 5:110  |                     |                   | 804 KAR 1:040  |                     |                   | Amended        | 202                 | 11-5-81           |
| Amended        | 13                  | 8-5-81            | Repealed       | 438                 | 12-2-81           | 810 KAR 1:018  |                     |                   |
| 702 KAR 4:010  |                     |                   | 804 KAR 1:100  | 214                 |                   | Amended        | 525                 |                   |
| Amended        | 324                 | 12-2-81           | Amended        | 437                 | 12-2-81           | 811 KAR 1:200  |                     |                   |
| 702 KAR 4:020  |                     |                   | 804 KAR 1:101  | 215                 |                   | Amended        | 204                 | 11-5-81           |
| Amended        | 324                 | 12-2-81           | Amended        | 438                 | 12-2-81           | 815 KAR 7:020  |                     |                   |
| 702 KAR 4:040  |                     |                   | 804 KAR 2:015  |                     |                   | Amended        | 356                 | 1-6-82            |
| Amended        | 325                 | 12-2-81           | Amended        | 199                 | 12-2-81           | 815 KAR 7:030  |                     |                   |
| 702 KAR 4:060  |                     |                   | 804 KAR 2:025  |                     |                   | Amended        | 359                 | 1-6-82            |
| Amended        | 326                 | 12-2-81           | Repealed       | 438                 | 12-2-81           | 815 KAR 7:050  |                     |                   |
| 702 KAR 4:070  |                     |                   | 804 KAR 3:070  |                     |                   | Amended        | 46                  |                   |
| Amended        | 328                 | 12-2-81           | Repealed       | 438                 | 12-2-81           | Amended        | 296                 |                   |
| 702 KAR 4:090  |                     |                   | 804 KAR 4:100  |                     |                   | Rejected       | 424                 | 11-5-81           |
| Amended        | 329                 | 12-2-81           | Amended        | 356                 | 1-6-82            | Resubmitted    |                     | 11-6-81           |
| 704 KAR 3:005  |                     |                   | 804 KAR 4:220  | 215                 |                   | Rejected       |                     | 11-29-81          |
| Amended        | 166                 | 10-7-81           | Amended        | 768                 | 1-6-82            | 815 KAR 20:030 |                     |                   |
| 704 KAR 3:025  |                     |                   | 804 KAR 5:060  |                     |                   | Rejected       | 333                 | 10-7-81           |
| Amended        | 69                  | 9-2-81            | Amended        | 199                 |                   | Amended        | 359                 |                   |
| 704 KAR 3:052  |                     |                   | Withdrawn      |                     | 9-15-81           | Rejected       | 840                 | 1-6-82            |
| Amended        | 71                  | 9-2-81            |                |                     |                   |                |                     |                   |



## ADMINISTRATIVE REGISTER

J5

| Regulation     | 8 Ky.R.<br>Page No. | Effective<br>Date | Regulation    | 8 Ky.R.<br>Page No. | Effective<br>Date | Regulation    | 8 Ky.R.<br>Page No. | Effective<br>Date |
|----------------|---------------------|-------------------|---------------|---------------------|-------------------|---------------|---------------------|-------------------|
| 815 KAR 20:060 |                     |                   | 904 KAR 1:003 |                     |                   | 904 KAR 3:030 |                     |                   |
| Amended        | 359                 | 1-6-82            | Amended       | 75                  | 9-2-81            | Amended       | 539                 | 2-1-82            |
| 815 KAR 20:070 |                     |                   | Replaced      | 263                 | 9-30-81           | 904 KAR 3:035 |                     |                   |
| Amended        | 361                 |                   | Repealed      | 335                 | 10-30-81          | Amended       | 82                  |                   |
| Amended        | 769                 | 1-6-82            | 904 KAR 1:004 |                     |                   | Amended       | 192                 | 9-2-81            |
| 815 KAR 20:130 |                     |                   | Amended       | 527                 | 2-1-82            | Replaced      | 285                 | 9-30-81           |
| Amended        | 362                 | 1-6-82            | 904 KAR 1:008 | 138                 | 9-2-81            | Amended       | 540                 | 2-1-82            |
| 815 KAR 20:160 |                     |                   | 904 KAR 1:010 |                     |                   | Amended       | 950                 |                   |
| Amended        | 365                 |                   | Amended       | 530                 |                   | 904 KAR 3:040 |                     |                   |
| Amended        | 770                 | 1-6-82            | Amended       | 879                 | 2-1-82            | Amended       | 330                 | 12-2-81           |
| 815 KAR 20:191 |                     |                   | 904 KAR 1:011 | 614                 | 2-1-82            | 904 KAR 3:045 | 959                 |                   |
| Amended        | 367                 | 1-6-82            | 904 KAR 1:012 |                     |                   | 904 KAR 3:050 |                     |                   |
| 815 KAR 25:020 |                     |                   | Amended       | 939                 |                   | Amended       | 541                 | 2-1-82            |
| Amended        | 287                 | 10-7-81           | 904 KAR 1:026 |                     |                   | 904 KAR 3:060 |                     |                   |
| 902 KAR 4:020  |                     |                   | Amended       | 531                 | 2-1-82            | Amended       | 83                  |                   |
| Amended        | 938                 |                   | 904 KAR 1:027 |                     |                   | Amended       | 438                 | 12-2-81           |
| 902 KAR 8:010  |                     |                   | Amended       | 532                 |                   | 904 KAR 3:070 |                     |                   |
| Amended        | 21                  |                   | Amended       | 880                 | 2-1-82            | Amended       | 371                 |                   |
| Rejected       | 187                 | 8-5-81            | 904 KAR 1:033 |                     |                   | Amended       | 774                 | 1-6-82            |
| Amended        | 191                 | 9-2-81            | Amended       | 29                  | 8-5-81            | 904 KAR 3:080 | 258                 | 11-5-81           |
| 902 KAR 13:030 |                     |                   | 904 KAR 1:040 |                     |                   | 904 KAR 5:240 | 423                 |                   |
| Amended        | 22                  | 8-5-81            | Amended       | 77                  | 9-2-81            | Amended       | 776                 | 1-6-82            |
| 902 KAR 20:006 |                     |                   | Replaced      | 272                 | 9-30-81           |               |                     |                   |
| Amended        | 22                  | 8-5-81            | Amended       | 533                 |                   |               |                     |                   |
| 902 KAR 20:008 | 218                 |                   | Amended       | 881                 | 2-1-82            |               |                     |                   |
| Amended        | 493                 | 2-1-82            | 904 KAR 1:044 |                     |                   |               |                     |                   |
| 902 KAR 20:009 | 580                 | 2-1-82            | Amended       | 205                 | 11-5-81           |               |                     |                   |
| 902 KAR 20:012 | 36                  |                   | 904 KAR 1:045 |                     |                   |               |                     |                   |
| Amended        | 150                 | 8-5-81            | Amended       | 534                 |                   |               |                     |                   |
| 902 KAR 20:016 | 596                 | 2-1-82            | Amended       | 882                 | 2-1-82            |               |                     |                   |
| 902 KAR 20:018 | 219                 | 11-5-81           | 904 KAR 1:049 |                     |                   |               |                     |                   |
| 902 KAR 20:020 |                     |                   | Amended       | 329                 | 12-2-81           |               |                     |                   |
| Repealed       | 376                 | 1-6-82            | 904 KAR 1:054 |                     |                   |               |                     |                   |
| 902 KAR 20:021 | 376                 | 1-6-82            | Amended       | 30                  | 8-5-81            |               |                     |                   |
| 902 KAR 20:026 | 383                 |                   | 904 KAR 1:080 | 257                 | 11-5-81           |               |                     |                   |
| Amended        | 885                 |                   | 904 KAR 1:082 | 257                 | 11-5-81           |               |                     |                   |
| 902 KAR 20:031 | 222                 | 11-5-81           | 904 KAR 1:084 | 258                 |                   |               |                     |                   |
| 902 KAR 20:036 | 227                 | 11-5-81           | Amended       | 346                 | 11-5-81           |               |                     |                   |
| 902 KAR 20:041 | 232                 | 11-5-81           | Amended       | 940                 |                   |               |                     |                   |
| 902 KAR 20:045 |                     |                   | 904 KAR 1:090 | 186                 |                   |               |                     |                   |
| Repealed       | 391                 | 1-6-82            | 904 KAR 2:005 |                     |                   |               |                     |                   |
| 902 KAR 20:046 | 391                 | 1-6-82            | Amended       | 151                 |                   |               |                     |                   |
| 902 KAR 20:048 | 398                 |                   | Withdrawn     |                     | 9-15-81           |               |                     |                   |
| Amended        | 892                 |                   | Repealed      | 432                 | 12-14-81          |               |                     |                   |
| 902 KAR 20:051 | 406                 |                   | 904 KAR 2:006 | 616                 | 2-1-82            |               |                     |                   |
| Amended        | 900                 |                   | Amended       | 941                 |                   |               |                     |                   |
| 902 KAR 20:054 | 604                 |                   | 904 KAR 2:007 | 618                 | 2-1-82            |               |                     |                   |
| Amended        | 906                 |                   | 904 KAR 2:008 |                     |                   |               |                     |                   |
| 902 KAR 20:056 | 234                 | 11-5-81           | Repealed      | 618                 | 2-1-82            |               |                     |                   |
| 902 KAR 20:058 | 412                 | 1-6-82            | 904 KAR 2:010 |                     |                   |               |                     |                   |
| 902 KAR 20:059 |                     |                   | Amended       | 31                  | 8-5-81            |               |                     |                   |
| Repealed       | 412                 | 1-6-82            | Repealed      | 434                 | 12-14-81          |               |                     |                   |
| 902 KAR 20:066 | 240                 | 11-5-81           | 904 KAR 2:016 | 618                 |                   |               |                     |                   |
| 902 KAR 20:077 |                     |                   | Withdrawn     |                     | 1-25-82           |               |                     |                   |
| Repealed       | 414                 | 1-6-82            | Amended       | 943                 |                   |               |                     |                   |
| 902 KAR 20:078 | 414                 | 1-6-82            | 904 KAR 2:020 |                     |                   |               |                     |                   |
| 902 KAR 20:081 | 243                 | 11-5-81           | Amended       | 946                 |                   |               |                     |                   |
| 902 KAR 20:086 | 606                 | 2-1-82            | 904 KAR 2:040 |                     |                   |               |                     |                   |
| 902 KAR 20:090 |                     |                   | Amended       | 948                 |                   |               |                     |                   |
| Repealed       | 418                 | 1-6-82            | 904 KAR 2:045 |                     |                   |               |                     |                   |
| 902 KAR 20:091 | 418                 | 1-6-82            | Repealed      | 279                 | 10-8-81           |               |                     |                   |
| 902 KAR 20:095 |                     |                   | 904 KAR 2:046 | 621                 | 2-1-82            |               |                     |                   |
| Repealed       | 418                 | 1-6-82            | 904 KAR 2:050 |                     |                   |               |                     |                   |
| 902 KAR 20:101 | 245                 | 11-5-81           | Amended       | 535                 | 2-1-82            |               |                     |                   |
| 902 KAR 20:106 | 251                 | 11-5-81           | 904 KAR 2:081 |                     |                   |               |                     |                   |
| 902 KAR 20:111 | 254                 | 11-5-81           | Repealed      | 622                 | 2-1-82            |               |                     |                   |
| 902 KAR 20:115 |                     |                   | 904 KAR 2:082 | 622                 | 2-1-82            |               |                     |                   |
| Amended        | 27                  |                   | 904 KAR 2:088 |                     |                   |               |                     |                   |
| Amended        | 320                 | 12-2-81           | Repealed      | 421                 | 1-6-82            |               |                     |                   |
| 902 KAR 20:120 | 36                  |                   | 904 KAR 2:100 | 421                 |                   |               |                     |                   |
| Amended        | 322                 | 12-2-81           | Amended       | 772                 | 1-6-82            |               |                     |                   |
| 902 KAR 20:135 | 255                 |                   | 904 KAR 3:010 |                     |                   |               |                     |                   |
| 902 KAR 20:140 | 255                 |                   | Amended       | 79                  | 9-2-81            |               |                     |                   |
| Amended        | 908                 |                   | Replaced      | 280                 | 9-30-81           |               |                     |                   |
| 902 KAR 20:145 | 420                 | 1-6-82            | Amended       | 535                 | 2-1-82            |               |                     |                   |
| 902 KAR 50:040 |                     |                   | Amended       | 949                 |                   |               |                     |                   |
| Amended        | 172                 |                   | 904 KAR 3:020 |                     |                   |               |                     |                   |
| Amended        | 343                 | 11-5-81           | Amended       | 80                  | 9-2-81            |               |                     |                   |
|                |                     |                   | Replaced      | 282                 | 9-30-81           |               |                     |                   |
|                |                     |                   | Amended       | 537                 | 2-1-82            |               |                     |                   |



