

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

VOLUME 10, NUMBER 10

SUNDAY, APRIL 1, 1984



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

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1984 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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

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

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

## *Administrative Register of Kentucky*

(ISSN 0096-1493)

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The *Administrative Register of Kentucky* is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$36 per volume of 12 issues, beginning in July and ending with the June issue of the subsequent year.

Second class postage paid at Frankfort, Kentucky.

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

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# Public Hearings Scheduled

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

A public hearing will be held on May 1, 1984, at 10 a.m. at the Auditorium, State Office Building, Frankfort, Kentucky on the following regulations:

- 401 KAR 31:070. Delisted hazardous waste streams. [10 Ky.R. 1088]
- 401 KAR 35:010. General provisions for facilities (IS). [10 Ky.R. 1089]
- 401 KAR 35:240. Incinerators (IS). [10 Ky.R. 1089]
- 401 KAR 39:070. Modification fees. [10 Ky.R. 1090]

## DEPARTMENT OF MINES AND MINERALS

A public hearing will be held on May 2, 1984, at 1:30 p.m. at the Kentucky Room, Springs Motel, 2020 Harrodsburg Road, Lexington, Kentucky, on the following regulation:

- 805 KAR 1:110. Underground injection control. [10 Ky.R. 1109]

# Amended After Hearing

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

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Air Pollution Amended After Hearing

### 401 KAR 59:260. New blast furnace casthouses.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new blast furnace casthouses.

Section 1. Applicability. The provisions of this regulation shall apply to blast furnace casthouses commenced on or after the classification date defined below.

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

(1) "Blast furnace casthouses" means the building or buildings which houses the following operations:

(a) *Casting* [Pouring] of hot metal from a blast furnace from an opening at the bottom of the furnace through a runner into a torpedo car; and

(b) *Casting* [Pouring] of the slag from a blast furnace from an opening at the bottom of the furnace through [in-to] runner(s) into a slag ladle or slag pit.

(2) "Blast furnace" means a furnace producing pig iron by introducing iron-bearing materials, coke, and flux materials into a vessel and introducing heated combustion air to form a reducing gas which is passed counter current to the descending raw materials.

(3) "Classification date" means the effective date of this regulation.

(4) "Control device" means the air pollution control equipment used to remove particulate matter generated in the blast furnace casthouses from the effluent gas stream.

Section 3. Standard for Particulate Matter. No owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall cause to be discharged into the atmosphere from the blast furnace casthouse any gases which:

[(1) Contain particulate matter in excess of 0.010 gr/dscf as tested during pouring of hot metal and slag, in such gases exit from a control device; or]

(1) [(2)] Exhibit an average opacity in excess of twenty (20) percent.

(2) If such gases exit from a gas cleaner, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere any gases which:

(a) Contain particulate matter in excess of 0.010 gr/dscf as tested during the casting of hot metal and slag; or

(b) Exhibit an average opacity in excess of twenty (20) percent.

Section 4. Test Methods and Procedures. Reference methods in Appendix A of 40 CFR 60, except as provided [in subsection (5) of this section or] in 401 KAR 50:045, and as supplemented by the procedures in subsection (6) of this section, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(1) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(2) Reference Method 1 for sample and velocity traverses;

(3) Reference Method 2 for velocity and volumetric flow rate;

(4) Reference Method 3 for gas analysis; and

(5) Reference Method 9 for the determination of opacity [except for averaging time and number of observations].

(6) For the purpose of determining compliance with Sec-

tion 3(1) [(2)], the following procedures shall be used to supplement Method 9:

(a) A series of consecutive observations taken at fifteen (15) second intervals shall be made during the entire period of time that hot metal and slag are [is] being cast [poured]. [Determination of] Compliance shall be based on a comparison of the standards in Section 3(1) [(2)] with the highest average opacity occurring over any six (6) consecutive minutes during the period of observation. If emissions are being emitted from the roof monitor and other discharge points from the building, the reader shall read and record whichever plume is most opaque at the time of each reading.

[(6) For the purpose of determining opacity from a blast furnace casthouse pursuant to Section 3(2) of this regulation, the following procedures shall be used to supplement Method 9:]

(b) 1. [(a)] In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

2. [(b)] In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

[(c) If emissions are being emitted from the roof monitor and other points on the building, the reader may read whichever plume is most opaque at the time of the reading and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance.]

Section 5. Variances. The department may grant a variance from the control requirements of this regulation. Requests for such a variance shall be supported by adequate technical and economic documentation, provided that any alternative strategy shall result in at least an equivalent overall reduction in particulate emissions from the source as would be required by this regulation.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: February 27, 1984

RECEIVED BY LRC: February 27, 1984 at 2 p.m.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Air Pollution  
Amended After Hearing

401 KAR 61:015. Existing indirect heat exchangers.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing indirect heat exchangers.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the applicable classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 50:025.

(1) "Affected facility" means an indirect heat exchanger having a heat input capacity of more than one (1) million BTU per hour.

(2) "Indirect heat exchanger" means any piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3) "Classification date" means:

(a) August 17, 1971, for affected facilities with a capacity of more than 250 million BTU per hour heat input;

(b) April 9, 1972, for affected facilities with a capacity of 250 million BTU per hour heat input or less.

Section 3. Method for Determining Allowable Emission Rates. (1) Except as provided in subsection (3) of this section, the total rated heat input capacity of all affected facilities, commenced before the applicable classification date within a source shall be used as specified in Sections 4 and 5 to determine the allowable emission in terms of pounds of effluent per million BTU heat input.

(2) At such time as any affected facility is assigned an allowable emission rate by the department, at no time thereafter shall that rate be changed due to inclusion or shutdown of any affected facility at the source.

(3) (a) A source may petition the department to establish an allowable emission rate which may be apportioned without regard to individual affected facility heat input provided that the conditions specified in paragraphs (b), (c), (d), and (e) of this subsection are met. Such allowable emission rate shall be determined according to the following equation:

$$E = (AB + DE)/C$$

Where:

A = the allowable emission rate (in pounds per million BTU input), as determined according to 401 KAR 59:015, Section 3(1);

B = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced on or after the applicable classification date within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

C = the total rated heat input (in millions of BTU per hour) of all affected facilities within a source, including



those for which an application to construct, modify, or reconstruct has been submitted to the department;

D = the total emission rate (in pounds per million BTU input) as determined according to subsection (1) of this section;

E = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced before the applicable classification date;

F = the alternate allowable emission rate (in pounds per actual million BTU input).

(b) At no time shall the owner or operator of the source allow the total emissions (in pounds per hour) from all affected facilities within the source divided by the total actual heat input (in millions of BTU per hour) of all affected facilities within the source to exceed the alternate allowable emission rate as determined by paragraph (a) of this subsection.

(c) At no time shall the owner or operator of any source subject to federal new source performance standards allow the emissions from any affected facility commenced on or after the applicable classification date to exceed the allowable emission rate determined by use of that affected facility's rated heat input (instead of the heat input as determined by subsection (1) of this section) as specified in 401 KAR 59:015, Sections 4 and 5.

(d) The owner or operator of the source must demonstrate compliance with this subsection by conducting a performance test according to 401 KAR 50:045 on each affected facility under such conditions as may be specified by the department.

(e) Upon petition, the department will establish an alternate emission rate in accordance with this subsection if the owner or operator demonstrates to the department's satisfaction that the source will maintain compliance with this subsection on a continual basis.

Section 4. Standard for Particulate Matter. Except as provided for in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility:

(1) Particulate matter in excess of that specified in Appendix A of this regulation;

(2) Emissions which exhibit greater than twenty (20) percent opacity in regions classified as Priority I with respect to particulate matter, except:

(a) That, for cyclone or pulverized fired indirect heat exchangers, a maximum of *forty (40) [twenty-seven (27)] [forty (40)]* percent opacity shall be permissible for not more than *one (1) six (6) [two (2) consecutive] minute[s] period* in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of forty (40) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(3) Emissions which exhibit greater than forty (40) per-

cent opacity in regions classified as Priority II or III with respect to particulate matter except:

(a) That, for cyclone or pulverized fired indirect heat exchangers, a maximum of *sixty (60) [forty-seven (47)] [sixty (60)]* percent opacity shall be permissible for not more than *one (1) six (6) [two (2) consecutive] minute[s] period* in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of sixty (60) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of sixty (60) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(4) The emission limitations contained in other subsections of this section shall not apply to any affected facility (with more than 250 million BTU per hour heat input capacity which was in being or under construction before August 17, 1971, or any affected facility with 250 million BTU per hour capacity or less which was in being or under construction prior to April 9, 1972) if that affected facility was in compliance prior to April 9, 1972, with, or has a valid permit to operate within the provisions of the previous Kentucky Air Pollution Control Commission Regulation No. 7 entitled "Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers." These affected facilities shall comply with the emission limitations in that regulation except that replacement of the particulate emissions control device associated with the affected facility shall subject it to the standard contained in this section.

Section 5. Standard for Sulfur Dioxide. (1) Except as provided for in Section 3(3) and subsection (5) of this section, no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility, any gases which contain sulfur dioxide in excess of that specified in Appendix B of this regulation.

(2) When different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

Allowable Sulfur Dioxide Emission,

$$\text{lb/MM BTU} = \frac{y(a) + z(b)}{y + z}$$

Where:

y is the percent of total heat input derived from liquid or gaseous fuel;

z is the percent of total heat input derived from solid fuel;

a is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from liquid or gaseous fuel; and

b is the allowable sulfur dioxide emissions in pounds per million BTU heat input derived from solid fuel.

(3) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(4) In counties classified as VA with respect to sulfur dioxide, for sources having a total heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), no owner or operator shall allow the annual average sulfur dioxide emission rate from all existing and new affected facilities combined at the source to exceed 0.60 pounds per million BTU.

(5) In counties classified as 1A with respect to sulfur dioxide, at sources having a total rated heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), the department shall allow one (1) affected facility, as specified on the operating permit, to emit sulfur dioxide at a rate not to exceed a twenty-four (24) hour average of 8.0 pounds per million BTU, during those periods of time when the affected facility is being operated for the purpose of generating high sulfur dioxide content flue gases for use in any experimental sulfur dioxide removal system.

Section 6. Monitoring of Operations. (1) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(2) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(3) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. Where the indirect heat exchanger is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(4) The owner or operator of any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this regulation shall maintain a file of all measurements required by this regulation and summarized monthly. The record of any such measurement(s) and summary shall be retained for at least two (2) years following the date of such measurements and summaries.

(5) The department may require for any indirect heat exchanger of less than 250 million BTU per hour heat input any or all the fuel monitoring required by this section.

(6) For an indirect heat exchanger that does not use a flue gas desulfurization device, a continuous monitoring system as specified in 401 KAR 61:005 for measuring sulfur dioxide emissions is not required if the owner or operator monitors such emissions by fuel sampling and analysis pursuant to Section 7(6) of 401 KAR 59:015.

Section 7. Test Methods and Procedures. (1) Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 4 and 5 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(a) Reference Method 1 for the selection of sampling site and sample traverses;

(b) Reference Method 3 for gas analysis to be used when applying Reference Methods 5, 6 and 7;

(c) Reference Method 5 for the concentration of particulate matter and the associated moisture content;

(d) Reference Method 6 for the concentration of sulfur dioxide; and

(e) Reference Method 7 for the concentration of nitrogen oxides.

(2) For Reference Method 5, Reference Method 1 shall

be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sampling volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the department. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C (320°F).

(3) For Reference Methods 6 and 7, the sampling site shall be the same as that selected for Reference Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (3.28 ft.). For Reference Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(4) For Reference Method 6, the minimum sampling time shall be twenty (20) minutes and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately thirty (30) minute intervals.

(5) For Reference Method 7, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value.

(6) For each run using the methods specified by subsection (1)(c), (d), and (e) of this section, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following equation:

$$E = CF \frac{20.9}{20.9 - \%O_2}$$

Where:

E = pollutant emission, g/million cal (lb/million BTU).

C = pollutant concentration, g/dscm (lb/dscf) determined by Reference Method 5, 6 or 7.

F = a factor as determined in 401 KAR 59:015, Section 7.

%O<sub>2</sub> = oxygen content by volume (expressed as percent), dry basis.

Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures for Reference Method 3 as applicable. The sample shall be obtained as follows:

(a) For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained simultaneously at the same point for Reference Method 6 and 7 determinations, respectively. For Reference Method 7, the oxygen sample shall be obtained using the grab sampling and analysis procedures for Reference Method 3.

(b) For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Reference Method 5 under subsection (2) of this section. Reference Method 1 shall be used for selection of the number of traverse points except that no more than twelve (12) sample points are required.

(7) When combinations of fossil fuels are fired, the heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned. Gross calorific value shall be determined in accordance with ASTM methods D2015-66(72) (solid fuels), D240-64(73) (liquid fuels), or D1826-64(70) (gaseous fuels), as applicable (ASTM designations filed by reference

in 401 KAR 50:015). The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the steam generation system.

Section 8. Compliance Timetable. (1) Affected facilities located in areas designated as attainment for sulfur dioxide and/or particulate matter shall be in compliance as of June 6, 1979.

(2) (a) In Class IA counties, the owner or operator of any affected facility in any source whose total rated capacity is sixteen thousand million BTU per hour (16,000 MM BTU/hr) or more shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than May 1, 1978;
2. Award contracts for complying coal by January 1, 1979;
3. Initiate use of such complying coal on or before December 1, 1979;
4. Demonstrate compliance by performance tests on or before October 1, 1981.

(b) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than fifteen hundred million BTU per hour (1,500 MM BTU/hr) but less than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than May 1, 1979;
2. Award contracts for complying coal by August 1, 1979;

3. Initiate use of such complying coal on or before January 1, 1980;

4. Demonstrate compliance by performance tests on or before March 1, 1980.

(c) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a control plan for flue gas desulfurization and initiate construction of a coal washing plant on or before June 1, 1978;
2. Issue invitations for bids for construction and installation of flue gas desulfurization equipment on or before October 1, 1978;
3. Award contract for construction and installation of flue gas desulfurization equipment on or before March 1, 1979;
4. Initiate construction of flue gas desulfurization equipment on or before December 1, 1979;
5. Complete construction of coal washing plant on or before December 1, 1980;
6. Complete construction of flue gas desulfurization equipment on or before June 1, 1982;
7. Demonstrate compliance by performance tests on or before September 1, 1982.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: February 27, 1984

RECEIVED BY LRC: February 27, 1984 at 2 p.m.

(See Appendix A and B on following pages.)

**APPENDIX A TO 401 KAR 61:015**  
**ALLOWABLE PARTICULATE EMISSION RATES**

For sources having a Total Heat Input Capacity (as determined by Section 3(1)) of:

The standard (in pounds per million BTU actual heat input) is (based upon the Priority classification with respect to particulates of the Region in which the source is located):

(MM BTU/Hr.)	Priority I	Priority II	Priority III
10 or less	0.56	0.75	0.80
50	0.38	0.52	0.57
100	0.33	0.44	0.49
250	0.26	0.35	0.40
500	0.22	0.30	0.34
1000	0.19	0.26	0.30
2500	0.15	0.21	0.24
5000	0.13	0.18	0.21
7500	0.12	0.16	0.19
10000 or more	0.11	0.15	0.18

Interpolation of allowable emissions for intermediate heat input values not specified above may be accomplished by use of the equations shown below for the appropriate heat input range specified. In all equations X = millions of BTU per hour heat input as determined by Section 3(1), and Y = allowable particulate emissions in pounds per million BTU actual heat input.

Region Classification with respect to Particulate Matter	Range (MM BTU/Hr)	Allowable (Pounds/MM BTU)
Priority I	10 to 10,000	$Y = 0.9634 X^{-0.2356}$
Priority II	10 to 10,000	$Y = 1.2825 X^{-0.2330}$
Priority III	10 to 10,000	$Y = 1.3152 X^{-0.2159}$

**APPENDIX B  
TO**

**401 KAR 61:015**

All standards are twenty-four (24) hour averages

For sources having a total heat input (as determined by Section 3(1)) of: (MM BTU/Hr.)		The standard (in pounds per million BTU actual heat input) is (based upon the classification with respect to sulfur dioxide of the county in which the source is located):															
		CLASS I		CLASS II		CLASS III		CLASS IV		CLASS IVA		CLASS V		CLASS VA			
		Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel
10 or less	3.0	5.0	5.0	4.0	6.0	4.6	7.0	5.4	8.0	5.4	8.0	6.0	9.0	6.0	9.0	6.0	9.0
50	1.5	2.4	3.0	2.4	3.7 [3.3]	3.2	4.8	4.3	6.4	4.3	6.4	4.9	7.3	4.9	7.3	4.9	7.3
100	1.2	1.8	1.5	2.0	3.0 [2.5]	2.7	4.1	4.0	5.9	4.0	5.9	4.5	6.7	4.5	6.7	4.5	6.7
150	1.0	1.5	1.0	1.8	2.7 [2.2]	2.5	3.7	3.7	5.6	3.7	5.6	4.3	6.4	4.3	6.4	4.3	6.4
200	0.9	1.3	0.9	1.6	2.5 [2.0]	2.3	3.5	3.6	5.4	3.6	5.4	4.1	6.2	4.1	6.2	4.1	6.2
250-1500	0.8	1.2	0.8	1.5	2.3 [1.8]	2.2	3.3	3.5	5.2	3.5	5.2	4.0	6.0	4.0	6.0	4.0	6.0
greater than 1,500 but less than 21,000	0.8	1.2	0.8	1.5	2.3 [1.8]	2.2	3.3	3.5	5.2	2.3	3.5	4.0	6.0	1.1	1.1	1.1	1.1
21,000 or more	0.8	1.2	0.8	1.5	2.3 [1.8]	2.2	3.3	3.5	5.2	2.1	3.1	4.0	6.0	1.1	1.1	1.1	1.1

Interpolation of allowable emissions for rated capacity values between 10 and 250 million BTU heat input may be accomplished by use of the equations shown below for the appropriate fuel specified. In all equations Y = allowable sulfur dioxide emission in pounds per million BTU actual heat input, X = millions of BTU per hour heat input capacity rating as determined by Section 3(1).

COUNTY CLASS	FUEL	ALLOWABLE (POUNDS/MM BTU)
I	Liquid/Gaseous	Y = 7.7223 X - 0.4106
	Solid	Y = 13.8781 X - 0.4434
IA	Liquid/Gaseous	Y = 7.7223 X - 0.4106
	Solid	Y = 7.0382 X - 0.1485
II	Liquid/Gaseous	Y = 8.0681 X - 0.3047
	Solid	Y = 11.9134 X - 0.2979
III	Liquid/Gaseous	Y = 7.7966 X - 0.2291
	Solid	Y = 11.9872 X - 0.2336
IV	Liquid/Gaseous	Y = 7.3639 X - 0.1347
	Solid	Y = 10.8875 X - 0.1338
IVA	Liquid/Gaseous	Y = 7.3639 X - 0.1347
	Solid	Y = 10.8875 X - 0.1338
V	Liquid/Gaseous	Y = 8.0189 X - 0.1260
	Solid	Y = 12.0284 X - 0.1260
VA	Liquid/Gaseous	Y = 8.0189 X - 0.1260
	Solid	Y = 12.0284 X - 0.1260

[14.1967 X - 0.3740] [11.9134 X - 0.2979]

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Air Pollution  
Amended After Hearing

401 KAR 61:080. Steel plants using existing basic oxygen process furnaces.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for control of emissions from steel plants using existing basic oxygen process furnaces.

Section 1. Applicability. Provisions of this regulation are applicable to the following affected facilities commenced before the classification date defined below: basic oxygen process furnaces, associated metallurgical equipment, and dust-handling equipment.

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) "Basic oxygen process furnaces (BOPF)" means any furnace producing steel by charging scrap steel, hot metal and flux materials into a vessel and introducing a high volume of an oxygen-rich gas.

(2) "Dust-handling equipment" means any equipment used to handle particulate matter collected by a control device for a BOPF and/or associated equipment subject to this regulation.

(3) "Control device" means the air pollution control equipment used to remove from the effluent gas stream, particulate matter generated by a BOPF and/or associated equipment.

(4) "Steel production cycle" means the operations required to produce each batch of steel and includes the following major functions: scrap preheating, scrap charging, hot metal charging, oxygen blowing, dumping slag and tapping.

(5) "Charge" means the addition of steel scrap, molten iron and other materials into a BOPF.

(6) "Tap" means the pouring of molten steel from a BOPF.

(7) "Shop" means the building or bay which houses one (1) or more BOPFs and associated metallurgical equipment.

(8) "Classification date" means June 11, 1973.

(9) "Associated metallurgical equipment" means process equipment located in the shop used in conjunction with external desulfurization of molten iron, hot metal transfer, and transfer of slag and kish.

Section 3. Standard for Particulate Matter. (1) [On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed,] No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere [from a basic oxygen process furnace and/or associated metallurgical equipment located in the same shop] any gases which [:-]

[(a) Exit from a control device and exhibit opacity of twenty (20) percent or more. The owner or operator may elect to substitute an alternative opacity standard, in lieu of

the above opacity standard prescribed in this subsection, provided that the following mass emissions standards are not exceeded:]

[1.] exceed a maximum particulate concentration of 0.030 gr/dscf from the control device associated with the BOPF as measured only during the main oxygen blowing period. [; and]

(2) [2.] No owner or operator shall cause to be discharged into the atmosphere any gases which exceed a maximum particulate concentration of 0.010 gr/dscf from a control device associated with any other BOPF associated [shop] metallurgical equipment as measured only during operation of such equipment. [; or]

(3) No owner or operator shall cause to be discharged into the atmosphere any gases which exit from a control device and exhibit an opacity of twenty (20) percent or more.

