

LEGISLATIVE RESEARCH COMMISSION
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MEETING NOTICE: For information concerning the next meeting of the Administrative Regulation Review Subcommittee, call toll-free 1-800-372-7613, or 502-564-8100, ext. 535.

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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.

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

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Public Hearings Scheduled

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Waste Management

A public hearing has been scheduled for May 1, 1984, at 10 a.m., in the State Office Building Auditorium, 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]

Air Pollution

A public hearing has been scheduled for June 1, 1984, at 10 a.m., in Room G-2, Capital Plaza Tower, Frankfort, Kentucky on the following regulation:

- 401 KAR 61:165. Existing primary aluminum reduction plants. [10 Ky.R. 1125]

DEPARTMENT OF MINES AND MINERALS

A public hearing will be held on May 2, 1984, at 1:30 p.m., in 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]

DEPARTMENT OF FISH AND WILDLIFE RESOURCES

A public hearing has been scheduled on May 15, 1984, at 7 p.m., at the Bullitt County Fairgrounds, Shepherdsville, Kentucky on the following regulation:

- 301 KAR 2:170. Seasons for deer hunting. [10 Ky.R. 1106]

Amended Regulations Now In Effect

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Registry of Election Finance As Amended

801 KAR 1:005. Campaign treasurer.

RELATES TO: KRS 121.160
PURSUANT TO: KRS 13.082, 121.120(3)
EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required reports," KRS 121.120(3)(a).

Section 1. "Appointment of Campaign Treasurer [Candidate's Appointment of Campaign Treasurer]" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601 [is amended as shown in Appendix A]. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Registry of Election Finance As Amended

801 KAR 1:010. Executive committee's report of receipts [contributions] and expenditures.

RELATES TO: KRS 121.180(1)
PURSUANT TO: KRS 13.082, 121.120(3)
EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required reports," KRS 121.120(3)(a). [Amendments adopted by 1974 General Assembly require new form.]

Section 1. "Party Executive Committee Report of Receipts and Expenditures [for Party Executive Committees]" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601 [is amended as shown in Appendix B]. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:020. Campaign committee's report of receipts [contributions] and expenditures.

RELATES TO: KRS 121.180(2)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required reports," KRS 121.120(3)(a). [Amendments adopted by 1974 General Assembly require new form.]

Section 1. "Campaign Committee Report of Receipts and Expenditures [for a Campaign Committee or Political Action Committee]" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601 [is amended as shown in Appendix C]. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:030. Candidate [Campaign treasurer's] report of receipts [contributions] and expenditures.

RELATES TO: KRS 121.180(2)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required reports," KRS 121.120(3)(a). [Amendments to the Campaign Financing Act adopted by 1974 General Assembly require new form.]

Section 1. "Candidate Report of Receipts and Expenditures [for a Candidate]" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601 [is amended as shown in Appendix D]. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:040. Political committee statement of organization. [Notice of organization of campaign committee.]

RELATES TO: KRS 121.170

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required reports," KRS 121.120(3)(a). [Amendments adopted by 1974 General Assembly require new form.]

Section 1. "Political Committee Statement of Organization" form [Registration Form and Statement of Organization for a Campaign Committee or Political Action Committee] can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601 [is amended as shown in Appendix E]. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:050. Political issues committee report of receipts and expenditures.

RELATES TO: KRS 121.180(2)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Political Issues Committee Report of Receipts and Expenditures" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. The form is hereby incorporated by reference.

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:060. Permanent committee report of receipts and expenditures.

RELATES TO: KRS 121.180(4)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Permanent Committee Report of Receipts and Expenditures" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. *The form is hereby incorporated by reference.*

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:070. Report of contributions by a contributing organization.

RELATES TO: KRS 121.015(4)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Report of Contributions by a Contributing Organization" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. *The form is hereby incorporated by reference.*

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:080. Waiver from filing candidate's report.

RELATES TO: KRS 121.180(8)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Waiver from Filing Report of Receipts and Expenditures for a Candidate" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. *The form is hereby incorporated by reference.*

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:090. Report of an independent expenditure.

RELATES TO: KRS 121.150(1)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Report of an Independent Expenditure" form can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. *The form is hereby incorporated by reference.*

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Registry of Election Finance
As Amended

801 KAR 1:100. Unopposed candidate.

RELATES TO: KRS 121.180(7)

PURSUANT TO: KRS 13.082, 121.120(3)

EFFECTIVE: March 31, 1984

NECESSITY AND FUNCTION: KRS 121.120(3) requires the Registry to "adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 and 121.100 to 121.200." The Registry shall "develop prescribed forms for the making of the required report," KRS 121.120(3)(a).

Section 1. "Unopposed Candidate" certificate can be obtained at the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. *This form validates the fact that the candidate is unopposed and is hereby incorporated by reference.*

CHARLES BEACH, JR., Chairman

ADOPTED: December 15, 1983

RECEIVED BY LRC: January 19, 1984 at 3 p.m.

Amended After Hearing

TRANSPORTATION CABINET Department of Vehicle Regulation Division of Driver Licensing Amended After Hearing

601 KAR 12:040. Driving history record; fee.

RELATES TO: KRS 61.874 [61.876] [171.650]

PURSUANT TO: KRS 13.082, 61.874 [61.876,]
[171.650, 174.050, 174.060]

NECESSITY AND FUNCTION: KRS 61.874 [61.876]
[171.650] authorizes any agency required to keep public
records to adopt reasonable fees to defray costs of fur-
nishing copies to the public. [Such fees may be adopted by
statute or by administrative regulations.] This regulation is
adopted to provide a reasonable fee to defray the costs of
furnishing a copy of a person's driving history record to a
person making a proper request.

Section 1. Upon payment of *three* [two] dollars (\$3)
[(\$2)] and the completion of any forms which may be re-
quired, any person [having a legitimate interest in the sub-
ject matter] may obtain a copy of a driving history record
which is in the custody and control of the [Department of]
Transportation Cabinet.

Section 2. Any user submitting requests for driving
history records by any method of data processing recor-
ding media adaptable to the Transportation Cabinet's
system shall be given a ten (10) cent reduction in cost per
record. Those users submitting requests by any other
method which requires the Division of Driver Licensing to
key the transaction shall be charged the full amount.

JOHN A. STEPHENSON, Deputy Secretary

ADOPTED: April 13, 1984

APPROVED: FLOYD G. POORE, Secretary

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

Proposed Amendments

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems (Proposed Amendment)

105 KAR 1:010. Contributions and interest rates.

RELATES TO: KRS 16.505 to 16.652, 61.510 to
61.702, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.576, 16.640, 61.559,
61.645, 78.780

NECESSITY AND FUNCTION: KRS 16.645, 61.565
and 78.545, require the board to determine the employer
contribution rate based on an actuarial valuation. KRS
61.552 requires the board to adopt a rate of interest
payable on a recontribution of refund. KRS 16.560, 61.575
and 78.640 provide that the board may determine the rate
of interest payable on the members' contribution account.
KRS 61.670 provides that the board shall adopt such ac-
tual tables as are necessary for the administration of the
system. This regulation sets the employer contribution
rates, and rate of interest on a recontribution of refund
and member contribution account and establishes the ac-
tual tables for computation of retirement allowances for
members of the Kentucky Employees Retirement System
(KERS), County Employees Retirement System (CERS) and
State Police Retirement System (SPRS).

Section 1. The employer contribution rate payable by a
participating agency applicable to creditable compensation
earned on or after July 1, 1984 [1983], shall be as follows:

KRS 61.565 State Police Retirement System	18½ %
KRS 61.656 Kentucky Employees Retirement System	7¼ %
KRS 61.565 County Employees Retirement System	6¼ %
KRS 61.592 Kentucky Employees Retirement System....	17% [18¼ %]
KRS 61.592 County Employees Retirement System	14%

Section 2. The interest rate on a recontribution of re-
fund as provided under KRS 61.552 shall be as follows:

(1) For time elapsed from date of refund through June
30, 1982, six (6) percent compounded annually.

(2) For time elapsed from July 1, 1982 (or date of refund
if after July 1, 1982) seven and one-half (7½) percent com-
pounded annually. The interest rate on recontribution of
refund made by an employee who has been reinstated by
order of the Personnel Board shall be at the rate of zero (0)
percent, if the refund is recontributed within a reasonable
period of time.

Section 3. Interest creditable on a member's ac-
cumulated contributions in accordance with KRS 16.560,
61.575, and 78.640 shall be at the rate of six (6) percent.

Section 4. Reduction factors to be applied to determine
immediate annuity equivalent to annuity deferred to nor-
mal retirement age under KRS 16.577, 16.578, 61.595,
61.640 and 61.680 shall be as provided in Table G, below,
except:

(1) A KERS hazardous duty member who is age fifty
(50) or older and would attain thirty (30) years of service
(fifteen (15) years of which would be current service) prior
to age fifty-five (55), if the employment had continued
shall have his retirement benefit computed based on the ap-
propriate factor as follows:

TABLE A

Years Required to Complete 30 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(2) A SPRS or CERS hazardous duty member who is age
fifty (50) or older and would attain twenty-five (25) years
of service (for SPRS, fifteen (15) of which would be cur-

rent service) prior to age fifty-five (55), if his employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE B

Years Required to Complete 25 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age sixty-five (65) if employment were continued shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on SPRS, CERS hazardous or KERS hazardous early retirement eligibility, and would have attained thirty (30) or more years of service (fifteen (15) of which would be current service) on or before reaching his sixty-fifth (65th) birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE E

Years Required to Complete 25 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(5) A KERS hazardous member who dies prior to age fifty (50) and would have attained thirty (30) or more years of service (fifteen (15) or which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time of death.

(6) A SPRS or CERS hazardous member who dies prior to age fifty (50) and would have attained twenty-five (25) or more years of service (for SPRS, fifteen (15) of which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty-five (25) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time death.

TABLE F

Years Prior to Age 50	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE G

Early Age	Normal Retirement Age	
	65	55
64	95.0%	
63	90.0%	
62	85.0%	
61	80.0%	
60	75.0%	
59	71.0%	
58	67.0%	
57	63.0%	
56	59.0%	
55	55.0%	
54	51.3%	94.5%
53	47.9%	89.0%
52	44.9%	83.5%
51	42.1%	78.0%
50	39.5%	72.5%
49	37.1%	68.8%
48	34.9%	65.2%
47	33.0%	61.7%
46	31.3%	58.2%
45	29.9%	54.7%
44	28.7%	51.3%
43	27.6%	47.9%
42	26.7%	44.9%
41	25.8%	42.1%
40	25.1%	39.5%
39	24.4%	37.1%
38	23.8%	34.9%
37	23.2%	33.0%
36	22.5%	31.3%
35	21.9%	29.9%
34	21.2%	28.7%
33	20.6%	27.6%
32	20.0%	26.7%
31	19.5%	25.8%
30	19.0%	25.1%
29	18.5%	24.4%
28	18.0%	23.8%
27	17.5%	23.2%
26	17.0%	22.5%
25	16.5%	21.9%

The member's exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(7) Benefits paid in the event of death prior to retirement pursuant to subsections (1) through (6) of this section shall be reduced, as required by KRS 61.640 and as determined in "Contingent Annuity Factors," "Integrated Survivor Factors" and "Ten Year Certain Factors" incorporated herein by reference.

JOHN D. ROBEY, Chairman

ADOPTED: April 5, 1984

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:045. Upland game birds, furbearers and small game; seasons, limits.

RELATES TO: KRS 150.010, 150.300, 150.305, 150.330, 150.340, 150.360, 150.365, 150.370, 150.390, 150.400

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the hunting season, bag and possession limits for upland game birds and animals and trapping season for furbearers. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the wildlife resources for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of upland game birds, animals and furbearers within reasonable limits based upon an adequate supply. This amendment is necessary to change the rabbit and quail season dates [and to permit the use of calling devices to take small game].

Section 1. Hunting and Trapping Seasons. (1) Squirrel (gray and fox): third Saturday in August through October 31 and third Thursday in November through December 31.

(2) Rabbits: third Thursday in November through January 31 [February 12].

(3) Quail: third Thursday in November through February 10 [12].

(4) Grouse: third Thursday in November through the last day in February.

(5) Furbearers: third Thursday in November through January 31. Includes mink, muskrat, beaver, opossum, red fox, raccoon, weasel and skunk. The bobcat is protected year around and may not be trapped or killed.

(6) Traps and snares: all dry land sets are limited to No. 2 or smaller, smooth-jawed steel traps and No. 220 or smaller Conibear-type traps set no closer than ten (10) feet apart and snares without a self-locking device. Traps or snares shall not be set in trails or paths commonly used by humans and/or domestic animals.

(7) Taking raccoon and opossum: Raccoon and opossum may not be taken from a vehicle or boat with the aid of artificial light at any time or any place except by trapping.

(8) Falconry hunting: the wildlife listed in this section may be pursued and taken by a licensed falconer with any legal hunting raptor from November 1 through the last hunting date listed for each species, except that squirrels may be taken starting the third Saturday in August.

(9) The wildlife listed in this section may be taken by the use of hand or mouth operated calling or attracting devices during open seasons.

Section 2. Bag and Possession Limits.

Game	Bag Limits	Possession Limits
Squirrel (gray and fox)	6	12
Rabbit	4	8
Quail	8	16
Grouse	4	8
Furbearers (except raccoon by means other than trapping)	No Limits	No Limits
Raccoon (by means other than trapping)	1*	No Limits**

* One (1) per hunter, with no more than three (3) per party of three (3) or more hunters while hunting.

** No possession limit on raccoons, except that no hunter or party of hunters shall possess more than the daily bag limit while hunting in the field.

Section 3. Trapping Licenses. The following trapping licenses are required: (1) Resident landowner or tenant trapping license: This license authorizes either the landowner or his dependent children to take wild animals by trapping upon their farmlands. Either the tenant or his dependent children residing upon the owner's lands have the same privilege.

(2) Resident statewide trapping license: This license authorizes the holder thereof to take wild animals by trapping upon his lands or lands of another person with written consent of the landowner.

(3) Nonresident statewide trapping license: This license authorizes the holder thereof to take wild animals by trapping upon his lands or lands of another person with written consent of the landowner.

Section 4. Shooting Hours. Shooting hours for the above species are daylight hours only, except for raccoon and opossum which may be taken at any time during day or night.

Section 5. Squirrel Hunting Weapons. No person hunting squirrels may use or possess a breech-loading rifle of .240 caliber or larger. Squirrels may be taken with any type of muzzle-loading weapon and by means of longbows or compound bows.

Section 6. Prohibited Ammunition. No person hunting any of the game species listed in this regulation may have in his or her possession any buckshot or shotgun slugs.

CARL E. KAYS, Commissioner

ADOPTED: March 5, 1984

APPROVED: G. WENDELL COMBS, Secretary

RECEIVED BY LRC: April 2, 1984 at 4 p.m.

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

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:047. Specified areas; seasons, limits for birds and small game.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.176, 150.330, 150.340, 150.360, 150.370

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the hunting seasons, bag and possession limits for upland game birds and animals on specified wildlife management areas and refuges. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of upland game birds and animals within

reasonable limits based upon an adequate supply. *This amendment is necessary because of changes in season dates and the opening or closure of certain wildlife management areas to hunting.*

Section 1. All statewide and specified area regulations, seasons, bag and possession limits apply to the following wildlife management areas, and refuges unless exceptions are listed herein.

Section 2. The following wildlife management areas are closed to all hunting at all times except for deer and turkey hunting as authorized by other applicable regulations.

(1) *That portion of Grayson Wildlife Management Area east of the Little Sandy River and Bruin Creek portions of Grayson Lake* [in Carter and Elliott Counties].

(2) *That portion of Mill Creek Wildlife Management Area west of State Route 290.* [Cane Creek Wildlife Management Area, including all private inholdings, in Laurel County.]

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

Section 3. Exceptions to Statewide Small Game Hunting Regulations for Wildlife Management Areas and Refuges:

(1) West Kentucky Wildlife Management Area located in McCracken County.

(a) Quail: Third Thursday in November through February 12 on Tracts 2, 3, 6 and 7.

(b) Rabbit: Third Thursday in November through February 12 on Tracts 2, 3, 6 and 7. December 17 through 31 on Tract 5 [January 1 through 10 on Tract 1,] and January 1 [11] through 10 [21] on Tract 4.

(c) Squirrel (gray and fox): Third Saturday in August through October 31 on Tracts 1, 2, 3, 4, 5 and 6. Third Thursday in November through December 31 on Tract 6 only.

(d) Raccoon and opossum: During the regular statewide season with gun or dog on Tracts 1, 2, 3, 4, 5 and 6 and shake-out on Tracts 1 through 6. Night training is permitted on all tracts September 1 through October 21 only.

(e) Rabbit and quail hunters must check in and out daily at the designated check station.

(f) All tracts designated by numbers followed by the letter "A" are closed to gun hunting.

(g) Weapon restrictions. No rifles, or ball or slug ammunition of any type shall be permitted for taking small game on this area.

(h) Dog training: Dog training is permitted on all tracts September 1 through April 30 only, except that night training is prohibited after October 21.

(i) Tract 6 is closed to vehicular traffic March 1 through April 16.

(2) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties. Areas open to hunting for the following species are located north of the state line to Barkley Canal, except that no hunting is allowed in developed public use areas, safety zones and posted areas unless otherwise noted.