| KRS Section      | Regulation   | KRS Section                              | Regulation   | KRS Section       | Regulation  |
|------------------|--|--|--|-------------------|---|
| 16.505 to 16.652 | 105 KAR 1:010<br>105 KAR 1:040<br>105 KAR 1:061<br>105 KAR 1:070<br>106 KAR 1:020                  | 150.370<br>150.390<br>150.440<br>150.445 | 301 KAR 2:047<br>301 KAR 3:053<br>301 KAR 1:075<br>301 KAR 1:075<br>301 KAR 1:145                        | 194.050           | 904 KAR 2:088E<br>904 KAR 2:100<br>904 KAR 3:010E<br>904 KAR 3:010<br>904 KAR 3:020E                  |
| 39.480           | 200 KAR 2:006E   | 150.450                                  | 301 KAR 1:145  |                   | 904 KAR 3:020   |
| Chapter 42       | 200 KAR 4:005  | 150.470                                  | 301 KAR 1:055  |                   | 904 KAR 3:030E  |
| 42.450           | 603 KAR 5:115  | 150.990                                  | 301 KAR 1:055  |                   | 904 KAR 3:030   |
| 42.455           | 200 KAR 4:005  | 151.100                                  | 405 KAR 30:350   |                   | 904 KAR 3:035E  |
| 42.495           | 45 KAR 1:020   | 151.250                                  | 405 KAR 30:020   |                   | 904 KAR 3:035   |
| 43.070           | 200 KAR 2:006E   |  | 405 KAR 30:330   |                   | 904 KAR 3:040E  |
| Chapter 44       | 108 KAR 1:010  | 156.070                                  | 704 KAR 5:050  |                   | 904 KAR 3:045   |
| 44.070           | 108 KAR 1:010  | 156.095                                  | 704 KAR 3:281  |                   | 904 KAR 3:050E  |
| 44.080           | 108 KAR 1:010  | 156.112                                  | 705 KAR 1:010  |                   | 904 KAR 3:050   |
| 44.086           | 108 KAR 1:010  | 156.160                                  | 702 KAR 4:040  |                   | 904 KAR 3:060   |
| 44.090           | 200 KAR 2:006E   |  | 702 KAR 4:060  |                   | 904 KAR 3:070   |
| Chapter 45       | 200 KAR 5:308E   |  | 702 KAR 4:070  |                   | 904 KAR 3:080   |
| Chapter 45A      | 200 KAR 6:035  |  | 702 KAR 4:090  | Chapter 198B      | 815 KAR 7:020   |
| Chapter 56       | 200 KAR 5:308  |  | 704 KAR 3:304  |                   | 815 KAR 7:030   |
| 61.510 to 61.702 | 105 KAR 1:010<br>105 KAR 1:040<br>105 KAR 1:061<br>105 KAR 1:070                                   | 156.485<br>157.312                       | 704 KAR 4:010<br>704 KAR 4:020<br>704 KAR 10:022<br>704 KAR 7:020  | 205.010           | 815 KAR 7:050<br>904 KAR 2:006E<br>904 KAR 2:006  |
| 61.870 to 61.884 | 405 KAR 30:021<br>405 KAR 30:150   | 157.315<br>157.320                       | 704 KAR 5:050<br>704 KAR 5:050   | 205.200           | 904 KAR 2:016<br>904 KAR 2:006E<br>904 KAR 2:006  |
| 64.810           | 45 KAR 1:020   | 157.320                                  | 704 KAR 3:052  |                   | 904 KAR 2:016E  |
| 78.510 to 78.852 | 105 KAR 1:010<br>105 KAR 1:040<br>105 KAR 1:061<br>105 KAR 1:070                                   | 157.360                                  | 704 KAR 3:025<br>704 KAR 3:052<br>704 KAR 3:301<br>704 KAR 5:050   |                   | 904 KAR 2:016<br>904 KAR 2:040E<br>904 KAR 2:040  |
| 116.045          | 31 KAR 1:020   | 157.420                                  | 702 KAR 4:010  |                   | 904 KAR 2:046E  |
| 117.085          | 31 KAR 1:020   | 158.030                                  | 704 KAR 5:050  |                   | 904 KAR 2:046   |
| 136.130          | 103 KAR 8:090  | 158.070                                  | 704 KAR 3:281  | 205.210           | 904 KAR 2:050   |
| 141.200          | 103 KAR 16:141   | 158.090                                  | 704 KAR 5:050  | 205.215           | 904 KAR 2:016   |
| 141.205          | 103 KAR 16:141   | 158.150                                  | 704 KAR 3:052  | 205.245           | 904 KAR 2:007   |
| 141.330          | 103 KAR 18:030   | 158.650 to 158.740                       | 704 KAR 3:005  |                   | 904 KAR 2:046E  |
| Chapter 143A     | 103 KAR 35:020E  | 160.476                                  | 702 KAR 4:090  | 205.520           | 904 KAR 2:046   |
| 150.010          | 301 KAR 1:075<br>301 KAR 1:145   | 161.020                                  | 704 KAR 20:005<br>704 KAR 20:229   |                   | 904 KAR 1:004E<br>904 KAR 1:004   |
| 150.025          | 301 KAR 1:055<br>301 KAR 1:075<br>301 KAR 1:145<br>301 KAR 2:047<br>301 KAR 2:086<br>301 KAR 3:053 | 161.025                                  | 704 KAR 20:230<br>704 KAR 20:235<br>704 KAR 20:245<br>704 KAR 20:255<br>704 KAR 20:005<br>704 KAR 20:229 |                   | 904 KAR 1:008<br>904 KAR 1:011E<br>904 KAR 1:011<br>904 KAR 1:012<br>904 KAR 1:022E<br>904 KAR 1:024E |
| 150.120          | 301 KAR 1:145  |  | 704 KAR 20:230   |                   | 904 KAR 1:026E  |
| 150.170          | 301 KAR 1:075<br>301 KAR 1:145<br>301 KAR 2:047<br>301 KAR 2:086                                   | 161.030                                  | 704 KAR 20:235<br>704 KAR 20:245<br>704 KAR 20:255<br>704 KAR 20:005<br>704 KAR 20:229                   |                   | 904 KAR 1:026<br>904 KAR 1:027E<br>904 KAR 1:027<br>904 KAR 1:040<br>904 KAR 1:044                    |
| 150.175          | 301 KAR 1:075<br>301 KAR 1:145<br>301 KAR 2:047<br>301 KAR 2:086<br>301 KAR 3:053                  |  | 704 KAR 20:005<br>704 KAR 20:229<br>704 KAR 20:230<br>704 KAR 20:235<br>704 KAR 20:245<br>704 KAR 20:255 |                   | 904 KAR 1:049<br>904 KAR 1:054<br>904 KAR 1:080<br>904 KAR 1:082<br>904 KAR 1:084                     |
| 150.176          | 301 KAR 2:047  | 161.430                                  | 704 KAR 20:235<br>704 KAR 20:245<br>704 KAR 20:255   | 205.550           | 904 KAR 1:084<br>904 KAR 1:010E   |
| 150.235          | 301 KAR 3:053  | 161.507                                  | 102 KAR 1:190  |                   | 904 KAR 1:020E  |
| 150.300          | 301 KAR 1:075  | 161.560                                  | 102 KAR 1:057  | 205.560           | 904 KAR 1:010E  |
| 150.305          | 301 KAR 2:086  | 162.010                                  | 102 KAR 1:195  |                   | 904 KAR 1:010   |
|                  | 301 KAR 2:046E   | 162.060                                  | 702 KAR 4:090  |                   | 904 KAR 1:020E  |
|                  | 301 KAR 2:046E   |  | 702 KAR 4:020  | 205.795           | 904 KAR 2:020   |
|                  | 301 KAR 2:086  |  | 702 KAR 4:040  | 205.810           | 904 KAR 2:082   |
| 160.320          | 301 KAR 2:086  |  | 702 KAR 4:060  | 211.180           | 902 KAR 4:020   |
| 160.330          | 301 KAR 3:053  | 162.070                                  | 702 KAR 4:070  | 211.960 211.968   | 902 KAR 14:006E   |
|                  | 301 KAR 2:047  |  | 705 KAR 1:010  |                   | 902 KAR 14:015E   |
|                  | 301 KAR 2:046E   | 163.020                                  | 705 KAR 1:010  | 211.960 211.968   | 902 KAR 13:030  |
|                  | 301 KAR 2:086  | 163.030                                  | 707 KAR 1:090  | 211.990           | 902 KAR 13:030  |
| 150.340          | 301 KAR 3:053  | 167.150                                  | 707 KAR 1:100  | Chapter 212       | 902 KAR 8:010   |
|                  | 301 KAR 1:075  |  | 707 KAR 1:090  | 216B.010-216B.130 | 902 KAR 20:006  |
|                  | 301 KAR 2:047  | 167.170                                  | 603 KAR 3:010  |                   | 902 KAR 20:007E   |
|                  | 301 KAR 2:046E   | 177.830-177.890                          | 602 KAR 20:020   |                   | 902 KAR 20:008  |
|                  | 301 KAR 2:086  |  | 603 KAR 5:070  |                   | 902 KAR 20:009  |
| 150.360          | 301 KAR 3:053  | 183.090                                  | 603 KAR 5:096  |                   | 902 KAR 20:010E   |
|                  | 301 KAR 2:047  | 189.222                                  | 603 KAR 5:110E   |                   | 902 KAR 20:012  |
|                  | 301 KAR 2:046E   |  | 601 KAR 20:070   |                   | 902 KAR 20:015E   |
| 150.365          | 301 KAR 2:086  | 189.270                                  | 601 KAR 20:070   |                   | 902 KAR 20:016  |
|                  | 301 KAR 3:053  | 190.030<br>190.035                       |  |                   |   |