(4) [(b)] No owner or operator shall cause to be discharged into the atmosphere any gases which exit from a shop, due to operations of a BOPF and/or associated metallurgical equipment, and exhibit opacity of twenty (20) percent or more for more than eleven (11) times as observed at fifteen (15) second intervals over a period of any sixty (60) consecutive minutes. Reference Method 9 of Appendix A to 40 CFR 60, filed by reference in 401 KAR 50:015 and supplemented by the procedures in Section 5(4) of this regulation, shall be used for determining opacity in this subsection [paragraph], except for averaging time and number of observations.

(5) [(2)] [On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed,] No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.

Section 4. Monitoring of Operations. The owner or operator of an affected facility shall maintain a single time-measuring instrument which shall be used in recording daily the time and duration of each steel production cycle, and the time and duration of any diversion of exhaust gases from the main stack servicing the BOPF.

Section 5. Test Methods and Procedures. (1) Reference methods in Appendix A of 40 CFR 60, except as provided under 401 KAR 50:045, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses;

(c) Reference Method 2 for velocity and volumetric flow rate;

(d) Reference Method 3 for gas analysis; and

(e) Reference Method 9 for opacity determination for emissions discharged through a control device and from dust-handling equipment. For the purpose of this regulation, opacity observation taken at fifteen (15) second intervals immediately before and after a diversion of exhaust gases from the control device stack may be considered to be consecutive for the purpose of computing an average opacity for a six (6) minute period. Observations taken during a diversion shall not be used in determining compliance with the opacity standard.

(2) For Reference Method 5, the sampling for each run shall continue for an integral number of cycles with total

duration of at least sixty (60) minutes except that shorter sampling times when necessitated by process variables or other factors may be approved by the department. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) [except that shorter sampling times when necessitated by process variables or other factors may be approved by the department]. For the purpose of testing the control device associated with the BOPF a cycle shall start at the beginning of the primary oxygen blow and shall terminate at the end of the primary oxygen blow.

(3) Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period.

(4) For the purpose of determining opacity from a shop pursuant to Section 3(4) of this regulation, the following procedures shall be used to supplement Method 9:

(a) In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

(b) In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

(c) If emissions are being emitted from the roof monitor and other discharge points from [on] the building, the reader shall [may] read whichever plume is most opaque at the time of each [the] reading [and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance].

Section 6. Compliance Timetable. The owner or operator of an affected facility shall demonstrate compliance with Section 3(1) on or before December 31, 1982. Compliance with all other provisions of this regulation shall have been demonstrated on or before June 6, 1979.

Section 7. Alternate Emission Limitations. The owner or operator of an affected facility subject to this regulation may propose an alternate plan pursuant to the requirements of 401 KAR 51:055 to meet the emissions limitations required by this regulation.

CHARLOTTE E. BALDWIN, Secretary  
ADOPTED: February 27, 1984  
RECEIVED BY LRC: February 27, 1984 at 2 p.m.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Air Pollution  
Amended After Hearing

401 KAR 61:170. Existing blast furnace casthouses.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing blast furnace casthouses which are located in, or impact upon, an area designated non-attainment for particulate matter under 401 KAR 51:010.

Section 1. Applicability. The provisions of this regulation shall apply to blast furnace casthouses commenced before the classification date defined below.

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

(1) "Blast furnace casthouses" means the building or buildings which houses the following operations:

(a) *Casting* [Pouring] of hot metal from a blast furnace from an opening at the bottom of the furnace through a runner into a torpedo car; and

(b) *Casting* [Pouring] of the slag from a blast furnace from an opening at the bottom of the furnace through [into] runner(s) into a slag ladle or slag pit.

(2) "Blast furnace" means a furnace producing pig iron by introducing iron-bearing materials, coke, and flux materials into a vessel and introducing heated combustion air to form a reducing gas which is passed counter current to the descending raw materials.

(3) "Classification date" means the effective date of this regulation.

(4) "Control device" means the air pollution control equipment used to remove particulate matter generated in the blast furnace casthouses from the effluent gas stream.

Section 3. Standard for Particulate Matter. No owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall cause to be discharged into the atmosphere from the blast furnace casthouse any gases which:

[(1) Contain particulate matter in excess of 0.010 gr/dscf as tested during pouring of hot metal and slag, if such gases exit from a control device; or]

(1) [(2)] Exhibit an average opacity in excess of twenty (20) percent.

(2) If such gases exit from a gas cleaner, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere any gases which:

(a) Contain particulate matter in excess of 0.010 gr/dscf as tested during the casting of hot metal and slag; or

(b) Exhibit an average opacity in excess of twenty (20) percent.

Section 4. Test Methods and Procedures. Reference methods in Appendix A of 40 CFR 60, except as provided [in subsection (5) of this section or] in 401 KAR 50:045,



and as supplemented by the procedures in subsection (6) of this section, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(1) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(2) Reference Method 1 for sample and velocity traverses;

(3) Reference Method 2 for velocity and volumetric flow rate;

(4) Reference Method 3 for gas analysis; and

(5) Reference Method 9 for the determination of opacity [ , except for averaging time and number of observations].

(6) For the purpose of determining compliance with Section 3(1) [(2)], the following procedures shall be used to supplement Method 9:

(a) A series of consecutive observations taken at fifteen (15) second intervals shall be made during the entire period of time that hot metal and slag are [is] being cast [poured]. [Determination of] Compliance shall be based on a comparison of the standards in Section 3(1) [(2)] with the highest average opacity occurring over any six (6) consecutive minutes during the period of observation. If emissions are being emitted from the roof monitor and other discharge points from the building, the reader shall read and record whichever plume is most opaque at the time of each reading.

[(6) For the purpose of determining opacity from a blast furnace casthouse pursuant to Section 3(2) of this regulation, the following procedures shall be used to supplement Method 9:]

(b) 1. [(a)] In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

2. [(b)] In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

[(c) If emissions are being emitted from the roof monitor and other points on the building, the reader may read whichever plume is most opaque at the time of the reading and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance.]

Section 5. Compliance Timetable. The owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall demonstrate compliance with Section 3 of this regulation on or before December 31, 1982.

Section 6. Alternate Emission Limitations. The owner or operator of an affected facility subject to this regulation may propose an alternate plan pursuant to the re-

quirements of 401 KAR 51:055 to meet the emissions limitations required by this regulation.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: February 27, 1984

RECEIVED BY LRC: February 27, 1984 at 2 p.m.

## CABINET FOR HUMAN RESOURCES

Department for Social Insurance

Amended After Hearing

904 KAR 1:150. Payments for alternative home and community based services for the mentally retarded.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet 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 cabinet, 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 payment provisions relating to home and community based services provided to the mentally retarded as an alternative to intermediate care facility services for the mentally retarded.

Section 1. Coverage. The Cabinet for Human Resources shall reimburse participating providers of alternative intermediate services for the mentally retarded (AIS/MR) for services rendered to eligible medical assistance recipients who meet patient status criteria for intermediate care for the mentally retarded, and who are authorized for the AIS/MR service by the cabinet. The covered service elements are described and defined in 904 KAR 1:140, Alternative home and community based services for the mentally retarded, and services must be provided in accordance with the terms and conditions described therein. [ ] Payments may not exceed the limits specified in Section 3 of this regulation. [ ]

Section 2. Payment Amounts. (1) Residential services, including residential (home) training, personal care, and homemaker/home health aide, shall be paid for at the rate of forty dollars (\$40) per day.

(2) Case management services shall be paid for at the rate of forty dollars (\$40) per hour.

(3) Habilitation services shall be paid for at the rate of forty dollars (\$40) per hour; however, medical services and/or items (e.g., dentures, eyeglasses, hearing aids, etc.) prescribed for a recipient by an appropriate specialist as necessary to the client's habilitation but not otherwise covered by the medical assistance program shall be paid for on the basis of reasonable cost. Minor home physical adaptations shall be paid for on the basis of reasonable cost not to exceed \$1,500 per client per patient year. The "patient year" for a client begins on the first day of admittance of the client to the AIS/MR program, with a new patient year beginning for that client on that same day in each succeeding calendar year.

(4) Adult day habilitation services shall be paid for at the rate of five dollars (\$5) per hour.

(5) In-home support services shall be paid for at the following rates:



(a) In-home training services shall be paid for at the rate of forty dollars (\$40) per hour.

(b) Homemaker/home health aide support services shall be paid for at the rate of twenty dollars (\$20) per hour.

(c) Personal care services shall be paid for at the rate of twenty dollars (\$20) per hour.

(6) Respite care (twenty-four (24) hours or more) shall be paid for at the rate of thirty-two dollars (\$32) per day. Respite care (less than twenty-four (24) hours) shall be paid for at the rate of three dollars and fifty cents (\$3.50) per hour, with the total not to exceed the upper limit of thirty-two dollars (\$32) for one (1) full day of care.

[[Section 3. Payment limits. (1) Payments shall be made on the above stated rate basis not to exceed the AIS/MR cluster annualized upper limit on payment.[]]]

[[[] (2) Under this system, an AIS/MR cluster will receive a total of Title XIX payments during the year in the amount of the established rates for services rendered Title XIX eligible recipients, so long as such payments (on a cumulative basis) do not exceed the annualized upper limits (total payment amount) which has been set for the cluster. Each cluster will also be required to maintain average expenditures per recipient (on a cumulative basis) as described by the Health Care Financing Administration, 42 CFR 441.303(d)(1), and interpreted for the AIS/MR cluster by the Cabinet for Human Resources.[]]]

[[[] (3) Utilizing the formula described in 42 CFR

441.303(d)(1) as a guideline and applying accumulated statistical data, the cabinet will set effective July 1 each year the annualized upper limits and averages to be applied to the AIS/MR cluster services from July 1 to June 30 each year.[]]]

[[[] (4) The cabinet may reduce payment by the percentage amount which will assure that the payments to the cluster do not exceed the annualized upper limit or average expenditures. Reduction factors shall (to the extent possible) be applied in such a manner as to ensure as even flow of reimbursement to the AIS/MR cluster through the year, i.e., generally so as to ensure that the payments for any one (1) month do not exceed by a substantial amount the prorated annual amount.[]]]

[[[] (5) Any overpayment due the program at the end of the period as a result of exceeding the upper limit shall be recouped by settlement or by withholding payment.[]]]

[Section 4. Implementation. Payments may be made for covered services provided beginning on April 1, 1983.]

JACK F. WADDELL, Commissioner

ADOPTED: March 7, 1984

APPROVED:

E. AUSTIN, JR., Secretary

RECEIVED BY LRC: March 7, 1984 at 2:30 p.m.

## Proposed Amendments

### FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Licensure for Nursing Home Administrators (Proposed Amendment)

201 KAR 6:010. Licensure.

RELATES TO: KRS Chapter 216A

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS Chapter 216A authorizes the Kentucky Board of Licensure for Nursing Home Administrators to regulate the practice of nursing home administration in Kentucky, including the adoption of standards for licensure. The purpose of this regulation is to establish uniform requirements for the licensing of nursing home administrators.

Section 1. Requirements for Issuance of License. An applicant for a license as a nursing home administrator shall in addition to meeting the requirements provided by KRS 216A.080:

(1) Establish a bona fide residency or express an intent to reside in Kentucky, unless employed by a health care facility located in Kentucky.

(2) Have satisfactorily completed a course of study for, and have been awarded a baccalaureate degree; and have six (6) months of continuous management experience in a health care facility within three (3) years from the date of application. Said management experience shall include at least partial responsibility for personnel management, budget preparation and fiscal management, and public relations; or

(3) Have satisfactorily completed an associate degree program or a minimum of sixty (60) college semester hours with concentration in health services, social services, or business, and one (1) year of continuous management experience in a health care facility within three (3) years from the date of application. Said management experience shall include at least partial responsibility for personnel management, budget preparation and fiscal management and public relations.

(4) For purposes of meeting the educational requirements above, appropriate vocational/technical programs will be accepted with the following stipulations:

(a) The courses/training be health, business or social services related.

(b) Programs requiring appropriate designation such as licensure, registration, certification, etc., will be approved only after the applicant has received that designation by the appropriate credentialing body.

(c) Applicants with a one (1) year program must also have at least thirty-two (32) college credit hours, at least half of which must be in general subjects such as english, math, science, psychology, etc.

(d) Applicants with a two (2) year program must also have at least sixteen (16) college credit hours in general subjects such as english, math, science, psychology, etc.

(5) Pay a license fee of \$100 at the time of application, seventy-five dollars (\$75) of which shall be refunded in the event the applicant is not subsequently licensed.

(6) *Effective October 1, 1985, the baccalaureate degree referred to in subsection (2) of this section must be related to health, business or social services and beginning October 1, 1985, the provisions of subsections (3) and (4) of this*

*section, and that portion of Section 3(1)(d) of this regulation dealing with subsections (3) and (4) of this section will no longer be applicable.*

Section 2. Examination Subjects. Every applicant for a license as a nursing home administrator shall successfully pass a written examination which shall include, but need not be limited to, the following subjects:

- (1) Applicable standards of environmental health and safety;
- (2) Local health and safety regulations;
- (3) General administration;
- (4) Psychology of patient care;
- (5) Principles of patient care;
- (6) Personal and social care;
- (7) Therapeutic and supportive care and services in long-term care;
- (8) Departmental organization and management; and
- (9) Community interrelationships.

Section 3. Temporary Permits. (1) The board may issue a temporary permit to an individual to practice the art of nursing home administration when the applicant:

- (a) Has made written application to the board on the forms provided;
- (b) Is at least twenty-one (21) years of age;
- (c) Intends to become employed by a health care facility located in Kentucky;
- (d) Has met the minimum education requirements for licensure contained in Section 1(2), (3), (4), (6) of this regulation and has had at least six (6) months of management experience in a health care facility within three (3) years preceding the date of application, such experience, including at least partial responsibility for personnel management, budget preparation, and fiscal management and public relations; or
- (e) Has been awarded a baccalaureate degree from an accredited college or university;
- (f) Has furnished the board a letter of recommendation from the facility owner or supervisor where he intends to work, with sufficient information to support the fact that an emergency situation exists; and
- (g) Has paid the temporary permit fee of fifty dollars (\$50).

(2) Temporary permits shall be issued in the name of the applicant to be employed at a specific facility for a period of six (6) months.

(3) A refund of twenty-five dollars (\$25) may be made to the holder of a temporary permit, in the event such permittee receives a nursing home administrators license issued during the first ninety (90) days of the permit period.

(4) A temporary permit may not be extended or renewed beyond the initial period of six (6) months and may not be transferred from one (1) facility to another nor from one (1) individual to another.

Section 4. Renewal, Expiration and Reinstatement of Licenses. (1) All licenses shall be renewed every two (2) years from date of issue or from date of last renewal. It is the responsibility of the licensee, prior to such date of renewal to have:

- (a) Made written application for renewal on the prescribed forms;
- (b) Paid a biennial renewal fee of \$100;
- (c) Submitted evidence, satisfactory to the board, of attendance or completion of a continuing education program of study approved by the board which contained either a

minimum of four (4) college semester hours in courses directly related to business administration, economics, marketing, computer science, social services, psychology, and health profession related programs such as nursing, premedicine, etc., or fifty (50) clock hours, all of which must have been achieved during the immediate preceding biennial period. Any clock hours obtained during the last thirty (30) days of any renewal period, in excess of the number of hours required for renewal purposes, may be credited toward the new renewal period during the renewal process.

(2) The board may make exceptions, grant waivers or provide extensions to the requirements in subsection (1) of this section when extenuating circumstances are sufficiently evidenced by the licensee to warrant such action.

(3) Expired licenses may be reinstated within a period of sixty (60) days from date of expiration, provided all conditions are met. Failure on the part of the licensee to pay the biennial licensure fee and show evidence of completing the required continuing education credits during the sixty (60) day grace period shall automatically cause such license to terminate. Thereafter, a candidate for relicensure shall make application to the board and meet current licensure requirements.

Section 5. Endorsement. The board may license by endorsement, without examination, a nursing home administrator currently licensed by examination by the proper authorities of any other state upon payment of a fee of \$100, and provided the applicant demonstrates to the board:

- (1) That he is familiar with state and local health and safety regulations relating to nursing homes;
- (2) That his license has not been revoked or suspended in any other state; and
- (3) That he meets current educational and experience requirements contained in Section 1 of this regulation.

Section 6. Refusal, Suspension, and Revocation of Licenses. The board may suspend, revoke, or refuse to issue or renew a license of a nursing home administrator, or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that such applicant or licensee:

- (1) Has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules and regulations of the board pertaining thereto;
- (2) Has willfully or repeatedly violated any of the provisions of the law, code, rules, or regulations of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes;
- (3) Has been convicted of a felony involving moral turpitude;
- (4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;
- (5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;
- (6) Has practiced fraud, deceit, or misrepresentation in his capacity as a nursing home administrator;
- (7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;
- (8) Is addicted or dependent upon the use of alcohol, controlled substances or other drugs; or

(9) Has wrongfully transferred or surrendered possession, either temporarily or permanently, his license to any other person.

Section 7. Complaints and Hearing Procedures. Any person, public officer, or association, or the board may prefer charges against any licensee:

(1) Such charges shall be in writing and shall be submitted to the board.

(2) The board, or any person or persons appointed by it for the said purpose, may hold a preliminary hearing to determine whether a formal hearing on the charges is necessary.

(3) The board may dismiss the charges and take no action thereon, by formal hearing or otherwise, in which event the charges and the order dismissing the charges shall be filed with the board.

(4) If the board decides that the charges shall be heard formally, the board may hear the charges or designate a hearing officer to hear the charges and set a time and place for a hearing.

(5) A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused at least thirty (30) days before the date fixed for the hearing.

(6) Upon the conclusion of the hearing, the board may revoke the license of the accused, or suspend such license for a fixed period, or reprimand, or take other disciplinary action, or dismiss the charges.

(7) An order of suspension made by the board may contain such provisions as to reinstatement of the license as the board shall direct.

Section 8. Conduct of Hearing. At any hearing conducted pursuant to this regulation, any party to the proceedings may appear personally and with counsel and shall be given the opportunity to introduce evidence and witnesses and to cross-examine witnesses:

(1) At any formal hearing conducted pursuant to this regulation, if a party shall appear without counsel, the board or person designated as a hearing officer shall advise such party of his right to be represented by counsel; and that if he desires to proceed without counsel that he may call witnesses, cross-examine witnesses, and introduce evidence in his behalf.

(2) Appearances shall be noted on the official record of hearing.

(3) The board or designated hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.

(4) If an adjournment is requested in advance of the hearing date, such request shall be submitted in writing and shall specify the reason for such request.

(5) In considering an application for adjournment of a hearing the board or hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

(6) The board or designated hearing officer shall issue subpoenas and subpoena duces tecum upon request of any party to the proceedings of any hearing set down by the board.

(7) The board or hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain them.

(8) Upon the conclusion of a hearing the board shall take such action upon such written findings and determinations as it deems proper.

Section 9. Display of Licenses. Every person licensed as a nursing home administrator shall display such license and certificate of biennial registration in a conspicuous place in the office or place of business or employment of such licensee.

Section 10. Duplicate Licenses. The board may issue a duplicate license upon payment of a fee of ten dollars (\$10).

Section 11. Inactive Licensure Status. (1) A licensed nursing home administrator in good standing may be placed on inactive status upon request to the board and payment of a biennial fee of twenty dollars (\$20), which is not refundable.

(2) Licensees on inactive status shall be subject to the same renewal provisions as those on active status, except that no continuing education credits are required during the inactive period.

(3) A licensee on inactive status may revert to active status by:

(a) Making written application to the board;

(b) Payment of a biennial licensure fee of \$100;

(c) Successfully passing an examination administered by the board.

(4) The effective date of the return to active status will be the date board approval is granted and will establish a new anniversary date for renewal purposes only, and the original licensure date remains unchanged.

ROBERT ELLIOTT, Chairman

ADOPTED: February 17, 1984

RECEIVED BY LRC: February 17, 1984 at 9:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: David L. Nicholas, Director, Division of Occupations and Professions, P. O. Box 456, Frankfort, Kentucky 40602.

## TOURISM CABINET

Department of Fish and Wildlife Resources  
(Proposed Amendment)

301 KAR 1:075. Giggling, 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

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. This amendment is necessary to remove the giggling and snagging restrictions in the lower sections of the Little Kentucky River [restrict tickling and noodling in specified waters].

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 Green River and its tributaries and Rolling Fork River and its tributaries 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.

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 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—*upstream from a point 200 yards below the low water dam at the Sulphur Road Bridge [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,

(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 North, Middle and South Forks of the Kentucky River and their 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

ADOPTED: February 27, 1984

APPROVED: G. WENDELL COMBS, Secretary

RECEIVED BY LRC: March 15, 1984 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Department of Fish and Wildlife, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Environmental Protection  
Division of Water  
(Proposed Amendment)

**401 KAR 5:090. Control of water pollution from oil and gas facilities.**

RELATES TO: KRS Chapters 151, 224

PURSUANT TO: KRS 13.082, 151.125, 224.033, 224.060

NECESSITY AND FUNCTION: KRS 224.033 requires that the cabinet promulgate regulations pertaining to the issuance of permits and the prevention, abatement and control of water pollution. This regulation provides for preventing, abating, and controlling water pollution from oil and gas facilities.

Section 1. Applicability. (1) The provisions of this regulation shall apply to the owner or operator of any facility which causes or is capable of causing produced water.