(a) Squirrel (gray and fox): Third Saturday in August through September [October 1]; December 1 through January 31; and October 3 [5] through November 10 [6] only by legally licensed and equipped deer archery hunters.

(b) Quail: December 1 through February.

(c) Rabbit: December 1 through February.

(d) Raccoon and opossum: Tuesday[s], Friday[s] and Saturday[s] nights only during the period December 1

through January. Daily bag limit one (1) per person per night. Raccoon and opossum hunters must check in and out nightly at designated check station. Harvest report cards must be displayed in vehicle windshield while hunting and submitted at the check station upon completion of each night's hunt.

(e) Raccoon field trials: September 1 through October and December 1 through March. Scheduled basis only. Written requests must be received by Land Between the Lakes at least ten (10) days prior to the proposed hunt date. Approval must be obtained from [given by] Land Between the Lakes and the Department of Fish and Wildlife Resources District Supervisor. Field trials must be recognized club hunts and each participant must be on a club roster for that hunt.

(f) Fox chasing: From sunset to sunrise; third Saturday in August through October 1 south of Highway 68 to state line.

(g) Gray fox and coyote taking: Daylight hours only; Gun and archery on December 1 through February. October 3 [5] through November 10 [6] only by legally licensed and equipped deer archery hunters. Any hand, mouth, mechanical or electronic recording and amplifying devices are legal to use in calling gray fox and coyote.

(h) Woodchuck: Hunting during daylight hours only. March 13 [14] through March 31 and [.] October 3 [5] through November 10. [6 and December 10 through December 31 only by legally licensed and equipped deer archery hunters. No hunting in the Environmental Education Center Area including a one-quarter ($\frac{1}{4}$) mile safety zone around the outside boundary. No hunting within one-quarter ($\frac{1}{4}$) mile of The Trace, U.S. Highway 68, Energy Lake Road and Shaw Branch Road.] All woodchucks harvested must be removed from the area. Legal weapons include all rimfire, center-fire, and [center-fire rifles .17 caliber or larger, .22 caliber rimfire magnum rifles,] muzzle-loading rifles, and longbows and compound bows according to state regulations. All other weapons are prohibited. December 8 through December 31 only by legally licensed and equipped deer archery hunters. Gun hunting is prohibited [Bow hunting only allowed] in Hunt Area 8 and in that portion of Hunt Area 9 designated as the ORV Area.

(i) Bird dog and beagle hound training season: During the entire month of October in hunt Area 8 only. A permit is required from Land Between the Lakes.

(j) All dogs, while hunting, must wear a collar bearing the owner's name, address, and telephone number. Dogs may not be used for hunting October 3 [5] through November 10 [6], except in authorized field trials.

(k) Trapping for furbearers:

1. Only those persons who are selected by a drawing are permitted to trap furbearers on Land Between the Lakes.

2. Authorized trappers may trap in assigned areas only and must report their harvest in accordance with Land Between the Lakes instructions.

3. Trapping season: December 16 [1] through January 15 [31] for all furbearers, except that raccoons may only be taken December 16 [1] through 31.

4. Trapping devices: Land sets are restricted to No. 3 or smaller smooth-jawed [offset] leghold traps, No. 220 or smaller conibear-type traps, or live traps. The jaws of No. 1 $\frac{1}{2}$ and larger leghold traps used on land must be offset three-sixteenths ($\frac{3}{16}$) inches. Water sets are restricted to No. 3 or smaller smooth-jawed [offset] leghold traps and No. 330 or smaller conibear-type traps.

5. Weapons restrictions: The use of crossbows, center-fire rifles, handguns, and shotguns with slugs or shot larger

than BBs is prohibited for the taking of all species listed in this subsection except woodchuck.

(3) Reelfoot National Wildlife Refuge located in Fulton County.

(a) Squirrel (gray and fox): Fourth Saturday in August [27] through October 15 only in areas designated by signs as open to public hunting.

(b) Raccoon: Four (4) consecutive nights beginning on the last Wednesday in September and four (4) consecutive nights beginning on the first Wednesday in October [September 28 through October 1 and October 5 through 8] on the Long Point refuge unit, with hunting allowed only during the hours of 7:30 p.m. to 12:00 midnight. No bag or possession limits.

(c) Hunters are required to check in and out at designated check stations. [Age limit. Hunters under age seventeen (17) must be accompanied by an adult. For safety reasons, the ratio should be one (1) adult to one (1) juvenile, but in no case more than two (2) juveniles per adult.]

(d) No other hunting is permitted except as authorized by other applicable regulations. [Firearms. Only shotguns incapable of holding more than three (3) shells and .22 caliber rimfire rifles are permitted.]

[(e) Dogs are permitted only for raccoon hunting.]

[(f) Open fires and cutting trees are not permitted.]

[(g) No other hunting is permitted.]

(4) Ballard County Wildlife Management Area located in Ballard County.

(a) Squirrel (gray and fox): Third Saturday in August through October 14 on the whole management area except for designated areas that will be closed.

(b) All statewide hunting seasons, bag and possession limits apply only to the wooded area south of Terrell Landing Road and designated by signs reading "Wildlife Management Area for Public Hunting."

(5) Central Kentucky Wildlife Management Area located in Madison County.

(a) Squirrel (gray and fox): Third Saturday in August through October 14.

(b) This area is closed to all hunting except dove (see statewide dove regulation) and squirrel.

(c) Trapping, with the authorization of the area manager, is permitted.

(d) Dog training and scheduled field trials are permitted.

(6) Curtis Gates Lloyd Wildlife and Recreation Area located in Grant County: Areas closed to hunting are designated by refuge signs. All statewide hunting seasons apply to remainder of the area.

(7) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Hunters on this area are restricted to pioneer weapons only. These include muzzle-loading rifles, muzzle-loading pistols, muzzle-loading shotguns, longbows and crossbows. Muzzle-loading shotguns for taking squirrels, quail, grouse and rabbits must not use shot larger than No. 2 in size.

(8) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There will be no hunting on Mondays or Tuesdays except when Monday or Tuesday is a federal holiday or as follows: November 26-27 [28-29], December 17-18 [19-20], and 31 [27], then hunting will be permitted. [There will no hunting on December 24 and 25 and January 1 and 2.]

(a) Seasons, bag and possession limits:

1. Squirrel (gray and fox): August 18 [17] through September 21 [18], November 22 [24] through November 30 [December 2], December 1 [3] through December 31 on selected areas; and January 2 [4] through January 31 [29].

2. Quail: November 22 [24] through November 30 [December 2], December 1 [3] through December 31 on selected areas; January 2 [4] through February 28 [29].

3. Rabbit: November 22 [24] through November 30 [December 2], December 1 [3] through December 31 on selected areas; January 2 [4] through February 28 [29]; bag limit five (5); possession limit ten (10).

4. Raccoon and opossum: Taking with gun and/or dogs, November 22 [24] through November 30 [December 2], December 1 [3] through December 31 on selected areas. January 2 [4] through January 31 [29]; possession limit one (1) per person.

5. Gray fox, coyote, and woodchuck: May 5 [4] through August 17 [14] and during any other authorized hunt.

6. Red fox: November 22 [24] through November 30 [December 2], December 1 [3] through December 31 on selected areas. January 2 [4] through January 31 [29].

[7. Bobcat: The season is closed on bobcat.]

(b) Permission must be obtained for each hunt at building #6645 and hunters must stay within their assigned area. A hunting permit costing fifteen dollars (\$15) is required and is good for all species hunting for the season.

(c) All hunters between the ages of twelve (12) and sixteen (16), must possess a valid hunter safety certificate.

(9) Clay Wildlife Management Area located in Nicholas County [is closed to the training of all dogs March 1 through August 1].

(a) Quail and rabbit: First Saturday in November through January 31.

(b) Grouse: October 15 through January 31.

(c) All hunters and dog trainers must check in and out daily at the designated check station.

(d) Closed to the training of all dogs March 1 through August 1.

(10) Pine Mountain Wildlife Management Area located in Letcher County is closed to training of all dogs March 1 through August 1.

(11) Red Bird Wildlife Management Area located in Leslie and Clay Counties.

(a) Squirrel (gray and fox), grouse, quail, raccoon, and rabbit hunting and trapping for furbearers are permitted from the third Thursday in November through November 29 [December 5 through 18].

(b) Firearms: Only shotguns incapable of holding more than three (3) shells are permitted.

(c) This area is closed to all other hunting except deer and turkey as authorized by other applicable regulations.

(12) Beaver Creek Wildlife Management Area located in McCreary and Pulaski Counties.

(a) Squirrel (gray and fox), grouse, quail, raccoon, and rabbit hunting and trapping for furbearers are permitted from the third Thursday in November through November 29 [December 5 through 18].

(b) Firearms: Only shotguns incapable of holding more than three (3) shells are permitted.

(c) This area is closed to all other hunting except deer and turkey as authorized by other applicable regulations.

[(13) Mill Creek Wildlife Management Area, including all private inholdings, located in Jackson County.]

[(a) Squirrel (gray and fox), grouse, quail, raccoon, and rabbit hunting and trapping for furbearers are permitted December 5 through 18.]

[(b) Only shotguns incapable of holding more than three (3) shells are permitted.]

[(c) This area is closed to all other hunting except deer and turkey as authorized by other applicable regulations.]

(13) [(14)] Dewey Lake Wildlife Management Area located in Floyd County.

(a) Squirrel (gray and fox), grouse, quail, raccoon, and rabbit hunting and trapping for furbearers are permitted the third Thursday in November through December 4 [5].

(b) Only shotguns incapable of holding more than three (3) shells are permitted.

(c) This area is closed to all other hunting except deer and turkey as authorized by other applicable regulations.

(14) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties is closed to grouse hunting.

(15) Pennyryle Forest Wildlife Management Area located in Christian County is closed to grouse hunting.

(16) Higginson-Henry Wildlife Management Area located in Union County is closed to grouse hunting.

(17) Yellowbank Wildlife Management Area located in Breckinridge County.

(a) Quail and rabbit: November 3 through January 31.

(b) All rabbit, quail, and squirrel hunters must check in and out daily at designated check stations.

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

(a) Squirrel (gray and fox), grouse, quail, raccoon and rabbit hunting and trapping for furbearers are permitted from the third Thursday in November through November 29.

(b) Firearms: Only shotguns incapable of holding more than three (3) shells are permitted.

(c) This area is closed to all other hunting except deer and turkey as authorized by other applicable regulations.

CARL E. KAYS, Commissioner

ADOPTED: March 5, 1984

APPROVED: G. WENDELL COMBS, Secretary

RECEIVED BY LRC: April 2, 1984 at 4 p.m.

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

TOURISM CABINET

Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 3:070. Goose harvest reporting.

RELATES TO: KRS 150.010, 150.025, 150.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation pertains to the rules, registration and reporting of the goose harvest in a designated portion of Ballard County. This regulation is necessary to determine the number of geese harvested in Ballard County as mandated by the Mississippi Flyway Council. The harvest data are to be utilized in determining the size of a future goose harvest quota. The function of this regulation is to provide accurate goose harvest data to serve as a basis for a mandatory harvest quota. This amendment is necessary to delete the prohibition against setting a non-commercial waterfowl pit or blind within 100 yards of any state-owned public shooting area [because of a change in the number of persons permitted to occupy a pit or blind].

Section 1. It is unlawful for any person or persons to

shoot, take, or attempt to take any waterfowl on non-commercial lands and/or waters within the area described herein, unless they conform with this regulation. A non-commercial waterfowl shooting area is any area or land and/or water, used in whole or in part for the taking, attempted taking, or the privilege of taking migratory waterfowl where no daily monetary charge is made.

Section 2. Designated Area Covered By This Regulation. This regulation applies only to the area described as follows: starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe.

Section 3. General Rules Concerning Waterfowl Hunting and Spacing of Pits or Blinds on Non-commercial Waterfowl Shooting Areas.

(1) It is unlawful for any person or persons to shoot, take, or attempt to take, any waterfowl except from a blind or pit. For purposes of this regulation, an anchored, stationary or drifting boat from which waterfowl are hunted, is considered to be a blind, except for the area closed to waterfowl hunting as described in subsection (5) of this section.

(2) It is unlawful for any person or persons to establish or use any blind or pit for the taking of waterfowl within 100 yards of any other blind or pit.

(3) It is unlawful for any person to establish or locate any blind or pit within 200 yards of any state waterfowl refuge, or within [100 yards of any state-owned public shooting area or within] fifty (50) yards of any property line.

(4) It is unlawful for more than five (5) persons, each having one shotgun to occupy a single blind or pit at the same time.

(5) No waterfowl hunting will be permitted along or on the Ohio River from a point 100 yards upstream from Dam 53, downstream to a point 100 yards below the downstream boundary of the Ballard County Wildlife Management Area (the downstream boundary being approximately one and one-half (1½) miles below the mouth of Humphrey Creek). Waterfowl hunting is allowed on or along the remainder of the Ohio and Mississippi Rivers as described in Section 2 of this regulation.

Section 4. Free Permit and Rules for Persons Controlling Land and/or Water, and/or Waterfowl Hunting Rights and Privileges Pertaining to Said Land and/or Water Used, or Intended to be Used for Hunting Geese on a Non-commercial Basis.

(1) Any person or persons controlling land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water, within the designated area covered by this regulation, used or intended to be used, in whole or in part, for the taking of geese on a non-commercial basis must apply to the Ballard County Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, for a free Migratory Goose Hunting Area permit.

(2) The holder of a free Migratory Goose Hunting Area permit may be:

(a) The landowner, his tenant or any designated

representative, who controls the land and/or water and/or the waterfowl hunting rights and privileges pertaining to said land and/or water upon which goose hunting is permitted;

(b) Any other person to whom individuals as defined in paragraph (a) of this subsection, have assigned exclusive goose hunting rights or privileges, in writing, on forms provided by the department.

(3) The free Migratory Goose Hunting Area permit shall:

(a) Be displayed openly on the property for which it was issued;

(b) Be open for inspection by conservation officers or other authorized employees of the Department of Fish and Wildlife Resources and members of the U.S. Fish and Wildlife Service;

(c) Expire each year on the day after the end of the waterfowl season.

(4) The holder of a free Migratory Goose Hunting Area permit shall:

(a) Make available and maintain at all times during the waterfowl season, the daily hunter register forms in duplicate provided by the department on the area for which the permit is issued;

(b) Require all waterfowl hunters to register each time they hunt on the daily register forms provided by the department prior to hunting on any permit area;

(c) Require all waterfowl hunters to record the numbers and kinds of geese taken on the permit area immediately before leaving the hunting area;

(d) Mail or take the original daily register form for the period Monday through Sunday to the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, at the close of shooting hours each Sunday during the waterfowl season, and it must be postmarked no later than the following Monday or the day following the last day of the waterfowl season, even if no geese were killed or hunted;

(e) Hold duplicate forms from past weeks for a period of two (2) months after the end of the waterfowl season;

(f) Exhibit to, and allow inspection of, the daily register by conservation officers and other authorized employees of the Department of Fish and Wildlife Resources and the U.S. Fish and Wildlife Service.

Section 5. Any person hunting, taking or attempting to take geese within the area designated by this regulation shall:

(1) Write on a daily register form the date, and their name and address before entering any land and/or waters to hunt geese;

(2) Immediately upon returning from any land and/or waters, register the numbers and kinds of geese taken, including a negative or zero (0) report if failing to kill any geese.

Section 6. Ohio and Mississippi River Waterfowl Hunters. Persons hunting or taking geese on the Ohio and Mississippi Rivers and their overflow areas within the designated area covered by this regulation shall apply for a season's supply of daily register forms at the Ballard Wildlife Management Area, Route 1, LaCenter, Kentucky 42056.

(1) A daily register form must be carried on the person of each goose hunter if hunting alone, or by one (1) hunter in a party while hunting, taking or attempting to take geese on these two (2) rivers and their overflow areas. The form must be filled out during each hunt in the same manner as

described in Section 5 of this regulation. When hunting in a party where only one (1) person possesses a daily register form, all members of the hunting party may register on that person's daily register.

(2) The original copy of the daily register form must be mailed or taken to the Ballard Wildlife Management Area as described in Section 4(4)(d).

(3) The duplicate daily register form must be held as described in Section 4(4)(e).

(4) The daily register form must be exhibited and allowed to be inspected as described in Section 4(4)(f).

CARL E. KAYS, Commissioner

ADOPTED: March 5, 1984

APPROVED: G. WENDELL COMBS, Secretary

RECEIVED BY LRC: April 2, 1984 at 4 p.m.

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

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

401 KAR 61:165. Existing primary aluminum reduction plants.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the [Department for] Natural Resources and Environmental Protection *Cabinet* to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing primary aluminum reduction plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each potroom group within a primary aluminum reduction plant commenced before the classification date defined below.

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

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

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

(3) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.

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

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

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

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

(8) "Dry scrubbing plant" means each primary aluminum reduction plant with a primary control system which operates in a manner whereby potroom group gases flow through a reaction bed consisting of alumina prior to being treated by dry removal methods for particulate emissions control. The resulting reaction bed products are then used as feed to the potroom group electrolytic reduction cells.

(9) "Wet scrubbing plant" means each primary aluminum reduction plant with a primary control system which acts in series to remove particulate emissions by dry removal methods, followed by wet scrubbing to remove gaseous fluoride emissions.]