| KRS Section          | Regulation         | KRS Section          | Regulation      | KRS Section        | Regulation      |
|----------------------|--------------------|----------------------|-----------------|--------------------|-----------------|
| 216B.010-216B.130    | 902 KAR 20:018     | 216B.990             | 902 KAR 20:140  | 244.130            | 804 KAR 1:030   |
|                      | 902 KAR 20:020E    |                      | 902 KAR 20:145  |                    | 804 KAR 1:100   |
|                      | 902 KAR 20:021     | 217.814 to 217.894   | 904 KAR 1:090   |                    | 804 KAR 2:015   |
|                      | 902 KAR 20:025E    | 217.990              | 904 KAR 1:090   | Chapter 246        | 302 KAR 20:010  |
|                      | 902 KAR 20:026     | 217C.010 to 217C.990 | 902 KAR 50:040  | 247.145            | 303 KAR 1:100E  |
|                      | 902 KAR 20:031     | Chapter 224          | 401 KAR 51:018E | 247.450 to 247.505 | 302 KAR 1:040   |
|                      | 902 KAR 20:036     |                      | 401 KAR 51:051E |                    | 302 KAR 1:050   |
|                      | 902 KAR 20:041     |                      | 401 KAR 51:105  | 250.020 to 250.170 | 12 KAR 1:020    |
|                      | 902 KAR 20:045E    |                      | 401 KAR 59:210  |                    | 12 KAR 1:105    |
|                      | 902 KAR 20:046     |                      | 401 KAR 59:212  | Chapter 257        | 302 KAR 20:010  |
|                      | 902 KAR 20:047E    |                      | 401 KAR 61:035  | 257.030            | 302 KAR 20:120E |
|                      | 902 KAR 20:048     |                      | 401 KAR 61:120  |                    | 302 KAR 20:120  |
|                      | 902 KAR 20:050E    |                      | 401 KAR 61:122  | 257.070            | 302 KAR 20:110E |
|                      | 902 KAR 20:051     |                      | 401 KAR 61:132  |                    | 302 KAR 20:110  |
|                      | 902 KAR 20:054     |                      | 401 KAR 61:165  | Chapter 278        | 807 KAR 5:001E  |
|                      | 902 KAR 20:056     |                      | 401 KAR 63:030  |                    | 807 KAR 5:001   |
|                      | 902 KAR 20:057E    | 224.033              | 401 KAR 2:050   |                    | 807 KAR 5:006E  |
|                      | 902 KAR 20:058     |                      | 401 KAR 2:055   |                    | 807 KAR 5:006   |
|                      | 902 KAR 20:059E    |                      | 401 KAR 2:060   |                    | 807 KAR 5:011E  |
|                      | 902 KAR 20:066     |                      | 401 KAR 2:063   |                    | 807 KAR 5:011   |
|                      | 902 KAR 20:070E    |                      | 405 KAR 7:090E  |                    | 807 KAR 5:016E  |
|                      | 902 KAR 20:075E    |                      | 405 KAR 16:170E |                    | 807 KAR 5:016   |
|                      | 902 KAR 20:077E    |                      | 405 KAR 18:170E |                    | 807 KAR 5:026E  |
|                      | 902 KAR 20:078     | 224.071              | 401 KAR 2:070   |                    | 807 KAR 5:026   |
|                      | 902 KAR 20:081     | 224.081              | 405 KAR 7:090E  |                    | 807 KAR 5:031E  |
|                      | 902 KAR 20:085E    | 224.083              | 405 KAR 7:090E  |                    | 807 KAR 5:031   |
|                      | 902 KAR 20:090E    | 224.087              | 401 KAR 2:060   |                    | 807 KAR 5:036E  |
|                      | 902 KAR 20:091     | 224.091              | 405 KAR 30:170  |                    | 807 KAR 5:041E  |
|                      | 902 KAR 20:095E    | 224.250              | 401 KAR 2:055   |                    | 807 KAR 5:041   |
|                      | 902 KAR 20:101     | 224.255              | 401 KAR 2:050   |                    | 807 KAR 5:046E  |
|                      | 902 KAR 20:106     |                      | 401 KAR 2:055   |                    | 807 KAR 5:046   |
|                      | 902 KAR 20:111     |                      | 401 KAR 2:090   |                    | 807 KAR 5:051E  |
|                      | 902 KAR 20:115     |                      | 401 KAR 2:095   |                    | 807 KAR 5:051   |
|                      | 902 KAR 20:120     |                      | 401 KAR 2:101   |                    | 807 KAR 5:054E  |
|                      | 902 KAR 20:135     |                      | 401 KAR 2:060   |                    | 807 KAR 5:054   |
|                      | 902 KAR 20:140     |                      | 401 KAR 2:063   |                    | 807 KAR 5:056E  |
|                      | 902 KAR 20:145     |                      | 401 KAR 2:070   |                    | 807 KAR 5:056   |
|                      | 902 KAR 20:012     |                      | 401 KAR 2:073   |                    | 807 KAR 5:061E  |
|                      | 902 KAR 20:006     | 224.855              | 401 KAR 2:060   |                    | 807 KAR 5:061   |
|                      | 902 KAR 20:007E    |                      | 401 KAR 2:063   |                    | 807 KAR 5:066E  |
|                      | 902 KAR 20:008     |                      | 401 KAR 2:073   |                    | 807 KAR 5:066   |
|                      | 902 KAR 20:009     |                      | 401 KAR 2:090   |                    | 807 KAR 5:071E  |
|                      | 902 KAR 20:010E    |                      | 401 KAR 2:095   |                    | 807 KAR 5:071   |
|                      | 902 KAR 20:012     |                      | 401 KAR 2:101   |                    | 807 KAR 5:076   |
|                      | 902 KAR 20:015E    |                      | 401 KAR 2:105   | 278.485            | 807 KAR 5:021E  |
| 902 KAR 20:016       | 224.855 to 224.884 | 401 KAR 2:050        |                 | 807 KAR 5:021      |                 |
| 902 KAR 20:018       | 224.855 to 224.889 | 401 KAR 2:055        | 278.502         | 807 KAR 5:021E     |                 |
| 902 KAR 20:020E      | 224.860            | 401 KAR 2:060        |                 | 807 KAR 5:021      |                 |
| 902 KAR 20:021       |                    | 401 KAR 2:063        | Chapter 281     | 601 KAR 1:090      |                 |
| 902 KAR 20:025E      | 224.864            | 401 KAR 2:073        | 287.100         | 808 KAR 1:080      |                 |
| 902 KAR 20:026       | 224.866            | 401 KAR 2:060        | 287.103         | 808 KAR 1:080      |                 |
| 902 KAR 20:031       |                    | 401 KAR 2:070        | 287.180         | 808 KAR 1:060      |                 |
| 902 KAR 20:036       |                    | 401 KAR 2:073        | 289.061         | 808 KAR 1:060      |                 |
| 902 KAR 20:041       | 224.868            | 401 KAR 2:073        | 289.081         | 808 KAR 7:020      |                 |
| 902 KAR 20:045E      | 224.876            | 401 KAR 2:073        |                 | 808 KAR 7:030      |                 |
| 902 KAR 20:046       | 224.880            | 401 KAR 2:060        | 289.291         | 808 KAR 7:020      |                 |
| 902 KAR 20:047E      |                    | 401 KAR 2:063        |                 | 808 KAR 7:030      |                 |
| 902 KAR 20:048       |                    | 401 KAR 2:090        | 289.441         | 808 KAR 7:020      |                 |
| 902 KAR 20:050E      |                    | 401 KAR 2:095        |                 | 808 KAR 7:030      |                 |
| 902 KAR 20:051       |                    | 401 KAR 2:101        | 289.451         | 808 KAR 7:020      |                 |
| 902 KAR 20:054       |                    | 401 KAR 2:111        |                 | 808 KAR 7:030      |                 |
| 902 KAR 20:056       | 224.882            | 401 KAR 2:111        | 290.020         | 808 KAR 1:080      |                 |
| 902 KAR 20:057E      | 224.884            | 401 KAR 2:090        | 290.100         | 808 KAR 3:030      |                 |
| 902 KAR 20:058       |                    | 401 KAR 2:105        | Chapter 292     | 808 KAR 10:010     |                 |
| 902 KAR 20:059E      | 224.890            | 401 KAR 2:063        |                 | 808 KAR 10:160     |                 |
| 902 KAR 20:066       | 227.480            | 815 KAR 7:030        | 292.330         | 808 KAR 10:200     |                 |
| 902 KAR 20:070E      | 230.210 to 230.360 | 810 KAR 1:013        | 292.400         | 808 KAR 10:170     |                 |
| 902 KAR 20:075E      |                    | 810 KAR 1:018        | 292.410         | 808 KAR 10:150     |                 |
| 902 KAR 20:077E      | 230.270            | 811 KAR 1:200        |                 | 808 KAR 10:190     |                 |
| 902 KAR 20:078       | 241.060            | 804 KAR 6:010        | 304.2-080       | 806 KAR 2:020      |                 |
| 902 KAR 20:081       |                    | 804 KAR 9:010        | 304.9-080       | 806 KAR 9:011      |                 |
| 902 KAR 20:085E      | 241.065            | 804 KAR 6:010        | 304.9-160       | 806 KAR 9:070      |                 |
| 902 KAR 20:086       |                    | 804 KAR 9:010        |                 | 806 KAR 9:170      |                 |
| 902 KAR 20:090E      | 241.075            | 804 KAR 9:010        | 304.9-190       | 806 KAR 9:070      |                 |
| 902 KAR 20:091       | 243.020            | 804 KAR 4:100        | 304.9-200       | 806 KAR 9:011      |                 |
| 902 KAR 20:095E      | 243.030            | 804 KAR 4:100        | 304.9-320       | 806 KAR 9:070      |                 |
| 902 KAR 20:101       |                    | 804 KAR 4:220        |                 | 806 KAR 9:170      |                 |
| 902 KAR 20:106       |                    | 804 KAR 9:010        | 304.9-390       | 806 KAR 9:011      |                 |
| 902 KAR 20:111       | 243.040            | 804 KAR 4:100        | 304.9-430       | 806 KAR 9:070      |                 |
| 902 KAR 20:115       |                    | 804 KAR 4:220        |                 | 806 KAR 9:170      |                 |
| 902 KAR 20:120       | 243.550            | 804 KAR 6:010        | 304.14-120      | 806 KAR 17:070     |                 |
| 902 KAR 20:135       | 244.120            | 804 KAR 5:060        | 304.14-130      | 806 KAR 17:070     |                 |
| 216B.400<br>216B.990 |                    |                      |                 |                    |                 |
|                      |                    |                      |                 |                    |                 |