(2) Owners or operators of dry gas wells as defined in Section 2(8) of this regulation shall be exempt from the requirements of this regulation except under Sections 4, 5(2)(b), and 8(3) of this regulation.

Section 2. Definitions. The following definitions describe terms used in this regulation. Terms not defined below shall have the meaning given to them by KRS Chapters 151 and 224 or the meaning attributed by common use.

(1) "Area of review" means a fixed radius around the facility of not less than one-fourth (¼) mile.

(2) "Barrel" means forty-two (42) U.S. gallons.

(3) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(4) "Director" means the secretary of the cabinet or an authorized representative. For purposes of permit issuance decisions, the director is the Director of the Division of Water.

(5) "Disposal well" means a borehole drilled or proposed to be drilled, or a well converted to be used, for the sole purpose of disposing of any water, gas, produced water or other fluid by injection or other method into a subsurface zone.

(6) "Division" means Division of Water, Natural Resources and Environmental Protection Cabinet.

(7) "Drilling pit" means an earthen excavation for the collection of fluids associated with the drilling, construction, completion, acidizing, or fracturing of an oil or gas well.

(8) "Dry gas well" means a gas well producing one (1) barrel or less of produced water at maximum production conditions during a given twenty-four (24) hour period.

(9) "Enhanced recovery well" means a well used for the injection of fluids to improve or maintain reservoir productivity.

(10) "Facility" means any well, tank, pit, structure, apertenance or improvement used in the exploration, drilling, or production of oil or gas or used for treating, storing or disposing of produced water.

(11) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined herein as oil.

(12) "Geologically isolated" means a zone separated from drinking water aquifers and free of known open faults or fractures and free of any unprotected wells within the area of review.

(13) "Holding pit" means an earthen excavated depression designed to receive and store produced water at a facility.

(14) "Kentucky Pollutant Discharge Elimination System (KPDES)" means the Kentucky program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits to discharge and imposing and enforcing pretreatment requirements. The KPDES regulations are 401 KAR 5:050 to 5:085.

(15) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of specific gravity, which are produced at the well in liquid form and which are not the result of condensation of gas after it leaves the underground reservoir.

(16) "Operate" means any act relating to the construction, operation or maintenance of any facility.

(17) "Operator" means any person who operates any facility.

(18) "Owner" means any person who possesses any interest in:

(a) The right to develop, operate, or produce oil or gas; or

(b) Any facility.

(19) "Person" means as defined in KRS 224.005(12).

(20) "Pollutant" means as defined in KRS 224.005(28).

(21) "Produced water" means any and all water and

pollutants and combination thereof resulting, obtained or produced from the exploration, drilling, or production of oil or gas.

(22) "Register" means to file forms with the division which contain information as to oil and gas well geographic location, production, produced water production, methods used for treating, storing or disposing of produced water, and other information deemed necessary by the division.

(23) "Stripper well" means any oil well producing ten (10) barrels or less per day of oil.

(24) "Tank battery" means an installation where oil is collected from wellheads and separated from produced water.

(25) "Total dissolved solids" means the total dissolved (filtrable) solids as determined by use of the method specified in 40 CFR Part 136.

(26) "Waters of the Commonwealth" means waters of the Commonwealth as defined in KRS 224.005(26).

(27) "Well" means a borehole drilled, or proposed to be drilled for the purpose of producing gas or oil or one through which gas or oil is being produced, or a borehole drilled or proposed to be drilled for the purpose of injecting any water, gas, produced water or other fluid therein or one into which any water, gas, produced water or other fluid is being injected.

(28) "Zone" means a subsurface layer or stratum capable of producing or receiving fluids.

Section 3. Prohibition. No person shall construct, modify, or operate a facility in violation of state or federal water quality standards or other applicable standards in this regulation.

Section 4. Registration. (1) All operators shall register their facilities with the division using a form approved by the director containing name of operation, location of lease, oil and produced water production rates, method of produced water disposal, and other necessary information. The operator shall register each tank battery with associated wells, pits, and other similar structures as one (1) facility. Those facilities not associated with a tank battery shall be registered individually.

(2) Operators who previously registered their facilities with the division on the form entitled "Division of Water, Crude Oil Producers Brine Disposal Registration Form" shall not be required to register under this section unless there has been a change in operators or to the reported quantity of produced water or a modification to the facility has occurred which affects the operations used for treating, storing or disposing of produced water.

(3) Operators shall post waterproof signs, at each facility, of a size and type approved by the director. The signs shall identify the operator's name, address, permit and registration number, phone number, and other information required by the director.

(4) New facilities are required to register with the division within sixty (60) days after the facility begins producing oil and/or gas.

(5) *Existing dry gas wells are required to register with the division by June 1, 1985.*

Section 5. Produced Water Disposal. (1) Produced water shall be disposed of into either an enhanced recovery well, a disposal well permitted under Section 11(3) of this regulation, or a well permitted under 40 CFR 146, the Underground Injection Control Program.

(2) If either of the following conditions apply to a facility, surface discharges of produced water will be allowed, but are subject to the requirements of Section 8 of this regulation. It is the obligation of the applicant to demonstrate to the director, with appropriate supporting data, that one (1) of the following applies:

(a) The cost of constructing and operating a disposal well system to meet the requirements of Section 11(4) of this regulation or the legal or actual inability to use a non-owned disposal well would necessitate a shutdown of operations at that particular facility; or

(b) Less than one (1) barrel per twenty-four (24) hour period of produced water is generated, except for those facilities included in Subpart C—Onshore Subcategory of 40 CFR 435.

#### Section 6. Disposal of Produced Water Off the Facility.

(1) No person shall transport produced water away from a tank battery to any location other than a cabinet-permitted disposal system or an individual Underground Injection Control (UIC) permitted site, or a disposal system in another state.

(2) No operator shall authorize or allow the transportation of produced water away from a facility where it is produced unless such operator has first submitted the following information to the director and obtained approval:

(a) Operator's name, mailing address, and telephone number.

(b) Transporter's name, mailing address, telephone number.

(c) Name of disposer, mailing address, telephone number, disposal site, and permit number.

(d) Vehicle identification information, including license number and vehicle description.

(e) Quantity of produced water to be transported.

(3) The operator of a disposal well may receive produced water from other facilities in accordance with the notification procedures of subsection (2) of this section.

(4) Spills during transfer of produced water shall be reported in accordance with 401 KAR 5:015.

Section 7. Approval Requirements for Continuation of Existing Facilities. (1) Applicability. The provisions of this section shall apply to operators of facilities in existence prior to the effective date of this regulation.

(2) Continuation requirements. Operators may continue to operate existing facilities for a period not to exceed one (1) year from the date of the submittal of a compliance plan provided all the following provisions are met:

(a) A written request to continue operating existing facilities is submitted to the director. This request shall include a detailed description of existing operations for treating, storing or disposing of produced water.

(b) A plan is submitted to the director which proposes a schedule and outlines the procedures for meeting the requirements of this and other applicable regulations.

(c) Both the written request and plan shall be submitted to the director by June 1, 1984 [within ninety (90) days of the effective date of this regulation].

(d) Approval for continuation of operation of existing facilities has been obtained from the director pursuant to subsection (3) of this section and the operator has on display at the facility the Division's approval identification number.

(3) Approval procedures. After receiving the written request and plan specified in subsection (2) of this section, the director will:

(a) Review the plan and request any additional informa-

tion from the operator, if needed, within twenty (20) working days of receipt of the plan;

(b) Develop a compliance schedule for each facility or contiguous facility operation; and

(c) Issue a written approval to the operator containing the compliance schedule and an identification number within forty (40) working days after the plan is deemed complete.

(4) *Nothing in this section shall be construed to authorize any discharge from any facility except pursuant to Section 8 of this regulation.*

Section 8. Surface Discharges of Produced Water. (1) Applicability. The provisions of this section apply to operators of facilities discharging produced water into surface waters of the Commonwealth.

(2) General requirements. No produced water shall be discharged from a facility unless one (1) of the requirements of Section 5(2) of this regulation is met and such discharge is authorized by and in accordance with the KPDES regulations 401 KAR 5:050 through 401 KAR 5:085. A KPDES permit is not required for the discharge of produced water through a permitted disposal well. KPDES permits may be issued to operators of facilities provided the facility meets the criteria for inclusion within Subpart F—Stripper Subcategory of 40 CFR Part 435.

(3) Any operator of oil and gas facilities who files a compliance plan indicating an intent to [continue the] discharge [of] produced water under a KPDES permit shall submit, with the *KPDES application* [compliance plan], information regarding the technological, economic and geologic factors which limit the operator's capability to inject the produced water.

(4) No KPDES permit shall be issued to the operator of an oil and gas facility that would be a new source or new discharger if the discharge from its construction or operation would cause or contribute to a violation of water quality standards.

Section 9. Holding Pits. (1) Applicability. The provisions of this section apply to the operators of holding pits which are constructed after the effective date of this regulation, and to the operators of existing pits that are incapable of demonstrating pursuant to Section 7 of this regulation that those pits do not contaminate surface or groundwaters.

(2) Exemption. Spill Prevention Control and Countermeasure (SPCC) pits developed pursuant to Section 13 of this regulation are exempted from the requirements of this section.

(3) General requirements. Operators of holding pits shall supplement the registration form required under Section 4 of this regulation with information regarding the construction and operation of any holding pit and any other information deemed necessary by the director. This information shall be submitted to the director on forms provided by the director not less than thirty (30) days prior to the date the permit is desired.

(4) Permits. The director will issue permits to operators of holding pits to contain any condition necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of the law to the contrary.

(5) Conditions applicable to holding pits.

(a) Construction requirements.

1. Holding pits shall be constructed in accordance with KRS Chapter 151 and Division of Waste Management regulation 401 KAR 30:030.

2. Holding pits shall be constructed with an im-



permeable synthetic liner having a minimum thickness of twenty (20) mils.

3. Holding pits shall be designed with a continuous bermed area at least two (2) feet above ground level.

4. Facility shall be constructed for the collection of fluids, other than produced water, associated with well construction, acidizing and chemically enhanced recovery in areas where the waters of the Commonwealth may be affected. The closure requirement for the holding pit shall be as specified in subsection 5(c) of this section.]

(b) Operating requirements.

1. No holding pit shall discharge produced water into waters of the Commonwealth except in accordance with a KPDES permit, nor shall any holding pit be used for the ultimate disposal of produced waters.

2. All surface water shall be diverted away from the holding pit so that the holding pit shall have no additional drainage area.

3. Waste shall be removed from the holding pit to maintain a one (1) foot minimum freeboard. Disposal of wastes shall be in accordance with Kentucky laws and regulations.

(c) Closure requirements.

1. Except as provided in subsection (2) of this section, any holding pit no longer used for the purpose for which it was intended shall be backfilled, graded, and revegetated. The vegetative cover shall be capable of stabilizing the soil surface from erosion. This closure shall be conducted within the time period specified in the permit issued pursuant to subsection (3) of this section.

2. A holding pit may remain as a permanent structure or be used for other purposes upon written approval from the director.

3. Disposal of all wastes shall be in accordance with Kentucky laws and regulations.

(6) A tank, of a size and type approved by the director, may be used in lieu of a holding pit.

**Section 10. Drilling Pits.** Facilities shall be constructed for the collection of fluids associated with well construction, acidizing and chemically enhanced recovery in areas where waters of the Commonwealth may be affected. If the life of the facilities is longer than thirty (30) days following completion of exploration or drilling activities they shall meet all requirements of Section 9 of this regulation. Upon written request, the director may, with good cause, extend the allowable life of the facility to a maximum ninety (90) days if the extension will not cause or contribute to contamination of waters of the Commonwealth. The closure requirements for these facilities shall be as specified in Section 9(5)(c) of this regulation.

**Section 11. Disposal Wells.** (1) Applicability. The provisions of this section apply to operators of disposal wells until issuance of an individual Underground Injection Control (UIC) permit by the agency having jurisdiction under the Safe Drinking Water Act (42 USC 300f, et seq.).

(2) General requirements. Operators of disposal wells shall supplement the registration form required under Section 4 of this regulation with information regarding the construction and operation of any disposal well, a plan showing the location of all existing and abandoned wells within the area of review and any other information deemed necessary by the director. This information shall be submitted to the director on forms provided by the division not less than thirty (30) days prior to the date the permit is desired.

(3) Permits. The director will issue permits to operators

of disposal wells to contain any condition necessary to satisfy any requirement of this regulation notwithstanding any less stringent provision of law to the contrary.

(4) Conditions applicable to all disposal wells. Disposal wells shall reinject all produced waters into a formation which is geologically isolated and contains more than 10,000 mg/l of total dissolved solids or meets the criteria of an exempted aquifer as set forth in 40 CFR 146.4. If a formation is unacceptable for injection solely because abandoned and improperly plugged boreholes have established communication between it and other strata, the operator is obligated to find and properly plug these boreholes within the area of review established by the division. Disposal well failure or shutdown shall be reported immediately to the director. All plugging, casing, and operation of wells shall be done in accordance with Department of Mines and Minerals regulations 805 KAR 1:020, 1:060, and 1:070.

**Section 12. Inspection and Enforcement.** The cabinet may inspect any facility pursuant to KRS 224.033 and shall provide written notification of any violation to the operator. Following the determination of any violation of any applicable provision of law, the cabinet may initiate any enforcement action including an order to abate and alleviate such condition or activity pursuant to KRS 224.071 and any other applicable remedy including civil penalties pursuant to KRS 224.994.

**Section 13. Spills and Leaks.** (1) General provision. Operators of facilities shall develop and implement Spill Prevention Control and Countermeasure (SPCC) Plans when required under 40 CFR Part 112.

(2) Reporting.

(a) Operators shall report to the division all spills and bypasses of oil and produced water from facilities in accordance with 401 KAR 5:015.

(b) Operators shall report all spills, discharges and bypasses of oil from a facility in accordance with the procedures in 40 CFR Part 110.

**Section 14. Permit Fees.** (1) The provisions of this section shall apply to the operator of each facility required to have a permit by this regulation except for any facility permitted under a general permit.

(a) Every operator who is issued a permit under the provisions of this regulation shall be assessed a permit fee in accordance with the provisions set forth in subsection (2) of this section.

(b) Upon making the determination that a permit can be issued under this regulation, the director will notify upon receipt of the total amount of the permit fee. Failure by the applicant to pay the assessed permit fee on or before the due date may result in the denial of the permit.

(2) The fee for each type of permit is listed below:

Facility and Type of Permit	Permit Fee
Construction of "holding pit"	\$100
Operation of existing "disposal well"	\$125
Construction of "disposal well"	\$200

(3) In addition to the requirements of this regulation, facilities issued KPDES permits will be assessed a fee pursuant to 401 KAR 5:085.

(4) Duplicate permit fee. Upon application for the issuance of a duplicate permit for activities covered under

this regulation, the duplicate permit shall be issued by the cabinet upon receipt of a fifteen dollar (\$15) permit fee.

(5) Terms of payment.

(a) Payment of a permit fee as provided for by this section will be made within thirty (30) days of the billing date.

(b) Certified checks or money orders, if used, shall be payable to the Kentucky State Treasurer.

CHARLOTTE BALDWIN, Secretary

ADOPTED: March 15, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Richard Shogren, Division of Water, 18 Reilly Road,  
Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)

**401 KAR 31:070. Delisted hazardous waste streams.**

RELATES TO: KRS 224.864(3), 224.868, 224.876

PURSUANT TO: KRS 13:082, 13.083, 224.017, 224.864

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous wastes. This regulation contains the list of industries whose waste stream exclusion petitions have been granted a temporary exclusion based on the criteria in 401 KAR 31:060.

Section 1. Purpose of Temporary Exclusions. The cabinet may (but shall not be required to) grant a temporary exclusion before making a final decision under 401 KAR 31:060 whenever it finds that there is a substantial likelihood that an exclusion will finally be granted. The cabinet will publish notice of any such temporary exclusion in accordance with Section 2 of this regulation.

Section 2. List of Granted Temporary Exclusions. Each petitioner has claimed that the samples are representative of any variation of the constituent level in the waste stream(s). A copy of the petitions listed in this section has been filed with the Legislative Research Commission, Regulation Compiler's Office, The Capitol, Frankfort, Kentucky 40601. The petition is also on file at the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The following waste streams have been granted temporary exclusions from the lists of hazardous waste in 401 KAR 31:040:

(1) (a) National Standard Company of Corbin. The National Standard Company of Corbin, involved in the production of industrial wire cloth and low carbon steel wire, has petitioned the secretary to exclude its treated filter cake, listed as EPA Hazardous Waste No. K062, (spent pickle liquor from steel finishing operations), from the list of hazardous wastes contained in 401 KAR 31:040.

(b) In the petition submitted to the cabinet, the test results found in this paragraph were contained. EP toxicity tests revealed maximum total chromium and lead levels in the waste extract of 0.074 and 0.175 mg/l, respectively.

(2) (a) General Electric Company. The General Electric Company—Appliance Park located in Louisville, involved

in the manufacturing of various kitchen and home appliances, has petitioned the cabinet to exclude its sludge from the lists of hazardous wastes:

1. EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except for the following processes:

- a. Sulfuric acid anodizing of aluminum;
- b. Tin plating on carbon steel;
- c. Zinc plating (segregated basis) on carbon steel;
- d. Aluminum or zinc—aluminum plating on carbon steel; and

e. Cleaning or stripping associated with tin, zinc and aluminum plating on carbon steel; and

f. Chemical etching and milling of aluminum;

2. EPA Hazardous Waste No. F019—Wastewater treatment sludges from the chemical conversion coating of aluminum; and

3. EPA Hazardous Waste No. K062—Spent pickle liquor from steel finishing operations.

(b) In the petition submitted to the cabinet, the test results found in this paragraph were contained. EP toxicity tests of the final treatment sludge revealed maximum cadmium, chromium, nickel, and lead concentrations of 0.001, 0.03, 4.53 and 0.15 ppm. Total constituent analysis for cyanide indicated a maximum concentration of \$1.05 ppm. The pH ranged from 8.2 to 8.4. The maximum allowable limits for cadmium, hexavalent chromium, nickel, lead, cyanide, and pH (as described in this paragraph) are 1.0, 5.0, 20.0, 5.0, 10.0, and 2.0.

(3) (a) *The Ladish Company of Cynthiana, involved in the production of stainless steel valves, fittings, and forged steel fittings, has petitioned the secretary to exclude its lime-treated sulfuric acid sludge and its lime-treated and chemically-fixed nitric/hydrofluoric acid sludge, both considered EPA Hazardous Waste No. K062 (spent pickle liquor from steel finishing operations), from the list of hazardous wastes contained in 401 KAR 31:040.*

(b) In the petition submitted to the cabinet, the test results found in this paragraph were contained. EP toxicity tests of the final treatment sulfuric acid sludge revealed maximum chromium and lead concentration of 0.038 and 0.012 mg/l, respectively. EP toxicity tests of the final treatment nitric/hydrofluoric acid sludge revealed maximum chromium, hexavalent chromium, and lead concentrations of 4.24, 1.52, and 0.006 mg/l respectively.

(4) (a) *Production Plating, Inc. of Lexington, involved in electroplating, vibratory finishing of, and etching on metals, has petitioned the secretary to exclude its zinc-cyanide contaminated soil listed as EPA Hazardous Waste No. F007, spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions) from the lists of hazardous wastes contained in 401 KAR 31:040.*

(b) *The test results found in this paragraph were contained in the petition submitted to the cabinet. Distilled water leachate tests revealed a maximum concentration of free cyanide of 0.02 mg/l. Total constituent analysis of the soil revealed a maximum concentration of free cyanide at a concentration of 7.99 ppm.*

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: March 15, 1984

RECEIVED BY LRC: March 15, 1984 at 4 p.m.

SUBMIT COMMENT TO: J. Alex Barber, Director,  
Division of Waste Management, 18 Reilly Road, Fort  
Boone Plaza, Frankfort, Kentucky 40601

See public hearings scheduled on page 1071.



**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)**

**401 KAR 35:010. General provisions for facilities (IS).**

RELATES TO: KRS 224.830 through 224.877, 224.994  
PURSUANT TO: KRS 13.082, 13.083, 224.017,  
224.033, 224.866

**NECESSITY AND FUNCTION:** KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Natural Resources and Environmental Protection Cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the post-closure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the general provisions for these facilities.

**Section 1. Purpose, Scope and Applicability.** (1) The purpose of this chapter is to establish minimum standards which define the acceptable management of hazardous waste during the period of interim status.

(2) The standards in this chapter apply to owners and operators of sites or facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Sections 1 through 6 of 401 KAR 38:070, until final administrative disposition of their permit application is made, *and to those owners and operators of sites or facilities in existence on November 19, 1980, who failed to provide timely notification as required by Sections 1 through 6 of 401 KAR 38:070, and/or failed to file Part A of the permit application.* These standards apply to all treatment, storage, or disposal of hazardous waste at these sites or facilities, except as specifically provided otherwise in this chapter or 401 KAR Chapter 31.