(9) [(10)] "Startup cell" means an electrolytic reduction cell which is initially devoid of any materials other than carbon cathodes and anodes. Such a cell undergoes a prebake period by passing electrical current through anodes resting on the cathode floor, then has the necessary electrolyte and aluminum added, such that it will produce aluminum.

(10) [(11)] "Sick cell" means an electrolytic reduction cell which has lost its proper heat balance, cannot maintain a solid crust, and must be removed from the primary control system to receive corrective attention.

(11) [(12)] "Normal potroom operations" means any potroom activity and includes uncaptured cell gases resulting from startup cells, cell tapping, anode changing, ore additions, or any other potroom operation but does not include operations due to sick cells.

Section 3. Standard for Visible Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere:

(1) From any potroom roof monitor any gases which exhibit ten (10) percent opacity or greater during normal potroom operation except startup cells;

(2) From any potroom roof monitor section directly above sick cells or startup cells any gases which exhibit forty (40) percent opacity or greater;

(3) From any dry scrubbing plant primary control system any gases which exhibit ten (10) percent opacity or greater; or

(4) From any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* primary control system any gases which exhibit twenty-five (25) percent opacity or greater.

Section 4. Standard for Fluorides. (1) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, the owner or operator subject to the provisions of this regulation shall:

(a) For a dry scrubbing plant cause to be discharged into the atmosphere no gases which contain total fluorides in excess of 1.9 lb/ton of aluminum produced except that emissions between 1.9 lb/ton and 2.5 lb/ton will be considered in compliance if the owner or operator demonstrates to the department's satisfaction that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance test.

(b) For any *primary aluminum reduction plant other than a dry [a wet] scrubbing plant* cause to be discharged into the atmosphere through each potroom roof monitor no gases which contain gaseous fluorides in excess of 3.25 lb/hr.

(c) For a *primary aluminum reduction plant other than a dry [wet] scrubbing plant* cause to be discharged into the atmosphere from any primary control system no gases which contain gaseous fluorides in excess of 290 lb/hr [1.0 lbs/ton of aluminum produced]. *The minimum stack height for the primary control system shall be 400 feet.*

(2) In the event of a recorded violation of the fluoride standard prescribed in 401 KAR 53:010, the department shall require that remedial measures be initiated from the source(s) responsible for causing said violation.

Section 5. Standard for Particulate Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* primary control system any gases which contain particulate emissions in excess of 0.010 gr/scf. Addition of dilution air shall not constitute compliance.

Section 6. Monitoring of Operations. (1) The owner or operator of any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* subject to the provisions of this regulation shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the weight of the aluminum produced. The weighing devices shall have an accuracy of plus or minus five (5) percent over their operating range.

(2) The owner or operator of any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* shall maintain a record of daily production rates of aluminum, raw material feed rates, and cell or potline voltages.

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

Section 7. Test Methods and Procedures. (1) Reference methods as defined in Appendix A of 40 CFR 60 or as otherwise specified, filed by reference in 401 KAR 50:015, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Section 3, 4 and 5 as follows:

(a) For sampling emissions from stacks:

1. Reference Method 13A or 13B for the concentration of total fluoride and the associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 for velocity and volumetric flow rate;
4. Reference Method 3 for gas analysis; and
5. Reference Method 5 for particulate emissions.

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

1. Reference Method 14 and Kentucky Method 130 for the concentration of gaseous fluorides and associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 and Reference Method 14 for velocity and volumetric flow rate; and
4. Reference Method 3 for gas analysis.

(c) For opacity determination: Reference Method 9.

(2) For Reference Method 13A or 13B, 14, and Ken-

tucky Method 130, the sampling time for each run shall be at least eight (8) hours for any potroom sample, and the minimum sample volume shall be 6.8 dscm (240 dscf) for any potroom sample except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the department.

(3) The air pollution control system for each affected facility shall be constructed so that volumetric flow rates and total fluoride emissions can be accurately determined using applicable methods specified under subsection (1) of this section.

(4) The rate of aluminum production is determined by dividing 720 hours into the weight of aluminum tapped from the affected facility during a period of thirty (30) days prior to and including the final run of a performance test.

(5) For each run for a *dry scrubbing plant*, potroom group emissions expressed in kg/metric ton of aluminum produced shall be determined using the equation in Appendix A of this regulation.

(6) For any sampling harness which does not comply with Reference Method 14 in Appendix A to 40 CFR 60, as amended on June 30, 1980, the department shall prescribe such sampling procedures as it deems appropriate.

Section 8. Compliance Timetable. (1) The owner or operator of an affected facility shall be required with respect to startup cell and sick cell emissions to achieve compliance with this regulation no later than February 1, 1982, except as provided for under Section 9.

(2) The owner or operator of an affected facility shall be required with respect to the primary removal system to achieve final compliance no later than February 1, 1981.

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

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

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

Where:

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

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

C = Concentration of total fluorides in mg/dscm as determined by Reference Method 13A or 13B, or Reference Method 14 as applicable.

Q = Volumetric flow rate of the effluent gas stream in dscm/hour as determined by Reference Method 2 and/or Reference Method 14, as applicable.

10^{-6} = Conversion factor for mg to kg.

M = Rate of aluminum production in metric ton/hour as determined by Section 7[6](4).

$(CQ)_1$ = Product of C and Q for measurements of primary control system effluent gas streams.

$(CQ)_2$ = Product of C and Q for measurements of roof monitor effluent gas stream at dry scrubbing

plants. [(CQ)₂ shall be equal to zero for wet scrubbing plants.]

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: March 22, 1984

RECEIVED BY LRC: March 23, 1984 at 9 a.m.

See public hearings scheduled on page 1115.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 9:070. Examination retake limits.

RELATES TO: KRS 304.9-160, 304.9-190, 304.9-320, 304.9-430

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation reasonably restricts the number of times an applicant for an agent's, a solicitor's, a consultant's, or an adjuster's license may take the appropriate examination required by the Kentucky Insurance Code or regulations promulgated thereunder.

Section 1. Applicants to take the examinations required by KRS 304.9-160, 304.9-320, and 806 KAR 9:030 shall be permitted to take or retake an examination a combined total of three (3) times within 120 days of the submission of an application. After a waiting period of *thirty (30) [180] days, which shall begin on the day the third examination is taken*, a new application may be submitted.

Section 2. If an applicant to take the examinations required by KRS 304.9-160, 304.9-320, and 806 KAR 9:030 does not take an examination within 120 days of the filing of his application, said application shall become invalid. The applicant may file a new application at any time following the expiration of the 120 day period, and an examination may be taken when scheduled by the department in the regular course of business.

GIL McCARTY, Commissioner

ADOPTED: April 3, 1984

APPROVED: M. H. WILSON, Secretary

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

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

904 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

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 method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.272. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application or the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Payment System, revised April 1, 1984 [July 1, 1983], which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of April 30 of each year and trending the facility costs to July 1 of the

rate year. (Unaudited and/or budgeted cost data may be used if a full year's audited data is unavailable.) Allowable costs will then be indexed for inflation for the rate year, and the maximum set at 105 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 165 percent of 105 percent of the median of allowable trended and indexed costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1982, so that the maximum payment amount for the prospective uniform rate year will be at 105 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for SNFs and basic ICFs, except that no maximum (upper limit) shall be imposed.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary

function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for property costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care, converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the

facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Division of [for] Medical Assistance shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) *A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that building or expansion for which the waiver was requested and approved.*

(e) [(d)] Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of training, conventions, meetings, assemblies, conferences, seminars, or any related activities), and legal fees for unsuccessful lawsuits against the cabinet.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds ($\frac{2}{3}$) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Stock transfers, except stock transfers followed by liquidation of all company assets and which may be revalued in accordance with Internal Revenue Service rules, are not considered changes of facility ownership. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(11) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(12) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(13) The cabinet shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the cabinet will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(14) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(15) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(16) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(17) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence). The cabinet may also require, as necessary, that facilities whose cost report does not cover a full facility fiscal year shall submit an interim and/or budgeted cost report by April 30 to be used in setting the prospective rate for the facility for the next uniform rate year.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or

capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-83)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$25.99 & below*	—	—
26.00 - 26.99	\$1.38	\$.87
27.00 - 27.99	1.29	.75
28.00 - 28.99	1.18	.62
29.00 - 29.99	1.06	.47
30.00 - 30.99	.92	.31
31.00 - 31.99	.76	.13
32.00 - 33.17	.53	—

Maximum Payment \$33.17

* For a basic per diem of \$25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-82)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$31.99 & below*	—	—
32.00 - 33.99	\$1.38	\$.87
34.00 - 35.99	1.29	.75
36.00 - 37.99	1.18	.62
38.00 - 39.99	1.06	.47
40.00 - 41.99	.92	.31
42.00 - 43.99	.76	.13
44.00 - 45.99	.53	—

* For a basic per diem of \$31.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 7-1-83)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$34.00 & below*	—	—
35.00 - 36.99	\$1.38	\$.87
37.00 - 38.99	1.29	.75
39.00 - 40.99	1.18	.62
41.00 - 42.99	1.06	.47
43.00 - 44.99	.92	.31
45.00 - 46.99	.76	.13
47.00 - 49.35	.53	—

Maximum Payment \$49.35**

* For a basic per diem of \$34.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.

** The maximum payment for hospital based skilled nursing facilities is set at \$79.47.

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 105 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 105 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1982 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 105 percent of the median is a lower dollar amount than has been currently set.

Section 5. *Reimbursement [Rate] Review and Appeal.* Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of [for] Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Social Insurance, a review by a standing *reimbursement* review panel to be established by the commissioner. This request must be postmarked within *twenty (20) [fifteen (15)]* days following notification of the decision of the Director, Division of [for] Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division of [for] Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Division of [for] Management and Development, Department Social Insurance. A date for the *reimbursement [rate]* review panel to convene will be established within *twenty (20) [fifteen (15)]* days after receipt of the written request. The panel shall issue a binding decision on the issue within *twenty (20) [ten (10)]* days of the hearing of the issue, *except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider.* The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including urethral catheters, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, band-aids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary

services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

JACK F. WADDELL, Commissioner

ADOPTED: April 13, 1984

APPROVED:

E. AUSTIN, JR., Secretary

RECEIVED BY LRC: April 13, 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.

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

904 KAR 1:061. Payments for medical transportation.

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 method for determining amounts payable by the cabinet for medical transportation services.

Section 1. Ambulance Services: (1) The cabinet shall reimburse *licensed* participating ambulance services at the lesser of their usual and customary charges or the maximum rate established by the cabinet.

(2) The maximum rate is the amount arrived at by combining the following component costs, as applicable:

(a) The base rate, which is set at fifty dollars (\$50) per one (1) way trip and includes all mileage costs for the first ten (10) miles;

(b) A mileage allowance of one dollar (\$1) per mile for mileage above the first ten (10) miles;

(c) An oxygen rate, which is set at eight dollars (\$8) per one (1) way trip; and

(d) The cost (as determined by the cabinet) of other itemized supplies.

Section 2. Commercial Transportation Vendors: (1) "Commercial transportation vendors" means those commercial carriers licensed in accordance with the laws of Kentucky, other states, or of the United States to transport members of the general public.

(2) The cabinet shall reimburse commercial transportation vendors at the normal passenger rate charged to the general public, except that the following maximum rates shall be applicable for franchised (licensed) taxi services in those areas of the state where taxi rates are not regulated by the appropriate local rate setting authority, and for franchised (licensed) taxi services in regulated areas when they go outside the medical service area.

(a) The upper limit shall be the usual and customary charge up to a maximum of three dollars (\$3) for trips of five (5) miles or less, one (1) way, loaded miles.

(b) The upper limit shall be the usual and customary charge up to a maximum of six dollars (\$6) for trips of six (6) to ten (10) miles, one (1) way, loaded miles.

(c) The upper limit shall be the usual and customary charge up to a maximum of ten dollars (\$10) for trips of eleven (11) to twenty-five (25) miles, one (1) way, loaded miles.

(d) The upper limit shall be the usual and customary charge up to a maximum of fifteen dollars (\$15) for trips of twenty-six (26) miles or over, one (1) way, loaded miles.

Section 3. Private Automobile Vendors: (1) "Private automobile vendor" means a person owning or having access to a private vehicle not used for commercial transportation purposes and who uses that vehicle for the occasional medical transportation of eligible recipients. Included within this definition are ambulance type vendors who are non-certified or who have not chosen or been approved to participate in the Title XIX program, if willing to accept private automobile vendor rates.

(2) (a) The cabinet shall reimburse private automobile vendors at the basic rate of twelve (12) cents per mile plus a flat fee of two dollars (\$2) per eligible passenger if waiting time is required. For round trips of less than five (5) miles the rate shall be computed on the basis of a maximum allowable fee of three dollars (\$3) for the first passenger plus two dollars (\$2) each for waiting time for additional eligible passengers.

(b) For round trips of five (5) to twenty-five (25) miles the rate shall be computed on the basis of a maximum allowable fee of five dollars (\$5) for the first passenger plus two dollars (\$2) each for waiting time for additional eligible passengers. The maximum allowable fee rates shall not be utilized in situations where mileage is paid. Toll charges are reimbursable when incurred.

(3) "Maximum allowable fee" means that even though the rate when computed on the basis of twelve (12) cents per mile plus two dollars (\$2) for waiting time would not equal the three dollars (\$3) or five dollars (\$5) allowable amounts, that amount may be paid to encourage private automobile vendors to provide necessary medical transportation. Additionally, nothing in the above subsection (2) should be construed to require the cabinet to pay the amounts specified therein in the event the private automobile vendor expresses a preference for reimbursement in a lesser amount; in that event, the lesser amount will be paid.

(4) "Waiting time" means that period of time following provision of transportation to a medical vendor during which the private automobile vendor is waiting for the recipient to receive medical treatment, in order to provide the return trip required by the recipient. In the instance of an eligible recipient being admitted to a medical institution for inpatient care, waiting time is considered to have occurred when the private automobile vendor waits a sufficient period of time to ensure the recipient's admittance to the facility. Waiting time is a reimbursable component of the private automobile vendor transportation fee only when waiting time occurs. When waiting time occurs due to admittance of the recipient into the medical institution, the private automobile vendor may be reimbursed for the return trip to the point of recipient pick-up as though the client were in the vehicle; that is, the total reimbursable amount is computed on the basis of the maximum allowable fee or mileage rate plus waiting time as shown in subsection (2) of this section.

Section 4. Non-Commercial Group Carriers: (1) "Non-commercial group carriers" means those vendors who provide bus or bus-type medical transportation to an iden-

tifiable segment of the eligible recipient group. Such segment may be identifiable by geographical boundary, type of medical service required, common medical destination (i.e., clinic, mental health center, primary care center, etc.), or other similar grouping method. Included within this definition are:

(a) Mental health centers providing bus or bus-type service for mental health center patients; and

(b) Community action agencies (or successor agencies) providing bus or bus-type service for a poverty or near-poverty area target population; and

(c) Other similar providers as identified by the cabinet.

(2) Reimbursement shall be based on *actual reasonable, allowable cost to the provider based on cost data submitted to the cabinet by the provider; however, the minimum rate shall be twenty (20) cents per recipient per mile transported and the rate upper limit shall be fifty (50) cents* [a rate negotiated between the cabinet and the non-commercial group carrier; however, such negotiated rate shall not exceed twelve (12) cents] per recipient per mile transported.

Section 5. Specialty Individual Carriers: (1) "Specialty individual carrier" means a vendor who provides, through specially equipped vehicles, medical transportation for non-ambulatory recipients (those who are required to travel by wheelchair) or for ambulatory but disoriented recipients (those who are sufficiently disoriented as to time, place, persons or objects so as to be unable to travel to or from medical services unaccompanied or unsupervised), and who provides services not normally available from other transportation vendors. The equipment ordinarily required would be a van or similar type vehicle with a lift for wheelchairs; and the service would be the accompaniment of the recipient from point of origin to point of destination where the recipient is placed in the charge of the receiving individual, including physical assistance and/or guidance to the recipient when necessary. To be considered a specialty individual carrier for purposes of reimbursement from the cabinet, the carrier must be recognized by the cabinet as a specialty individual carrier with approval given by the cabinet for reimbursement at specialty individual carrier rates. The cabinet may require the submission of documentation designed to show that the vendor is capable of providing specialty individual carrier service in an adequate and safe manner.

(2) Specialty individual carriers shall be reimbursed at the lesser of the following rates:

(a) The actual charge for the service; or

(b) The usual and customary charge for that service by the carrier, as shown in the schedule of usual and customary charges submitted by the carrier to the cabinet; or

(c) The program maximum established for the service.

(3) Program maximums are:

(a) Non-ambulatory, wheelchair patients; for transportation within a distance of ten (10) miles or less, the upper limit is ten dollars (\$10) for the first patient plus five dollars (\$5) for each additional non-ambulatory patient transported on the same trip, for each time a patient is transported to or transported from the medical service site. To this base may be added fifty (50) cents per mile per patient for miles the patient(s) is transported above ten (10) (one (1) way), and toll charges actually incurred.

(b) Ambulatory, disoriented patients; for transportation within a distance of ten (10) miles or less, the upper limit is four dollars (\$4) per patient for each time a patient(s) is transported to or transported from the medical service site.