## ADMINISTRATIVE REGISTER

| KRS Section        | Regulation      | KRS Section | Regulation      | KRS Section | Regulation      |
|--------------------|-----------------|-------------|-----------------|-------------|-----------------|
| 304.17-380         | 806 KAR 17:070  | 350.028     | 405 KAR 7:030E  | 350.093     | 405 KAR 16:200E |
| 304.17-400         | 806 KAR 17:070  |             | 405 KAR 7:060E  |             | 405 KAR 16:210E |
| 304.26-050         | 806 KAR 26:010  |             | 405 KAR 7:090E  |             | 405 KAR 18:010E |
| 304.38-180         | 806 KAR 38:060  |             | 405 KAR 12:010E |             | 405 KAR 18:020E |
| 307.120            | 808 KAR 2:030   |             | 405 KAR 12:020E |             | 405 KAR 18:190E |
| 307.130            | 808 KAR 2:030   |             | 405 KAR 12:030E |             | 405 KAR 18:200E |
| 307.140            | 808 KAR 2:030   |             | 405 KAR 16:180E |             | 405 KAR 18:220E |
| 311.630 to 311.620 | 201 KAR 9:095   |             | 405 KAR 16:220E |             | 405 KAR 20:020E |
| 311.990            | 201 KAR 9:095   |             | 405 KAR 16:250E |             | 405 KAR 20:060E |
| 314.011            | 201 KAR 20:057  |             | 405 KAR 18:180E | 350.095     | 405 KAR 10:020E |
| 314.041            | 201 KAR 20:070  |             | 405 KAR 18:210E |             | 405 KAR 10:050E |
|                    | 201 KAR 20:110  |             | 405 KAR 18:230E |             | 405 KAR 16:200E |
| 314.051            | 201 KAR 20:070  |             | 405 KAR 18:260E |             | 405 KAR 16:210E |
|                    | 201 KAR 20:110  |             | 405 KAR 20:030E |             | 405 KAR 18:200E |
| 314.193            | 201 KAR 20:057  |             | 405 KAR 20:050E |             | 405 KAR 18:220E |
| 316.360            | 808 KAR 8:010   | 350.050     | 405 KAR 7:040E  | 350.100     | 405 KAR 1:005E  |
| Chapter 315        | 201 KAR 2:050   |             | 405 KAR 12:010E |             | 405 KAR 10:030E |
| Chapter 318        | 815 KAR 20:030  |             | 405 KAR 12:020E |             | 405 KAR 16:020E |
|                    | 815 KAR 20:060  |             | 405 KAR 12:030E |             | 405 KAR 16:060E |
|                    | 815 KAR 20:070  | 350.055     | 405 KAR 8:010E  |             | 405 KAR 16:070E |
|                    | 815 KAR 20:130  | 350.057     | 405 KAR 7:030E  |             | 405 KAR 16:080E |
|                    | 815 KAR 20:160  |             | 405 KAR 7:040E  |             | 405 KAR 16:090E |
|                    | 815 KAR 20:191  |             | 405 KAR 8:020E  |             | 405 KAR 16:100E |
| 321.220            | 201 KAR 16:020  |             | 405 KAR 20:010E |             | 405 KAR 16:110E |
| 321.260            | 201 KAR 16:020  | 350.060     | 405 KAR 1:005E  |             | 405 KAR 16:190E |
|                    | 201 KAR 16:030  |             | 405 KAR 3:005E  |             | 405 KAR 16:200E |
| 321.270            | 201 KAR 16:020  |             | 405 KAR 7:030E  |             | 405 KAR 16:210E |
| 321.330            | 201 KAR 16:030  |             | 405 KAR 7:040E  |             | 405 KAR 18:020E |
| 321.440            | 201 KAR 16:040  |             | 405 KAR 8:010E  |             | 405 KAR 18:060E |
| 321.450            | 201 KAR 16:040  |             | 405 KAR 8:030E  |             | 405 KAR 18:070E |
| Chapter 322        | 201 KAR 18:040  |             | 405 KAR 8:040E  |             | 405 KAR 18:080E |
| 324.045            | 201 KAR 11:016  |             | 405 KAR 10:010E |             | 405 KAR 18:090E |
| 324.160            | 201 KAR 11:045  |             | 405 KAR 10:020E |             | 405 KAR 18:100E |
| 325.265            | 201 KAR 1:045   |             | 405 KAR 10:030E |             | 405 KAR 18:110E |
| 325.270            | 201 KAR 1:045   |             | 405 KAR 10:040E |             | 405 KAR 18:190E |
| 335.010 to 335.150 | 201 KAR 23:030  |             | 405 KAR 10:050E |             | 405 KAR 18:200E |
| 335.010 to 335.160 | 201 KAR 23:050  | 350.062     | 405 KAR 10:010E |             | 405 KAR 18:220E |
| 335.080            | 201 KAR 23:070  |             | 405 KAR 16:020E |             | 405 KAR 20:040E |
| 335.100            | 201 KAR 23:070  |             | 405 KAR 16:050E | 350.110     | 405 KAR 20:060E |
| 335.990            | 201 KAR 23:050  | 350.064     | 405 KAR 10:010E |             | 405 KAR 10:020E |
|                    | 201 KAR 23:070  |             | 405 KAR 10:020E |             | 405 KAR 10:030E |
| 337.275            | 803 KAR 1:090   |             | 405 KAR 10:030E |             | 405 KAR 10:040E |
| 337.285            | 803 KAR 1:090   |             | 405 KAR 10:040E |             | 405 KAR 10:050E |
| Chapter 338        | 803 KAR 2:015   |             | 405 KAR 10:050E |             | 405 KAR 16:020E |
|                    | 803 KAR 2:020   | 350.070     | 405 KAR 1:005E  | 350.113     | 405 KAR 10:040E |
|                    | 803 KAR 2:032   |             | 405 KAR 3:005E  |             | 405 KAR 12:010E |
| 341.710            | 904 KAR 5:240   |             | 405 KAR 7:090E  |             | 405 KAR 12:020E |
| Chapter 350        | 405 KAR 7:020E  |             | 405 KAR 8:010E  | 350.130     | 405 KAR 1:005E  |
| 350.010            | 405 KAR 7:030E  | 350.085     | 405 KAR 1:005E  |             | 405 KAR 3:005E  |
|                    | 405 KAR 20:030E |             | 405 KAR 3:005E  |             | 405 KAR 7:090E  |
|                    | 405 KAR 20:050E |             | 405 KAR 8:010E  |             | 405 KAR 8:010E  |
|                    | 405 KAR 20:070E |             | 405 KAR 12:010E |             | 405 KAR 10:050E |
|                    | 405 KAR 20:080E |             | 405 KAR 12:020E |             | 405 KAR 12:010E |
| 350.020            | 405 KAR 7:060E  |             | 405 KAR 16:080E |             | 405 KAR 12:020E |
|                    | 405 KAR 8:010E  |             | 405 KAR 16:220E | 350.133     | 405 KAR 20:050E |
|                    | 405 KAR 10:010E |             | 405 KAR 18:080E | 350.135     | 405 KAR 1:005E  |
|                    | 405 KAR 10:020E |             | 405 KAR 18:230E |             | 405 KAR 3:005E  |
|                    | 405 KAR 10:030E | 350.090     | 405 KAR 1:005E  |             | 405 KAR 8:010E  |
|                    | 405 KAR 10:050E |             | 405 KAR 3:005E  | 350.151     | 405 KAR 3:005E  |
|                    | 405 KAR 12:010E |             | 405 KAR 7:090E  |             | 405 KAR 7:030E  |
|                    | 405 KAR 12:020E |             | 405 KAR 8:010E  |             | 405 KAR 8:040E  |
|                    | 405 KAR 12:030E |             | 405 KAR 16:010E |             | 405 KAR 10:010E |
|                    | 405 KAR 16:010E |             | 405 KAR 16:070E |             | 405 KAR 10:040E |
|                    | 405 KAR 16:070E |             | 405 KAR 16:130E |             | 405 KAR 10:050E |
|                    | 405 KAR 16:090E |             | 405 KAR 16:150E |             | 405 KAR 12:010E |
|                    | 405 KAR 16:150E |             | 405 KAR 18:010E |             | 405 KAR 12:020E |
|                    | 405 KAR 16:170E |             | 405 KAR 18:070E |             | 405 KAR 16:010E |
|                    | 405 KAR 16:180E |             | 405 KAR 18:130E |             | 405 KAR 16:250E |
|                    | 405 KAR 16:190E |             | 405 KAR 18:150E |             | 405 KAR 18:010E |
|                    | 405 KAR 16:220E |             | 405 KAR 20:030E |             | 405 KAR 18:020E |
|                    | 405 KAR 16:250E |             | 405 KAR 20:060E |             | 405 KAR 18:030E |
|                    | 405 KAR 18:010E | 350.093     | 405 KAR 1:005E  |             | 405 KAR 18:040E |
|                    | 405 KAR 18:070E |             | 405 KAR 3:005E  |             | 405 KAR 18:050E |
|                    | 405 KAR 18:090E |             | 405 KAR 7:090E  |             | 405 KAR 18:060E |
|                    | 405 KAR 18:150E |             | 405 KAR 8:050E  |             | 405 KAR 18:070E |
|                    | 405 KAR 18:170E |             | 405 KAR 10:020E |             | 405 KAR 18:080E |
|                    | 405 KAR 18:180E |             | 405 KAR 10:040E |             | 405 KAR 18:090E |
|                    | 405 KAR 18:190E |             | 405 KAR 10:050E |             | 405 KAR 18:100E |
|                    | 405 KAR 18:210E |             | 405 KAR 16:010E |             | 405 KAR 18:110E |
|                    | 405 KAR 18:230E |             | 405 KAR 16:020E |             | 405 KAR 18:120E |
|                    | 405 KAR 18:260E |             | 405 KAR 16:190E |             | 405 KAR 18:130E |