(3) The requirements of this chapter do not apply to:

(a) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act;

(b) A person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act;

(c) The owner or operator of a POTW which treats, stores or disposes of hazardous waste;

(d) The owner or operator of a site or facility permitted, licensed, or registered by the cabinet to manage municipal or industrial solid waste, if the only hazardous waste that the site or facility treats, stores, or disposes of is excluded from regulation under this chapter by Section 5 of 401 KAR 31:010;

(e) The owner or operator of a site or facility which treats or stores hazardous waste, which treatment or storage meets the criteria in Section 6(1) of 401 KAR 31:010, except to the extent that Section 6(2) of 401 KAR 31:010 provides otherwise;

(f) A generator accumulating waste on-site in compliance with Section 5 of 401 KAR 32:030, except to the extent the requirements are included in Section 5 of 401 KAR 32:030;

(g) A farmer disposing of waste pesticides from his own use in compliance with Section 2 of 401 KAR 32:050; or

(h) The owner or operator of a totally enclosed treatment facility, as defined in Section 1 of 401 KAR 30:010;

(i) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section 1 of 401 KAR 30:010;

(j) Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of 401 KAR 35:030 and 35:040 are applicable to owners and operators of treatment, storage and disposal facilities otherwise subject to this chapter;

(k) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section 1 of 401 KAR 32:030 at a transfer facility for a period of ten (10) days or less;

(l) The addition of absorbent material to waste in a container (as defined in Section 1 of 401 KAR 30:010) or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and Section 8 of 401 KAR 35:020 and Sections 2 and 3 of 401 KAR 35:180 are complied with.

(4) This chapter contains dates based on previous incorporation of the provisions of this chapter. The provisions of this chapter were originally incorporated in Section 6 of 401 KAR 2:070 on January 7, 1981. On August 24, 1982 the provisions of this chapter were moved to 401 KAR 2:073.

**Section 2. Imminent Hazard Action.** Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to KRS 224.071.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: March 15, 1984

RECEIVED BY LRC: March 15, 1984 at 4 p.m.

SUBMIT COMMENT TO: J. Alex Barber, Director,  
Division of Waste Management, 18 Reilly Road, Fort  
Boone Plaza, Frankfort, Kentucky 40601.

See public hearings scheduled on page 1071.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)**

**401 KAR 35:240. Incinerators (IS).**

RELATES TO: KRS 224.033, 224.830 through  
224.877, 224.994

PURSUANT TO: KRS 13.082, 13.083, 224.017,  
224.033, 224.866

**NECESSITY AND FUNCTION:** KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the post-closure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes minimum standards for incinerators.

Section 1. Applicability. (1) The requirements in this regulation apply to owners and operators of sites or facilities that treat hazardous waste in incinerators, except as Section 1 of 401 KAR 35:010 and subsection (2) of this section provide otherwise.

(2) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this regulation, except Section 5 of this regulation, provided that the owner or operator has documented in writing that the waste would not reasonably be expected to contain any of the hazardous constituents listed in 401 KAR 31:170, and such documentation is retained at the facility, if the waste to be burned is: [Incineration of wastes which:]

(a) Listed as a hazardous waste in 401 KAR 31:040 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(b) Listed as a hazardous waste in 401 KAR 31:040 solely because it is reactive (Hazard Code R) for characteristics other than those listed in Section 4(1)(d) and (e) of 401 KAR 31:030, and will not be burned when other hazardous wastes are present in the combustion zone; or

(c) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under 401 KAR 31:030; or

(d) A hazardous waste solely because it possesses the reactivity characteristics described by Section 4(1)(a), (b), (c), (f), (g), or (h) of 401 KAR 31:030, and will not be burned when other hazardous wastes are present in the combustion zone.

[(a) Meet only the ignitability characteristic under 401 KAR 31:030; or]

[(b) Are listed in 401 KAR 31:040 for ignitability on (Hazard Code I), are exempted from the requirements of this regulation except Section 5 of this regulation, if the owner or operator can document that the waste feed would not reasonably be expected to contain constituents listed in 401 KAR 31:170. Such documentation must be in writing and must be kept at the facility.]

Section 2. Waste Analysis. In addition to the waste analyses required by Section 4 of 401 KAR 35:020, the owner or operator must sufficiently analyze any waste which he has not previously burned in his incinerator to enable him to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow) and to determine the type of pollutants which might be omitted. At a minimum, the analysis must determine:

(1) Heating value of the waste;

(2) Halogen content and sulfur content in the waste; and

(3) Concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

Section 3. General Operating Requirements. During start-up and shut-down of an incinerator, the owner or operator must not feed hazardous waste unless the incinerator is at steady state (normal) conditions of operation, including steady state operating temperature and air flow.

Section 4. Monitoring and Inspections. The owner or operator must conduct, at a minimum, the following monitoring and inspections when incinerating hazardous waste:

(1) Existing instruments which relate to combustion and emission control must be monitored at least every fifteen (15) minutes. Appropriate corrections to maintain steady

state combustion conditions must be made immediately either automatically or by the operator. Instruments which relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH and relevant level controls.

(2) The complete incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be inspected at least daily for leaks, spills and fugitive emissions, and all emergency shutdown controls and system alarms must be checked to assure proper operation.

Section 5. Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including but not limited to ash, scrubber waters, and scrubber sludges) from the incinerator.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: March 15, 1984

RECEIVED BY LRC: March 15, 1984 at 4 p.m.

SUBMIT COMMENT TO: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

See public hearings scheduled on page 1071.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Environmental Protection  
Division of Waste Management  
(Proposed Amendment)

401 KAR 39:070. Modification fees.

RELATES TO: KRS 224.033, 224.864, 224.866, 224.871

PURSUANT TO: KRS 13.082, 13.083, 224.017, 224.033, 224.871

NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits. The purpose of this chapter is to establish a fee schedule for hazardous waste management. The purpose of this regulation is to establish fees for modification of permits for hazardous waste management.

Section 1. Applicability. (1) This regulation applies to all owners and operators of hazardous waste facilities in Kentucky who require a modification to their hazardous waste management permit as specified in Section 2 of 401 KAR 38:040 and Section 2 of 401 KAR 38:050.

(2) In the event modification of a permit is required as a result of changes in Kentucky Statute or the Hazardous Waste Management Regulations, no modification fee shall be imposed.

Section 2. Minor Modifications. A fee of fifty dollars (\$50) per minor modification must be submitted to the cabinet with the application for minor modification. Minor modifications are defined in Section 2 of 401 KAR 38:050.

Section 3. Major Modifications. Major modifications are defined in Section 2 of 401 KAR 38:040. *Subsection 1*

of this section sets forth the major modification fees for the addition of one (1) or more new waste streams and for the addition of one (1) or more of the following units: tanks, surface impoundments, waste piles, incinerators, containers, land treatment units or landfill cells. Subsection (2) of this section sets forth the major modification fees for any major modification which does not meet the criteria of subsection (1) of this section. [The fee schedule is set forth below.]

(1) This subsection sets forth the major modification fees for the addition of one (1) or more new waste streams and for the addition of one (1) or more of the following units: tanks, surface impoundments, waste piles, incinerators, containers, land treatment units or landfill cells.

- (a) [(1)] Addition of new wastes ..... \$1,500;
- (b) [(2)] For treatment facilities:
  - 1. [(a)] Tanks ..... \$1,900;
  - 2. [(b)] Surface impoundments ..... 2,500;
  - 3. [(c)] Waste piles ..... 2,500;
  - 4. [(d)] Incinerators ..... 3,250;
- (c) [(3)] For storage facilities:
  - 1. [(a)] Containers ..... \$2,100;
  - 2. [(b)] Tanks ..... 1,900;
  - 3. [(c)] Surface impoundments ..... 2,500;
  - 4. [(d)] Waste piles ..... 2,500;
- (d) [(4)] For disposal facilities:
  - 1. [(a)] Surface impoundments ..... \$2,500;
  - 2. [(b)] Land treatment ..... 3,600;
  - 3. [(c)] Landfills ..... 4,000.

(2) This subsection sets forth the major modification fees for any major modification which does not meet the criteria of subsection (1) of this section.

- (a) For treatment facilities:
  - 1. Tanks ..... \$825;
  - 2. Surface Impoundments ..... 900;
  - 3. Waste Piles ..... 900;
  - 4. Incinerators ..... 1,275;
- (b) For storage facilities:
  - 1. Containers ..... \$800;
  - 2. Tanks ..... 825;
  - 3. Surface Impoundments ..... 900;
  - 4. Waste Piles ..... 825;
- (c) For disposal facilities:
  - 1. Surface impoundments ..... \$1,125;
  - 2. Land Treatment ..... 1,375;
  - 3. Landfill ..... 1,500.

Section 4. Submittal of Fees. The appropriate fee shall be submitted to the cabinet with the application for modification. The checks should be made payable to the Kentucky State Treasurer.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: March 15, 1984

RECEIVED BY LRC: March 15, 1984 at 4 p.m.

SUBMIT COMMENT TO: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

See public hearings scheduled on page 1071.

## EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Administration and Finance  
(Proposed Amendment)

### 702 KAR 1:005. Textbook program plan.

RELATES TO: KRS 156.400 to 156.476, 157.100 to 157.190

PURSUANT TO: KRS 13.082, 156.410, 156.437, 156.447, 156.474, 156.476, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160

NECESSITY AND FUNCTION: KRS 156.400 to 156.476 sets up the Kentucky Textbook Commission and the statutory policies and procedures for the adoption, purchase, use and distribution of textbooks to be utilized in the schools of the Commonwealth. KRS 157.100 to 157.190 require that the Department of Education purchase textbooks for certain grades and set up management procedures for the textbook program. This regulation establishes the standards and procedures which are necessary to carry out such statutory requirements dealing with textbooks.

Section 1. Effective July 15, 1982, and thereafter, the subjects included in the "Program of Studies for Kentucky Schools" shall be arranged into six (6) groups as follows: Group I—Social Studies K-12; Group II—Language Arts K-12 (except Reading K-8 and Literature K-12); Group III—Science K-12; Group IV—Mathematics K-12; Group V—Reading K-8, Music K-12, Industrial Arts 7-12, Business Education 7-12, Vocational Education 7-12, and Trades and Industry 11-12; and Group VI—Literature K-12, Art Education K-12, Foreign Language 3-12, Driver Education 9-12, Health and Physical Education K-12.

Section 2. (1) The Division of Free Textbook Services shall requisition and publishers submitting bids shall ship adequate textbook samples to the Division of Free Textbook Services and individual State Textbook Commission members, reviewers, and curriculum committees during the selection and adoption process. All available textbook samples, program descriptions, list of gratis items for districts adopting or purchasing books, and other pertinent information shall be provided before the bid opening. Samples and information not available at bid opening shall be shipped to the Division of Free Textbook Services, commission members, reviewers and curriculum committees as soon as possible and not later than the date of the commission hearing held under Section 3 of this regulation.

(2) When the selection process has been completed and the individual commission members, reviewers and curriculum committees have no further need for samples in their possession, such shall be disposed of in the following manner:

- (a) Reclaimed by publishers;
  - (b) Transferred to local school districts, institutions of higher education, or other appropriate agencies; or
  - (c) Sold by the State Board of Education.
- All sales and transfers shall be properly receipted and filed in the Division of Free Textbook Services. Official adoption samples, however, must be disposed of in accordance with KRS 156.470.

Section 3. (1) Each adoption year before the September listing, the State Textbook Commission shall conduct a hearing for the purpose of interviewing publisher agents

and representatives and providing an opportunity for agents and representatives to make presentations on textbooks submitted for listing.

(2) The commission shall hear any person or organization that may have complaints or concerns about a textbook being considered for listing at the publisher hearing or the September listing.

(3) Parties desiring to be heard shall file with the Secretary of the State Textbook Commission a request two (2) weeks prior to either meeting to assure a place on the agenda. The request need not be in any prescribed form but must clearly state:

(a) Name and address of the person or organization requesting the hearing;

(b) Title, author and copyright date of the textbook in question;

(c) Sections of the textbook being questioned and nature of concern;

(d) Anticipated problems that would be created if the textbook is placed in use; and

(e) Suggested alternatives.

(4) A reasonable amount of time shall be assigned to the agenda for the hearing and one (1) spokesperson shall represent a group or organization.

(5) The commission's position and/or action shall be forwarded to the concerned parties after the September listing has been concluded.

Section 4. (1) The Kentucky State Textbook Commission has the right to inquire into and ascertain if any publisher has violated this regulation or the Kentucky Revised Statutes; or if the publisher has used undue influence or unethical tactics to secure bids or to assure local adoption. Undue influence or unethical tactics shall include, but not necessarily be limited to, unsolicited contact by agents and representatives of individual publishers with members of the State Textbook Commission and the buying for or giving to State Textbook Commission members and local district selection committee members meals, gifts, trips, entertainment [, or any other items of monetary value] to assure the listing, adoption, and purchase of their textbooks. If there is sufficient evidence that publishers are guilty of any of the aforementioned, they shall be called before the State Textbook Commission to determine if violations did occur and what course of action should be taken.

(2) Publishers proposing to give local districts free-of-charge items, including but not limited to kits, duplicating masters, workbooks, and extra textbooks, if said district would adopt and purchase their textbooks, shall file a list of gratis items as an official part of their bid. [Publishers not complying would be considered in violation of statute and this regulation.]

(3) *In addition to textbook sampling required under KRS 156.440, publishers may sample gratis items to local districts for use in the adoption process. Gratis sampling shall be minimal and not be done in a manner to assure the adoption and purchase of a publisher's textbooks.*

(4) [(3)] The State Textbook Commission shall have the right to refuse to execute or to cancel a publisher contract upon discovery that said publisher has violated any part of this regulation or does not have the ability to perform all the terms and conditions of the contract.

(5) [(4)] All bidders for textbook contracts shall file with the Division of Free Textbook Services the name of a Kentucky person, firm, or corporation upon whom process may be served. The name of the process agent, together

with such other information concerning said agent, shall be made available to the proper authorities for the purpose of serving process.

Section 5. Publishers and local school districts may agree to pilot new textbook programs for one (1) school year on a selective and controlled basis to determine the effectiveness of a particular textbook program. Piloting shall not be conducted during the adoption year (July-April) for a subject being considered for adoption by the local districts. The Superintendent of Public Instruction shall approve all piloting programs. The local school district superintendent shall file the request for approval with the Superintendent of Public Instruction. The request need not be in any prescribed form but shall clearly state:

(1) The publisher that will conduct the pilot;

(2) The purpose of the pilot;

(3) The subject and grade levels in which the pilot will be conducted;

(4) The schools where the pilot will be conducted;

(5) The name of the school district staff member supervising the pilot;

(6) Beginning and ending date of pilot; and

(7) Brief summary of evaluation procedures.

Section 6. Any school administrator or teacher that receives directly or indirectly any gift, reward, or promise of a reward for his influence in reviewing and selecting textbooks shall be subject to the penalties of KRS 156.480.

Section 7. (1) The "Manufacturing Standards and Specifications for Textbooks," developed and approved by the National Association of State Textbook Administrators, in consultation with the Association of American Publishers and the Book Manufacturers' Institute, as revised February, 1982, shall apply to all textbooks submitted for adoption in Kentucky. Said edition is incorporated by reference and is on file in and can be obtained from the Division of Free Textbook Services.

(2) Publishers who have filed an old copyright with the official bid on or before July 15 may substitute the revised edition at the commission hearing. Publishers may submit a galley proof, incomplete book, or statement of intent with the official bid; however, the book shall be complete and on file with the State Textbook Commission on or before the date of the commission hearing. Ancillary materials, including workbooks and teacher editions, shall be completed on or before the July 1 contract date.

Section 8. Defective binding, workmanship or material shall be reported as soon as detected. Publishers shall be held responsible for all defective textbooks. Textbooks that show manufacturing defects in the first or second year of use shall be replaced by the publisher on a one-for-one basis. After the first two (2) years of use, replacement agreement must be reached with the publishers. School districts shall start the replacement process as soon as it has been determined that textbooks are defective.

Section 9. (1) Request to substitute revised editions of textbooks under contract shall be considered at the regular meetings of the State Textbook Commission to be held on or before May 1 and on or before September 20.

(2) Substitutions shall not be permitted for textbooks to be used the last year of a contract.

(3) The publisher shall agree to supply either the listed or the substituted textbook in accordance with local school district's request.

(4) The revised edition shall be at the same price at which the book is bid and sold elsewhere in the United States at the date of the substitution approval and the content shall be compatible for use with the old edition.

(5) The physical materials and workmanship of the revised edition shall be of equal or better quality than the older edition.

(6) Ancillary materials for a substituted textbook or program shall be available at the time the publisher submits substitution request.

(7) Publishers shall provide thirty (30) days prior to date of the commission meeting a sample textbook and a summary description of the revised edition that compares it with the textbook and/or program presently on the State Multiple List.

Section 10. (1) Multi-volume textbook programs for a single subject or a series for more than one (1) grade level is defined as two (2) or more books initially planned, written, designed, bound, sequential and identifiable as one (1) program.

(2) A district may implement curriculum programs in grades kindergarten through twelve (12) through the purchase of adopted textbooks from one (1), two (2), or three (3) textbook programs for grades kindergarten through eight (8) and up to ten (10) programs for grades nine (9) through twelve (12).

(3) A reading program from one (1) publisher shall consist of a basic reading program of readiness, preprimers, primers, and readers for grades kindergarten through six (6) or kindergarten through eight (8).

Section 11. (1) The wholesale and exchange prices in Kentucky shall not exceed the lowest wholesale and exchange prices at which textbooks are to be bid and sold elsewhere in the United States for the same adoption period. If reductions in prices are made elsewhere in the United States on the same textbooks being sold in Kentucky, publishers shall lower the price in Kentucky.

(2) The retail price to be used in Kentucky shall not be more than twenty percent (20%) in excess of the publisher wholesale price.

(3) The publisher contract shall state that upon settlement, the lowest exchange price, except on consumable textbooks, is the price to be paid for textbooks by the state to publishers who during the term of the contract give in exchange an old textbook of corresponding kind and grade, and may be of a different series to that provided for in the contract.

Section 12. (1) Local school districts are hereby authorized to use up to thirty percent (30%) of the elementary school textbook funds and up to thirty percent (30%) of the high school textbook funds for the optional purchase of supplementary textbooks, print and non-print media materials and audio-visual equipment other than those selected by the State Textbook Commission. Optional textbook funds may be used to purchase basal textbooks or instructional materials to be used in lieu of a basal textbook for the following:

(a) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" for which textbooks are not listed on the State Multiple List;

(b) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" that have organizational patterns and teaching methodology that require a variety of instructional materials;

(c) Kindergarten programs;

(d) Special education classes; and

(e) Courses and programs requiring State Board of Education annual approval.

Basal programs for the aforementioned courses and basal textbooks for all other subjects in the State Board of Education approved "Program of Studies for Kentucky Schools, Grades K-12" shall be purchased before optional textbook funds are used to purchase supplementary materials.

(2) The following materials are eligible to be purchased with optional textbook funds:

(a) Pre-printed organized materials including reference books, pamphlets, magazines, weekly readers, workbooks, worktexts, textbooks not on the State Multiple List, kits, master units, programmed instructional materials, and similar qualifying materials.

(b) Pre-processed organized audio-visual materials including films, film loops, tapes, slides, filmstrips, recordings, graphic materials, transparencies, globes, maps, charts, art objects, and similar qualifying materials.

(c) Pre-printed or pre-processed programs including kits and materials being used in lieu of textbooks for particular curriculum areas.

(d) Minor audio-visual equipment needed to utilize the audio-visual materials being purchased with optional funds.

(3) The following materials are not eligible to be purchased with optional funds:

(a) Rebinding, equipment other than minor audio-visual, furniture, personnel services, teachers' guides and manuals, testing programs, *library books*, supplies and materials consumed in initial use and raw and/or blank materials.

(b) Major audio-visual installations such as public address systems, sound laboratories for language, computers, and televisions (including receiving sets and related equipment).

(4) School districts with special instructional material needs may exceed the designated optional portion of their textbook funds by making written application to the Division of Free Textbook Services. Annual approval must be obtained before funds are obligated if there is a need to exceed the designated thirty percent (30%) option. Application to exceed the thirty percent (30%) option of elementary (K-8) and secondary (9-12) textbook funds shall be filed on separate forms. The application signed by the district superintendent shall include a detailed description stating name of the program or course, rationale for the program, and percent of funds requested.

(5) After acquisition of eligible supplementary textbooks, materials, and equipment and payment of invoices, a request for reimbursement shall be submitted to the Division of Free Textbook Services on Form FT-21 before March 1. All claims submitted for the purchase of instructional materials for enrichment programs and programs not listed in the "Program of Studies for Kentucky Schools, Grades K-12" must include a copy of the State Board of Education approval of the program and the instructional materials to be used.

Section 13. (1) The school districts shall make textbook adoptions for all the subjects in the six (6) adoption groups. The number of adopted textbooks, however, shall not exceed three (3) textbooks and/or programs per subject in any one (1) grade in grades kindergarten through eight

(8) and ten (10) textbooks and/or programs per subject in any one (1) grade in grades nine (9) through twelve (12).

(2) School districts shall indicate their tentative first, second and third choices in grades kindergarten through twelve (12). A summary of the choices shall be provided to the publisher for inventory purposes and shall in no way restrict purchases to any particular choice.

(3) Districts may purchase any or all adopted textbooks and/or programs in any number and combination based on identified pupil needs rather than grade level assignment.

Section 14. (1) Pupils in grades kindergarten through twelve (12) with impaired vision shall be considered eligible for the use of textbooks and materials in clear type of eighteen (18) to twenty-four (24) points upon certification by an eye specialist as follows:

(a) Pupils who cannot read more than 20/70 on a Standard Snellan Chart with the better eye after correction.

(b) Pupils with progressive eye difficulties, including those with progressive myopia, even though glasses may bring the vision nearly to normal, and pupils who suffer from noncommunicable diseases of the eye or diseases of the body that seriously affect the vision.