To this base rate may be added fifty (50) cents per mile per patient for miles the patient is transported above ten (10) (one (1) way), and toll charges actually incurred.

(c) For both paragraphs (a) and (b), above, mileage must be computed by the most direct accessible route from point of pickup to point of delivery, and reimbursement for mileage is allowed only for those miles the recipient is actually transported in excess of ten (10). Empty vehicle miles are not included when computing allowable reimbursement for mileage.

(4) Reimbursement is made at specialty individual carrier rates for the following types of recipients only:

(a) Non-ambulatory recipients who need to be transported by wheelchair, but not including recipients who need to be transported as a stretcher patient; and

(b) Ambulatory but disoriented recipients, defined as persons confused, especially with respect to time, place and identity of persons and/or objects. The extent of disorientation must be such as to preclude the recipient from safely utilizing, unaccompanied, alternate methods of transportation.

(5) The specialty carrier must obtain a statement from the recipient's physician (or, if the recipient is in a skilled nursing or intermediate care facility, from the director of nursing, charge nurse, or medical director in lieu of physician) to verify that transportation by the specialty carrier is medically necessary due to the recipient's non-ambulatory or disoriented condition. Claims for payment which are submitted without the required statement of verification will not be paid.

Section 6. Specially authorized transportation services provided by ambulance services [or specialty carriers, or as otherwise authorized in unforeseen circumstances,] may be paid for at a rate of *forty dollars (\$40) per one (1) way trip, which includes all mileage costs for the first ten (10) miles, and a mileage allowance of seventy-five (75) cents per mile above the first ten (10) miles, unless otherwise authorized; specially authorized transportation services provided by specialty carriers, or as otherwise authorized in unforeseen circumstances, may be paid for at a rate adequate to secure the necessary service; in no event, however, shall the amount allowed [adequate to secure the necessary service; this amount shall not] exceed the usual and customary charge of the provider.*

Section 7. Use of Flat Rates. When a recipient chooses to use a medical provider outside the medical service area (i.e., the medical service is available within the medical service area and the recipient has not been appropriately referred to a medical provider outside the medical service area), transportation payment shall not exceed the lesser of six dollars (\$6) per trip, one (1) way (or twelve dollars (\$12) for a round trip), or the usual fee for the transportation provider computed in the usual manner.

Section 8. Limitations. Any reimbursement for medical transportation is contingent upon the recipient receiving the appropriate pre- or post-authorization for medical transportation as required by the cabinet.

JACK F. WADDELL, Commissioner

ADOPTED: April 13, 1984

APPROVED:

E. AUSTIN, JR., Secretary

RECEIVED BY LRC: April 13, 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

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 3:030. Eligible program of study.

RELATES TO: KRS 164.740 to 164.766

PURSUANT TO: KRS 13.082, 164.748(1), (4)

NECESSITY AND FUNCTION: KRS 164.744(1) and 164.748(1) provide that the Kentucky Higher Education Assistance Authority may insure loans for students "upon such terms and conditions as the board may prescribe within the limitations provided by KRS 164.740 to 164.785 and the federal act." This regulation sets forth the definition prescribed by the board, within those limitations, of programs of study for which eligible students may receive loans.

Section 1. Eligible Program of Study. The authority may provide loan guarantees in respect of loans to eligible students for enrollment at a participating institution in any program of study meeting the minimum criteria of the federal act, other than a program leading to a certificate, diploma, or degree in theology, divinity or religious education or a program which is composed partially or entirely of correspondence study.

PAUL P. BORDEN, Executive Director

ADOPTED: February 8, 1984

RECEIVED BY LRC: April 4, 1984 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Paul P. Borden, Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems

105 KAR 1:080. Payment options for members and beneficiaries to conform with the Tax Equity and Fiscal Responsibility Act.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.650, 61.640, 61.645, 78.780

NECESSITY AND FUNCTION: The provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), specifically section 401(a)(9) of the Internal Revenue Code, will be applicable to the Kentucky Retirement Systems effective July 1, 1984. Section 401(a)(9) as amended by TEFRA sets forth new requirements for benefit distributions by "qualified" pension plans. The new requirements will limit the availability of some of the benefit options presently provided in KRS 16.510 to 16.652, 61.510 to 61.705 and 78.510 to 78.852. This regulation is promulgated under the authority set forth in KRS 61.645 and is necessary to define specifically which benefit options are available to members and beneficiaries of members deceased prior to retirement. The availability of the various options depends substantially on whether or not the member names a spouse as beneficiary.

Section 1. A retiring member designating his spouse as beneficiary shall be eligible to select from: (1) Any of the payment options available under the statutes which govern the system in which the member participates; or

(2) Any of the options set forth in 105 KAR 1:090.

Section 2. A retiring member, who previously completed an Option Reservation Form, designating someone other than his spouse as beneficiary, shall be eligible to select a payment option indicated on the Option Reservation Form or one (1) of the options available which does not continue for the lifetime of the beneficiary upon the member's death.

Section 3. A retiring member designating someone other than his spouse as beneficiary, shall be eligible to select from any of the payment options available which does not continue for the lifetime of the beneficiary upon the member's death.

Section 4. If the designated beneficiary is the spouse of a deceased member, the beneficiary shall be eligible to select one (1) of the options outlined in KRS 16.601 if applicable KRS 61.635(7), KRS 61.640 or regulation 105 KAR 1:100.

Section 5. If the designated beneficiary of the deceased member is someone other than his spouse, the beneficiary shall be eligible for one (1) of the options outlined in KRS 16.601 if applicable or regulation 105 KAR 1:100.

Section 6. A retiring member shall not be eligible to select KRS 61.635(8).

JOHN D. ROBEY, Chairman

ADOPTED: April 5, 1984

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems

105 KAR 1:090. Certain payment options for retiring members.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.650, 61.635, 61.645, 78.780

NECESSITY AND FUNCTION: KRS 61.635 provides that the board may establish optional forms of annuities as it deems desirable, provided such are based on actuarial equivalent values with due regard to selection against the fund. This regulation establishes a Ten Year Certain and Life, Fifteen Year Certain and Life and Twenty Year Certain and Life payment options for members of the Kentucky Retirement Systems.

Section 1. Ten Year Certain and Life Option. A retiring member less than age seventy-six (76) may elect to receive a monthly retirement allowance payable throughout his lifetime with payments guaranteed for 120 months. If the member should become deceased before receiving payments for 120 months, his beneficiary shall receive monthly payments for the remainder of the 120 months period, except if the estate is designated as beneficiary the executor or administrator of the estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining payments to the estate of the member.

Section 2. Fifteen Year Certain and Life Option. A retiring member less than age sixty-eight (68) may elect to receive a monthly retirement allowance payable throughout his lifetime with payments guaranteed for 180 months. If the member should become deceased before receiving payments for 180 months, his beneficiary shall receive monthly payments for the remainder of the 180 months period, except if the estate is designated as beneficiary the executor or administrator of the estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining payments to the estate of the member.

Section 3. Twenty Year Certain and Life Option. A retiring member less than age sixty-two (62) may elect to receive a monthly retirement allowance payable throughout his lifetime with payments guaranteed for 240 months. If the member should become deceased before receiving payments for 240 months, his beneficiary shall receive monthly payments for the remainder of the 240 months period, except if the estate is designated as beneficiary the executor or administrator of the estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining payments to the estate of the member.

JOHN D. ROBEY, Chairman

ADOPTED: April 5, 1984

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems

105 KAR 1:100. Payment options for beneficiaries of deceased members.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.650, 61.640, 61.645, 78.780

NECESSITY AND FUNCTION: KRS 61.635 provides that the board may establish optional forms of annuities as it deems desirable, provided such are based on actuarial equivalent values with due regard to selection against the fund. This regulation establishes a Five Year Certain Payment Option.

Section 1. Sixty Months Certain Option. The beneficiary may elect to receive a monthly retirement allowance payable for five (5) years. Should the beneficiary become deceased prior to the expiration of the five (5) years, the estate of the beneficiary shall receive a lump sum payment, which shall be the actuarial equivalent to the remaining payments.

JOHN D. ROBEY, Chairman

ADOPTED: April 5, 1984

RECEIVED BY LRC: April 13, 1984 at 10 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 10:080. Construction standards for components of onsite sewage disposal systems.

RELATES TO: KRS 211.350 to 211.380, 211.990(2)

PURSUANT TO: KRS 13.082, 194.050, 211.090(3), 211.180(3)

NECESSITY AND FUNCTION: KRS 211.350 to 211.380 directs the cabinet to regulate the construction, installation, or alteration of onsite sewage disposal systems except for systems with a surface discharge. The purpose of this regulation is to establish minimum component standards including design, construction, and materials specifications for onsite disposal systems in Kentucky in order to protect the public health.

Section 1. Citation of Regulation. This regulation may be cited as the "Construction Standards for Components of Onsite Sewage Disposal Systems."

Section 2. Definitions. As used in this regulation the following terms shall have the meanings set forth below:

(1) "Aerobic treatment unit" means any sewage treatment unit which utilizes the principle of oxidation in the decomposition of sewage by the introduction of air into the sewage.

(2) "Approved" means that which has been considered acceptable to the cabinet.

(3) "Cabinet" means the Cabinet for Human Resources and its agents.

(4) "Effluent" means the liquid discharge of a septic tank or other sewage treatment unit.

(5) "Lateral field" means the area in which lateral lines are installed or can be used to generally describe the soil absorption portion of the subsurface sewage treatment and disposal system.

(6) "Lateral lines" means approved pipe or other approved materials or devices which receive partially treated effluent from a distribution device and distribute the effluent for further treatment and absorption into the soil beneath the ground surface.

(7) "Low pressure pipe system" means an onsite sewage disposal system consisting of a septic tank(s) or aerobic treatment unit, a dosing tank with pump(s) or siphon(s), a pressurized supply line, manifold, and lateral lines, and necessary control devices and appurtenances.

(8) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.

(9) "Onsite sewage treatment and disposal system" means a complete system installed on a parcel of land, under the control or ownership of any person, which accepts sewage for treatment and ultimate disposal under the surface of the ground.

(10) "Secretary" means the Secretary for the Cabinet for Human Resources.

(11) "Septic tank" means a watertight sewage treatment unit designed and constructed to receive raw sewage, separate solids from liquid, anaerobically digest organic matter, store liquids through a period of detention, and allow the clarified effluent to discharge.

(12) "Septic tank system" means a subsurface sewage treatment and disposal system consisting of a septic tank(s), a gravity-fed lateral field, necessary pipe lines, conduits, pump stations, and other appurtenances required for proper collection, distribution, treatment, disposal, operation, and performance.

Section 3. Approval Procedures. (1) All commercial manufacturers and suppliers of materials, components, and equipment designed or intended for use in the construction of onsite sewage disposal systems shall obtain approval of such materials, components, and equipment from the cabinet prior to their sale or use in Kentucky. Such approval shall be based upon conformance to recognized design, materials, construction, and performance standards of the National Sanitation Foundation (NSF), the American Society for Testing and Materials (ASTM), and the standards set forth in this regulation.

(2) Manufacturers, purveyors and suppliers of such materials, components and equipment shall submit the following information, as applicable, to the cabinet for review and consideration in the approval process:

(a) All applicable plans, specifications, process descriptions, and other relevant data.

(b) Supportive test data from independent laboratories, testing firms, NSF, ASTM, and other approved organizations.

(c) Other pertinent information as requested by the cabinet.

(3) New or experimental materials, components, or equipment shall be submitted for approval as outlined in subsection (2) of this section and the following additional requirements and restrictions shall apply:

(a) Those materials, components, or equipment which consist of modifications to existing approved products shall be considered for approval after demonstration, through independent testing of the modifications, that improved performance, service life, or ease of maintenance and operation results.

(b) Those materials, components, or equipment which involve new or experimental technologies relating to design, construction, or operational process shall be considered for approval on a probationary basis. During the probationary period, it shall be the responsibility of the person seeking approval of such product to contract with an independent testing firm to provide monitoring of the performance of the product in its intended usage. Such monitoring of the product shall include documentation of the site conditions where the product is installed, the waste load generated by the user and its constitution, and other parameters deemed necessary by the cabinet. In the event that the product fails to perform in an acceptable manner, it shall be the responsibility of the person seeking its approval to replace the product with another product which is approved by the cabinet for that particular use.

(c) Any materials, components, or equipment which, in the opinion of the cabinet, meet the requirements for approval after careful study and testing, as required, shall be considered to be approved for use in Kentucky for the specific purpose(s) intended. Such approval shall be made in writing to the person requesting same and shall set forth any conditions or restrictions for the use of the product when deemed necessary by the cabinet. Each product, so approved, shall be listed by the cabinet on an "approved listing of materials, components, and equipment," which shall be updated on a timely basis and distributed to local health departments and other interested parties on request.

Section 4. Septic Tank Standards. (1) Precast concrete.

(a) All precast concrete septic tanks shall be designed and constructed so as to provide sufficient rigidity and structural strength to prevent damage due to hydrostatic water pressure and support vertical uniform loading of 150 lb./sq. ft. on the top of the tank.

(b) A minimum end product strength of 4,000 pounds per square inch shall be used in the construction of the tank.

(c) The top, bottom, ends and sides of the tank shall have a minimum thickness of two and one half (2½) inches.

(d) The tank shall be reinforced by using a minimum reinforcing of six (6) inch by six (6) inch No. 10 gauge welded steel reinforcing wire lapped at least six (6) inches. Other reinforcing methods may be used provided that such other methods can be demonstrated to the satisfaction of the cabinet to be equal, or superior to, the method described herein.

(e) The tank shall be so designed and constructed that all joints, seams, or other openings shall be watertight in use. Asphalt compounds, neoprene gaskets, or other acceptable sealant materials shall be used to insure watertightness.

(f) At least two (2) manholes shall be provided to permit access for maintenance of the tank. Manholes shall be a minimum of ten (10) inches by ten (10) inches and a maximum of twenty-four (24) inches by twenty-four (24) inches measured on the bottom edge of the manhole opening into the tank. Manholes shall be located on each end of the tank over the inlet and outlet structures (baffles or tees). The manhole openings shall be beveled so as to adequately seal and support the manhole cover. The manhole cover shall possess sufficient strength to support a uniform load of 150 lb./sq. ft. without damage to the cover or tank and provide a means for removal (handles, etc.). In addition to the manholes, a six (6) inch diameter riser pipe with a threaded cap or plug shall be provided, located near the inlet end of the tank, which shall be extended to grade to facilitate pumping with minimum disturbance to the tank and site.

(g) Cast-in-place baffles at inlet and outlet ends of the tank shall have a minimum thickness of two (2) inches and be reinforced in the same manner as the tank. Reinforcing wire used in the baffles shall extend into and along the tank sidewalls a minimum of six (6) inches for proper anchorage.

(h) In lieu of baffles, sanitary tees of corrosion resistant materials (fiberglass, plastic, or cast iron) may be used as long as joints are properly sealed and the specified dimensions above and below the liquid level of the tank are maintained.

(i) Internal dimensions of the tank shall fall within plus or minus one (1) foot of the recognized proportional ratios of 2:1:1 to 3:1:1, the length being approximately two (2) to

three (3) times the width or the liquid depth. The minimum liquid depth shall be forty (40) inches with maximum depth of fifty-four (54) inches depending upon tank capacity. The inlet and outlet pipe knockouts or holes shall be of sufficient diameter to accept a minimum four (4) inch diameter pipe and shall be so designed as to provide a minimum height difference of three (3) inches for the inlet pipe invert above the outlet pipe invert. Inlet and outlet holes shall be so located on the ends of the tank as to provide a minimum freeboard space of ten (10) inches to one (1) foot between the liquid level and the inside top surface of the tank for scum storage. Both inlet and outlet baffles or tees shall extend above the liquid level of the tank to within at least two (2) inches but not less than one (1) inch of the inside top surface of the tank to contain scum and provide venting space for gases. The inlet tee or baffle shall extend below the liquid level between eight (8) to ten (10) inches, and the outlet baffle or tee shall extend downward to thirty-five (35) to forty (40) percent of the total liquid depth of the tank. When baffles are used, the distance between the outlet baffle and tank endwall shall be between four (4) to six (6) inches, and the distance between the inlet baffle and endwall shall be between six (6) to ten (10) inches.

(j) All tanks offered for sale or use in Kentucky shall bear, by imprint, stencil, or other acceptable means of marking, the manufacturer's name, the serial number assigned to the manufacturer's plans and specifications approved by the cabinet, and the liquid or working capacity of the tank. This imprint, stencil, or other marking shall be located to the right of the knockout or hole made for the outlet pipe on the outlet end of the tank.

(2) Constructed on site. Septic tanks constructed on site of cast-in-place concrete, concrete block, or brick shall be constructed to conform with the requirements in subsection (1) of this section except as follows:

(a) Cast-in-place concrete septic tanks shall have a minimum wall thickness of six (6) inches.

(b) Concrete block or brick septic tanks shall have a minimum wall thickness of at least six (6) inches when the design volume is less than 1,000 gallons and a minimum wall thickness of at least eight (8) inches when the design volume is 1,000 gallons or more. All septic tanks constructed of block or brick shall be plastered on the inside with a 1:3 mix (one (1) part cement, three (3) parts sand) of portland cement at least three-eighths (3/8) inch thick or the equivalent using other approved waterproofing material.