## ADMINISTRATIVE REGISTER

J9

| KRS Section        | Regulation      | KRS Section | Regulation      | KRS Section        | Regulation      |
|--------------------|-----------------|-------------|-----------------|--------------------|-----------------|
| 350.151            | 405 KAR 18:140E | 350.420     | 405 KAR 18:100E | 350.465            | 405 KAR 18:040E |
|                    | 405 KAR 18:150E |             | 405 KAR 18:110E |                    | 405 KAR 18:050E |
|                    | 405 KAR 18:160E |             | 405 KAR 18:140E |                    | 405 KAR 18:060E |
|                    | 405 KAR 18:170E |             | 405 KAR 18:200E |                    | 405 KAR 18:070E |
|                    | 405 KAR 18:180E |             | 405 KAR 20:030E |                    | 405 KAR 18:080E |
|                    | 405 KAR 18:190E | 350.421     | 405 KAR 16:060E |                    | 405 KAR 18:090E |
|                    | 405 KAR 18:200E |             | 405 KAR 18:060E |                    | 405 KAR 18:100E |
|                    | 405 KAR 18:210E | 350.425     | 405 KAR 16:160E |                    | 405 KAR 18:110E |
|                    | 405 KAR 18:220E |             | 405 KAR 18:160E |                    | 405 KAR 18:130E |
|                    | 405 KAR 18:230E | 350.430     | 405 KAR 16:030E |                    | 405 KAR 18:140E |
|                    | 405 KAR 18:260E |             | 405 KAR 16:120E |                    | 405 KAR 18:150E |
|                    | 405 KAR 20:020E |             | 405 KAR 18:030E |                    | 405 KAR 18:170E |
|                    | 405 KAR 20:070E |             | 405 KAR 18:120E |                    | 405 KAR 18:180E |
|                    | 405 KAR 20:080E | 350.435     | 405 KAR 16:020E |                    | 405 KAR 18:190E |
| 350.200            | 405 KAR 1:005E  |             | 405 KAR 16:180E |                    | 405 KAR 18:200E |
|                    | 405 KAR 3:006E  |             | 405 KAR 16:200E |                    | 405 KAR 18:210E |
|                    | 405 KAR 16:030E |             | 405 KAR 18:180E |                    | 405 KAR 18:220E |
|                    | 405 KAR 18:030E |             | 405 KAR 18:200E |                    | 405 KAR 18:230E |
| 350.210            | 405 KAR 1:005E  | 350.440     | 405 KAR 16:010E |                    | 405 KAR 18:260E |
|                    | 405 KAR 3:005E  |             | 405 KAR 16:060E |                    | 405 KAR 20:010E |
| 350.220            | 405 KAR 1:005E  |             | 405 KAR 16:130E |                    | 405 KAR 20:020E |
|                    | 405 KAR 3:005E  |             | 405 KAR 18:010E |                    | 405 KAR 20:030E |
| 350.250            | 405 KAR 7:100E  |             | 405 KAR 18:060E |                    | 405 KAR 20:040E |
|                    | 405 KAR 30:170  |             | 405 KAR 18:130E |                    | 405 KAR 20:050E |
| 350.255            | 405 KAR 7:090E  | 350.445     | 405 KAR 8:050E  |                    | 405 KAR 20:060E |
|                    | 405 KAR 7:110E  |             | 405 KAR 16:010E |                    | 405 KAR 20:070E |
|                    | 405 KAR 30:180  |             | 405 KAR 20:060E |                    | 405 KAR 20:080E |
| 350.405            | 405 KAR 16:010E | 350.450     | 405 KAR 3:005E  |                    | 405 KAR 24:020E |
|                    | 405 KAR 16:020E |             | 405 KAR 7:040E  |                    | 405 KAR 24:030E |
|                    | 405 KAR 16:050E |             | 405 KAR 8:010E  |                    | 405 KAR 24:040E |
|                    | 405 KAR 16:070E |             | 405 KAR 8:050E  | 350.600            | 405 KAR 30:010  |
|                    | 405 KAR 16:080E |             | 405 KAR 16:010E |                    | 405 KAR 30:020  |
|                    | 405 KAR 16:110E |             | 405 KAR 16:020E |                    | 405 KAR 30:025  |
|                    | 405 KAR 16:180E |             | 405 KAR 16:190E |                    | 405 KAR 30:035  |
|                    | 405 KAR 16:190E |             | 405 KAR 16:210E |                    | 405 KAR 30:040  |
|                    | 405 KAR 16:200E |             | 405 KAR 18:190E |                    | 405 KAR 30:050  |
|                    | 405 KAR 16:210E |             | 405 KAR 18:220E |                    | 405 KAR 30:060  |
|                    | 405 KAR 18:020E |             | 405 KAR 20:040E |                    | 405 KAR 30:070  |
|                    | 405 KAR 18:050E |             | 405 KAR 20:050E |                    | 405 KAR 30:080  |
|                    | 405 KAR 18:070E | 350.455     | 405 KAR 3:005E  |                    | 405 KAR 30:090  |
|                    | 405 KAR 18:080E |             | 405 KAR 16:100E |                    | 405 KAR 30:100  |
|                    | 405 KAR 18:110E |             | 405 KAR 18:100E |                    | 405 KAR 30:110  |
|                    | 405 KAR 18:180E | 350.465     | 405 KAR 1:005E  |                    | 405 KAR 30:121  |
|                    | 405 KAR 18:190E |             | 405 KAR 3:005E  |                    | 405 KAR 30:125  |
|                    | 405 KAR 18:200E |             | 405 KAR 7:030E  |                    | 405 KAR 30:130  |
|                    | 405 KAR 20:040E |             | 405 KAR 7:060E  |                    | 405 KAR 30:140  |
|                    | 405 KAR 20:050E |             | 405 KAR 7:080E  |                    | 405 KAR 30:150  |
|                    | 405 KAR 20:060E |             | 405 KAR 7:090E  |                    | 405 KAR 30:170  |
| 350.405 to 350.440 | 405 KAR 3:005E  |             | 405 KAR 8:010E  |                    | 405 KAR 30:180  |
| 350.405 to 350.455 | 405 KAR 1:005E  |             | 405 KAR 8:030E  |                    | 405 KAR 30:190  |
| 350.410            | 405 KAR 7:040E  |             | 405 KAR 8:050E  |                    | 405 KAR 30:200  |
|                    | 405 KAR 16:010E |             | 405 KAR 10:010E |                    | 405 KAR 30:210  |
|                    | 405 KAR 16:020E |             | 405 KAR 10:020E |                    | 405 KAR 30:220  |
|                    | 405 KAR 16:060E |             | 405 KAR 10:030E |                    | 405 KAR 30:230  |
|                    | 405 KAR 16:130E |             | 405 KAR 10:040E |                    | 405 KAR 30:240  |
|                    | 405 KAR 16:140E |             | 405 KAR 10:050E |                    | 405 KAR 30:250  |
|                    | 405 KAR 16:190E |             | 405 KAR 12:010E |                    | 405 KAR 30:260  |
|                    | 405 KAR 16:200E |             | 405 KAR 12:020E |                    | 405 KAR 30:270  |
|                    | 405 KAR 16:210E |             | 405 KAR 12:030E |                    | 405 KAR 30:280  |
|                    | 405 KAR 18:010E |             | 405 KAR 16:010E |                    | 405 KAR 30:290  |
|                    | 405 KAR 18:130E |             | 405 KAR 16:020E |                    | 405 KAR 30:300  |
|                    | 405 KAR 18:140E |             | 405 KAR 16:030E |                    | 405 KAR 30:310  |
|                    | 405 KAR 18:190E |             | 405 KAR 16:040E |                    | 405 KAR 30:320  |
|                    | 405 KAR 18:200E |             | 405 KAR 16:050E |                    | 405 KAR 30:330  |
|                    | 405 KAR 18:220E |             | 405 KAR 16:060E |                    | 405 KAR 30:340  |
|                    | 405 KAR 20:030E |             | 405 KAR 16:070E |                    | 405 KAR 30:350  |
| 350.415            | 405 KAR 16:050E |             | 405 KAR 16:080E |                    | 405 KAR 30:390  |
|                    | 405 KAR 18:050E |             | 405 KAR 16:090E |                    | 405 KAR 30:400  |
|                    | 405 KAR 20:040E |             | 405 KAR 16:100E |                    | 405 KAR 30:410  |
| 350.420            | 405 KAR 16:040E |             | 405 KAR 16:110E | 350.610            | 405 KAR 8:020E  |
|                    | 405 KAR 16:060E |             | 405 KAR 16:130E |                    | 405 KAR 24:020E |
|                    | 405 KAR 16:070E |             | 405 KAR 16:140E |                    | 405 KAR 24:030E |
|                    | 405 KAR 16:080E |             | 405 KAR 16:150E |                    | 405 KAR 24:040E |
|                    | 405 KAR 16:090E |             | 405 KAR 16:170E | 350.990            | 405 KAR 7:090E  |
|                    | 405 KAR 16:100E |             | 405 KAR 16:180E |                    | 405 KAR 12:010E |
|                    | 405 KAR 16:110E |             | 405 KAR 16:190E |                    | 405 KAR 12:020E |
|                    | 405 KAR 16:140E |             | 405 KAR 16:200E |                    | 405 KAR 30:090  |
|                    | 405 KAR 16:200E |             | 405 KAR 16:210E | 351.175            | 805 KAR 5:010   |
|                    | 405 KAR 18:040E |             | 405 KAR 16:220E | 351.315            | 805 KAR 4:010   |
|                    | 405 KAR 18:060E |             | 405 KAR 16:250E | 351.325            | 805 KAR 4:010   |
|                    | 405 KAR 18:070E |             | 405 KAR 18:010E | 360.210 to 360.265 | 808 KAR 4:020   |
|                    | 405 KAR 18:080E |             | 405 KAR 18:020E | 510.010-510.140    | 902 KAR 20:012  |
|                    | 405 KAR 18:090E |             | 405 KAR 18:030E |                    |                 |