(2) Certification of pupils' visual impairment shall be made on forms supplied to local school districts by the Bureau of Education for Exceptional Children, Department of Education.

(3) Request for large print textbooks and material shall be directed to the Division of Materials and Curriculum.

(4) The local board of education shall assume responsibility for the care of textbooks and return them to the Resource Bank Distribution Center when no longer needed.

(5) Large print textbooks and materials purchased by the Division of Free Textbooks Services are not charged to the textbook account of the local school district.

Section 15. (1) The Division of Free Textbook Services shall prepare textbook budgets annually and allocate funds to local school districts, based upon the Kentucky General Assembly biennial appropriation, for the purpose of purchasing full basal textbook programs during the first year of each adoption and/or funding. After basal textbook needs have been met, surplus funds may be used to purchase supplementary materials.

(2) When allocating funds for the purchase of textbooks, the Division of Free Textbook Services shall use the pupil membership at the close of the first month of the current school year.

(3) A statement of high school funds and a statement of elementary school funds allocated to each school district shall be mailed to the superintendent after March 1. Each statement shall reflect the balances from the previous year, allotment for the ensuing year, sales and fines for the past year, and growth adjustments *providing funds to purchase books for new pupils*.

(4) School districts shall utilize their textbook allocation by March 1 of the year for which the funds were allocated.

Section 16. (1) The Division of Free Textbook Services shall provide Annual Report and requisition forms to all school districts. These forms shall be prepared in duplicate. The original copy shall be sent to the Division of Free Textbook Services and the second copy retained by the district. The Annual Report (FT-8) and requisition (FT-9) may be filed after March 1 and shall be filed by June 30.

(2) The Division of Free Textbook Services, upon receipt and approval of a requisition for textbooks from any school district, shall issue a local purchase order. A copy of the local purchase order shall be sent to the publisher, two (2) copies sent to the local district and two (2) copies retained by the Division of Free Textbook Services.

(3) All adopted textbooks purchased with state textbook funds shall be purchased through the office of the Division of Free Textbook Services.

(4) Publishers shall ship direct to local school districts by prepaid freight or United Parcel Service and issue invoices in triplicate to the Division of Free Textbook Services.

(5) Upon receipt of textbooks, the school district shall check items of shipment against the local purchase order (receiving report) and if all textbooks were received in satisfactory condition, certify this fact by mailing one (1) copy of the local purchase order (receiving report), dated and signed to the Division of Free Textbook Services. The Division of Free Textbook Services may then order payment.

(6) All textbooks shall be labeled as property of the Commonwealth of Kentucky. For economy in administration, the uniform label is affixed by the publishers in accordance with the "Manufacturing Standards and Specifications for Textbooks." School districts shall record the purchase date and the issue date on the uniform label.

(7) Textbook uniform labels shall not be completed until an examination of the shipment shows that it agrees in detail with the purchase order. A textbook with label completed is classified as a used textbook.

(8) A complete record shall be kept by the school district for all [free] textbooks delivered to teachers or principals of the different schools. Form FT-5 or a comparable form shall be used. Form FT-5 will be furnished upon request in quantities equal to number of teachers or principals.

(9) When textbooks are issued, a requisition card shall be filled out in duplicate for each pupil. Form FT-6 or a comparable form shall be used. Form FT-6 will be furnished upon request in quantities equal to pupil membership.

Section 17. The Division of Free Textbook Services shall encourage and facilitate the transfer of surplus textbooks that may be in local school districts' textbook depositories. The Division of Free Textbook Services shall, at appropriate times during a school year, solicit from the districts a list of surplus textbooks and mail to all districts a master list of available textbooks. Districts that need textbooks on the master list will request the Division of Free Textbook Services to initiate a transfer. The district having possession of the surplus textbooks requested by a district shall ship the books and notify the Division of Free Textbook Services the number of books shipped and cost of transportation. Upon receipt of the books, the receiving district will notify the Division of Free Textbook Services. The Division of Free Textbook Services shall inter-account funds by transferring the cost of the textbooks and transportation cost from the receiving district to the shipping district's textbook account. The cost to the receiving district of all transferred textbooks shall be fifty percent (50%) of the wholesale price plus transportation.

Section 18. Pupils or parents shall compensate school districts for textbooks lost, damaged, or destroyed while in their possession and the compensation shall be as follows: 100% of retail cost for one (1) and two (2) year old textbooks; seventy-five percent (75%) of retail cost for three



*establishes the [To establish] terms and means by which the school districts may purchase, from state price contracts, educational television receivers, stands, and related equipment [cooperatively].*

Section 1. The Division of *Purchasing* [Pupil Transportation], State Department of Education, shall prepare Kentucky minimum specifications for educational television receivers and stands for approval by the State Board of Education, *and review and approval by the Kentucky Authority for Educational Television*, and shall keep said specifications up to date by revision whenever experience, manufacturing techniques, and product improvement indicate that revision and updating is necessary.

Section 2. The State Board of Education [for Elementary and Secondary Education] shall approve the Kentucky minimum specifications for educational television receivers and stands as a separate document *for approval by the Kentucky Educational Television Authority*. Copies of this document containing the detailed specifications for educational television receivers and stands shall be kept on file in the Division of *Purchasing* [Pupil Transportation], State Department of Education, Frankfort, Kentucky. This document shall be made available in reasonable numbers to those persons and business firms that have need for same.

Section 3. All manufacturers, their agents or representatives that propose to sell educational television receivers and stands to the school districts of the Commonwealth of Kentucky shall provide the Division of *Purchasing* [Pupil Transportation] current detailed specifications, test results, certifications, and advertising brochures on the television receivers and stands that they propose to offer for sale as meeting the current Kentucky minimum specifications for educational television receivers and stands.

Section 4. The Director of the Division of *Purchasing* [Pupil Transportation] shall have the authority for approval of the types, makes, and models of educational television receivers and stands that meet the Kentucky minimum specifications for educational television sets and stands. Said director shall have the authority for approvals of "as equals," and shall have the authority to waiver minor formalities.

Section 5. The Division of *Purchasing* [Pupil Transportation] shall prepare, at least annually, a list of those educational television receivers and stands that are approved as meeting the current Kentucky minimum specifications for educational television receivers and stands. Said lists shall be made available in reasonable numbers to those persons or business firms that have need of same.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: L. W. True, Secretary, Kentucky State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

704 KAR 3:292. Chapter 1, ECIA Migrant Plan.

RELATES TO: KRS 156.010, 156.035, 156.070

PURSUANT TO: KRS 13.082, 156.035, 156.070

NECESSITY AND FUNCTION: In accordance with Section 435 of the General Education Provisions Act and Section 564 of the Education Consolidation and Improvement Act of 1981, the Department of Education, when applying to the U.S. Department of Education for participation in programs for migratory children under Chapter 1 of the Education Consolidation and Improvement Act of 1981, must submit an approvable plan and satisfactory assurances that all requirements of the law will be met. This regulation, through adoption of the migrant plan developed by the Department of Education, implements the State Board of Education's duties to implement acts of Congress appropriating and apportioning funds to the state and to provide for the proper apportionment and disbursement of migratory children funds.

Section 1. The Chapter 1, ECIA Migrant Education Annual Program Plan for fiscal year ending September 30, 1985 [1984], such to become effective July 1, 1984 [1983], is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. Copies of this plan may be obtained from the Division of Compensatory Education, 17th [9th] Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Section 2. The Chapter 1, ECIA Migrant Plan for Fiscal Year 1984 [1983] ending September 30, 1984 [1982], which is filed herewith and incorporated by reference, shall remain in effect for all funds until July 1, 1984 [1983] and between July 1 and September 30, 1984 [1983], for all funds obligated or encumbered by June 30, 1984 [1983].

Section 3. Local educational agency program applications must be authorized by the local board of education prior to submission to the Kentucky Department of Education.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

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TO: L. W. True, Secretary, Kentucky State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

# EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

## 704 KAR 20:030. Proficiency evaluation.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.070, 161.030  
[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. The traditional and formal means of recognizing competency and proficiency for teacher preparation is in terms of standard college credits and the teacher certification requirements are generally stated in terms of college credits. This regulation provides a means for recognizing competency and proficiency that might have been attained in some manner other than college preparation.

Section 1. [(1)] A state accredited teacher education institution may evaluate and accept competency for teacher certification purposes for any of the specific curriculum requirements when the teacher candidate can demonstrate proficiency by reason of previous education, unusual experience, or proficiency examination at a level comparable to the usual requirements in that curriculum area.

[(2)] A certification review committee appointed by the Superintendent of Public Instruction shall be empowered to evaluate and accept competency for teacher certification purposes for any of the specific curriculum requirements or experience requirements when the teacher candidate can demonstrate proficiency by reason of previous education, unusual experience, or proficiency examination at a level comparable to the usual requirements.]

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

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TO: L. W. True, Secretary, Kentucky State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

# EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

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

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by

the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children with learning and behavior disorders and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

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

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

(4) For a person who qualifies before the deadline date of September 1, 1984, the provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours of credit from the special education component of the approved curriculum. As a prerequisite, the certification application shall be accompanied by a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum. Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

(5) For a person who qualifies before the deadline date of September 1, 1984, the provisional certificate for teachers of exceptional children—learning and behavior



disorders, valid for grades seven (7) through twelve (12), may be issued for a one (1) year period to an applicant who holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching and who has completed at least six (6) semester hours of credit from the major in exceptional children—learning and behavior disorders and a three (3) semester hour course in reading. As a prerequisite, the certificate application shall be accompanied by a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for subsequent one (1) year periods upon completion of at least six (6) semester hours of credit each year from the approved curriculum. *Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.*

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: L. W. True, Secretary, Kentucky State Board of  
Education, 1st Floor, Capital Plaza Tower, Frankfort,  
Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Bureau of Instruction

(Proposed Amendment)

704 KAR 20:245. Trainable mentally handicapped;  
teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, [156.030,] 156.070,  
161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children classified as trainable mentally handicapped and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of

preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

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

(3) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. As a prerequisite, the certificate application shall be accompanied by a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum. *Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring TMH certification shall be substituted for the special education portion of the student teaching requirement.*

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: L. W. True, Secretary, Kentucky State Board of  
Education, 1st Floor, Capital Plaza Tower, Frankfort,  
Kentucky 40601.

EDUCATION AND HUMANITIES CABINET  
 Department of Education  
 Office of Federal Programs  
 (Proposed Amendment)

705 KAR 7:020. Testing program.

RELATES TO: KRS 156.070, 156.485  
 PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To establish the means whereby adults can be tested by official GED testing centers to determine their eligibility for receiving a High School Equivalency Certificate.

Section 1. (1) The GED test shall provide a valid means of measuring the educational achievement of adults who are non-high school graduates and of comparing their competency with that of high school graduates. The tests shall be high school level batteries consisting of five (5) comprehensive examinations: English, literature, mathematics, natural science, and social studies.

(2) The GED test shall be administered to:

(a) Any person seventeen (17) years of age or older who has been out of a formal classroom situation for a period of one (1) year before making application, or whose high school class (the class of which he was or would have been a member) has graduated; or

(b) To any person sixteen (16) years of age who has been committed or placed in a state correctional facility, and one (1) of the following:

(c) Who has completed a program of instruction provided by such agencies as the Job Corps and the Postal Service Academy, an apprenticeship program, or other similar programs of instruction for which completion of training is certified by the director of the program and presented to a chief examiner of an official GED center with a request that the subject adult be tested;

(d) Who presents a written request from an employer certifying that the applicant for job opportunity must establish high school equivalency on the basis of GED test scores;

(e) Who presents a written request from a college or university official certifying that the institution will consider accepting the applicant for admission on the basis of GED test scores;

(f) Who presents a written request for testing from a recruiting official for the subject adult who wishes to enter a branch of the Armed Forces for which high school equivalency is a prerequisite; or

(g) Who is a resident of Kentucky.

(3) Official GED testing centers shall be established under contract with the GED Testing Service of the Commission on Accreditation with locations authorized by the State Board of Education. GED testing services for individuals confined to state correctional and health institutions shall be provided by the State Board of Education.

(4) Testing fees shall be established by the *State Board of Education at a uniform fee of ten dollars (\$10)* [official GED testing centers]. The State Board of Education shall charge no fee for testing services provided for individuals confined to state correctional and health institutions.

(5) Applicants seeking a high school equivalency certificate must complete the appropriate application form provided for this purpose prior to taking the GED test. This form shall be available upon request from local school superintendents or the State Board of Education. Military personnel shall not be required to complete the application form prior to taking the test; however, the application

form must be completed before a high school equivalency certificate will be issued.

(6) If an applicant passes all five (5) tests with a minimum test score of thirty-five (35) but does not attain an average standard score of forty-five (45), he shall be eligible to retake any one (1) or all tests in an attempt to raise the overall standard score to meet the requirements. However, the testing center proctor will recommend which test or tests to be retaken.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
 TO: L. W. True, Secretary, Kentucky State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND HUMANITIES CABINET  
 Department of Education  
 Office of Federal Programs  
 (Proposed Amendment)

705 KAR 7:030. High school equivalency certificate.

RELATES TO: KRS 156.070, 156.485  
 PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To establish the means whereby a High School Equivalency Certificate can be issued to adults who pass the GED test.

Section 1. All [reports on] GED test *scanner sheets* [scores] from official testing centers shall be sent to the State Department of Education *for scoring*. The State Department of Education shall provide a high school equivalency certificate to local boards of education to be issued to each applicant who has taken the GED test and meets the following qualifications:

(1) Has scored at least thirty-five (35) on each of the five (5) GED tests and has an overall average standard score of forty-five (45) on all five (5) tests when they are considered as a whole;

(2) Is at least seventeen (17) years of age or older who has been out of a formal classroom situation for a period of one (1) year; or

(3) Whose high school class (the class of which he was or would have been a member) has graduated.

Section 2. There shall be no minimum age requirement for issuance of a high school equivalency certificate to military personnel or veterans.

Section 3. GED test scores shall be accepted as official only when they are reported by official testing centers; the United States Armed Forces Institute; directors of Veterans Administration hospitals; and, in special cases, the GED testing service.

Section 4. There shall be no charge for the issuance of a high school equivalency certificate.

**ALICE McDONALD**

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: L. W. True, Secretary, Kentucky State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## **CABINET FOR HUMAN RESOURCES**

Department 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 Cabinet 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, 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 or not employed throughout the entire month.

(4) "Full-time school attendance" means a workload of at least:

(a) Twenty-five (25) clock hours per week in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time.

(5) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(6) "Gross income limitation standard" means 150 percent of the sum of the assistance standard, as set forth in Section 8, and any educational allowance as set forth in Section 9.

(7) "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.

(8) "Recoupment" means recovery of overpayments of assistance.

(9) "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;

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

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

(2) Disposition of resources. An applicant/recipient or the spouse living with any applicant or recipient must not have transferred or otherwise divested himself/herself 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 household's application shall be denied or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources 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/or stepparent(s) living in the home, and/or amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard. Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test. If the gross income is below the gross income limitation 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 in accordance with 45 CFR 233.20(a)(3)(ii)(D), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

**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. All incomes listed below shall be excluded/disregarded:

(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) Earnings received by a dependent child from participation in the Summer Youth Program under the Job Training Partnership Act (JTPA);

(f) Unearned income received by a dependent child from participation in a JTPA program;

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

(h) Value of food coupons;

(i) Non-emergency medical transportation payments;

(j) Principal of loans;

(k) 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;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce for household consumption;

(p) Housing subsidies received from federal, state or local governments;

(q) 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;

(r) 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;

(s) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(t) 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 Titles II and III, pursuant to Section 418 of Public Law 93-113;

(u) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113;

(v) 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;

(w) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption; and

(x) Energy assistance payments which are permitted to be excluded pursuant to 45 CFR 233.53(c)(5)(i).

(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 from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full time;

(c) 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) Child care, for a child(ren) or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$160 per month per individual for full-time employment or \$110 per month per individual 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)(B).

(4) Exceptions. Disregards from earnings in subsection (2)(c) and (d) and subsection (3)(b) shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (i.e., fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary 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 or could be 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 or could be 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 which are available 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) hereinafter referred to as 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. A sponsored alien is ineligible for any month in which adequate information on the sponsor/sponsor's spouse is not provided. 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 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 or could be 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 or could be claimed as dependents in determining his/her federal personal income tax liability;

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

(e) Income of a sponsor receiving SSI or AFDC.

(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 in this state, 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. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

(1) Technical requirements. The following requirements must be met during any month for which an education allowance is paid.

(a) The caretaker relative must be included in the assistance grant;

(b) The caretaker relative must be enrolled full-time, as defined in Section 1, in high school (including primary and secondary), vocational school, or a General Educational Development (GED) program for which no wage or child care allowance is received. If attending college, the caretaker relative must be enrolled either full or part-time, as defined in Section 1;

(c) A cost must have been incurred for the care of a child(ren) who is/are under the age of thirteen (13) or a child(ren) who is/are under the age of eighteen (18), if a physician determines said child is unable to attend school due to a physical or mental disability, and is/are included in the assistance grant; and

(d) The payment for child care is made to a provider who is not a household member.

(2) Educational allowance payment standards. The amount of monthly educational allowance payment shall be based on the number of eligible children for whom care is being provided and whether or not enrollment is full or part-time. The payment standards are as follows:

Number of Children	Full-time Enrollment	Part-time Enrollment
1	\$120	\$70
2 or more	\$150	\$90

(3) Limitations. The number of months an educational allowance payment is made shall be limited according to the type of program in which the student enrolls and shall not be provided beyond completion of one (1) program at each level.

## (a) High school level.

1. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
General Educational Development (GED)	12 months
High School (includes Primary and Secondary)	24 months

2. A student wishing to continue his/her education past the high school level may be eligible for additional payments not to exceed the maximums for the post-high school level.

(b) Post-high school level. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
Vocational School	24 months
College/University	50 months

Section 10. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered from [the responsible person(s) in the AFDC case which was overpaid in the respective orders as follows]:

(a) *The overpaid assistance unit*; [Active case.]

- [1. Specified relative;]
- [2. Second parent, if appropriate; or]
- [3. Payee, other than protective payee.]

(b) *Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member*; or [Inactive case.]

- [1. Most recent specified relative;]
- [2. Most recent second parent, if appropriate; or]
- [3. Most recent payee, other than protective payee.]

(c) *Any individual member of the overpaid assistance unit whether or not currently a recipient.*

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; and/or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety percent (90%) of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

(c) Civil action in the court of appropriate jurisdiction.

(4) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing is given and the administration and judicial

remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

JACK F. WADDELL, Commissioner

ADOPTED: March 15, 1984

APPROVED: E. AUSTIN, JR., Secretary

RECEIVED BY LRC: March 15, 1984 at 3:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**(Proposed Amendment)**

**904 KAR 2:110. Refugee assistance.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 194.050 to administer programs to qualify for the receipt of federal funds providing cash and medical assistance to eligible Kentucky residents. This regulation sets forth the eligibility criteria and types and amounts of assistance for refugees residing in Kentucky.

Section 1. Definitions. Terms used in this regulation are defined as follows:

(1) "Refugee" is defined as any person of any nationality who:

(a) Because of persecution or fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion fled from their country or the country where such person habitually resided and cannot return there because of fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(b) Has been granted status by the United States Department for Immigration and Naturalization Service (INS) as refugee, asylee, parolee, voluntary departure, permanent resident alien, conditional entrant, or Cuban Haitian entrant.

(2) "Cuban Haitian Entrant Program (CHEP)" is the program for Cuban or Haitian persons who meet the status, documentation, and period of eligibility criteria as set forth in 45 CFR Parts 401.2 and 401.12(c).

(3) "Refugee Resettlement Program (RRP)" is that program for persons who meet the following criteria, excluding those persons who qualify for the Cuban Haitian Entrant Program:

(a) Have been United States residents for not more than eighteen (18) months beginning with the month a refugee entered the United States; and

(b) Meet one (1) of the following status criteria as determined by the Immigration and Naturalization Service (INS).

[1. A person who was receiving assistance or services under the Indochinese Refugee Assistance Program when that program terminated.]

[2. A person from Cambodia, Laos, or Vietnam who has parolee status, provided that the person's status, if assigned on or after June 1, 1980, clearly indicates that the person has been paroled as a refugee or asylee.]

[3. A person from Cuba who has parolee status as a refugee or asylee and who entered the United States on or after October 1, 1978.]



1. [4.] A person from any [other] country [other than Cambodia, Laos, Vietnam, or Cuba] who has parolee status as a refugee or asylee *under Section 212(d)(5) of the Immigration and Nationality Act (INA)*.

2. [5.] A person admitted from any country with a conditional entrant status under Section 203(a)(7) of the *INA* [Immigration and Nationality Act (INA)].

3. [6.] A person from any country admitted as a refugee under Section 207 of the *INA* (as added by the Refugee Act of 1980).

4. [7.] A person from any country who has been granted asylum status under Section 208 of the *INA* (as added by the Refugee Act of 1980).

5. [8.] A person from any country who previously held one (1) of the statuses identified above whose status has subsequently been adjusted to that of permanent resident alien.

Section 2. Application. Each refugee household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility in accordance with the procedural requirements prescribed by the *cabinet* [department].