(c) The bottom and top of the constructed onsite septic tank shall be poured reinforced concrete with a minimum thickness of four (4) inches.

(d) For large capacity (5,000 gallons or more) cast-in-place concrete tanks, maximum liquid depth shall be sixty-six (66) inches.

(3) Prefabricated steel. Prefabricated steel septic tanks shall conform to the requirements listed under subsection (1)(a), (e), (f), (h), (i), and (j) of this section, in addition to the following:

(a) All prefabricated steel tanks shall be thoroughly coated on all surfaces with a minimum one-eighth (1/8) inch thick coating of liquid asphalt, mastic compound, plastic waterproofing compound, or liquid cured vinyl. Each such septic tank shall be accompanied on site delivery by a one-half (1/2) pint container of the coating material for use in touch-up coating of steel surfaces of the tank exposed through damage in shipping and handling. If such volume is insufficient to repair all damaged areas, additional coating material shall be secured by the installer.

(b) Coated steel baffles shall not be used in prefabricated steel tanks. Sanitary tees of approved plastic, fiberglass, or cast iron shall be required.

(4) Molded plastic, fiberglass. Septic tanks of molded plastic, fiberglass, or other such types of materials shall conform to the requirements listed under subsection (1)(a), (e), (f), (h), (i) and (j) of this section, in addition to the following: Baffles, if used in lieu of sanitary tees, shall be molded or formed in place so as to be an integral part of the tank. Glued, riveted, or otherwise mechanically attached baffles are not permitted (solvent welding on plastic tanks and resin bonding on fiberglass are acceptable). Such baffles shall be formed of material equal in thickness and rigidity to the tank wall material.

Section 5. Aerobic Treatment Units. (1) Precast concrete tank. All precast concrete tank aerobic treatment units shall comply with the construction requirements of Section 4(1)(a), (b), (c), (d), (e), (f) and (j) of this regulation, in addition to the following:

(a) All cast-in-place baffles, compartment walls, dividers, weirs, and other devices or structural forms shall be a minimum thickness of two (2) inches and be reinforced in the same manner as the tank. Such reinforcing material shall extend into and along the tank sidewall a minimum of six (6) inches.

(b) Baffles, compartment walls, dividers, weirs, and other such devices or structural forms that are not cast-in-place or may be of dissimilar materials to the tank shall be of corrosion resistant materials, of sufficient structural strength and anchorage to the tank to prevent damage or dislodgement in normal operation, and where requiring routine maintenance, readily accessible through tank access manholes.

(c) All manholes providing access to mechanical or electrical components, chlorinating or other treatment devices, filters, etc., shall be provided with risers extending to grade to allow ready access for maintenance. Covers for such manholes or risers shall be provided with locks or other devices to prevent entry by unauthorized persons. On units which are intended to be installed flush with grade or above grade, which are designed to have an open top, suitable gridding, decking, or other such barriers to entry to the tank shall meet the 150 lb./sq. ft. support strength requirements and shall be so designed and installed to prevent entry to the tank or contact with its contents by unauthorized persons.

(2) Prefabricated steel. All prefabricated steel tank aerobic treatment units shall comply with the construction requirements listed in Section 4(1)(a), (e), (f), and (j), (3)(a); and Section 5(1)(b) and (c) of this regulation, in addition to the following: Coated steel, welded-in-place or mechanically-attached baffles, compartment walls, dividers, weirs, and other devices or structural forms shall receive additional corrosion protection materials or coatings when they are exposed directly through splash or immersion on two (2) or more surfaces or sides to tank liquid contents.

(3) Molded plastic, fiberglass. All molded plastic or fiberglass tank aerobic treatment units shall comply with the construction requirements listed in Section 4(1)(a), (e), (f), and (j) and Section 5(1)(b) and (c) of this regulation, in addition to the following: Baffles, compartment walls, dividers, weirs, and other such devices or structural forms, if cast or molded in place, shall be formed of material equal in thickness and rigidity to the tank material.

(4) Piping, mechanical devices and electrical equipment, filtration devices, and other appurtenances.

(a) All internal or external piping or conduits and fit-

tings necessary to the transport of tank sewage contents between tank compartments, mechanical equipment, or other components of the treatment process involved shall be of Schedule 40 PVC or ABS plastic pipe. Mixing of PVC and ABS or other dissimilar plastic pipe or fittings is prohibited.

(b) Mechanical fittings and connections where used to connect PVC or ABS piping to equipment or components shall be corrosion resistant and of a type, design, and construction compatible for use with the type of pipe involved.

(c) Mechanical aerators, stirrers, diffusers, rotating disks, and other devices used to provide direct exposure of atmospheric air to tank sewage contents shall be constructed of corrosion resistant materials and of sufficient structural strength to withstand normal operating stresses without damage or deformation resulting in system malfunction for the designed service life of the device.

(d) Pumps, electrical motors, or other such devices shall be of sealed or submersible design and construction when subject to submersion, splash, or corrosive atmosphere within the aerobic treatment unit. Such pumps, motors, or other such devices shall be properly sized and designed for the intended use and duty cycle.

(e) Filters, chemical feeders, and other such devices shall be constructed of corrosion resistant materials and possess sufficient strength to withstand normal operational stresses without damage or deformation resulting in system malfunction.

(f) Electrical controls, switches, ozone generators, ultra-violet generators, and other such devices relying upon electrical current for operation shall be designed and constructed as to be water and corrosive vapor proof in all portions of the device where electrical current carrying components are located. All such devices shall be properly grounded and otherwise designed, constructed, installed, and operated in accordance with National Electrical Code requirements.

(g) All fasteners, brackets, clips, hangers, or other such devices used in the anchorage, installation, mounting, or attachment of unit components and equipment both internal or external to the aerobic treatment tank shall be designed and constructed of materials possessing sufficient strength and corrosion resistance to withstand normal operational stresses without damage or deformation resulting in system malfunction.

(h) All components of aerobic treatment units which require routine maintenance shall be installed and located within the unit as to be readily accessible. Such components which require replacement, removal, or dismantling for routine maintenance shall be designed, constructed, and installed so as to facilitate their replacement, removal, or dismantling with simple tools. A maintenance instruction manual using pictures and simple language for identification of unit components, maintenance to be performed, components needing routine replacement, removal or dismantling procedures, maintenance interval, and simple troubleshooting procedures shall be included with all units. Such manual shall be provided to the ultimate operator or user of the unit. When aerobic treatment units are to be installed by other persons, rather than the manufacturer or his agents, a detailed installation manual shall be supplied outlining proper installation procedures including hook-up to an electrical power source, unit start-up procedures, and necessary adjustments or calibrations to be made to meet manufacturer's operating specifications for effluent quality.

Section 6. Dosing and Holding Tanks. (1) All dosing

and holding tanks shall comply with the general construction requirements listed in Section 4 of this regulation for septic tanks, based upon the type of material used in their construction, in addition to the following:

(a) Access manholes for dosing or holding tanks shall be extended to grade through the use of suitable risers to permit ease of access for maintenance and/or pumping.

(b) Such manholes in dosing tanks shall provide a minimum opening of eighteen (18) inches by eighteen (18) inches into the tank. Manhole riser lids or covers shall be designed and constructed so as to be watertight and, through the use of locks, locking devices, or other means, prevent access to the tank by unauthorized persons.

(c) All dosing or holding tanks, due to their frequently empty or partially filled condition, shall be designed or installed (using suitable anchoring devices or anti-flotation devices) to prevent flotation or verticle shifting due to groundwater pressure.

(2) All dosing and holding tank equipment, controls, and appurtenances shall comply, where applicable, with the requirements of Section 5(4)(a), (b), (d), (f), (g), and (h) of this regulation, in addition to the following:

(a) High water alarms, including an audible alarm system within the structure served by the dosing or holding tank, shall be installed in such tanks and calibrated to sound an alarm whenever the tank liquid level reaches eighty-five percent (85%) of capacity.

(b) When pumps are used for dosing effluent into the lateral field system or are used for lifting effluent to a lateral field system above the elevation of the dosing tank, electrically or mechanically operated switch controls shall be provided to permit automatic operation of such pumps. Manually operated pump controls are not permitted. When pumps are used, they shall be installed in an elevated position in respect to the tank bottom, by placement on stands designed for such purpose, concrete blocks, or through the use of suitable hangers to allow for sludge storage space and prolong service life of the pumps. Elevation distance from the tank bottom shall be a minimum of eight (8) inches.

(c) In lieu of pumps, automatic dosing siphons may be used for lateral field dosing where a suitable downhill gradient exists from the elevation of the siphon to the lateral field system.

Section 7. Distribution Devices. (1) Precast concrete.

(a) All precast concrete distribution boxes shall be designed and constructed to provide sufficient strength and structural integrity to withstand a vertical uniform load of 150 lb./sq. ft. on the top of the box.

(b) A minimum end product strength of 4,000 pounds per square inch shall be used in the construction of the box and lid.

(c) A minimum wall thickness of one and one-half (1½) inches shall be used in the construction of distribution box bottoms, sidewalls, and lids and shall be reinforced by a minimum No. 10 gauge six (6) inch by six (6) inch welded steel reinforcing wire, or equivalents, as approved by the cabinet.

(d) Distribution box lids or covers shall meet the requirements of paragraph (a) of this subsection and shall be provided with suitable handles for removal.

(e) Knockouts or holes for inlet and outlet piping shall be of sufficient diameter to accept four (4) inch diameter piping but no more than five (5) inches in diameter at the inside surface of the box.

(f) All distribution devices offered for sale or use in Kentucky shall bear, by imprint, stencil, or other accep-

table means of marking, the manufacturer's name and the serial number assigned to the manufacturer's plans and specifications approved by the cabinet. This imprint, stencil, or other marking shall be located on the inlet end of the device. Low pressure pipe manifolds shall meet the identification requirements for plastic piping in Section 8 of this regulation.

(2) Molded plastic and fiberglass. Molded plastic or fiberglass distribution boxes shall be designed and constructed to meet the requirements listed in subsection (1)(a), (d), (e), and (f) of this section.

(3) Equal flow type design standards.

(a) Outlet holes or knockouts in equal flow boxes shall be spaced a minimum of seven (7) inches on centers to permit access for application of waterproofing sealants around lateral piping and the external surface of the box sidewall or endwall. Outlet holes or knockouts shall be located a minimum distance of six (6) inches on centers, on a single plane, above the inside bottom surface of the box and a minimum of three (3) inches on centers from adjacent sidewalls in the outlet portion of the box. At the inlet portion of the box a minimum distance of eight (8) inches on centers shall be maintained between outlet holes and the sidewall or endwall to allow for the placement of a baffle to retard incoming effluent velocity.

(b) Centerline of the inlet hole or knockout shall be a minimum distance of one and one-half (1½) inches to a maximum of three (3) inches above the centerline of the outlets.

(c) Provision shall be made on all equal flow boxes for the insertion of a baffle on the inlet end of the box. Such provision may take the form of a double flange, molded or cast-in slot, or other acceptable means to retain the baffle in place. Baffle material and construction shall be equal to that used in the box itself. Baffles and their mounts or retainers shall be so designed as to provide a passageway for reduced velocity effluent between the box bottom and bottom edge of the baffle of no more than two (2) inches in height. The baffle shall extend to one (1) inch above the top the inlet.

(d) Equal flow boxes shall be designed so as to provide unobstructed access, on removal of the lid or top, for direct, simultaneous viewing of all outlets to facilitate the performance of "water leveling" procedures during installation.

(4) Hillside or drop box type design standards.

(a) Lateral outlet holes or knockouts shall be located a minimum of four (4) inches on centers, on a single plane above the inside bottom surface of the box, and a minimum of three (3) inches on centers from adjacent sidewalls.

(b) Centerline of the inlet hole or knockout shall be a minimum of five (5) inches above the centerline of the lateral outlets and a minimum of three (3) inches above the centerline of the supply line outlet going to the next box in series.

(c) Hillside or drop boxes shall be designed so as to provide sufficient separation distance (twelve (12) inches or greater recommended) between the inlet sidewall and supply line outlet sidewall to minimize the risk of short-circuiting of effluent under heavy flow conditions or on steep hillsides where gradient induced flow velocity is created. In lieu of this requirement, box designs offsetting the vertical centerlines of inlets and supply line outlets may be employed.

(5) Plastic low pressure pipe manifolds. All plastic pipe, fittings, and connectors used in low pressure pipe supply

lines and manifolds shall be of Schedule 40 PVC or ABS construction and materials.

(6) Alternating valves and devices design standards.

(a) Alternating valves and devices shall meet the general design and construction standards listed in subsection (1)(a) and (d) of this section, and if constructed of precast concrete, paragraphs (b) and (c) as well.

(b) All alternating valves and devices shall be designed and constructed to provide a positive seal to each outlet when in a closed position. The valving device shall be constructed of corrosion resistant materials and of sufficient strength to withstand normal operational stresses without damage or deformation resulting in valve malfunction.

(c) All alternating valves and devices shall be fitted with risers and watertight lids or covers, extending to grade, which will permit unobstructed access for maintenance, inspection and operation.

Section 8. Piping, Fittings and Connectors. (1) Non-perforated pipe—gravity flow usage.

(a) All non-perforated piping used for gravity flow carriage of effluent between septic tanks in series, septic tanks or other treatment units and distribution and/or alternating devices, and for two (2) feet into lateral trenches or beds from distribution devices shall be at least SDR 35 for PVC and ABS and 1,500 lb. crush ASTM-F810 for polyethylene.

(b) All such non-perforated piping shall be of a minimum internal diameter of four (4) inches.

(c) Each standard section of pipe as supplied by the manufacturer shall be plainly marked, embossed, or engraved showing the manufacturer's name or hallmark, the SDR 35 or 1,500 lb. crush ASTM-F810 designation, and the type of pipe material (PVC, ABS, or polyethylene).

(2) Non-perforated pipe—pressure usage.

(a) All non-perforated piping used for pressurized carriage of effluent between dosing or pumping and distribution and/or alternating devices shall be of 160 psi PVC or ABS.

(b) 160 psi polyethylene pipe or equivalent may be used in all applications listed above in lieu of PVC or ABS piping, except in the construction of any portion of a low pressure pipe (LPP) system where PVC or ABS pipe shall be required.

(c) Each standard section of pipe as supplied by the manufacturer, or in the case of polyethylene or equivalent piping rolls at not greater than ten (10) foot intervals, shall be plainly marked, embossed, or engraved showing the manufacturer's name or hallmark, the 160 psi designation, and the type of pipe material.

(d) All such pipe used on an individual low pressure pipe (LPP) system installation shall be of the same type of material—mixing of PVC, ABS, polyethylene, or other equivalent piping is prohibited.

(3) Perforated pipe—gravity flow usage.

(a) All perforated pipe used for gravity flow carriage and distribution of effluent within lateral trenches, beds, mounds, or other such applications shall meet 1,500 lb. crush ASTM-F810 standards for rigid piping and ASTM-F405 and F481 for corrugated semi-rigid piping.

(b) Each standard section of pipe as supplied by the manufacturer shall be plainly marked, embossed, or engraved showing the manufacturer's name or hallmark, the type of pipe material, and showing the product meets applicable ASTM standards and a bearing load of 1,500 lbs. per foot. In addition, a painted or other clearly mark-

ed line or spot shall be marked on each section to denote the top of the pipe.

(c) All such gravity flow usage perforated pipe shall have a minimum internal diameter of two (2) inches.

(d) On two (2) inch or three (3) inch diameter pipe: if one (1) row of holes is used, it shall be located directly opposite the top marking on the pipe and holes shall be three-eighths (3/8) inch in diameter; if two (2) rows of holes are used, they shall be one-quarter (1/4) inch to five-sixteenths (5/16) inch in diameter, and evenly spaced and placed within an arc of 120 degrees on the bottom of the pipe. Spacing of holes longitudinally shall be between eight (8) to twelve (12) inches on centers.

(e) All four (4) inch diameter or greater pipe shall have at least two (2) rows of holes five-sixteenths (5/16) to one-half (1/2) inch in diameter, evenly spaced and placed within an arc of 120 degrees on the bottom of the pipe. If three (3) holes are used, the center row shall be directly opposite the top marking. Spacing of holes longitudinally shall be between four (4) to twelve (12) inches on centers.

(4) Perforated pipe—pressure usage, low pressure pipe systems (LPP).

(a) Pipe used for pressure carriage and distribution of effluent within lateral trenches, beds, mounds, or other low pressure pipe (LPP) applications shall be of 160 psi PVC or ABS construction.

(b) Pipe shall meet the requirements listed under subsection (2)(c) and (d) of this section.

(c) Minimum pipe internal diameter shall be determined on a case-by-case basis, based upon system size, configuration, and other factors necessary in the design of a low pressure pipe system. In no case shall the internal diameter be less than one (1) inch.

(d) Pipe perforations shall run in a straight line along the bottom of the pipe. Where pre-perforated pipe is unavailable, perforations shall be hand-drilled, deburred and countersunk. Hole diameters and hole spacing shall be determined on a case-by-case basis relative to design requirements of the low pressure pipe system. Hole sizes may range from three-thirty-seconds (3/32) to one-fourth (1/4) inch in diameter, and hole spacing from three (3) to five (5) feet depending on design requirements.

(5) Fittings and connectors.