# Subject Index

## ACCOUNTANCY

Examination, grading of; 201 KAR 1:045

## AD VALOREM TAX

(See Taxation)

## AERONAUTICS, AIRPORT ZONING

Air Safety Standards

Landing area designations; 602 KAR 20:020

## AGRICULTURAL EXPERIMENT STATION

(See also particular subject)

Seed; 12 KAR 1:020; 12 KAR 1:105

## AGRICULTURE

Livestock sanitation; 302 KAR 20:010; 302 KAR 20:110E; 302 KAR 20:110; 302 KAR 20:120E; 302 KAR 20:120

Referendums; 302 KAR 1:040; 302 KAR 1:050

## AIR POLLUTION

Existing Source Standards

Aluminum reduction plants; 401 KAR 61:165

Fabric, vinyl, paper coating; 401 KAR 61:120

Gas streams; 401 KAR 61:035

Graphic arts facilities; 401 KAR 61:122

Metal parts coating; 401 KAR 61:132

New Source Standards

Fabric, vinyl, paper coating; 401 KAR 59:210

Gas streams; 401 KAR 59:105

Graphic arts facilities; 401 KAR 59:212

Performance, General Standards

Gasoline tank trucks, vapor collection systems; leaks; 401 KAR 63:030

## ALCOHOLIC BEVERAGE CONTROL

ABC Board

Procedures; 804 KAR 6:010

Advertising distilled spirits, wine

General advertising practices; 804 KAR 1:100

Prohibited statements; 804 KAR 1:030

Repeal; 804 KAR 1:101

Advertising malt beverages

Prohibited statements; 804 KAR 2:015

Business, employees, conduct of

Entertainment requirements; 804 KAR 5:060

Licensing

Records to be retained; 804 KAR 4:100

Riverboats; 804 KAR 4:220

Quotas

Retail liquor license limit; 804 KAR 9:010

## AUDITOR OF PUBLIC ACCOUNTS

County budgets, county fee officials, audits for; 45 KAR 1:020

## BANKING AND SECURITIES

Administration

Bank service corporations, investments in; 808 KAR 1:080

Remote service units; 808 KAR 1:060

Cemeteries

Cemetery companies, records; 808 KAR 2:030

Credit Unions

Records, examination of; 808 KAR 3:030

Finance Charges

Federal Consumer Credit Protection Act; 808 KAR 4:020

Funeral Homes

Pre-need funeral contracts; 808 KAR 8:010

Savings and Loans

Operating parity; 808 KAR 7:030

State-chartered; 808 KAR 7:020

Securities

Application, registration; 808 KAR 10:010

Definitions; 808 KAR 10:160

Minimum liquid capitalization; 808 KAR 10:200

Registration exemptions; 808 KAR 10:150; 808 KAR 10:170; 808 KAR 10:190

## BUILDING CODE

Assessability standards for physically disabled; 815 KAR 7:050

Building code; 815 KAR 7:020

Energy code; 815 KAR 7:030

## BUILDINGS, GROUNDS, EDUCATION

Construction criteria; 702 KAR 4:060

Construction; plans, specifications; 702 KAR 4:020

Construction project application; 702 KAR 4:010

Contract completion, changes, retainage; 702 KAR 4:040

Property, disposal of; 702 KAR 4:090

Utilities, design for; 702 KAR 4:070

## CERTIFICATE OF NEED, LICENSURE

(See Health Services)

## CLAIMS, BOARD OF

Board operation, claims procedure; 108 KAR 1:010

## COMMERCE

(See Development)

## DEVELOPMENT

Agriculture

Livestock sanitation; 302 KAR 20:010

Fair, State

Exposition Center, grounds; 303 KAR 1:100E

Fish, Wildlife

Fish; 301 KAR 1:055 to 301 KAR 1:145

Game; 301 KAR 2:046E; 301 KAR 2:086

Hunting; 301 KAR 3:053

## EDUCATION

Buildings, grounds; 702 KAR 4:020 to 702 KAR 4:090

Exceptional

Exceptional, handicapped education; 707 KAR 1:090; 707 KAR 1:100

Instruction

Elementary, secondary; 704 KAR 10:022

Health; 704 KAR 4:010; 704 KAR 4:020

Instructional programs; 704 KAR 3:005 to 704 KAR 3:304

Kindergarten, nursery schools; 704 KAR 5:050

Teacher certification; 704 KAR 20:005 to 704 KAR 20:255

School Building Authority; 723 KAR 1:005

Vocational

Administration; 705 KAR 1:010

Adult education; 705 KAR 7:020

## EMPLOYEES, STATE

Retirement

Actuarial assumption, tables; 105 KAR 1:040

Contributions, interest rates; 105 KAR 1:010

Military service credit; 105 KAR 1:070

Repeal; 105 KAR 1:040

## ENGINEERS, LAND SURVEYORS

Fees; 201 KAR 18:040

## ENVIRONMENTAL PROTECTION

Air Pollution

Existing sources; 401 KAR 61:132; 401 KAR 61:165

New source standards; 401 KAR 59:105

Waste management; 401 KAR 2:050 to 401 KAR 2:111

## EXCEPTIONAL, HANDICAPPED EDUCATION

Deaf, School for

Admission policy; 707 KAR 1:100

Code of conduct; 707 KAR 1:090

## FAIRGROUNDS, EXPOSITION CENTER

Sales, fixtures and goods, solicitation; 303 KAR 1:100E

## FINANCE

Occupations, Professions

Engineers, land surveyors; 201 KAR 18:040

Medical licensure; 201 KAR 9:095

Nursing; 201 KAR 20:057

Pharmacy; 201 KAR 2:050

Social work; 201 KAR 23:030 to 201 KAR 23:070

Veterinary examiners; 201 KAR 16:020

Property

Leased; 200 KAR 6:035

Purchasing

Small purchase procedures; 200 KAR 5:308

## FISH, WILDLIFE

Fish

Angling, limits, seasons; 301 KAR 1:055

Commercial, gear for; 301 KAR 1:145

Gigging, snagging, etc.; 301 KAR 1:075

Game

Limits, seasons for migratory wildlife; 301 KAR 2:086

Migratory wildlife; 301 KAR 2:046E

Hunting

Wild turkey, spring seasons for; 301 KAR 3:053

## FOOD STAMPS

(See Social Insurance)

## HAZARDOUS MATERIAL

(See Waste Management)

## HEALTH SERVICES

Certificate of Need, Licensure

Ambulance services; 902 KAR 20:115

Ambulatory surgical centers; 902 KAR 20:101; 902 KAR 20:106

Application fee schedule; 902 KAR 20:135

Certificate process; 902 KAR 20:006

Day health care; 902 KAR 20:066

Family care homes; 902 KAR 20:041

Group homes; 902 KAR 20:078

Health maintenance organizations; 902 KAR 20:054

Home health agencies; 902 KAR 20:081

Hospice; 902 KAR 20:140

Hospital examination services; 902 KAR 20:012

Hospitals; 902 KAR 20:009; 902 KAR 20:016

Intermediate care; 902 KAR 20:051; 902 KAR 20:056

License and fee schedule; 902 KAR 20:008

Medical alcohol emergency detoxification centers; 902 KAR 20:111

Mental health-mental retardation center; 902 KAR 20:091

MR/DD intermediate care facilities; 902 KAR 20:086

Non-emergency health transportation service; 902 KAR 20:120

Nursing homes; 902 KAR 20:046; 902 KAR 20:048

Personnel care homes; 902 KAR 20:031; 902 KAR 20:036

Primary care centers; 902 KAR 20:058

Renal dialysis facilities; 902 KAR 20:018

Rural health clinics; 902 KAR 20:145

Skilled nursing facilities; 902 KAR 20:021; 902 KAR 20:026

Emergency Medical Services

Salary payment assistance; 902 KAR 14:015E

Emergency Medical Technician

Fees; 902 KAR 13:030

Health Boards, Districts

Membership; 902 KAR 8:010



**HEALTH SERVICES (Cont'd)**

Maternal, Child Health  
Care of eyes; 902 KAR 4:020  
Milk, Milk Products  
Hauler requirements; 902 KAR 50:040

**HIGHWAYS**

Maintenance  
Advertising devices; 603 KAR 3:010  
Traffic  
Coal-haul highway system; 603 KAR 5:115  
Highway classifications; 603 KAR 5:096  
Mobile homes, permits for moving; 603 KAR 5:110E; 603 KAR 5:110  
Trucks, dimension limits of; 603 KAR 5:070

**HOUSING, BUILDINGS, CONSTRUCTION**

Building code; 815 KAR 7:020; 815 KAR 7:030; 815 KAR 7:050  
Plumbing; 815 KAR 20:030 to 815 KAR 20:191

**HUMAN RESOURCES**

Health Services  
Boards of health, districts; 902 KAR 8:010  
Certificate of need, licensure; 902 KAR 20:006 to 902 KAR 20:145  
Emergency medical services; 902 KAR 14:015E  
Emergency medical technicians; 902 KAR 13:030  
Maternal, child health; 902 KAR 4:020  
Milk, milk products; 902 KAR 50:040  
Social Insurance  
Food stamp program; 904 KAR 3:010E to 904 KAR 3:080  
Medical assistance; 904 KAR 1:003E to 904 KAR 1:090  
Public assistance; 904 KAR 2:005E to 904 KAR 2:100  
Unemployment insurance; 904 KAR 5:240