Section 3. Eligibility Criteria. The applicant shall meet the following conditions of eligibility for receipt of cash and/or medical assistance under the Refugee Resettlement Program or Cuban Haitian Entrant Program:

(1) The applicant shall meet the definition of a refugee as contained in Section 1 of this regulation; and

(2) The applicant shall be ineligible for Aid to Families with Dependent Children (AFDC) and Medical Assistance Programs; and

(3) The applicant shall be a Kentucky resident as specified in 904 KAR 2:006, AFDC technical requirements; and

(4) The applicant shall meet the financial need and resource limitations criteria of Aid to Families with Dependent Children as set forth in 904 KAR 2:016, Standards for need and amount; AFDC, or if the application is for medical assistance only, the applicant shall meet the AFDC-related Medical Assistance Program financial eligibility standard, as set forth in 904 KAR 1:004, Resource and income standard of medically needy; and

(5) For receipt of cash assistance the applicant shall participate in any available and appropriate social service program providing job or language training in the area in which the refugee resides. In addition, the applicant shall register for employment with the state employment office, unless exempt under one (1) of the following criteria:

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

(b) A child age sixteen (16) through seventeen (17), if enrolled as a full-time student at the high school level or the equivalent level of vocational or technical school;

(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 sixty-five (65) or over;

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

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

(h) A mother, if the father is required to register.

(6) For receipt of cash assistance, the refugee must not refuse an appropriate offer of employment, *terminate employment* or refuse to participate in an available and appropriate social service program as referenced in subsection (5) of this section. *Any refugee not meeting this requirement shall be ineligible for a period of three (3) payment months for the first such occurrence and for a period of six (6) payment months for the second and subsequent occurrences.*

(7) *For receipt of cash assistance, the refugee must not be a full-time student (defined as a student who is carrying a full-time workload that is equal to or greater than those specified at 34 CFR 690.2(1)-(6) in an institution of higher education (defined by 34 CFR 668.2(a)(4), 668.3(a)(5), and 668.4(a)(4)) other than a correspondence school.*

(8) [(7)] The applicant shall meet the period of eligibility and status criteria contained in the definition of the Cuban Haitian Entrant Program or the Refugee Resettlement Program in Section 1 of this regulation.

Section 4. Benefit Levels. (1) Cash assistance shall be the same as for AFDC as set forth in 904 KAR 2:016, Standards for need and amount; AFDC, except that the thirty dollars (\$30) plus one-third ( $\frac{1}{3}$ ) disregard of earned income does not apply.

(2) Medical assistance benefits shall be the same as for all other Medicaid recipients.

(3) Payment of benefits is subject to the availability of federal funds, i.e., payments may be reduced, suspended or terminated if federal funds are insufficient or are not provided to the state in a timely manner.

Section 5. *Recoupment. Action shall be taken to recoup cash assistance overpayments in the manner set forth in 904 KAR 2:016, Section 10, Recoupment.*

Section 6. [5.] Time and Manner of Payment. Time and manner of payment shall be in accordance with the standards for AFDC as shown in 904 KAR 2:050, Time and manner of payment.

Section 7. [6.] Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, Hearings and appeals.

JACK F. WADDELL, Commissioner

ADOPTED: February 24, 1984

APPROVED:

E. AUSTIN, JR., Secretary

RECEIVED BY LRC: February 29, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

# Proposed Regulations

## TOURISM CABINET Department of Fish and Wildlife Resources

### 301 KAR 2:170. Seasons for deer hunting.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.176, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.400, 150.415, 150.416

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** This regulation pertains to the deer gun and archery seasons in specified counties and on wildlife management areas (WMA). This regulation is necessary to set deer hunting season dates, to specify the counties and management areas open to deer hunting, to prescribe the methods by which deer may be legally taken, and to prescribe procedures by which handicapped persons may apply for exemptions from conventional hunting methods requirements. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer to furnish sport and recreation for present and future residents of the state.

**Section 1. Deer Gun Seasons, Zones, Dates, and Legal Deer.** Deer gun hunting is permitted in the following zones on the dates listed, except as specified in subsection (7) of this section and Section 3 of this regulation.

(1) Zone No. 1: Open to either sex deer hunting for ten (10) consecutive days beginning the first Saturday in November. Zone 1 is described as follows: The area between Mammoth Cave National Park boundary and the following roads: In Hart County from the Edmonson County line, east on State Route (SR) 728 to SR 88, east on Forestville Road, south to Logsdon Valley Cemetery Road, south to the Green River, east on Williams Road, east on SR 218, then south on I-65; in Barren County, I-65 south to the Edmonson County line; in Edmonson County, 31-W from the Barren County line west to SR 259, northwest to 728, then east to the Hart County line.

(2) Zone No. 2: Open to antlered deer gun hunting for ten (10) consecutive days beginning the first Saturday in November. On the last two (2) days of the hunt, either sex deer may be taken. Counties in this zone are: that portion of Bullitt between the Bernheim Forest boundary and the following roads, from the Nelson County line north on State Route (SR) 61 to I-65, north on I-65 to SR 480, east on SR 480 to SR 1604, south on SR 1604 to Deatsville Road, south on Deatsville Road to the Nelson County line; that portion of Nelson between the Bernheim Forest boundary and the following roads, from the Bullitt County line south on Deatsville-Cedar Grove Road to SR 523, west on SR 523 to SR 245, south on SR 245 to US 31E, south on US 31E to SR 62, west on SR 62 to SR 61, and north on SR 61 to the Bullitt County line; Oldham; and Trimble.

(3) Zone No. 3: Open to antlered deer gun hunting for ten (10) consecutive days beginning the first Saturday in November. On the last day of the hunt, either sex deer may be taken. Counties in this zone are: Anderson, Ballard, Boone, Bracken, Bullitt (that portion not included in zone 2), Butler, Caldwell, Carlisle, Carroll, that portion of Casey north of the following roads, from the Lincoln County line west on SR 78 to SR 49, and west on SR 49 to the Marion County line, Christian, Crittenden, Franklin,

Gallatin, Grant, Hancock, Henry, Hopkins, Livingston, Logan, Marion, Muhlenberg, Ohio, Owen, Pendleton, Robertson, Scott, Shelby, Todd, Washington and Webster.

(4) Zone No. 4: Open to antlered deer gun hunting for ten (10) consecutive days beginning the first Saturday in November. Counties in this zone are: Boyle, Breckinridge, Calloway, Campbell, Casey (except that portion included in zone 3), Edmonson (except that portion included in zone 1), Grayson, Graves, Hardin, Harrison, Henderson, Hickman, Larue, Mason, McCracken, McLean, Meade, Mercer, Nelson (except that portion included in zone 2), Spencer, Trigg, Union and Woodford.

(5) Zone No. 5: Open to antlered deer gun hunting for five (5) consecutive days beginning the first Saturday in November. Counties in this zone are: Adair, Allen, Barren (except that portion included in zone 1), Bath, Boyd, Carter, Cumberland, Elliott, Fleming, Fulton, Green, Greenup, Hart (except that portion included in zone 1), Jefferson, Kenton, Lawrence, Lewis, Lyon, McCreary, Mennifee, Metcalfe, Monroe, Morgan, Nicholas, Rowan, Russell, Taylor, Warren and Wayne.

(6) Zone No. 6: Open to antlered deer gun hunting for three (3) consecutive days beginning the first Saturday in November. Counties in this zone are: Bell, Bourbon, Breathitt, Clark, Clay, Clinton, Daviess, Estill, Fayette, Garrard, Harlan, Jackson, Jessamine, Johnson, Laurel, Lee, Leslie, Lincoln, Madison, Marshall, Martin, Montgomery, Owsley, Pike, Powell, Pulaski, Rockcastle, Simpson, Whitley and Wolfe.

(7) Zone No. 7: Counties, wildlife management areas, and parks closed to all deer hunting:

(a) Counties in this zone are: Floyd, Knott, Knox, Letcher, Magoffin and Perry.

(b) Wildlife management areas: Ballard WMA in Ballard County (except that portion south of Terrell Landing Road), Central Kentucky WMA in Madison County, Clay WMA in Nicholas County, Grayson Lake WMA in Carter and Elliott Counties, Mill Creek WMA in Jackson County and Robinson Forest WMA in Breathitt, Perry, and Knott Counties.

(c) Deer hunting is prohibited within the boundaries of all national parks.

**Section 2. Deer Archery Season, Zones, Dates, and Legal Deer.** Zones 1, 2, 3 and 4 are open to either sex archery deer hunting during specified periods as follows, except as specified in Section 3 of this regulation. Zones 5 and 6 are open to antlered deer only archery hunting except as specified in Section 3 of this regulation.

(1) Archery season (longbows and compound bows): October 1 through November 1 and November 14 through December 31.

(2) Crossbow season: November 17 through 26 only.

**Section 3. Exceptions to Deer Hunting Regulations on Wildlife Management Areas.** All deer gun and archery regulations apply unless otherwise specified herein. Deer hunting will be permitted only on the dates listed in this section. Except as otherwise specified below, all gun hunters must check in and out at the area check station and archery hunters need not check in but must check out if a deer is taken. Gun hunters on all the areas listed below (ex-



cept the Pioneer Weapons and Redbird WMAs) must be selected by a drawing. Applications must be made only on forms provided by the Department of Fish and Wildlife Resources. No more than four (4) hunters may apply per form. More than one (1) application per individual per hunter will disqualify that applicant. Completed applications must be accompanied by a stamped, self-addressed envelope and be postmarked no later than August 31. Hunters may hunt on assigned dates only.

(1) Beaver Creek WMA in McCreary and Pulaski Counties:

(a) Archery season: antlered deer only, October 15 through 30.

(b) Gun season: antlered deer only, December 1 and 2.

(2) Cane Creek WMA in Laurel County:

(a) Archery season: antlered deer only, October 15 through 30.

(b) Gun season: antlered deer only, December 1 and 2.

(3) Dewey Lake WMA in Floyd County:

(a) Archery season: antlered deer only, October 15 through 30.

(b) Gun season: antlered deer only, December 8 and 9.

(4) Higginson-Henry WMA in Union County:

(a) Archery season: either sex deer, October 1 through November 1 and December 3 through 31.

(b) Gun season: either sex deer, December 1 and 2.

(5) Kleber WMA in Owen and Franklin Counties:

(a) Archery season: either sex deer, October 1 through November 1 and December 3 through 31.

(b) Gun season: either sex deer, December 1 and 2.

(6) Pioneer Weapons WMA in Bath and Menifee Counties:

(a) Zone No. 5 archery and gun season dates and requirements apply.

(b) Muzzle-loading firearms only; muzzle-loading handguns of .44 caliber or larger are permitted; crossbows may be used during the entire archery season.

(c) Checking in or out is not required. All deer taken must be checked in accordance with Section 5(3) of this regulation.

(7) Redbird WMA in Clay and Leslie Counties:

(a) Archery season: antlered deer only, October 15 through 30.

(b) Gun season: antlered deer only, November 3.

(8) West Kentucky WMA in McCracken County:

(a) Archery season: either sex deer, October 1 through November 1 on tracts 1 through 6.

(b) Gun season: either sex deer, December 15.

(c) Youth gun season: either sex deer, December 8. Open only to persons at least ten (10) years of age but who have not reached their sixteenth birthday. Each youth must have a valid Kentucky hunting license, a Kentucky deer permit, a state approved hunter safety certificate, and must be accompanied by an adult.

(d) All gun hunters are limited to muzzle or breech-loading shotguns only.

(e) No firearms permitted on any "A" tract or tract 7 at anytime.

(f) All hunters must check in and out daily.

(9) Yellowbank WMA in Breckinridge County.

(a) Archery season: either sex deer, October 1 through November 1 and December 3 through 31.

(b) Gun season: either sex deer, December 1 and 2.

#### Section 4. Legal Deer, Hunting Hours and Bag Limits.

(1) An antlered deer is defined as having one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler.

(2) Hunting is permitted during daylight hours only.

(3) The limit is two (2) deer per hunter per year. Only one (1) deer may be taken by firearms outside the following designated special deer areas: Beaver Creek, Blue Grass Depot Activity, Cane Creek, Dewey Lake, Ft. Campbell, Fort Knox, Land Between the Lakes, Reelfoot National Refuge, West Kentucky, Yellowbank, Kleber and Higginson Henry WMAs and Reelfoot National Wildlife Refuge. Under no circumstances shall any individual be permitted to take more than two (2) deer anywhere in the state, except that three (3) may be taken if one (1) was taken during the Bernheim Forest Refuge hunt on February 3-6, 1984.

Section 5. Hunting License, Deer Permits, Deer Tags and Check Station Requirements. (1) Hunting license and deer permit: All persons taking or attempting to take deer must have in possession a valid annual Kentucky hunting license and a valid deer hunting permit unless exempted by KRS 150.170(3), (5) or (6).

(2) Leaving head attached: any person possessing a deer must leave the head attached to the body until the carcass is removed from the field and processed.

(3) Mandatory deer check stations: Any person taking a deer during any deer hunting season must have it checked at the deer check station nearest to where the deer was taken, or by the nearest available conservation officer, no later than 9 a.m. on the day following the day taken. The hunter must fill out the stub attached to the deer permit and submit it to the check station operator or conservation officer.

(4) Tagging deer carcass and head:

(a) Before moving the carcass, the hunter must attach the metal tag portion of the deer permit to the deer. This tag must be permanently locked and attached so that it cannot be removed without destroying the tag or mutilating the carcass and must remain attached until the carcass is processed and packaged. The hunter must detach the stub marked "A Tag" and, before moving the carcass, punch a clearly visible hole through the space provided to indicate the weapon used to take the deer.

(b) Deer heads or other parts separated from the carcass for mounting by a taxidermist must have the taxidermist tag properly filled out and attached to the separated part.

(c) Deer hides may be sold to licensed fur buyers and licensed processors only.

(d) Legally taken deer feet may be sold to and purchased from licensed taxidermists.

(5) Second deer permit: a hunter who has taken one (1) deer may purchase a second deer permit, which shall be valid only when accompanied by a properly punched, stamped or signed "A Tag" portion of the first deer permit. If this portion of the first deer permit is punched to indicate that the first deer was taken by gun, the second deer permit is valid only for archery hunting, except that two (2) deer may be taken by gun if one (1) is taken on a designated special deer area listed in Section 4(3) of this regulation.

Section 6. Prohibited Methods and Conditions For Gun and Archery Deer Hunting. (1) Residents of any state which does not grant Kentucky residents the right to hunt deer may not hunt deer in Kentucky.

(2) Persons under eighteen (18) years of age may not hunt deer with a gun unless accompanied by an adult.

(3) Deer may not be taken with the aid of dogs or any domestic animal, or by the use of a boat or any type of vehicle.

(4) A deer may not be taken while the deer is swimming.

(5) All gun deer hunters must wear a visible vest, coat,

coveralls, cap or hat of hunter orange color. The entire garment must be hunter orange.

(6) On department-owned and operated wildlife management areas, the Daniel Boone National Forest, and the Big South Fork National River and Recreation Area, the use of any nails, spikes, screw-in devices, wire or tree climbers is prohibited for attaching tree stands or for climbing trees. Only portable tree stands and climbing devices that do not injure trees may be used. Portable stands may be placed in trees no more than two (2) weeks before opening day of each hunting period and must be removed within one (1) week following the last day of each hunting period. All portable tree stands must be marked with the owner's name and address. Existing permanent tree stands may not be used.

(7) Rattling of antlers or sticks and the use of hand or mouth operated calls are permitted.

(8) No person or persons shall cast the rays of a spotlight, jacklight or other artificial lighting device on any highway or in any field, woodland or forest, while having in his or her possession, or under his or her control, a firearm or other implement by which a deer could be killed, even though such deer is not shot at, injured or killed. This shall not apply when the headlights of a motor vehicle in normal operation on a highway are cast upon a field, woodland or forest in the normal course of travel, nor shall it apply to landowners or tenants engaged in normal or necessary activity upon their lands.

(9) No person shall possess a deer taken contrary to this or any other regulation or statute.

#### Section 7. Firearms Restrictions for Gun Deer Hunting.

(1) Permitted firearms: Center-fire rifles of .240 caliber or larger (with the exceptions of the .30 caliber carbine and .256 caliber rifle); muzzle-loading rifles of .38 caliber or larger; and muzzle-loading and breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile. Handguns with barrel lengths of 3.90 inches or greater are permitted. Only the following cartridges may be used in handguns: .30 caliber Herret; .357 magnum; .357 Herret; .357 automag; .41 magnum; .41 automag; .44 magnum; .44 automag; .45 automag; and any other cartridge using a bullet of at least 110 grains weight and developing at least 500 foot-pounds of muzzle energy.

(2) Prohibited firearms: any caliber of cartridge that does not meet the requirements given in subsection (1) of this section; any fully automatic weapon or weapon capable of firing more than one (1) round with one (1) trigger pull; any military issue M-1 .30 caliber carbine or its equivalent caliber sold commercially; and .256 caliber rifle.

(3) Fully jacketed military type ammunition and tracer bullet ammunition are prohibited. Buckshot or any type of shot shells are prohibited.

Section 8. Equipment Restrictions for Archery Deer Hunting. (1) Longbows and compound bows may not be fitted with any device capable of holding an arrow at full draw without aid from the hunter.

(2) Arrows must be barbless without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide.

(3) Crossbows must have a minimum pull weight of 100 pounds and a working safety device. Minimum bolt weight is 380 grains with a barbless broadhead point at least seven-eighths (7/8) inch wide, with no chemical treatments or chemical attachments.

(4) Archery hunters are prohibited from carrying firearms while hunting deer.

Section 9. Hunting Methods Exemptions for Handicapped Hunters. Persons with physical handicaps that would make it impossible for them to hunt by conventional methods may apply by letter to the Commissioner of the department for a hunting methods exemption. The Commissioner may authorize any reasonable exception that would permit a handicapped person to hunt when he or she could not otherwise do so because of his or her handicap. Specific exemptions to be allowed will be described in the letter of authorization, which will be signed by the Commissioner and a conservation officer who will certify that the applicant for the exemption is, in his opinion, handicapped to such a degree that the requested exemption is necessary to permit the applicant to hunt. Hunting method exemptions will expire at the end of the calendar year.

Section 10. 301 KAR 2:150, Deer hunting seasons, is hereby repealed.

CARL E. KAYS, Commissioner

ADOPTED: March 4, 1984

APPROVED: G. WENDELL COMBS, Secretary

RECEIVED BY LRC: March 15, 1984 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Fish and Wildlife, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Vocational Education

705 KAR 7:060. Standard for academic progress for postsecondary and adult students.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 163.030 gives the State Board of Education all necessary power and authority in administering the state's vocational education program. This regulation is necessary in order to set a statewide standard for academic progress for postsecondary and adult students in the state's vocational technical schools and area vocational education centers to meet in order to remain in good academic standing in such schools.

Section 1. Any postsecondary or adult student enrolled in a state operated vocational school shall maintain satisfactory progress toward completion of the prescribed competencies based upon the student's skill development. The quality of the student's performance shall include the quality of any shop or laboratory work, technical knowledge, attitude, conduct, and completion of assigned tasks and learning activities, given the individual's capabilities.

Section 2. Postsecondary and adult students must maintain an overall "C" average, i.e., seventy percent (70%) passage, in order to stay in a program. A student who falls below a cumulative "C" average shall be placed on academic probation for a reasonable period of time designated by the principal. The probationary period shall

be not less than one (1) grading period of six (6) weeks or more, and shall not exceed two (2) grading periods. Remedial assistance shall be offered the student, and if satisfactory academic progress is still not being made at the end of the probationary period, the student shall be academically expelled, without the right of formal hearing, by the principal.

Section 3. (1) Clear and specific notice of the academic progress policy set forth herein shall be included in each school's student handbook, which shall be disseminated to each student upon his entrance into a vocational program, and each teacher shall clearly explain to each student the grading criteria to be used, at the outset of a student's participation in that teacher's course or program.

(2) Any student being placed on academic probation shall be clearly advised of such by the school, the duration of such probation, and the consequences of continued failure to make satisfactory academic progress.

Section 4. (1) A student expelled for academic reasons shall, unless extenuating circumstances or the facts of individual cases warrant shorter expulsions, be readmitted to school on the basis of waiting list priorities at the time of expulsion or on the basis of a ninety (90) day expulsion (excluding the month of July), whichever is longer.

(2) A school shall not be obligated to, but may, readmit a student after a second academic expulsion.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED: March 13, 1984

RECEIVED BY LRC: March 15, 1984 at 4:30 p.m.

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

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Mines and Minerals**  
**Division of Oil and Gas**

**805 KAR 1:110. Underground injection control.**

RELATES TO: KRS 353.520

PURSUANT TO: KRS 13.082, 353.540, 353.550,  
353.560

NECESSITY AND FUNCTION: KRS 353.540 authorizes the Department of Mines and Minerals to administer and enforce the provisions of KRS 353.500 to 353.720. The waste of oil and gas is prohibited by KRS 353.520, which provides that such prohibited waste includes the unreasonable damage to underground, fresh or mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production, or handling of oil and gas, the unnecessary or excessive surface loss or destruction of oil or gas or their constituents and the drowning with water of any stratum or part thereof capable of providing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices. It is the purpose of this regulation to protect fresh water zones from contamination associated with the production of oil and gas.

Section 1. Definitions. The definitions contained in KRS 353.510 and the following additional definitions shall

apply to this regulation. (1) "Underground source of drinking water (U.S.D.W.)" means an aquifer or its portion:

- (a) 1. Which supplies any public water system; or
2. Which contains a sufficient quantity of groundwater to supply a public system; and
  - a. Currently supplies drinking water for human consumption; or
  - b. Contains fewer than 10,000 mg/l total dissolved solids; and
  - (b) Which is not an exempted aquifer.

(2) "Aquifer" means any groundwater zone which will replenish itself and from which significant quantities of water for household, domestic, industrial, agricultural or public use may be economically or feasibly recovered.

(3) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals.