(a) Piping elbows, tees, wyes, reducers, end caps, plugs, connectors, and other such fittings shall be designed and constructed for the intended use.

(b) Fittings and connectors shall be formed of materials compatible with the piping to which they are joined and meet the same standards as that piping. Mixing of different pipe and fitting materials except when expressly designed and constructed for such purpose is prohibited.

(c) Joints formed between fittings, connectors, and/or

piping shall be rigid and watertight and shall be made by the methods (solvent welding, chemical fusion, mechanical compression, etc.) applicable to the materials joined.

Section 9. Trench Fill and Barrier Material. (1) Trench fill material.

(a) Gravel or crushed dolomitic limestone shall be used for bedding and trench fill material for gravity flow lateral lines. Foreign matter, dust, and fines shall be removed. Such material shall be of sufficient hardness to attain a three (3) on the Moh's Scale (material hard enough to scratch a copper penny without crumbling or powdering shall be considered acceptable). A size range of three-quarters (3/4) inch to two and one-half (2 1/2) inches in rough diameter shall be used, and material shall be graded for uniformity in size.

(b) Other materials such as blast furnace slag may be considered for usage if such materials can meet or exceed all of the requirements of paragraph (a) of this subsection.

(c) Pea gravel shall be used for bedding and trench fill material for low pressure pipe systems.

(d) Graded sands used for the construction of mound systems or filter units shall be sized according to the design requirements of the system or unit involved.

(e) Crushed rock, gravel, pea gravel, sand, or other such materials meeting the requirements of this section for use as trench fill, lateral bedding material, mound fill, or filter material may be used, as applicable, in the construction of curtain, vertical, and underdrain groundwater drainage systems.

(2) Trench barrier material.

(a) Straw, hay, grass clippings, or synthetic filter fabrics shall be used in all lateral trenches, beds, mounds, sub-surface sand filters, or groundwater drainage systems to provide a barrier to the entrance of soil backfill into the rock, gravel, pea gravel, or sand fill in such trenches, beds, mounds, filters, or drainage systems.

(b) Other similar materials may be considered for such usage provided that they can be demonstrated to perform in an equivalent manner with the above and do not restrict air movement within the trench, bed, mound, filter or drainage system.

Section 10. Effective Date. This regulation shall become effective on January 1, 1985.

C. HERNANDEZ, Commissioner

ADOPTED: April 3, 1984

APPROVED:

E. AUSTIN, JR., Secretary

RECEIVED BY LRC: April 4, 1984 at 1:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, CHR Building, 4th
Floor, 275 East Main Street, Frankfort, Kentucky 40621.

Recodified

COMPILER'S NOTE: The three waste management regulations printed below became effective upon the final decision of the Supreme Court in *LRC vs. Brown* (March 1, 1984). These regulations were submitted and amended after hearing as published in Volume 9 of the Kentucky Administrative Register. Objections were raised by the Administrative Regulation Review Subcommittee, and the Natural Resources and Environmental Protection Cabinet amended the regulations to meet those objections. The Subcommittee and the Legislative Research Commission rejected the regulations on April 6, 1983. This rejection was declared unconstitutional in the Supreme Court's decision of *LRC vs. Brown*, and the regulations as amended by the cabinet became effective on March 1, 1984. Recodification is necessary due to the present numbering system for the Division of Waste Management's regulations.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 49:010. General planning and management provisions for solid waste.

RELATES TO: KRS 61.874, 109.011, 109.041, 109.071, 109.190, 224.005, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 13.082, 224.033, 224.868, 224.886, 224.887

EFFECTIVE: March 1, 1984

NECESSITY AND FUNCTION: KRS 224.033(24), 224.886, and 224.887 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for counties, combinations of counties and waste management districts in creating solid waste management areas for the purpose of planning for solid waste management and recovery activities. This chapter established the requirements for solid waste planning. This regulation defines essential terms and sets forth general provisions which apply to all counties, combinations of counties and waste management districts seeking designation as solid waste management areas. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. Applicability. (1) The solid waste management planning regulations shall apply to all counties, combinations of counties, urban-county governments and waste management districts.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations as provided in KRS 109.041(4).

Section 2. Definitions. Unless otherwise defined in this section, the definitions in 401 KAR 30:010 shall apply. Whenever the following terms appear in this chapter unless context requires otherwise, they shall have the meanings given in this section. Statutory definitions in this section have the statute citation after the definition.

(1) "Action of the fiscal court" means any action or deed, including but not limited to a resolution or ordinance, which legally binds a fiscal court or, in the case of an urban-county government, the body in which chief legislative power is vested.

(2) "Agreement" means a legally binding document or contract evidenced by a writing which establishes a waste management district or a proposed solid waste management area. The agreement may be between a single county, or two (2) or more counties, and an agency or office which has been assigned responsibility for area plan development by a fiscal court.

(3) "Area solid waste management plan" or "area plan" means the plan required by KRS 224.888 which sets forth a comprehensive program of solid waste management developed for implementation at the local government level.

(4) "Collection" means the gathering of solid wastes at or near the source of generation. Sources of generation include, but are not limited to, residences, commercial establishments, institutions, and industrial plants.

(5) "Designation as a solid waste management area" or "designation" means the approval from the cabinet of the application for designation as a solid waste management area as specified in 401 KAR 49:030.

(6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters (KRS 224.005(8)).

(7) "Implementation" means the actual performance of planned activities.

(8) "Kentucky Waste Management Plan" means the comprehensive, statewide solid waste management plan submitted to and approved by the U.S. Environmental Protection Agency.

(9) "Planning periods" means the intervals of time designated for the accomplishment of area solid waste management planning goals:

(a) "Short-term" means the planning period from the first through the fifth year after the most recent plan revision.

(b) "Mid-term" means the planning period from the sixth through the tenth year after the most recent plan revision.

(c) "Long-term" means the planning period from the eleventh through the twentieth year after the most recent plan revision.

(10) "Processing" means any solid waste material recovery, energy recovery, incineration, pulping, shredding, baling, compacting, any other method or technique to alter the physical or chemical composition of the solid waste, or any combination thereof.

(11) "Regional" means of or pertaining to more than one (1) county.

(12) "Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered sources.

(13) "Revision" means an amendment to any part of an application for area designation, including the approved area plan, required by the cabinet. The cabinet may [shall] require a revision upon determining that [deficiencies exist in] the application for area designation or the area plan are

not in compliance with the requirements contained in this chapter, or upon a determination by the cabinet [finding] that the approved area plan is not being implemented.

(14) "Solid waste activity" or "activity(ies)" means any manner of solid waste management including collection, source separation, storage, transportation, transfer, processing, treatment and disposal.

(15) "Source separation" means the act by which a person sorts the solid waste to make the solid waste amenable for material recovery.

(16) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes (KRS 224.005(21)).

(17) "Substantial revision" means a revision to an application for area designation which will significantly affect the plan, including but not limited to changes to local laws and regulations; delays in implementation; reordering or other changes to established, approved priorities; changes to the acquisition schedule for solid waste management activities or facilities; or changes in budgeting that will delay or prohibit implementation of the area plan.

(18) "Transfer" means any on-site movement of solid waste by any mode and any loading, unloading or storage incidental thereto, or any movement of solid waste to a larger receptacle.

(19) "Transportation" means any off-site movement of solid waste by any mode, and any loading, unloading, or storage incidental thereto once the collection vehicle is ready to move the solid waste to any facility.

(20) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous (KRS 224.005(23)).

Section 3. Notification of Intent to Apply for Area Designation. (1) Identification of lead agency. Application for designation as a solid waste management area must conform to the requirements in 401 KAR 49:030, Designation as a solid waste management area. After a county decides to join with another county or counties or to independently submit an area plan, the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested, or such other office or agency responsible for area plan submittal shall notify the cabinet in writing within forty-five (45) days of the effective date of this regulation of the intent to apply for area designation. The cabinet will transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area. The notification shall state:

(a) Whether the county or counties are acting independently, jointly or as a waste management district;

(b) The agency which will have primary responsibility for plan development;

(c) The name and title of a designated contact person; and

(d) The name and title of each person who is on the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested or such other agency or office assigned responsibility for plan development.

(2) Changes to information submitted. Should a county, counties or waste management district decide to enter into a new agreement or amend, modify, or dissolve an existing agreement, the cabinet shall be notified in writing within thirty (30) days of such decision. The cabinet shall transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area.

Section 4. Establishment of Waste Management Districts. (1) Garbage and refuse districts. Garbage and refuse districts established pursuant to KRS Chapter 109 prior to June 17, 1978 shall be deemed waste management districts by the cabinet pursuant to KRS 109.190. Garbage and refuse districts which elect to be considered waste management districts shall petition the cabinet by submitting the information required in Section 3 of this regulation. Upon approval of the petition by the cabinet, the name of the garbage and refuse district will be changed to reflect the new status as a waste management district. An existing garbage and refuse district may dissolve the district to apply for designation as a solid waste management area independently or in conjunction with any county.

(2) Formation of waste management districts. A single county or two (2) or more counties which elect to become a waste management district under KRS 109.071 shall notify the cabinet. In addition to the notification required by Section 3 of this regulation, the waste management district shall submit:

(a) The agreement which establishes the district;

(b) The rules, regulations, bylaws or other documents which govern the actions of the board of directors; and

(c) A list of the members of the board of directors and their official titles.

The cabinet will confirm receipt of the notification in writing to the individual identified as the contact person.

Section 5. Requests for Information. (1) Documents provided by the cabinet. A county, group of counties or waste management district may request copies of documents prepared by the cabinet to assist local governments in preparing the area plan. The cabinet will provide at no charge one (1) copy of each document listed in subsection (2) of this section to the fiscal court of each county, board of directors or other duly authorized office or agency. Additional copies will be provided upon request, at cost.

(2) Documents available. The following documents may be requested:

(a) Kentucky Solid Waste Management Regulations;

(b) Kentucky Solid Waste Management Planning Regulations;

(c) Guidelines for Landspreading;

(d) Kentucky Waste Management Plan; and

(e) Kentucky Solid Waste Management Plan-Executive Summary for the Area Development District which contains the county or two (2) or more counties joined by agreement or which contains a solid waste management district.

(3) Additional information available.

(a) The cabinet may provide access to computerized data on solid waste management in each county at cost to the fiscal court of each county, the waste management district or the office or agency assigned responsible for area plan development. A request for data services shall be in writing on a form provided by the cabinet. Processing of data requests will be subject to the discretion of the cabinet.

(b) The cabinet will provide, upon request by any person, agency or office, copies of the documents listed in

subsection (2) of this section at cost. A request for documents shall be submitted in writing to the cabinet. (Recodified from 401 KAR 2:180, 3-23-84.)

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management**

401 KAR 49:020. Submission of area plan.

RELATES TO: KRS 109.011 to 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 13.082, 224.033, 224.887

EFFECTIVE: March 1, 1984

NECESSITY AND FUNCTION: KRS 224.887 authorizes the cabinet to promulgate regulations consistent with the statewide plan and KRS 109.011(11) requires waste management districts and solid waste management areas to comply with standards set by regulations promulgated by the cabinet. This chapter established the requirements for solid waste planning. This regulation identifies the criteria for area plans and establishes submission requirements. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. Applicability. Each county is responsible for preparing, adopting, maintaining, updating and implementing a comprehensive, coordinated area solid waste management plan. A county, counties, urban-county government or waste management district shall prepare the area plan in accordance with the requirements of this regulation.

Section 2. Scope of the Area Solid Waste Management Plan. (1) The area plan shall address all solid waste management issues in the proposed area that may cause potential adverse effects on health or the environment or provide opportunity for resource conservation or resource recovery. It is not intended that detailed engineering design of specific activities or facilities be integrated into the plan, rather the plan shall provide sufficient analysis to evaluate alternate means of managing the proposed area's solid waste in accordance with all applicable laws and regulations.

(2) The area plan shall include all incorporated and unincorporated areas in each county and shall identify and reference solid waste management activities and *facilities which are or will be provided* [plans already being implemented] by cities within the proposed area.

(3) The area plan shall establish and justify priorities and timetables for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the proposed area; the identification and extent of the solid waste management deficiencies; the health, environmental and economic impacts of such deficiencies; and the resources and management approaches available.

(4) The area plan shall establish an orderly procedure for achieving the objectives of KRS Chapters 109 and 224, meeting the requirements of the solid waste management regulations, and demonstrating conformance with the Kentucky Waste Management Plan. This procedure shall

specifically describe the activities to be undertaken, including detailed schedules and milestones in accordance with Section 4(5) and (6) of this regulation.

(5) The area plan shall cover a minimum of twenty (20) years from the date submitted to the cabinet for approval.

(6) The area plan shall identify existing legal authority for solid waste management within the proposed area, and shall identify modifications or additions to existing legal authority necessary to meet the requirements of this regulation.

Section 3. Facility Planning and Implementation. (1) Requirements for assessing needs. The area plan shall provide for resource conservation and recovery, storage, treatment and disposal activities and facilities necessary to dispose of solid waste in compliance with all applicable laws and regulations.

(a) In meeting the requirement for resource conservation and recovery, storage, treatment and disposal activities and facilities, the area plan shall provide for an assessment of the adequacy of existing activities and facilities and the need for new, improved or expanded activities and facilities.

(b) The needs assessment shall be projected for a minimum of twenty (20) years, and shall be developed according to the following planning periods:

1. Short-term shall contain measures specific enough for implementation on an annual basis;

2. Mid-term shall contain objectives and measures sufficiently detailed to show feasibility; and

3. Long-term shall contain objectives and measures which shall be general and goal-oriented.

(c) The needs assessment shall include the requirements of KRS 224.888(2), (4) and (6).

(2) *Area strategies for [Assuring] facility development.*

(a) The proposed solid waste management area shall survey the solid waste management activities and facilities within its boundaries and prepare a plan consistent with the *goals of the Kentucky Waste Management Plan*. This survey shall include all existing solid waste management activities and facilities, taking into consideration projected population growth, existing and projected solid waste generation, existing land development regulations and overall management activities including organization, financing and regulatory capabilities. The [area] plan should *outline the strategy that the proposed area intends to implement to assure that adequate solid waste collection, management, treatment, disposal and resource recovery is provided* [address facility planning and acquisition for all areas which are determined to have insufficient resource recovery, storage, treatment and disposal capacity].

[(b) Where facilities or activities are determined to be inadequate or unnecessary, the area plan shall provide for adequate and necessary activities or facilities to be developed.]

(b) [(c)] The area plan shall reflect compliance schedules which shall eliminate all existing open dumps by July 15, 1985, as required by KRS 224.835.

(c) [(d)] The area plan shall provide for procedures to determine which facilities and activities shall be given priority for *implementation by the proposed area* [technical, financial, or other assistance or other changes or modifications]. Highest priority shall be given to facilities developed to replace or upgrade open dumps.

Section 4. Contents of Area Plan. The area plan shall document these policy decisions made by the solid waste

management area, and any revision or update should address itself to the following information elements:

(1) A demographic study showing current and projected population density of the county or counties in the plan area. The study shall use current, published data from the Urban Studies Center, University of Louisville, including:

(a) Current and projected population centers for five (5), ten (10), and twenty (20) year periods; and

(b) Identification of current and projected centers of waste generation, including industrial wastes, for five (5), ten (10), and twenty (20) year periods.

(2) An estimate of the future needs for solid waste management activities and facilities in the proposed solid waste management area. The estimate shall include the projected volumes of residential, commercial and industrial wastes to be generated within the solid waste management area currently and as projected five (5), ten (10) and twenty (20) years beyond the current projection. Further, the estimate shall provide a general discussion of other solid waste streams, such as institutional solid wastes, construction and demolition debris, and problem wastes, and describe their effect on the proposed area plan.

(3) An inventory and description of all existing solid waste management activities and facilities. *Descriptions should be in sufficient detail to assess the adequacy of facilities and activities. Nothing in this section shall be construed to require any information which is not publicly available or that is not voluntarily provided by the private sector involved in the waste management industry.* [including administrative practices, fees and charges, and the identity, location, size and life expectancy of all existing facilities in the proposed area.] The inventory and description shall, where applicable:

(a) Address each of the following aspects of solid waste management:

1. Resource conservation;
2. Source separation;
3. Collection;
4. Transportation;
5. Storage;
6. Transfer;
7. Processing (including resource recovery);
8. Treatment; and
9. Disposal.

(b) Include an inventory of the major deficiencies, if any, of the existing solid waste management activities and facilities to meet the [each activity or facility in meeting the existing] short-term, mid-term and long-term [solid waste management] needs of [within] the [plan] area. *Deficiencies may include lack of adequate personnel or equipment, inadequate collection or storage facilities, anticipated need for additional disposal capacity and other deficiencies within the area which are identified as major deficiencies within the county(ies).*

(4) A statement of the ability of existing and future solid waste management facilities [activities] to comply with all applicable laws and regulations.

(5) The plan shall state the mid-term and long-term solid waste management objectives and priorities for the area. *Due regard shall be given to the role and ability of the private sector to achieve and provide identified objectives and priorities.* Such objectives shall be consistent with state policy and based on an analysis of deficiencies in the existing waste management activities and facilities; need for new activities and facilities to handle projected waste volumes; and the ability to comply with all applicable laws and regulations.

(6) A detailed schedule and description of public activities to be undertaken.

(a) Description of public activities.