**INSTRUCTION, EDUCATION**

Elementary, Secondary  
Standards; 704 KAR 10:022  
Health  
Comprehensive school health; 704 KAR 4:020  
Physical education; 704 KAR 4:010  
Instructional Services  
Classroom units; 704 KAR 3:025  
Head teacher; 704 KAR 3:052  
Implementation plan; 704 KAR 3:005  
Repeal; 704 KAR 3:281; 704 KAR 3:301  
Studies, required program of; 704 KAR 3:304  
Kindergarten, Nursery Schools  
Public programs; 704 KAR 5:050  
Teacher Certification  
Hearing impaired; 704 KAR 20:229; 704 KAR 20:235  
Learning, behavior disorders; 704 KAR 20:235  
Mentally handicapped; 704 KAR 20:245  
Preparation program plan, approval of; 704 KAR 20:005  
Visually impaired; 704 KAR 20:255

**INSURANCE**

Administration  
Interest, rewards, prohibition of; 806 KAR 2:020  
Agents, Consultants, Solicitors, Adjusters  
Examination, minimum score; 806 KAR 9:170  
Examination, retake limits; 806 KAR 9:070  
Repeal; 806 KAR 9:011  
Contracts, Health  
Insurance rates, filing procedures; 806 KAR 17:070  
Equity Securities, Insider Training  
Proxies, consents, authorization; 806 KAR 26:010  
Health Maintenance Organizations  
Coverage, cancellation; 806 KAR 38:060

**LABOR**

Occupational safety, health; 803 KAR 2:015; 803 KAR 2:020; 803 KAR 2:030; 803 KAR 2:032  
Standards, wages, hours; 803 KAR 1:090

**LABOR STANDARDS; WAGES; HOURS**

Handicapped, sheltered workshop, student employees; 803 KAR 1:090

**LIVESTOCK SANITATION**

Definitions; 302 KAR 20:010  
Imported mares, treatment of; 302 KAR 20:110E; 302 KAR 20:110  
Imported stallions, treatment of; 302 KAR 20:120E; 302 KAR 20:120

**MEDICAL ASSISTANCE**

(See Social Insurance)

**MEDICAL LICENSURE**

Advanced registered nurse practitioners; 201 KAR 9:095

**MINES, MINERALS**

Explosives, Blasting  
Licensing; 805 KAR 4:010  
Mining  
Operating licenses, fees for; 805 KAR 5:010

**NATURAL RESOURCES**

Environmental Protection  
Air pollution; 401 KAR 59:105; 401 KAR 61:035; 401 KAR 61:132; 401 KAR 61:165; 401 KAR 63:030  
Waste management; 401 KAR 2:050 to 401 KAR 2:111  
Reclamation  
Bond, insurance; requirements for; 405 KAR 10:010E to 405 KAR 10:050E  
General provisions; 405 KAR 7:020E to 405 KAR 7:110E  
Inspection, enforcement; 405 KAR 12:010E to 405 KAR 12:030E  
Oil shale operations; 405 KAR 30:010 to 405 KAR 30:410  
Performance standards, special; 405 KAR 20:010E to 405 KAR 20:080E  
Permits; 405 KAR 8:010E to 405 KAR 8:050E  
Strip mining; 405 KAR 1:005E  
Surface mining, performance standards for; 405 KAR 16:010E to 405 KAR 16:250E  
Underground mining, performance standards for; 405 KAR 18:010E to 405 KAR 18:260E  
Underground mining, surface effects of; 405 KAR 3:005E  
Unsuitable areas; 405 KAR 24:020E to 405 KAR 24:040E

**NURSING**

Advanced registered nurse practitioner; 201 KAR 20:057

**OCCUPATIONAL SAFETY, HEALTH**

General industry standards; 803 KAR 2:015  
29 CFR Part 1910; 803 KAR 2:020  
29 CFR Part 1926; 803 KAR 2:030  
29 CFR Part 1928; 803 KAR 2:032

**OCCUPATIONS, PROFESSIONS**

Accountancy; 201 KAR 1:045  
Engineers, land surveyors; 201 KAR 18:040  
Medical licensure; 201 KAR 9:095  
Nursing; 201 KAR 20:057  
Pharmacy; 201 KAR 2:050  
Real Estate Commission; 201 KAR 11:045  
Social work; 201 KAR 23:030 to 201 KAR 23:070  
Veterinary examiners; 201 KAR 16:020 to 201 KAR 16:040

**OIL SHALE OPERATIONS**

(See Reclamation, Enforcement)

**PHARMACY**

Licenses, fee; 201 KAR 2:050

**PLUMBING**

Installation; 815 KAR 20:130  
License application; 815 KAR 20:030  
Materials; quality, weight; 815 KAR 20:060  
Minimum fixture requirements; 815 KAR 20:191  
Plumbing fixtures; 815 KAR 20:070  
Sewage disposal systems; 815 KAR 20:180

**PROPERTY**

Leased properties; 200 KAR 6:035

**PUBLIC ASSISTANCE**

(See Social Insurance)

**PUBLIC PROTECTION**

Alcoholic Beverage Control  
ABC Board; 804 KAR 6:010  
Advertising distilled spirits, wine; 804 KAR 1:030; 804 KAR 1:100; 804 KAR 1:101  
Advertising malt beverages; 804 KAR 2:015  
Business, employees, conduct of; 804 KAR 5:060  
Licensing; 804 KAR 4:100; 804 KAR 4:220  
Quotas; 804 KAR 9:010  
Banking and Securities  
Administration; 808 KAR 1:060; 808 KAR 1:080  
Cemeteries; 808 KAR 2:030  
Credit unions; 808 KAR 3:030  
Funeral homes; 808 KAR 8:010  
Finance charges; 808 KAR 4:020  
Savings and loans; 808 KAR 7:020; 808 KAR 7:030  
Securities; 808 KAR 10:010 to 808 KAR 1:190  
Housing, Building, Construction  
Building code; 815 KAR 7:020; 815 KAR 7:030; 815 KAR 7:050  
Plumbing; 815 KAR 20:030 to 815 KAR 20:191  
Insurance  
Administration; 806 KAR 2:020  
Agents, consultants, solicitors, adjusters; 806 KAR 9:011; 806 KAR 9:070; 806 KAR 9:170  
Equity securities, insider training; 806 KAR 26:010  
Health contracts; 806 KAR 17:070  
Health maintenance organizations; 806 KAR 38:060  
Labor  
Occupational safety and health; 803 KAR 2:015; 803 KAR 2:020; 803 KAR 2:030; 803 KAR 2:032  
Standards, wages, hours; 803 KAR 1:090  
Mines, Minerals  
Explosives, blasting; 805 KAR 4:010  
Mining; 805 KAR 5:010  
Public Service Commission; 807 KAR 5:001 to 807 KAR 5:076  
Racing  
Harness; 811 KAR 1:200  
Thoroughbred; 810 KAR 1:013; 810 KAR 1:018

**PUBLIC SERVICE COMMISSION**

Advertising; 807 KAR 5:016  
Alternate rate adjustment; 807 KAR 5:076  
Electric; 807 KAR 5:041  
Electric, consumer information; 807 KAR 5:051  
Fuel adjustment clause; 807 KAR 5:056  
Gas; 807 KAR 5:021  
Gas service, service lines; 807 KAR 5:026  
Gas well determination; 807 KAR 5:031  
Master metering, prohibition of; 807 KAR 5:046  
Procedure, rules of; 807 KAR 5:001  
Rules, general; 807 KAR 5:006E; 807 KAR 5:006



**PUBLIC SERVICE COMMISSION (Cont'd)**

Sewage; 807 KAR 5:071  
 Small power production, cogeneration; 807 KAR 5:054  
 Tariffs; 807 KAR 5:011  
 Water; 807 KAR 5:066

**RACING**

Harness  
 Purses, payments, administration of; 811 KAR 1:200  
 Thoroughbred  
 Entries, subscriptions, declarations; 810 KAR 1:013  
 Medication, testing procedures; 810 KAR 1:018

**REAL ESTATE**

Written offers, submission of; 201 KAR 11:045

**RECLAMATION, ENFORCEMENT**

Bonds, Insurance  
 Bond; amount, duration; 405 KAR 10:020E  
 Bond, release of; 405 KAR 10:040E  
 Forfeiture; 405 KAR 10:050E  
 Forms, terms, conditions; 405 KAR 10:030E  
 Requirements, general; 405 KAR 10:010E  
 Inspection, Enforcement  
 Enforcement; 405 KAR 12:020E  
 Provisions, general; 405 KAR 12:010E  
 Public participation; 405 KAR 12:030E  
 Oil Shale Operations  
 Air resources protection; 405 KAR 30:230  
 Backfilling, grading; 405 KAR 30:390  
 Bond forfeiture; 405 KAR 30:080  
 Bonding requirements; 405 KAR 30:050  
 Citizens demands for enforcement; 405 KAR 30:170  
 Data requirements; 405 KAR 30:160  
 Definitions; 405 KAR 30:010  
 Diversion of flows; water withdrawal; 405 KAR 30:310  
 Drilled holes; 405 KAR 30:270  
 Enforcement; 405 KAR 30:100  
 Excess spoil materials, disposal; 405 KAR 30:370  
 Experimental practices; 405 KAR 30:025  
 Exploration performance standards; 405 KAR 30:125  
 Exploration permits; 405 KAR 30:120  
 Explosives; 405 KAR 30:250  
 General provisions; 405 KAR 30:020  
 Hydrologic system, protection of; 405 KAR 30:300  
 In situ operations; 405 KAR 30:410  
 Inspection, enforcement; general provisions; 405 KAR 30:090  
 Inspection, enforcement; public participation; 405 KAR 30:110  
 Lands unsuitable, petition requirements; 405 KAR 30:200  
 Lands unsuitable, process and criteria; 405 KAR 30:190  
 Leachate control; 405 KAR 30:340  
 Operation permits; 405 KAR 30:130  
 Performance bond; amount, duration; 405 KAR 30:040  
 Performance bond; forms, terms, conditions; 405 KAR 30:060  
 Performance bond; liability; 405 KAR 30:030  
 Performance bond; procedures, criteria, schedule for release; 405 KAR 30:070  
 Permanent impoundments; 405 KAR 30:350  
 Petitions for rulemaking; 405 KAR 30:180  
 Postmining land use; 405 KAR 30:220  
 Prime farmland; 405 KAR 30:280  
 Protection of environment; 405 KAR 30:240  
 Public inspection of records, confidential nature; 405 KAR 30:150  
 Revegetation; 405 KAR 30:400  
 Sediment control; 405 KAR 30:330  
 Signs, markers; 405 KAR 30:210  
 Spent shale disposal; 405 KAR 30:380