(4) "Class II well" means a well which injects fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection; or

(b) For enhanced recovery of oil or natural gas; or

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(5) "New Class II well" means a Class II well on which drilling or conversion commenced later than thirty (30) days after the date of primacy.

(6) "Existing Class II well" means all Class II wells other than new Class II wells.

(7) "Date of primacy" means the effective date of the Secretary of Interior's approval of Kentucky's Underground Injection Control (UIC) Program, made pursuant to section 1425 of the Safe Drinking Water Act.

(8) "Area of review" means that area within a fixed radius of one-fourth ( $\frac{1}{4}$ ) mile around an injection well. At the option of the permit applicant, the area of review may be deemed to be the zone of endangering influence calculated in accordance with 40 CFR 146.06, which is adopted and incorporated herein by reference.

(9) "Endanger" means that an injection operation may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and that the presence of that contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

Section 2. General. (1) No person shall drill a Class II well without first obtaining a permit to drill pursuant to KRS 353.570.

(2) No person shall inject fluids to the subsurface through a Class II well without the authorization of the director. Such authorization shall take the form of a permit issued pursuant to Section 8 of this regulation or of a permit by rule conferred in accordance with Section 4 of this regulation.

(3) The bond requirements established in KRS 353.590 for a permit to drill shall suffice for and be applicable to the permit to inject.

(4) The fee requirements for an application to drill a new Class II injection well pursuant to KRS 353.590 shall suffice for and be applicable to the permit to inject.

(5) The permit to operate any Class II well may be

transferred to a successor only after notice is given to the director. Such notice shall include at least the following:

- (a) The original operator's company name and address.
- (b) The successor's company name and address.
- (c) The permit number of the well.
- (d) The Carter Coordinate location.
- (e) The farm name and well number.
- (f) Signatures of the original operator and the successor, or that of their official representative(s).
- (g) A statement that the successor assumes all responsibility for the well.
- (6) All Class II wells shall be plugged in the manner established in 805 KAR 1:060 and 805 KAR 1:070.
- (7) An applicant for an injection permit shall be required to satisfy the director that the Class II well will not endanger a U.S.D.W.
- (8) No permit by rule shall be interpreted as authorizing injection through a Class II well which endangers a U.S.D.W.
- (9) In administering and applying this regulation, the director shall, to the maximum practicable extent, take into account the varying geologic, hydrological and historical conditions in different areas within the state. The director may, where consistent with other provisions of this section, upon application and after notice and hearing, grant a variance from any requirement of this regulation upon a showing that alternate prudent engineering practices will protect a U.S.D.W.

**Section 3. Exempted Aquifers.** An aquifer or a portion thereof which meets the criteria established in this section for a U.S.D.W. may be determined by the director to be an "exempted aquifer" if it meets the following criteria:

- (1) It does not currently serve as a source of drinking water; and
- (2) It cannot now and will not in the future serve as a source of drinking water because:
  - (a) It is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated to contain minerals or hydrocarbons that, considering their quantity and location, are expected to be commercially producible;
  - (b) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impracticable;
  - (c) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
  - (d) It is located over a Class III mining area subject to subsidence or catastrophic collapse; or
- (3) The total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

**Section 4. Permit by Rule.** (1) All existing Class II wells are granted a permit by rule and authorized to inject fluids to the subsurface provided that the owner or operator:

- (a) Maintains compliance with all applicable requirements of Section 5 of this regulation; and
- (b) Within one (1) year from the effective date of this regulation, files an area plat or plats showing all of the Class II wells subject to the permit by rule. The plat(s) submitted must show the existing Class II wells and all lessors' and lessees' names and boundaries, and shall be prepared and certified as accurate and correct by a licensed Kentucky Land Surveyor.
- (2) All new Class II wells, constructed as part of an existing injection field, may be operated by rule after the

following information has been submitted to and approved by the director:

- (a) The application to operate by rule shall be submitted on forms provided by the director and shall be identical to application forms used for new Class II wells (Section 8 of this regulation).
- (b) All the requirements of Section 8 of this regulation shall apply except subsection (1)7 and 8 and subsection (3).
- (c) The plat submitted with said application to inject into a new Class II well in an existing field shall satisfy the applicable requirements of Section 8 of this regulation and shall also show the proposed well location in the existing field, and that its location falls within an area having wells conforming to a geometric pattern already established.
- (3) Injection of fluids to the subsurface shall not be made until a permit to inject is issued.

**Section 5. Requirements Applicable to All Class II Well Permits.** Authorization to inject fluids through all Class II wells (whether by rule or by individual permit) shall be conditioned upon compliance with the following requirements:

- (1) The permittee shall promptly notify the director of any modification in the manner in which the injection operation is conducted or of any mechanical failure or downhole problem encountered in the operation of the Class II wells or upon recognition of a failure in an injection system. Said well or wells which appear to be leaking shall be shut down immediately and correction procedures shall be initiated within fifteen (15) days, or the permit to inject may be revoked.
- (2) The permittee shall afford the director, or his authorized representative(s) upon proper presentation of credentials, access to Class II wells and related facilities for the purpose of conducting inspections, witnessing mechanical integrity tests, corrective action operations and plugging procedures and testing samples of injected fluids.
- (3) The permittee shall regulate the injection pressure in such a manner that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the confining zone which would cause the movement of injected fluids into a U.S.D.W.
- (4) The permittee shall provide for the mechanical integrity of the well by operating without significant leaks in the casing, tubing, or packer and without significant fluid movement into a U.S.D.W. through vertical channels adjacent to the well bore. The permittee shall, upon request of the director, conduct tests of the mechanical integrity of the Class II wells, utilizing a method approved by the director. Otherwise, tests shall, as nearly as practicable, be scheduled at five (5) year intervals and the permittee shall certify the test results to the director in writing within fifteen (15) days subsequent to the test.
- (5) The permittee shall monitor and record injection pressures and volumes at least monthly and shall submit on forms provided by the director, an annual report of the results of such monitoring to the director. The permittee shall retain all such records on file for a period of five (5) years.

**Section 6. Construction Requirements for All New Class II Wells.** (1) All new Class II injection wells shall be constructed in a manner that will prevent injected fluids from escaping to a U.S.D.W. A freshwater string of casing must extend fifty (50) feet below the freshwater depth stated on the permit or the base of the deepest fresh water, whichever is greater. All freshwater casing strings shall

have cement circulated to fill the annular space outside said casing. Such casing shall be cemented, using approved engineering methods to assure the return of the cement to the surface. The long string of casing must extend at least from the surface to immediately above the injection interval, and must have a minimum of 300 feet of cement behind the lowermost 300 feet of casing. If the fresh water is not protected by a separate string of casing, then the long string must be cemented from top to bottom.

(2) Any active oil and gas well, or an abandoned or plugged well reopened for the purpose of conversion to a new Class II injection well, shall satisfy the requirements for cementing of new Class II wells. If perforation of existing casing is required to satisfy the current cementing regulations during the conversion of said well(s) to a new Class II well, a tubing and packer shall be installed in the existing casing to the area immediately above the injection interval, not to exceed 100 feet above said injection interval.

Section 7. Mechanical Integrity Requirements for all Class II Injection Wells. All operators shall demonstrate mechanical integrity of new and existing Class II injection wells. The following methods are considered sufficient to establish mechanical integrity:

(1) All permittees of new or converted Class II injection wells shall perform mechanical integrity test(s) of the installation(s) prior to injection to ensure there are not leaks in the system(s). The test pressure must exceed the maximum anticipated injection pressure by at least 100 psi. Pressure and rate sensitive devices must be used to ensure there are no significant changes in pressure or volume of fluids injected. The test results shall be filed on forms approved by the director.

(2) The permittee of all Class II wells, both new and existing, shall schedule as nearly as practicable at five (5) year intervals mechanical integrity test(s). The following methods may be used:

(a) Subsection (1) of this section shall suffice; or

(b) For existing Class II wells, and new wells at least five (5) years old, the applicant may, in lieu of the test described in subsection (1) of this section file historical injection records. Said records must show weekly volume and pressure rates in tabular or graphic form that reflect rate of volume or pressure variation within the injection system for a period of five (5) years or the life of the well, whichever is shorter, and must be certified by the operator as correct and accurate.

Section 8. Requirements for a Permit to Inject into New Class II Wells. (1) No person shall inject fluids to the subsurface through a new Class II well without obtaining a permit to inject. This permit shall be issued under the authorization of the director. Existing wells satisfying the requirements of Section 4 of this regulation shall be permitted by rule. To obtain a permit to inject, an applicant shall submit to and have approved by the director an application. The application shall be submitted on forms provided by the director and shall include such information as the director deems necessary for the issuance of the permit, including all of the following:

(a) A statement by the operator as to whether the well is to be used for enhanced recovery, or for disposal purposes.

(b) The approximate depths of the deepest known freshwater zones.

(c) A location plat for a permit to inject into a Class II injection well shall be prepared and certified as accurate and correct by a registered Kentucky Land Surveyor. Said plat shall include the following information:

1. All plats shall be submitted on a sheet 8½ x 14 inches. This sheet may be on paper, tracing cloth, training paper or equivalent.

2. The names of all lessees and lessors contiguous to the tract on which the injection shall occur.

3. The Carter Coordinate Location and the elevation of the well site.

4. The geologic name and depth of the injection zone.

5. At least two (2) surface features, by bearing and distance from the proposed well site, which appear on the U.S.G.S. 7½ minute topographic map of the area.

6. The name of said topographic map and county.

7. The location of all known freshwater wells within the area of review.

8. The location and completion and/or plugging record of all wells, whether producing or plugged, within the area of review.

(d) Information showing that injection will not initiate fractures through the overlying strata shall include, but not be limited to the following:

1. A fluid injection rate of 1,000 barrels or less for a period of twenty-four (24) hours, or an equivalent rate for any fraction of twenty-four (24) hours, must maintain a minimum separation thickness of 200 feet between the lowest base of known fresh water, and the top of the proposed injection interval per well.

2. A fluid injection rate of more than 1,000 barrels for a period of twenty-four (24) hours, or an equivalent rate for any fraction of twenty-four (24) hours, must maintain a minimum separation thickness of 500 feet between the lowest base of known fresh water, and the top of the proposed injection interval per well.

3. The director may allow lesser thickness than required in subparagraphs 1 and 2 of this paragraph if the applicant furnishes certified evidence to the director that lesser thickness will not initiate fractures into the U.S.D.W.

(e) The Well Log and Completion Report and a copy of all geophysical logs.

(f) A certificate that shall include the following:

1. The identification of the well by permit number, operator's name, lease name, well number, Carter Coordinate Location, elevation and county.

2. The entire casing and cementing record, any packers and other special downhole equipment, and cement bond logs, if run.

3. The anticipated maximum bottom hole pressure (psi) and volume in barrels or cubic feet per day.

4. The identification of the injection zone by geological name and depth (top and bottom of zone), the number of perforations, if applicable, or the interval of open hole.

5. The certification by the operator of mechanical integrity. Each well shall be tested for mechanical integrity using method(s) approved by the director prior to being placed in service and the test results shall be certified to the director in writing. The director may require less information from the applicant where the information is readily available, or from up-to-date in-state files, or where, based upon demonstrable knowledge available to the director about the proposed operation, the director proposes to permit the operation without requiring corrective action or alternatives to it.

(2) Applications for permit shall be signed by the owner or operator of the injection well, including corporate officers, general partners, sole proprietors, or other persons authorized to execute such documents on behalf of the applicant.

(3) An applicant for permit under this section shall provide public notice of the permit application by causing a

notice of the application to be posted in the county courthouse of the county in which the Class II well is proposed to be located. Such notice shall describe the proposed action, and advise interested parties that additional information may be obtained from the director, that a public hearing may be requested, and that comments on the proposed action and requests for public hearing must be submitted to the director within fifteen (15) days of posting of the notice. The applicant shall provide a copy of the public notice to the director accompanied by an affidavit as to the manner in which public notice of the application was provided. If a significant degree of public interest is indicated, the director shall conduct a public hearing on the application. At the conclusion of the public comment period (including any public hearing) the director shall take final action on the permit application.

(4) The permit to inject shall be issued before injection is allowed.

(5) The permittee shall notify verbally field five (5) days before all mechanical integrity tests are performed. A written notice shall be given to the director five (5) days before said tests are performed.

(6) The permit to inject into all Class II injection wells shall remain valid for the life of the well or project.

However, the permit may be terminated if the well or project is in violation of the law. The well operator must comply with the requirements of all applicable regulations.

(7) The permittee of all Class II injection wells shall notify the director in writing within thirty (30) days of the termination of operations at which time the permit to inject shall expire.

Section 9. Date of Applicability. The provisions of this regulation shall become applicable upon the date of primacy. On and after said date, Class II wells shall be subject to the requirements of this regulation and shall be exempt from regulation under Sections 4, 5 and 6 of 801 KAR 1:020.

WILLARD STANLEY, Commissioner

ADOPTED: March 8, 1984

APPROVED: MELVIN WILSON, Secretary

RECEIVED BY LRC: March 8, 1984 at 12 noon

SUBMIT COMMENT TO: Henry M. Morgan or Brian C. Gilpin, Kentucky Department of Mines and Minerals, Division of Oil and Gas, P.O. Box 690, 120 Graham Avenue, Lexington, Kentucky 40586.

See public hearings scheduled on page 1071.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the February 27, 1984 Meeting

(Subject to subcommittee approval at the March 26, 1984 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Monday, February 27, 1984 at 1:30 p.m. in Room 104 of the Capitol Annex Building. Present were:

**Members:** Representative William T. Brinkley, Chairman; Senator Pat McCuiston; Representatives Albert Robinson, Greg Stumbo and Jim Bruce.

**Guests:** Bob Benson, HBPA; John Godfrey, Patricia K. Nicol, M.D., George E. Dodson, M.D., Clarence P. Marshall, Marvin Miller, Ked Fitzpatrick, Sharon Rodriguez and Diane Simmons, Cabinet for Human Resources; Judith G. Walden, Department of Housing, Buildings and Construction.

**LRC Staff:** Susan Harding, June Mabry, Donna Valencia, Bob Sherman and Carla Arnold.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Senator McCuiston, seconded by Representative Robinson, the minutes of the January 23, 1984 meeting were approved.

The following regulations were deferred by the subcommittee at the request of the promulgating agency:

#### FINANCE AND ADMINISTRATION CABINET

##### State Investment Commission

200 KAR 14:070. Savings and loan prioritization.

#### EDUCATION AND HUMANITIES CABINET

##### Department of Education

##### Bureau of Instruction

##### Elementary and Secondary Act

704 KAR 10:022. Elementary, middle and secondary schools standards.

#### CABINET FOR HUMAN RESOURCES

##### Department for Social Insurance

##### Medical Assistance

904 KAR 1:045. Payments for mental health center services.

The subcommittee recommended that the following regulations be deferred for further consideration, but due to the Supreme Court decision in *LRC vs. Brown* these regulations became effective on March 1, 1984:

#### PUBLIC PROTECTION AND REGULATION CABINET

##### State Racing Commission

810 KAR 1:001. Definitions.

810 KAR 1:006. Racing associations.

#### CABINET FOR HUMAN RESOURCES

##### Department for Health Services

##### Maternal and Child Health

902 KAR 4:010. Lay-midwifery.

The subcommittee recommended that the following regulations be approved, but due to the Supreme Court decision in *LRC vs. Brown* these regulations became effective as follows:

#### CABINET FOR HUMAN RESOURCES

##### Department for Social Insurance

##### Medical Assistance

904 KAR 1:010. Payments for physician's services. (Effective March 1, 1984.)

904 KAR 1:012. Inpatient hospital services. (Effective March 1, 1984.)

##### Public Assistance

904 KAR 2:115. Eligibility, criteria for home energy assistance program. (Effective March 2, 1984.)



**Food Stamp Program**

904 KAR 3:035. Certification process. (Effective March 2, 1984.)

**PUBLIC PROTECTION AND REGULATION CABINET**

Housing, Buildings and Construction

**Building Code**

815 KAR 7:020. Building code. (With technical amendment.) (Effective March 2, 1984.)

**TOURISM CABINET**

Department of Fish and Wildlife Resources

**Fish**

301 KAR 1:016. Private camps; boat docks, etc. (Effective March 2, 1984.)

**Game**

301 KAR 2:160. Deer season on Bernheim Forest Refuge and surrounding zone. (Effective March 2, 1984.)

The subcommittee took no action on the following emergency regulations:

**CABINET FOR HUMAN RESOURCES**

Department for Social Insurance

**Public Assistance**

904 KAR 2:115E. Eligibility, criteria for home energy assistance program.

**Food Stamp Program**

904 KAR 3:035E. Certification process.

**TOURISM CABINET**

Department of Fish and Wildlife Resources

**Game**

301 KAR 2:160E. Deer season on Bernheim Forest Refuge and surrounding zone.

The meeting was adjourned at 2:10 p.m. on February 27, 1984 until March 26, 1984.



# *Administrative Register* <sup>of</sup> *kentucky*

## Cumulative Supplement

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# Locator Index—Effective Dates

NOTE: Emergency regulations expire on being repealed or replaced.

## Volume 9

Regulation	9 Ky.R. Page No.	Effective Date	Regulation	9 Ky.R. Page No.	Effective Date	Regulation	9 Ky.R. Page No.	Effective Date
101 KAR 1:055			405 KAR 30:200			704 KAR 3:304		
Amended	225		Repealed	986	9-7-83	Amended	256	9-8-82
Amended	556		405 KAR 30:201	986	9-7-83	Amended	1037	
Repealed		12-29-83	405 KAR 30:280			Amended	1208	8-3-83
200 KAR 14:040	1348	9-7-83	Amended	960	10-5-83	Amended	1315	8-3-83
Repealed		11-21-83	405 KAR 30:320			704 KAR 3:305		
401 KAR 2:180			Amended	34		Amended	1037	
Amended	782	3-1-84	Withdrawn		10-19-82	Amended	1208	8-3-83
401 KAR 2:185			Amended	962	10-5-83	704 KAR 10:022		
Amended	784	3-1-84	405 KAR 30:360	84		Amended	257	9-8-82
401 KAR 2:190			Withdrawn		10-19-82	Amended	1038	
Amended	786	3-1-84	Resubmitted	1072	11-2-83	Amended	1209	8-3-83
401 KAR 5:100	1268		405 KAR 30:370	85		807 KAR 5:006		
Withdrawn		8-12-83	Withdrawn		10-19-82	Amended	217	
405 KAR 30:020			Resubmitted	986	10-5-83	Amended	473	8-25-82
Amended	21		405 KAR 30:390			Amended	735	
Withdrawn		10-19-82	Amended	35		Amended	1210	
Amended	945	11-2-83	Withdrawn		10-19-82	815 KAR 25:020		
405 KAR 30:070			Amended	964	10-5-83	Amended	1318	9-7-83
Amended	948	10-5-83	601 KAR 9:072			900 KAR 2:010	299	12-1-82
405 KAR 30:121			Amended	587	3-1-84	Amended	975	
Amended	949	10-5-83	702 KAR 5:080			Reprint	1085	
405 KAR 30:130			Amended	1309	8-3-83	Amended	1302	8-3-83
Amended	23		703 KAR 2:010			902 KAR 20:115		
Withdrawn		10-19-82	Amended	1036		Amended	976	8-3-83
Amended	951	10-5-83	Amended	1207	8-3-83	904 KAR 1:020		
405 KAR 30:190						Amended	1244	
Repealed	986	9-7-83				Withdrawn		7-11-83

## Volume 10

Emergency Regulation	10 Ky.R. Page No.	Effective Date	Emergency Regulation	10 Ky.R. Page No.	Effective Date	Emergency Regulation	10 Ky.R. Page No.	Effective Date
101 KAR 1:051E	957	12-29-83	803 KAR 2:020E	871	11-29-83	904 KAR 2:115E	400	8-22-83
Replaced	849	1-4-84	Replaced	906	2-1-84	Replaced	358	10-5-83
Resubmitted	975	1-20-84	804 KAR 9:040E	397	9-1-83	Resubmitted	875	11-21-83
101 KAR 1:055E			Replaced	510	11-2-83	Replaced	844	1-4-84
Repealed	957	12-29-83	807 KAR 5:002E	268	6-27-83	Resubmitted	987	1-16-84
101 KAR 1:140E	978	1-20-84	Replaced	313	9-7-83	Replaced	967	3-2-84
101 KAR 1:200E	983	1-20-84	807 KAR 5:008E		2-8-83	904 KAR 2:125E	3	5-31-83
101 KAR 1:220E	987	1-20-84	Replaced	291	9-7-83	Replaced	264	8-3-83
105 KAR 1:010E	391	9-1-83	900 KAR 1:020E	518	10-5-83	904 KAR 3:035E	961	1-10-84
Replaced	426	11-2-83	902 KAR 4:040E	1	6-7-83	Replaced	969	3-2-84
200 KAR 14:040E	267	6-21-83	Replaced	402	9-7-83			
Replaced		9-7-83	902 KAR 20:006E	519	10-5-83			
200 KAR 14:060E	870	11-21-83	904 KAR 1:010E	270	6-30-83			
Replaced	852	1-4-84	Replaced	314	3-1-84			
301 KAR 2:044E	335	8-8-83	904 KAR 1:012E	398	9-1-83	Regulation		
Replaced	344	10-5-83	Replaced	499	3-1-84	11 KAR 3:020		
301 KAR 2:088E	394	9-15-83	904 KAR 1:013E	270	6-30-83	Amended	774	1-4-84
Replaced	504	11-2-83	Replaced	315	9-7-83	11 KAR 5:010		
301 KAR 2:160E	960	12-29-83	904 KAR 1:015E	271	6-30-83	Amended	43	8-3-83
Replaced	971	3-2-84	Replaced	316	9-7-83	11 KAR 5:080		
400 KAR 1:030E	703	10-31-83	904 KAR 1:027E	272	6-30-83	Amended	774	1-4-84
400 KAR 1:040E	706	10-31-83	Replaced	316	9-7-83	15 KAR 1:020		
400 KAR 1:050E	711	10-31-83	904 KAR 1:036E	273	6-30-83	Amended	340	10-5-83
405 KAR 7:020E	711	10-31-83	Replaced	317	12-2-83	Amended	775	1-4-84
405 KAR 7:030E	718	10-31-83	904 KAR 1:045E	277	6-30-83	40 KAR 2:010	949	
405 KAR 7:090E	719	10-31-83	904 KAR 1:055E	278	6-30-83	101 KAR 1:020		
405 KAR 8:030E	726	10-31-83	Replaced	323	9-7-83	Amended	404	11-2-83
405 KAR 8:040E	735	10-31-83	904 KAR 1:095E	279	6-30-83	101 KAR 1:030		
405 KAR 16:060E	744	10-31-83	Replaced	324	9-7-83	Amended	404	12-2-83
405 KAR 16:090E	746	10-31-83	904 KAR 1:200E	280	6-30-83	101 KAR 1:040		
405 KAR 16:140E	747	10-31-83	Replaced	332	9-7-83	Amended	405	11-2-83
405 KAR 16:190E	748	10-31-83	904 KAR 1:210E	280	6-30-83	101 KAR 1:051	849	1-4-84
405 KAR 18:090E	751	10-31-83	Replaced	332	9-7-83	Amended	991	
405 KAR 18:140E	753	10-31-83				101 KAR 1:060		
405 KAR 18:190E	754	10-31-83				Amended	406	11-2-83
405 KAR 20:060E	516	9-19-83				101 KAR 1:070		
Replaced	635	12-2-83				Amended	408	11-2-83