1. Resource conservation. It is the state's goal to reduce the amount of waste generated. The plan shall describe any activity, ordinance or other means that the area *proposes to [will] take to minimize the amount of waste generated.*

2. Storage. The plan shall identify those regulations and ordinances which provide for proper, safe and sanitary storage on the sources' property while awaiting collection, processing or disposal. The plan should include criteria for safe and effective waste storage.

3. Collection and transportation. The plan shall *document [analyze] the means of collecting and transporting solid wastes to disposal facilities.* Information shall include if applicable:

a. Designation of service areas served through franchises, permits, contracts and/or governmental services.

b. Level of service [, charges and fees].

c. Means of collection and transportation.

d. Ultimate destination of collected wastes.

e. Description of proposed transfer stations.

4. Processing and treatment. The plan shall describe any proposed or existing solid waste processing or treatment facilities to be utilized.

5. Disposal. The plan shall describe the method by which solid wastes are to be disposed.

a. Where existing disposal facilities *have the capacity sufficient to accommodate projected waste loads [are deemed adequate] through the short-term planning period and are in compliance with all applicable laws and regulations,* the plan shall reference the description provided in subsection (3)(a)9 of this section.

b. Where the existing disposal facility is assessed as having a life expectancy less than five (5) years or where no permitted facility is currently available to the area, the plan shall describe the *public strategy that will be undertaken to develop a new facility.* A general description of disposal needs shall be provided based on projected waste volumes, sources and types. The plans shall outline a siting procedure and development program, *or the means by which the private sector will be encouraged or supported to provide for [to assume] the orderly location, development and financing of new or expanded solid waste disposal facilities.*

c. The plan shall identify those solid waste management facilities which will be phased out in the short-term planning period.

6. City implemented activities. *Describe [A description of] the relationship between the proposed area and those waste management activities currently being implemented by cities within the proposed area. Where solid waste management facilities or activities are currently operated by or under the control of a city or cities within a proposed area, the plan need only reference and describe those activities. The plan may provide that the city or cities will continue to operate as an integral unit of the waste management area.*

(b) Detailed schedule. A detailed description of actions to be implemented through the short-term planning period shall be provided. A schedule shall be provided indicating those actions to be implemented on an annual basis. *Examples [Actions] include, but are not limited to:*

1. Administrative programs;
2. Purchase of equipment or land;
3. Obtaining required state and federal permits;
4. Modifications or additions to local laws and regulations;

5. Commencement of new or expanded activities; [and]
6. Selection of sites for facilities; and
7. *Coordination with or support for private sector waste management activities.*

(c) Financing plan. A detailed description of the short-term costs of the plan *to be financed by the public sector*, including a capital construction budget, shall be provided. The plan shall indicate the means by which *implementation* [the plan] will be financed.

(7) A description of any proposed resource recovery plan or activity. It is the goal of the Commonwealth to reduce the amount of wastes disposed at landfills and maximize resource recovery. The plan shall give a high priority to the recovery of resources through recycling, source separation or energy recovery. The plan shall include:

(a) An analysis of the feasibility for new, improved or expanded materials or energy recovery activities or facilities. *Estimated* [Current and projected] per ton costs associated with collection and disposal activities shall be compared to per ton costs of alternative resource recovery activities; and

(b) [Specific analysis to support the conclusion,] Where resource recovery and source separation activities are not adopted, *the plan shall state the reasons for the decision.*

(8) A description of the comprehensive land use plan of the county, counties or city(ies), if such a plan exists, and a description of the relationship of the area plan to the comprehensive land use plan.

(9) Identification of modifications or additions to local laws and regulations necessary to implement the area plan. This identification shall include evaluating legal authority for conformance with the Kentucky solid waste management regulations and identifying how local regulations will be enforced.

Section 5. Preliminary Review. Prior to approval by the fiscal court(s) or, in the case of an urban-county government, the body in which chief legislative power is vested, a draft area plan shall be submitted to the cabinet for preliminary review. A preliminary review shall be conducted to determine the plan's compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

(1) Preliminary approval of the draft area plan. Upon finding that the draft area plan is in compliance with the Kentucky Waste Management Plan and all applicable laws and regulations, the cabinet shall issue a written preliminary approval of the draft area plan. The preliminary approval shall state that the cabinet has reviewed the plan and finds the plan acceptable. The preliminary approval may condition final approval of the area plan and designation as a solid waste management area upon corrections or amendments to the draft area plan. The cabinet will make a draft determination to approve or deny the preliminary application or will establish a schedule for draft approval/denial within sixty (60) days of submittal. Upon receipt of preliminary approval of the draft area plan, the draft area plan shall be approved by the fiscal court(s) or, in the case of an urban-county government, the body in which chief legislative power is vested prior to submittal of the application for designation as a solid waste management area.

(2) Request for revisions to the draft area plan. Upon finding that the draft area plan is not in compliance with the Kentucky Waste Management Plan and all applicable laws and regulations, the cabinet will notify the fiscal court(s), board of directors or, in the case of an urban-

county government, the body in which chief legislative power is vested, or the assigned office or agency, of the plan deficiencies. If the deficiencies in the draft area plan are substantial or significant, the cabinet may, in lieu of a list of deficiencies, present a course of action to the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested or the office or agency which could expedite the submission of an acceptable area plan. The cabinet will notify the fiscal court of necessary revisions or establish a schedule for notification within sixty (60) days of submittal of the draft area plan. (Recodified from 401 KAR 2:185, 3-23-84.)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 49:030. Designation as a solid waste management area.

RELATES TO: KRS 109.011 to 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 13.082, 224.033, 224.887

EFFECTIVE: March 1, 1984

NECESSITY AND FUNCTION: KRS 224.887 requires the cabinet to promulgate regulations for counties and waste management districts in creating solid waste management areas. This chapter established the requirements for solid waste planning. This regulation identifies the criteria for receiving designation as a solid waste management area. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. Application for Designation as a Solid Waste Management Area. All counties shall apply to the cabinet for designation as a solid waste management area. The application may be made by a single county, two (2) or more counties or a waste management district and shall be on a form provided by the cabinet. The application shall include:

- (1) Name of the proposed area;
- (2) Name and address of the primary agency responsible for area plan development;
- (3) Name, address and telephone number of the individual identified as the contact person for the primary agency;
- (4) Copies of actions of each fiscal court establishing the proposed solid waste management area, modifying local legal authority or significantly affecting solid waste management planning;
- (5) The agreement or contract establishing the proposed area, if applicable;
- (6) The proposed rules, regulations or bylaws governing the proposed area;
- (7) A list of the members of the fiscal court(s) or board of directors, or, in the case of an urban-county government, the body in which chief legislative power is vested, and their titles, if appropriate;
- (8) A map of the proposed area drawn to scale of at least 1:125,000;

[(9) The certification by each fiscal court in the proposed area that all cities were notified of the availability of the plan and that all cities were allowed adequate comment period as specified in Section 4(1) of this regulation.]

(9) [(10)] A copy of the public notice required under Section 4(1) of this regulation for area plan adoption;

(10) [(11)] A description of the general administrative process to implement the plan which shall include *when applicable* budgeting, enforcement, plan[ning,] review, public information, management and operation of the waste management activities or facilities proposed and shall identify agencies or persons charged with *overseeing* plan implementation; and

(11) [(12)] The area plan prepared in accordance with 401 KAR 49:020, Submission of area plan.

Section 2. Designation as a Solid Waste Management Area. (1) Approval of the application. The cabinet shall review the information submitted pursuant to Section 1 of this regulation to determine whether the application and area plan are consistent with the Kentucky Waste Management Plan and in compliance with all applicable state laws and regulations. If the information is in compliance, the cabinet will approve the application in writing within thirty (30) days.

(2) Rejection of the application. Rejection of the application shall be in writing and accompanied by a list of deficiencies which, if corrected, would justify approval of a revised area plan. If the deficiencies in the area plan are substantial or significant, the cabinet may, in addition to a list of deficiencies, present a suggested course of action to the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which chief legislative power is vested, or the assigned office or agency, which could *expedite the submission* [assist in development] of an acceptable area plan.

Section 3. Duration of Designation. Unless otherwise specified as a condition for designation as a solid waste management area, designation as a solid waste management area will be for a term not to exceed twenty (20) years. Redesignation as a solid waste management area shall be based upon the review conducted in accordance with Section 5 of 401 KAR 49:020 and Section 2 of this regulation, or upon a revision to the area plan in accordance with Section 4 of this regulation. If the county, counties or waste management district(s) of a designated area amends, modifies, or dissolves the agreement establishing the area, the cabinet shall be notified in writing no later than thirty (30) days after such action. Each county or counties from a dissolved solid waste management area shall submit a revised proposed area plan, approved by the fiscal court of the county or counties within the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, within six (6) months of the date of dissolution of the area. The cabinet will review the notification of amendment or modification of an agreement and make a written determination as to whether the county or counties shall submit a revised area plan. Failure to comply with the provisions of this section regarding revision of the area plan shall be grounds for revocation of area designation.

Section 4. Area Plan Adoption and Revision. Prior to applying for designation as a solid waste management area, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, shall hold a public

hearing or meeting to approve the application for designation as a solid waste management area and the proposed area plan.

(1) Public hearings or meetings. The fiscal court of each county in the proposed area shall hold at least one (1) public hearing or meeting prior to adopting or approving the application for designation as a solid waste management area, area plan or a substantial revision to the area plan. The cabinet recommends that each comment received be evaluated and that a written response be prepared. A transcript or a summary of the comments received and the consideration of comments, if prepared, shall be made available to the members of the fiscal court of each county in the proposed area and the board of directors, if applicable, prior to adoption or approval of the application for designation as a solid waste management area or area plan. Copies of the comments and any consideration of comments shall be made available to the public through public libraries, public offices, individual copies, or any similar means, and shall be available to the cabinet upon request. In addition, each fiscal court in the proposed area shall:

(a) Notify each city which is located within the county of the availability of the proposed area plan; and

(b) Allow adequate time to receive and review comments from the cities. [; and]

[(c) Certify that all cities have been notified.]

(2) Approval by the county. The fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, shall approve the application for designation as a solid waste management area and the area plan. Approval shall not take place prior to a public hearing or meeting on the application for designation as a solid waste management area, the proposed area plan or substantial revision as required by subsection (1) of this section. Approval of an application for designation as a solid waste management area, proposed area plan or revision shall be by resolution and shall state concurrence with the following:

(a) The objectives set forth in the area plan;

(b) The *schedule* [method and/or organization] for implementation of the program;

(c) Procedures *to obtain* [for] financing *for* the recommended *public* program through the short-term planning period; and

(d) The duties and responsibilities of the county identified in the area plan.

(3) Updates and revisions to the area plan. Updates and revisions shall be made:

(a) If the cabinet determines that the approved area plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The cabinet will notify the solid waste management area in writing that an amendment or revision to the area plan is required.

(b) If a solid waste management area determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The area may amend, modify or revise the approved plan and the revised plan shall be approved by the fiscal court of each county within the area or, in the case of an urban-county government, the body in which chief legislative power is vested, and submitted to the cabinet for review and approval.

(c) All area plans shall be updated and readopted in accordance with the provisions of this section at least every four (4) years. The updated plan shall use current data and shall assure compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

Section 5. City Government and Private Sector Roles in Solid Waste Management. (1) No city shall be authorized to prepare an area plan or apply for designation as a solid waste management area unless the fiscal court(s) or board of directors of the waste management district(s) delegate responsibility for area plan development to the city. Area plans prepared by a city must address solid waste management problems and activities at both the city and county(ies) levels.

(2) If a county fails to submit an area plan by January 1, 1984, a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.062, 109.056 and 109.059.

(3) As provided in KRS 109.011(8), it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109. An area as *authorized* [provided] by KRS 109.041(7) may [contract with any person, including private firms, to] provide for the delivery of solid waste activities *through use of a public agency(ies), or a* [A county or waste management district may utilize] franchise, [or] contract, or lease. *In areas where it can be demonstrated that the private sector can adequately deliver desired solid waste management services without public agency involvement, the area plan shall address itself to what steps the proposed area could take, if any, to assure that such services will be provided.* [or any other method to assure adequate delivery of solid waste activities. KRS 109.041(3) which limits the county or waste management district's authority concerning the resource recovery of materials shall not be abridged.]

(4) A solid waste management area may require the use of any solid waste management facility meeting the approval of the cabinet, by all persons situated within its geographic boundary. An exception to this rule are those cities which own and operate solid waste facilities, other than sanitary landfills, which were in existence prior to July 17, 1978. Area plans that include use of city-financed solid waste management facilities shall include provisions for insuring sufficient revenues to the city to retire any debt on said system. Area plans that include provisions for solid waste management services to a city shall provide the city with written notice at least one (1) year prior to the date it intends to provide such service to the city.

Section 6. Implementation Reports. The solid waste management area shall submit annual reports to the cabinet, in accordance with a schedule established by the cabinet upon plan approval, describing the progress made on area plan implementation. The implementation report shall be on a form provided by the cabinet and contain:

(1) An identification of solid waste management activities and facilities currently in use;

(2) An estimate of the population served by each existing activity or facility;

(3) An assessment of conformance with the detailed schedule contained in the approved plan and required by 401 KAR 49:020, Section 4(6).

Section 7. Area Submission. (1) Submission date. The application for designation as a solid waste management area and area plan shall be submitted to the cabinet by July 1, 1983. A six (6) month extension shall be granted by the cabinet, if the county, counties, or waste management district has demonstrated, in the cabinet's judgment, a good faith effort to develop an area plan. Should a county,

counties or waste management district find a six (6) month extension necessary, the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which chief legislative authority is vested, or other duly delegated office or agency shall submit a request in writing to the cabinet which details the extent of plan development accomplished and cites the need for an extension of the deadline date.

(2) Copies required. The county, counties or waste management district shall submit one (1) copy of the application for designation as a solid waste management area and at least three (3) copies of the area plan. Copies must be eight and one-half (8½) inches by eleven (11) inches and each page shall be securely bound in a notebook, folder or a similar means designed to keep pages in order. Pages shall be numbered and a table of contents provided. A title sheet or transmittal letter identifying the plan and the agency or office which developed the plan shall be placed at the beginning of the area plan package.

Section 8. Enforcement. (1) Citizen petition. If a fiscal court or, in the case of an urban-county government, the body in which chief legislative authority is vested, fails to establish a solid waste management plan by January 1, 1984, the citizens of the county may petition the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, to request preparation of an area plan. The petition shall be signed by a number of citizens equal to ten percent (10%) of the votes cast in the county for the office receiving the greatest total votes in the last general election. The petition shall be filed with the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, asking that the proposition whether to develop a plan be placed on the ballot of the next general election. The cabinet will develop and maintain a list of counties which have received designation as solid waste management areas and the status of those counties which have not received area designation. This list will be made available to the public. Upon determination by the cabinet that no substantial progress is being made by a county in area plan preparation by January 1, 1984, the cabinet may hold a public meeting in those counties to discuss the need for an alternative approach to plan preparation.

(2) Implementation deficiencies. If the cabinet determines that an area solid waste management plan is not being implemented as approved, it will notify the solid waste management area in writing of implementation deficiencies. The solid waste management area shall within forty-five (45) days respond in writing demonstrating the action(s) taken or planned to correct the implementation deficiencies, or request a revision to the approved plan in accordance with Section 4 of this regulation. If amendments or revisions to the plan are not made, the cabinet may conduct a public hearing or meeting to determine whether the approved plan should be revised or revoked. If the cabinet determines that a plan is not capable of being implemented, *area designation* [the plan] shall be revoked and the cabinet shall require the county or counties to submit a new proposed area plan. Designation of a county, counties, urban-county government or waste management district as a solid waste management area shall also be revoked until such time as a new plan is approved.

(3) Permit application and compliance with area plan. Where facilities are proposed in areas with approved plans, the cabinet will review the area plan to insure that the proposed facility complies and is consistent with the area plan

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before a permit is issued. In reviewing the application for a new facility, the cabinet will consult with the solid waste management area to determine if the proposed facility is consistent [complies] with the approved area solid waste management plan. [If a proposed facility is not consistent or not in compliance with the approved area solid waste management plan, then the applicant may request the solid waste management area to amend the plan.] If the proposed facility is not consistent or in compliance with the approved area plan, the cabinet may deny the permit for the new facility unless a revision to the plan is requested by the solid waste management area. If the proposed facility is consistent and in compliance with the area plan and other applicable laws and regulations, cabinet review will be accomplished in accordance with the provisions of KRS 224.855. (Recodified from 401 KAR 2:190, 3-23-84.)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March 26, 1984 Meeting

(Subject to subcommittee approval at the April 25, 1984 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Monday, March 26, 1984 at 10 a.m. in Room 103 of the Capitol Annex Building. Present were:

Members: Representative William T. Brinkley, Chairman; Representatives Albert Robinson and Jim Bruce.

Guests: Ked R. Fitzpatrick, Cabinet for Human Resources; Martha L. Hall, Natural Resources and Environmental Protection Cabinet; Andrew Cammack, Environmental Quality Commission; Tommy Greenwell, Department of Personnel; Arthur Hatterick, Jr., Personnel Board; Sharon M. Weisenbeck, Board of Nursing; George M. Catlett, Division of Motor Carriers; Charles D. Moore, Jr., Transportation Cabinet; Bill Wilhoite, Division of Driver's License; Raymond E. Wallace, Registry of Election Finance; Claude G. Rhorer, Jr., Johns S. Van Volkenburgh, Public Service Commission; Jim Klosterman, Carl Van Cleve, Department of Housing; Ernest B. Whitehead.