**RECLAMATION, ENFORCEMENT (Cont'd)**

Topsoil; 405 KAR 30:290  
 Transfer of permit, successor in interest; 405 KAR 30:140  
 Transport facilities; 405 KAR 30:260  
 Waste disposal; 405 KAR 30:360  
 Water quality standards; 405 KAR 30:320  
 Permits  
 Exploration; 405 KAR 8:020E  
 Provisions, general; 405 KAR 8:010E  
 Special categories, permits for; 405 KAR 8:050E  
 Surface mining, permits for; 405 KAR 8:030E  
 Underground mining, permits for; 405 KAR 8:040E  
 Provisions, General  
 Applicability; 405 KAR 7:030E  
 Definitions, abbreviations; 405 KAR 7:020E  
 Experimental practices; 405 KAR 7:060E  
 Hearings; 405 KAR 7:090E  
 Operators, permittees, obligations of; 405 KAR 7:040E  
 Rulemaking, petitions for; 405 KAR 7:110E  
 Small operator, assistance for; 405 KAR 7:080E  
 Suits, citizens, notice of; 405 KAR 7:100E  
 Special Standards  
 Auger mining; 405 KAR 20:030E  
 Concurrent mining; 405 KAR 20:020E  
 Exploration, coal; 405 KAR 20:010E  
 Farmland, prime; 405 KAR 20:040E  
 In situ processing; 405 KAR 20:080E  
 Mountaintop, removal of; 405 KAR 20:050E  
 Offsite plants, facilities; 405 KAR 20:070E  
 Slopes, steep; 405 KAR 20:060E  
 Strip Mining  
 Applicability; 405 KAR 1:005E  
 Surface Mining Standards  
 Air, protection of; 405 KAR 16:170E  
 Backfilling, grading; 405 KAR 16:190E  
 Contemporaneous reclamation; 405 KAR 16:020E  
 Dams, impoundments; 405 KAR 16:160E  
 Diversions; 405 KAR 16:080E  
 Explosives, use of; 405 KAR 16:120E  
 Facilities, other; 405 KAR 16:250E  
 Fish, wildlife, environment, protection of; 405 KAR 16:180E  
 Holes, drilled; casing, sealing of; 405 KAR 16:040E  
 Hydrologic, general requirements; 405 KAR 16:060E  
 Impoundments; 405 KAR 16:100E  
 Land use, postmining; 405 KAR 16:210E  
 Markers, signs; 405 KAR 16:030E  
 Provisions, general; 405 KAR 16:010E  
 Revegetation; 405 KAR 16:200E  
 Roads; 405 KAR 16:220E  
 Sedimentation ponds; 405 KAR 16:090E  
 Spoil, excess, disposal of; 405 KAR 16:130E  
 Topsoil; 405 KAR 16:050E  
 Waste, disposal of; 405 KAR 16:140E; 405 KAR 16:150E  
 Water, monitoring of; 405 KAR 16:110E  
 Water, standards for; 405 KAR 16:070E  
 Underground Mining Standards  
 Air, protection of; 405 KAR 18:170E  
 Backfilling, grading; 405 KAR 18:190E  
 Contemporaneous reclamation; 405 KAR 18:020E  
 Dams, impoundments; 405 KAR 18:160E  
 Diversions; 405 KAR 18:080E  
 Explosives, use of; 405 KAR 18:120E  
 Facilities, other; 405 KAR 18:260E  
 Fish, wildlife, environment, protection of; 405 KAR 18:190E  
 Hydrologic, requirements for; 405 KAR 18:060E  
 Impoundments; 405 KAR 18:100E  
 Land use, postmining; 405 KAR 18:220E  
 Markers, signs; 405 KAR 18:030E  
 Openings, casing, sealing of; 405 KAR 18:040E

**RECLAMATION, ENFORCEMENT (Cont'd)**

Provisions, general; 405 KAR 18:010E  
 Revegetation; 405 KAR 18:200E  
 Roads; 405 KAR 18:230E  
 Sedimentation ponds; 405 KAR 18:090E  
 Subsidence, control of; 405 KAR 18:210E  
 Topsoil; 405 KAR 18:050E  
 Waste, spoil, disposal of; 405 KAR 18:130E; 405 KAR 18:140E; 405 KAR 18:150E  
 Water, monitoring of; 405 KAR 18:110E  
 Water, standards for; 405 KAR 18:070E  
 Underground Mining, Surface Effects  
 Applicability; 405 KAR 3:005E  
 Unsuitable Areas  
 Permit, application; review of; 405 KAR 24:040E  
 Petition, requirements for; 405 KAR 24:020E  
 Process, criteria for designating; 405 KAR 24:030E

**REFERENDUMS**

Agriculture  
 Grade A milk; 302 KAR 1:050  
 Manufacturing grade milk; 302 KAR 1:040

**REVENUE, DEPT. OF**

Ad Valorem Tax  
 State assessment; 103 KAR 8:090  
 Income Tax  
 Corporations; 103 KAR 16:141  
 Withholding; 103 KAR 18:030

**RETIREMENT**

KERS  
 Actuarial assumptions, tables; 105 KAR 1:040  
 Contributions, interest rates; 105 KAR 1:010  
 Military service credit; 105 KAR 1:070  
 Repeal; 105 KAR 1:061  
 Teachers'  
 Investments; 102 KAR 1:190  
 Military service, credit for; 102 KAR 1:057  
 Payroll reports; 102 KAR 1:195

**SEED**

Charges, schedule of; 12 KAR 1:105  
 Noxious weed seed; 12 KAR 1:020

**SCHOOL BUILDING AUTHORITY**

Funding procedures; 723 KAR 1:005

**SOCIAL INSURANCE**

Food Stamps  
 Additional provisions; 904 KAR 3:050E; 904 KAR 3:050  
 Administrative fraud hearings; 904 KAR 3:060; 904 KAR 3:060E  
 Application process; 904 KAR 3:030E; 904 KAR 3:030  
 Certification process; 904 KAR 3:035E; 904 KAR 3:035  
 Contingency plan; 904 KAR 3:080  
 Coupon issuance; 904 KAR 3:045E; 904 KAR 3:045  
 Definitions; 904 KAR 3:010E; 904 KAR 3:010  
 Eligibility requirements; 904 KAR 3:020E; 904 KAR 3:020  
 Fair hearings; 904 KAR 3:070  
 Issuance procedures; 904 KAR 3:040; 904 KAR 3:040E  
 Medical Assistance  
 Dental services; 904 KAR 1:026E; 904 KAR 1:026; 904 KAR 1:027E; 904 KAR 1:027  
 Drug formulary; 904 KAR 1:090  
 Family planning services; 904 KAR 1:049  
 In-patient hospital services; 904 KAR 1:012  
 Medically needy, income of; 904 KAR 1:004E; 904 KAR 1:004  
 Mental health center services; 904 KAR 1:044; 904 KAR 1:045E; 904 KAR 1:045  
 Out-patient surgical clinics; 904 KAR 1:008  
 Payment for out-of-state services; 904 KAR 1:084  
 Pediatric services; 904 KAR 1:033E; 904 KAR 1:033



**SOCIAL INSURANCE (Cont'd)**

Physicians' services; 904 KAR 1:010E; 904 KAR 1:010  
Primary care center services; 904 KAR 1:054  
Rural health clinic services; 904 KAR 1:080; 904 KAR 1:082  
Technical eligibility; 904 KAR 1:003E; 904 KAR 1:003; 904 KAR 1:011E; 904 KAR 1:011  
Vision care services, payments; 904 KAR 1:040E; 904 KAR 1:040  
Public Assistance  
Adverse actions, conditions for; 904 KAR 2:045E; 904 KAR 2:046E; 904 KAR 2:046  
AFDC, standards for; 904 KAR 2:010E; 904 KAR 2:010; 904 KAR 2:016E; 904 KAR 2:016  
AFDC, technical requirements; 904 KAR 2:005E; 904 KAR 2:005; 904 KAR 2:006E; 904 KAR 2:006  
Child support; 904 KAR 2:020  
Eligibility; 904 KAR 2:040E; 904 KAR 2:040  
Home energy assistance program; 904 KAR 2:088E; 904 KAR 2:100  
Payment, time and manner; 904 KAR 2:050  
Repeal; 904 KAR 2:007; 904 KAR 2:082

**SOCIAL WORK**

License  
Reinstatement, termination; 201 KAR 23:050  
Renewal fee; 201 KAR 23:030  
Specialty certification; 201 KAR 23:070

**TAXATION**

Ad Valorem; State Assessment  
Property, classification of; 103 KAR 8:090  
Income, Corporations  
Repeal; 103 KAR 16:141  
Income, Withholding  
Reporting requirements; 103 KAR 18:030

**TEACHERS' RETIREMENT**

General retirement rules; 102 KAR 1:057; 102 KAR 1:190; 102 KAR 1:195

**TRANSPORTATION**

Aeronautics, Airport Zoning  
Airport Safety; 602 KAR 20:020  
Highways  
Maintenance; 603 KAR 3:010  
Traffic; 603 KAR 5:070; 603 KAR 5:096; 603 KAR 5:110E; 603 KAR 5:110; 603 KAR 5:115  
Vehicle Regulation  
Motor carriers; 601 KAR 1:090  
Motor vehicle dealers; 601 KAR 20:070

**VEHICLE REGULATION**

Motor Carriers  
Exempted commodities; 601 KAR 1:090  
Motor vehicle dealers  
Suitable premises, signs, multibusinesses; 601 KAR 20:070

**VETERINARY EXAMINERS**

Examination for licensing; 201 KAR 16:020  
Renewal, notice of; 201 KAR 16:030  
Technicians; 201 KAR 16:040

**VOCATIONAL EDUCATION**

Administration  
Program plans, annual; 705 KAR 1:010  
Adult Education  
Testing program; 705 KAR 7:020

**WASTE MANAGEMENT**

Certification for disposal facilities operators; 401 KAR 2:111  
Definitions; 401 KAR 2:050  
Disposal fees; 401 KAR 2:105  
Disposal permit process; 401 KAR 2:090  
General standards; 401 KAR 2:063  
Generators of hazardous waste; 401 KAR 2:070

**WASTE MANAGEMENT (Cont'd)**

Hazardous waste permit; 401 KAR 2:060  
Identification, listing; 401 KAR 2:075  
Interim status standards; 401 KAR 2:073  
Landfarming facilities; 401 KAR 2:101  
Provisions, general; 401 KAR 2:055  
Sanitary landfills; 401 KAR 2:095

**WILDLIFE**

(See Fish, Wildlife)