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Regulation	10 Ky.R. Page No.	Effective Date	Regulation	10 Ky.R. Page No.	Effective Date	Regulation	10 Ky.R. Page No.	Effective Date
101 KAR 1:080			201 KAR 14:050			306 KAR 1:030		
Amended	409	12-2-83	Amended	893	2-1-84	Amended	429	
101 KAR 1:090			201 KAR 14:060			Amended	879	12-2-83
Amended	411	12-2-83	Amended	893	2-1-84	400 KAR 1:030	853	
101 KAR 1:100			201 KAR 14:065			400 KAR 1:040	855	
Amended	412	11-2-83	Amended	894	2-1-84	400 KAR 1:050	860	
101 KAR 1:110			201 KAR 14:067			401 KAR 5:026		
Amended	413	12-3-83	Amended	894	2-1-84	Amended	627	
101 KAR 1:120			201 KAR 14:070			401 KAR 5:045		
Amended	414		Amended	894	2-1-84	Amended	430	
Amended	761	1-4-84	201 KAR 14:080			Amended	888	2-1-84
101 KAR 1:130			Amended	895	2-1-84	401 KAR 5:050		
Amended	415		201 KAR 14:085			Amended	6	6-1-83
Amended	762	1-4-84	Amended	895	2-1-84	401 KAR 5:055		
101 KAR 1:140			201 KAR 14:090			Amended	9	6-1-83
Amended	417	12-2-83	Amended	896	2-1-84	401 KAR 5:060		
Amended	994		201 KAR 14:105			Amended	25	6-1-83
101 KAR 1:200			Amended	899	2-1-84	401 KAR 5:085		
Amended	422	11-2-83	201 KAR 14:110			Amended	33	6-1-83
Amended	998		Amended	899	2-1-84	401 KAR 5:090		
101 KAR 1:220			201 KAR 14:115			Amended	35	
Amended	500	11-2-83	Amended	900	2-1-84	Amended	336	8-3-83
101 KAR 1:230	1002		201 KAR 14:120			Amended	345	
103 KAR 17:010	501	12-2-83	Repealed	900	2-1-84	Amended	764	1-4-84
Amended	43	8-3-83	201 KAR 14:125			Amended	1084	
105 KAR 1:010			Amended	900	2-1-84	401 KAR 5:110	184	
Amended	426	11-2-83	201 KAR 14:130			Withdrawn		9-2-83
107 KAR 1:010			Amended	901	2-1-84	401 KAR 5:120	185	
Amended	621	12-2-83	201 KAR 14:140			Withdrawn		9-2-83
200 KAR 5:308			Amended	901	2-1-84	401 KAR 30:010		
Amended	621	12-2-83	201 KAR 14:150			Amended	46	
200 KAR 5:317			Amended	902	2-1-84	Amended	524	12-2-83
Amended	622	12-2-83	201 KAR 14:155			401 KAR 30:020		
200 KAR 13:010			Repealed	902	2-1-84	Amended	54	12-2-83
Amended	623	12-2-83	201 KAR 18:040			401 KAR 30:030		
200 KAR 14:010			Amended	902	2-1-84	Amended	56	
Amended	3	6-1-83	201 KAR 20:200			Amended	532	12-2-83
200 KAR 14:050	365		Amended	1003		401 KAR 31:010		
Withdrawn		11-10-83	201 KAR 20:240			Amended	58	
200 KAR 14:060	852	1-4-84	Amended	1003		Amended	535	12-2-83
200 KAR 14:070	950		201 KAR 22:031			401 KAR 31:020	185	12-2-83
201 KAR 1:100	502		Amended	778	1-4-84	401 KAR 31:030		
Amended	877	12-2-83	201 KAR 22:040			Amended	62	12-2-83
201 KAR 2:090			Amended	779	1-4-84	401 KAR 31:040		
Amended	890		201 KAR 22:106			Amended	64	12-2-83
201 KAR 2:145			Amended	779	1-4-84	401 KAR 31:060	186	
Amended	890	2-1-84	201 KAR 22:110			Amended	539	12-2-83
201 KAR 2:170			Amended	780	1-4-84	401 KAR 31:070	188	12-2-83
Amended	4	6-1-83	201 KAR 23:060			Amended	1088	
201 KAR 2:175			Amended	341	10-5-83	401 KAR 31:100		
Amended	5	6-1-83	201 KAR 23:070			Amended	72	12-2-83
201 KAR 2:180	951	2-1-84	Amended	342	10-5-83	401 KAR 31:110		
201 KAR 2:185	951	2-1-84	Amended	1005		Amended	73	12-2-83
201 KAR 2:190	952	2-1-84	201 KAR 25:031			401 KAR 31:120		
201 KAR 6:010			Amended	780	1-4-84	Amended	75	12-2-83
Amended	1081		301 KAR 1:015			401 KAR 31:160		
201 KAR 9:016	691	12-2-83	Amended	902	2-1-84	Amended	77	12-2-83
201 KAR 9:020			301 KAR 1:016			401 KAR 31:170		
Amended	5	6-1-83	Amended	963	3-2-84	Amended	78	12-2-83
Amended	891	2-1-84	301 KAR 1:055			401 KAR 33:010		
201 KAR 9:030			Amended	291		Amended	82	12-2-83
Amended	44	9-7-83	Amended	887	2-1-84	401 KAR 33:020		
201 KAR 9:040			301 KAR 1:075			Amended	83	12-2-83
Amended	623	12-2-83	Amended	903	2-1-84	401 KAR 34:020		
201 KAR 12:125			Amended	1083		Amended	84	
Amended	776	1-4-84	301 KAR 1:130			Amended	541	12-2-83
201 KAR 13:010			Amended	623	12-2-83	401 KAR 34:050		
Amended	45	8-3-83	301 KAR 2:044			Amended	87	12-2-83
201 KAR 13:040			Amended	344		401 KAR 34:060	188	
Amended	45	8-3-83	301 KAR 2:080			Amended	544	12-2-83
201 KAR 14:015			Amended	624	12-2-83	401 KAR 34:070		
Amended	892	2-1-84	301 KAR 2:087			Amended	89	12-2-83
Reprint	1067		Repealed	504	11-2-83	401 KAR 34:080		
201 KAR 14:020			301 KAR 2:088	504	11-2-83	Amended	91	12-2-83
Repealed	1067	2-1-84	301 KAR 2:140			401 KAR 34:090		
201 KAR 14:025			Amended	625	12-2-83	Amended	92	
Repealed	1067	2-1-84	301 KAR 2:160	971	3-2-84	Amended	551	12-2-83
201 KAR 14:030			301 KAR 2:170	1106		401 KAR 34:100		
Amended	893	2-1-84	306 KAR 1:020			Amended	99	
201 KAR 14:040			Amended	429		Amended	558	12-2-83
Amended	893	2-1-84	Amended	879	12-2-83			



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401 KAR 34:110			401 KAR 38:020			401 KAR 59:265	695	3-1-84
Amended	105	12-2-83	Amended	137	12-2-83	401 KAR 59:270	696	3-1-84
401 KAR 34:120			401 KAR 38:030			401 KAR 61:015		
Amended	106		Amended	138		Amended	434	
Amended	564	12-2-83	Amended	595	12-2-83	Amended	1072	
401 KAR 34:130			401 KAR 38:040			401 KAR 61:080		
Amended	108	12-2-83	Amended	141		Amended	440	
401 KAR 34:140			Amended	598	12-2-83	Amended	1078	
Amended	109	12-2-83	401 KAR 38:050			401 KAR 61:170		
401 KAR 34:144			Amended	145		Amended	441	
Amended	111	12-2-83	Amended	601	12-2-83	Amended	1079	
401 KAR 34:148			401 KAR 38:060			401 KAR 63:005		
Amended	113	12-2-83	Amended	148	12-2-83	Amended	634	3-1-84
401 KAR 34:152			401 KAR 38:070			405 KAR 7:020		
Amended	114	12-2-83	Amended	152		Amended	781	
401 KAR 34:156			Amended	605		405 KAR 7:030		
Amended	115	12-2-83	Amended	880	12-2-83	Amended	788	
401 KAR 34:159			401 KAR 38:080			405 KAR 7:090		
Amended	116		Amended	157	12-2-83	Amended	789	
Amended	567	12-2-83	401 KAR 38:090			405 KAR 8:030		
401 KAR 34:162			Amended	244		Amended	796	
Amended	117		401 KAR 38:100			405 KAR 8:040		
Amended	568	12-2-83	Amended	247		Amended	804	
401 KAR 34:165			Amended	613	12-2-83	405 KAR 16:060		
Amended	119	12-2-83	401 KAR 38:150			Amended	813	
401 KAR 34:168			401 KAR 38:160			405 KAR 16:090		
Amended	194	12-2-83	401 KAR 38:170			Amended	815	
401 KAR 34:172			401 KAR 38:180			405 KAR 16:140		
Amended	120		401 KAR 38:190			Amended	817	
Amended	570	12-2-83	401 KAR 38:200			405 KAR 16:190		
401 KAR 34:176			401 KAR 38:210			Amended	818	
Amended	121		401 KAR 38:500			405 KAR 18:090		
Amended	571	12-2-83	401 KAR 39:010			Amended	821	
401 KAR 34:200			Amended	161	12-2-83	405 KAR 18:140		
Amended	122	12-2-83	401 KAR 39:020			Amended	823	
401 KAR 34:210			Amended	255	12-2-83	405 KAR 18:190		
Amended	126	12-2-83	401 KAR 39:030			Amended	824	
401 KAR 34:220			Amended	614	12-2-83	405 KAR 20:060		
401 KAR 34:230			Amended	255	12-2-83	Amended	635	12-2-83
401 KAR 34:240			401 KAR 39:040			405 KAR 30:010		
Amended	130		Amended	615	12-2-83	Amended	280	10-5-83
Amended	572	12-2-83	401 KAR 39:050			405 KAR 30:025		
401 KAR 34:320			Amended	256	12-2-83	Amended	285	10-5-83
401 KAR 35:010			401 KAR 39:060			405 KAR 30:160		
Amended	132	12-2-83	Amended	616	12-2-83	Amended	286	
Amended	1089		401 KAR 39:070			Amended	756	11-2-83
401 KAR 35:020			Amended	256	12-2-83	405 KAR 30:250		
401 KAR 35:030			401 KAR 40:010			Amended	288	10-5-83
401 KAR 35:040			Amended	1090	12-2-83	501 KAR 4:010	365	10-5-83
401 KAR 35:050			401 KAR 40:020			501 KAR 4:020	366	10-5-83
Amended	575	12-2-83	Amended	162	12-2-83	501 KAR 4:030	367	10-5-83
401 KAR 35:060			401 KAR 40:030			501 KAR 4:040	367	10-5-83
401 KAR 35:070			Amended	164	12-2-83	501 KAR 4:050	368	10-5-83
401 KAR 35:080			401 KAR 40:040			501 KAR 4:060	371	10-5-83
401 KAR 35:090			Amended	165	12-2-83	501 KAR 4:070	372	10-5-83
Amended	577	12-2-83	401 KAR 40:050			501 KAR 4:080	373	10-5-83
401 KAR 35:100			Amended	166	12-2-83	501 KAR 4:090	373	10-5-83
Amended	223		401 KAR 47:020			501 KAR 4:100	374	10-5-83
401 KAR 35:110			Amended	166		501 KAR 4:110	374	10-5-83
Amended	582	12-2-83	Amended	617		501 KAR 4:120	375	10-5-83
401 KAR 35:120			Amended	885	12-2-83	501 KAR 4:130	376	10-5-83
Amended	588	12-2-83	401 KAR 47:040			501 KAR 4:140	376	10-5-83
401 KAR 35:130			Amended	168	12-2-83	501 KAR 5:010	377	10-5-83
401 KAR 35:180			401 KAR 47:070			501 KAR 5:020	378	10-5-83
401 KAR 35:190			Amended	172	12-2-83	501 KAR 5:030	379	10-5-83
401 KAR 35:200			401 KAR 50:015			501 KAR 5:040	379	10-5-83
Amended	590	12-2-83	Amended	628	3-1-84	501 KAR 5:050	380	10-5-83
401 KAR 35:210			401 KAR 50:040			501 KAR 5:060	383	10-5-83
401 KAR 35:220			Amended	631	3-1-84	501 KAR 5:070	384	10-5-83
401 KAR 35:230			401 KAR 50:041			501 KAR 5:080	384	10-5-83
401 KAR 35:240			Withdrawn	691	2-27-84	501 KAR 5:090	385	10-5-83
Amended	1089		401 KAR 53:005			501 KAR 5:100	385	10-5-83
401 KAR 35:250			Amended	431	3-1-84	501 KAR 5:110	386	10-5-83
401 KAR 35:260			401 KAR 53:010			501 KAR 5:120	386	10-5-83
Amended	240	12-2-83	Amended	432	3-1-84	501 KAR 5:130	387	10-5-83
401 KAR 35:270			401 KAR 59:042			601 KAR 9:073	506	
Amended	241		401 KAR 59:050			Withdrawn		12-16-83
401 KAR 35:290			Amended	632	3-1-84	601 KAR 9:074	1026	
401 KAR 35:310			401 KAR 59:260			601 KAR 9:080	327	1-4-84
401 KAR 35:320			Amended	434		601 KAR 9:085	327	1-4-84
401 KAR 35:330			Amended	1071				
401 KAR 38:010								
Amended	134							
Amended	591	12-2-83						



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Regulation	10 Ky.R. Page No.	Effective Date	Regulation	10 Ky.R. Page No.	Effective Date	Regulation	10 Ky.R. Page No.	Effective Date
601 KAR 9:090	328	1-4-84	704 KAR 20:185			806 KAR 9:130		
601 KAR 9:095	328	1-4-84	Amended	294	9-7-83	Amended	173	8-3-83
601 KAR 9:100	328	1-4-84	704 KAR 20:198			806 KAR 38:080	510	11-2-83
601 KAR 9:105	329	1-4-84	Amended	295	9-7-83	807 KAR 5:001		
601 KAR 12:040			704 KAR 20:203			Amended	831	1-4-84
Amended	1007		Repealed	295	9-7-83	807 KAR 5:002		
601 KAR 13:030			704 KAR 20:207			Amended	313	9-7-83
Amended	1007		Repealed	330	9-7-83	807 KAR 5:008		
602 KAR 50:010			704 KAR 20:208	330	9-7-83	Amended	291	9-7-83
Amended	442		704 KAR 20:222			807 KAR 5:022	1029	
Amended	768	1-4-84	Amended	645		810 KAR 1:001		
602 KAR 50:020			Withdrawn		12-2-83	Amended	652	3-1-84
Amended	444	1-4-84	Amended	905		810 KAR 1:002		
602 KAR 50:030			704 KAR 20:235			Amended	654	12-2-83
Amended	445	1-4-84	Amended	646	12-2-83	810 KAR 1:003		
602 KAR 50:040			Amended	1098		Amended	656	2-1-84
Amended	445	1-4-84	704 KAR 20:245			810 KAR 1:004		
602 KAR 50:050			Amended	1099		Amended	660	2-1-84
Amended	446	1-4-84	704 KAR 20:280	698	12-2-83	810 KAR 1:005		
602 KAR 50:060			704 KAR 20:285	699		Amended	661	12-2-83
Amended	447		Amended	990	3-1-84	810 KAR 1:006		
Amended	770	1-4-84	705 KAR 2:030			Amended	663	3-1-84
602 KAR 50:070			Amended	647	12-2-83	810 KAR 1:007		
Amended	447		705 KAR 5:040			Amended	666	12-2-83
Amended	770	1-4-84	Amended	295	9-7-83	810 KAR 1:008		
602 KAR 50:080			705 KAR 5:050			Amended	668	12-2-83
Amended	448	1-4-84	Amended	296	9-7-83	810 KAR 1:009		
602 KAR 50:090			705 KAR 7:020			Amended	669	12-2-83
Amended	448		Amended	1100		810 KAR 1:011		
Amended	771	1-4-84	705 KAR 7:030			Amended	671	12-2-83
602 KAR 50:100			Amended	1100		810 KAR 1:012		
Amended	449		705 KAR 7:060	1108		Amended	676	12-2-83
Amended	772	1-4-84	706 KAR 1:010			810 KAR 1:013		
602 KAR 50:110			Amended	297	9-20-83	Amended	677	12-2-83
Amended	450	1-4-84	706 KAR 2:010	952	2-1-84	810 KAR 1:014		
602 KAR 50:115			707 KAR 1:060			Amended	680	12-2-83
Amended	450	1-4-84	Amended	298	9-7-83	810 KAR 1:016		
602 KAR 50:120			707 KAR 1:080			Amended	681	12-2-83
Amended	451		Amended	298	9-7-83	810 KAR 1:019		
Amended	772	1-4-84	801 KAR 1:005			Amended	682	12-2-83
603 KAR 3:010			Amended	1008		810 KAR 1:020		
Amended	636		801 KAR 1:010			Amended	683	12-2-83
Withdrawn		1-23-84	Amended	1008		811 KAR 1:015		
603 KAR 4:035			801 KAR 1:020			Amended	910	2-1-84
Amended	826		Amended	1008		811 KAR 1:030		
Withdrawn		1-23-84	801 KAR 1:030			Amended	914	2-1-84
603 KAR 5:070			Amended	1008		811 KAR 1:035		
Amended	828	1-4-84	801 KAR 1:040			Amended	916	2-1-84
603 KAR 5:110			Amended	1009		811 KAR 1:040		
Amended	452		801 KAR 1:050	1028		Amended	918	2-1-84
Amended	757	11-2-83	801 KAR 1:060	1028		811 KAR 1:050		
701 KAR 5:050	329	9-7-83	801 KAR 1:070	1028		Amended	920	2-1-84
702 KAR 1:005			801 KAR 1:080	1029		811 KAR 1:070		
Amended	640	12-2-83	801 KAR 1:090	1029		Amended	921	2-1-84
Amended	1091		801 KAR 1:100	1029		811 KAR 1:090		
702 KAR 1:025			803 KAR 2:015			Amended	922	2-1-84
Amended	1095		Amended	299	12-2-83	811 KAR 1:105		
702 KAR 2:110			803 KAR 2:016			Amended	1010	
702 KAR 3:070			Amended	302	12-2-83	811 KAR 1:120		
Amended	644	12-2-83	803 KAR 2:020			Amended	924	2-1-84
702 KAR 3:170			Amended	304	9-7-83	811 KAR 1:125		
Amended	1096		Amended	648		Amended	174	8-3-83
704 KAR 3:292			Withdrawn		11-29-83	811 KAR 1:170		
Amended	1097		Amended	906	2-1-84	Amended	927	2-1-84
704 KAR 10:022			803 KAR 2:027			811 KAR 1:190		
Amended	904		Amended	308	9-7-83	Amended	1010	
704 KAR 20:005			Amended	652	12-2-83	811 KAR 1:195		
Amended	292	9-7-83	803 KAR 2:070			Amended	927	2-1-84
Amended	644	12-2-83	Amended	308	9-7-83	811 KAR 1:200		
Amended	830	1-4-84	803 KAR 2:180			Amended	927	2-1-84
704 KAR 20:020			Amended	309	9-7-83	815 KAR 7:020		
Amended	292	9-7-83	803 KAR 2:200			Amended	836	1-4-84
704 KAR 20:030			Amended	619	12-2-83	Amended	964	3-2-84
Amended	1098		803 KAR 25:070	509	11-2-83	815 KAR 7:060		
704 KAR 20:100			804 KAR 9:040	510	11-2-83	Amended	928	2-1-84
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