LRC Staff: Susan Harding, June Mabry, Donna Valencia, Joe Hood and Carla Arnold.

Chairman Brinkley called the meeting to order and the minutes 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.

The subcommittee had no objections to the following regulations:

CABINET FOR HUMAN RESOURCES Department for Social Insurance

Medical Assistance

904 KAR 1:045. Payments for mental health center services.

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

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

New Source Standards

401 KAR 59:260. New blast furnace casthouses.

Existing Source Standards

401 KAR 61:015. Existing indirect heat exchangers.

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

401 KAR 61:170. Existing blast furnace casthouses.

DEPARTMENT OF PERSONNEL

Personnel Rules

101 KAR 1:051. Compensation plan.

101 KAR 1:140. Service regulations.

101 KAR 1:200. Rules for unclassified service.

101 KAR 1:220. Unclassified service, classification and compensation plans.

GENERAL GOVERNMENT CABINET

Board of Nursing

201 KAR 20:200. Definitions for mandatory continuing education.

201 KAR 20:240. Fees for applications and for services.

FINANCE AND ADMINISTRATION CABINET
Board of Examiners of Social Work
201 KAR 23:070. Specialty certification.

TRANSPORTATION CABINET
Department of Vehicle Regulation

Motor Vehicle Tax

601 KAR 9:074. Kentucky highway use license, records and taxes.

Driver Improvement

601 KAR 13:030. Alcohol driver education clinic.

PUBLIC PROTECTION AND REGULATION CABINET**Registry of Election Finance****Reports and Forms**

(A technical amendment was made to each of these regulations to incorporate the forms by reference.)

801 KAR 1:005. Campaign treasurer.

801 KAR 1:010. Executive committee's report of receipts and expenditures.

801 KAR 1:020. Campaign committee's report of receipts and expenditures.

801 KAR 1:030. Candidate report of receipts and expenditures.

801 KAR 1:040. Political committee statement of organization.

801 KAR 1:050. Political issues committee report of receipts and expenditures.

801 KAR 1:060. Permanent committee report of receipts and expenditures.

801 KAR 1:070. Report of contributions by a contributing organization.

801 KAR 1:080. Waiver from filing candidate's report.

801 KAR 1:090. Report of an independent expenditure.

801 KAR 1:100. Unopposed candidate.

Public Service Commission**Utilities**

807 KAR 5:022. Gas safety and service.

Kentucky Harness Racing Commission**Harness Racing Rules**

811 KAR 1:105. Review and appeal. (The subcommittee expressed concern over the five-day limit in filing an appeal to a decision of the Racing Commission.)

811 KAR 1:190. Matters not covered by rules; violations.

Department of Housing, Buildings and Construction**Plumbing**

815 KAR 20:072. Installation standards for cast iron pipe and fittings.

815 KAR 20:100. Joints and connections.

815 KAR 20:120. Water supply and distribution.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

815 KAR 20:191. Minimum fixture requirements.

Local Fire Departments

815 KAR 45:030. Fire protection instructor's qualifications and certification.

The subcommittee took no action on the following emergency regulations:

DEPARTMENT OF PERSONNEL**Personnel Rules**

101 KAR 1:051E. Compensation plan.

101 KAR 1:140E. Service regulations.

101 KAR 1:200E. Rules for unclassified service.

101 KAR 1:220E. Unclassified service, classification and compensation plans.

The meeting was adjourned at 10:30 a.m. on March 26 until April 25, 1984.

Administrative Register ^{of} *kentucky*

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NOTE: Emergency regulations expire on being repealed or replaced.

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101 KAR 1:055			405 KAR 30:130			703 KAR 2:010		
Amended	225		Amended	23		Amended	1036	
Amended	556		Withdrawn		10-19-82	Amended	1207	8-3-83
Repealed		12-29-83	Amended	951	10-5-83	704 KAR 3:304		
200 KAR 14:040	1348	9-7-83	405 KAR 30:190			Amended	256	9-8-82
Repealed		11-21-83	Repealed	986	9-7-83	Amended	1037	
401 KAR 2:180	512		405 KAR 30:200			Amended	1208	8-3-83
Amended	782		Repealed	986	9-7-83	Amended	1315	8-3-83
Rejected		4-6-83	405 KAR 30:201	986	9-7-83	704 KAR 3:305		
Overridden		3-1-84	405 KAR 30:280			Amended	1037	
Recodified		3-23-84	Amended	960	10-5-83	Amended	1208	8-3-83
401 KAR 2:185	514		405 KAR 30:320			704 KAR 10:022		
Amended	784		Amended	34		Amended	257	9-8-82
Rejected		4-6-83	Withdrawn		10-19-82	Amended	1038	
Overridden		3-1-84	Amended	962	10-5-83	Amended	1209	8-3-83
Recodified		3-23-84	405 KAR 30:360			807 KAR 5:006		
401 KAR 2:190	516		Withdrawn		10-19-82	Amended	217	
Amended	786		Resubmitted	1072	11-2-83	Amended	473	8-25-82
Rejected		4-6-83	405 KAR 30:370			Amended	735	
Overridden		3-1-84	Withdrawn		10-19-82	Amended	1210	
Recodified		3-23-84	Resubmitted	986	10-5-83	815 KAR 25:020		
401 KAR 5:100	1268		405 KAR 30:390			Amended	1318	9-7-83
Withdrawn		8-12-83	Amended	35		900 KAR 2:010	299	12-1-82
405 KAR 30:020			Withdrawn		10-19-82	Amended	975	
Amended	21		Amended	964	10-5-83	Reprint	1085	
Withdrawn		10-19-82	601 KAR 9:072			Amended	1302	8-3-83
Amended	945	11-2-83	Amended	587	3-1-84	902 KAR 20:115		
405 KAR 30:070			Repealed	1026	3-31-84	Amended	976	8-3-83
Amended	948	10-5-83	702 KAR 5:080			904 KAR 1:020		
405 KAR 30:121			Amended	1309	8-3-83	Amended	1244	
Amended	949	10-5-83				Withdrawn		7-11-83

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101 KAR 1:051E	957	12-29-83	405 KAR 16:190E	748	10-31-83	904 KAR 1:095E	279	6-30-83
Replaced	849	1-4-84	405 KAR 18:090E	751	10-31-83	Replaced	324	9-7-83
Resubmitted	975	1-20-84	405 KAR 18:140E	753	10-31-83	904 KAR 1:200E	280	6-30-83
Replaced	991	3-31-84	405 KAR 18:190E	754	10-31-83	Replaced	332	9-7-83
101 KAR 1:055E			405 KAR 20:060E	516	9-19-83	904 KAR 1:210E	280	6-30-83
Repealed	957	12-29-83	Replaced	635	12-2-83	Replaced	332	9-7-83
101 KAR 1:140E	978	1-20-84	803 KAR 2:020E	871	11-29-83	904 KAR 2:115E	400	8-22-83
Replaced	994	3-31-84	Replaced	906	2-1-84	Replaced	358	10-5-83
101 KAR 1:200E	983	1-20-84	804 KAR 9:040E	397	9-1-83	Resubmitted	875	11-21-83
Replaced	998	3-31-84	Replaced	510	11-2-83	Replaced	844	1-4-84
101 KAR 1:220E	987	1-20-84	807 KAR 5:002E	268	6-27-83	Resubmitted	987	1-16-84
Replaced	1002	3-31-84	Replaced	313	9-7-83	Replaced	967	3-2-84
105 KAR 1:010E	391	9-1-83	807 KAR 5:008E		2-8-83	904 KAR 2:125E	3	5-31-83
Replaced	426	11-2-83	Replaced	291	9-7-83	Replaced	264	8-3-83
200 KAR 14:040E	267	6-21-83	900 KAR 1:020E	518	10-5-83	904 KAR 3:035E	961	1-10-84
Replaced		9-7-83	902 KAR 4:040E	1	6-7-83	Replaced	969	3-2-84
200 KAR 14:060E	870	11-21-83	Replaced	402	9-7-83			
Replaced	852	1-4-84	902 KAR 20:006E	519	10-5-83	Regulation	10 Ky.R. Page No.	Effective Date
301 KAR 2:044E	335	8-8-83	904 KAR 1:010E	270	6-30-83	11 KAR 3:020		
Replaced	344	10-5-83	Replaced	314	3-1-84	Amended	774	1-4-84
301 KAR 2:088E	394	9-15-83	904 KAR 1:012E	398	9-1-83	11 KAR 3:030	1134	
Replaced	504	11-2-83	Replaced	499	3-1-84	11 KAR 5:010		
301 KAR 2:160E	960	12-29-83	904 KAR 1:013E	270	6-30-83	Amended	43	8-3-83
Replaced	971	3-2-84	Replaced	315	9-7-83	11 KAR 5:080		
400 KAR 1:030E	703	10-31-83	904 KAR 1:015E	271	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 1:027E	272	6-30-83	Amended	340	10-5-83
405 KAR 7:020E	711	10-31-83	Replaced	316	9-7-83	Amended	775	1-4-84
405 KAR 7:030E	718	10-31-83	904 KAR 1:036E	273	6-30-83	40 KAR 2:010	949	
405 KAR 7:090E	719	10-31-83	Replaced	317	12-2-83	101 KAR 1:020		
405 KAR 8:030E	726	10-31-83	904 KAR 1:045E	277	6-30-83	Amended	404	11-2-83
405 KAR 8:040E	735	10-31-83	Replaced	322	3-26-84	101 KAR 1:030		
405 KAR 16:060E	744	10-31-83	904 KAR 1:055E	278	6-30-83	Amended	404	12-2-83
405 KAR 16:090E	746	10-31-83	Replaced	323	9-7-83			
405 KAR 16:140E	747	10-31-83						

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101 KAR 1:040			201 KAR 14:015			301 KAR 2:047		
Amended	405	11-2-83	Amended	892	2-1-84	Amended	1121	
101 KAR 1:051	849	1-4-84	Reprint	1067		301 KAR 2:080		
Amended	991	3-31-84	201 KAR 14:020	1067	2-1-84	Amended	624	12-2-83
101 KAR 1:060			Repealed			301 KAR 2:087		
Amended	406	11-2-83	201 KAR 14:025	1067	2-1-84	Repealed	504	11-2-83
101 KAR 1:070			Repealed			301 KAR 2:088	504	11-2-83
Amended	408	11-2-83	201 KAR 14:030			301 KAR 2:140		
101 KAR 1:080			Amended	893	2-1-84	Amended	625	12-2-83
Amended	409	12-2-83	201 KAR 14:040			301 KAR 2:160	971	3-2-84
101 KAR 1:090			Amended	893	2-1-84	301 KAR 2:170	1106	
Amended	411	12-2-83	201 KAR 14:050			301 KAR 3:070		
101 KAR 1:100			Amended	893	2-1-84	Amended	1123	
Amended	412	11-2-83	201 KAR 14:060			306 KAR 1:020		
101 KAR 1:110			Amended	893	2-1-84	Amended	429	
Amended	413	12-3-83	201 KAR 14:065			Amended	879	12-2-83
101 KAR 1:120			Amended	894	2-1-84	306 KAR 1:030		
Amended	414		201 KAR 14:067			Amended	429	
Amended	761	1-4-84	Amended	894	2-1-84	Amended	879	12-2-83
101 KAR 1:130			201 KAR 14:070			400 KAR 1:030	853	
Amended	415		Amended	894	2-1-84	400 KAR 1:040	855	
Amended	762	1-4-84	201 KAR 14:080			400 KAR 1:050	860	
101 KAR 1:140			Amended	895	2-1-84	401 KAR 5:026		
Amended	417	12-2-83	201 KAR 14:085			Amended	627	
Amended	994	3-31-84	Amended	895	2-1-84	Withdrawn		4-4-84
101 KAR 1:200			201 KAR 14:090			401 KAR 5:045		
Amended	422	11-2-83	Amended	896	2-1-84	Amended	430	
Amended	998	3-31-84	201 KAR 14:105			Amended	888	2-1-84
101 KAR 1:220			Amended	899	2-1-84	401 KAR 5:050		
Amended	1002	3-31-84	201 KAR 14:110			Amended	6	6-1-83
101 KAR 1:230	501	12-2-83	Amended	899	2-1-84	401 KAR 5:055		
103 KAR 17:010			201 KAR 14:115			Amended	9	6-1-83
Amended	43	8-3-83	Amended	900	2-1-84	401 KAR 5:060		
105 KAR 1:010			201 KAR 14:120			Amended	25	6-1-83
Amended	426	11-2-83	Repealed	900	2-1-84	401 KAR 5:085		
Amended	1118		201 KAR 14:125			Amended	33	6-1-83
105 KAR 1:080	1134		Amended	900	2-1-84	401 KAR 5:090		
105 KAR 1:090	1134		201 KAR 14:130			Amended	35	
105 KAR 1:100	1135		Amended	901	2-1-84	Amended	336	8-3-83
107 KAR 1:010			201 KAR 14:140			Amended	345	
Amended	621	12-2-83	Amended	901	2-1-84	Amended	764	1-4-84
200 KAR 5:308			201 KAR 14:150			Amended	1084	
Amended	621	12-2-83	Amended	902	2-1-84	401 KAR 5:110	184	
200 KAR 5:317			201 KAR 14:155			Withdrawn		9-2-83
Amended	622	12-2-83	Repealed	902	2-1-84	401 KAR 5:120	185	
200 KAR 13:010			201 KAR 18:040			Withdrawn		9-2-83
Amended	623	12-2-83	Amended	902	2-1-84	401 KAR 30:010		
200 KAR 14:010			201 KAR 20:200			Amended	46	
Amended	3	6-1-83	Amended	1003	3-31-84	Amended	524	12-2-83
200 KAR 14:050	365		201 KAR 20:240			401 KAR 30:020		
Withdrawn		11-10-83	Amended	1003	3-31-84	Amended	54	12-2-83
200 KAR 14:060	852	1-4-84	201 KAR 22:031			401 KAR 30:030		
200 KAR 14:070	950		Amended	778	1-4-84	Amended	56	
201 KAR 1:100	502		201 KAR 22:040			Amended	532	12-2-83
Amended	877	12-2-83	Amended	779	1-4-84	401 KAR 31:010		
201 KAR 2:090			201 KAR 22:106			Amended	58	
Amended	890	4-13-84	Amended	779	1-4-84	Amended	535	12-2-83
201 KAR 2:145			201 KAR 22:110			401 KAR 31:020	185	12-2-83
Amended	890	2-1-84	Amended	780	1-4-84	401 KAR 31:030		
201 KAR 2:170			201 KAR 23:060			Amended	62	12-2-83
Amended	4	6-1-83	Amended	341	10-5-83	401 KAR 31:040		
201 KAR 2:175			201 KAR 23:070			Amended	64	12-2-83
Amended	5	6-1-83	Amended	342	10-5-83	401 KAR 31:060	186	
201 KAR 2:180	951	2-1-84	Amended	1005	3-31-84	Amended	539	12-2-83
201 KAR 2:185	951	2-1-84	201 KAR 25:031			401 KAR 31:070	188	12-2-83
201 KAR 2:190	952	2-1-84	Amended	780	1-4-84	Amended	1088	
201 KAR 6:010			301 KAR 1:015			401 KAR 31:100		
Amended	1081		Amended	902	2-1-84	Amended	72	12-2-83
201 KAR 9:016	691	12-2-83	301 KAR 1:016			401 KAR 31:110		
201 KAR 9:020			Amended	963	3-2-84	Amended	73	12-2-83
Amended	5	6-1-83	301 KAR 1:055			401 KAR 31:120		
Amended	891	2-1-84	Amended	291		Amended	75	12-2-83
201 KAR 9:030			Amended	887	2-1-84	401 KAR 31:160		
Amended	44	9-7-83	301 KAR 1:075			Amended	77	12-2-83
201 KAR 9:040			Amended	903	2-1-84	401 KAR 31:170		
Amended	623	12-2-83	Amended	1083		Amended	78	12-2-83
201 KAR 12:125			301 KAR 1:130			401 KAR 33:010		
Amended	776	1-4-84	Amended	623	12-2-83	Amended	82	12-2-83
201 KAR 13:010			301 KAR 2:044			401 KAR 33:020		
Amended	45	8-3-83	Amended	344		Amended	83	12-2-83
201 KAR 13:040			301 KAR 2:045			401 KAR 34:020		
Amended	45	8-3-83	Amended	1120		Amended	84	
						Amended	541	12-2-83

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401 KAR 34:050			401 KAR 35:220	234	12-2-83	401 KAR 49:010		
Amended	87	12-2-83	401 KAR 35:230	237	12-2-83	Recodified	1141	3-1-84
401 KAR 34:060	188		401 KAR 35:240	238	12-2-83	401 KAR 49:020		
Amended	544	12-2-83	Amended	1089		Recodified	1143	3-1-84
401 KAR 34:070			401 KAR 35:250	239	12-2-83	401 KAR 49:030		
Amended	89	12-2-83	401 KAR 35:260	240	12-2-83	Recodified	1145	3-1-84
401 KAR 34:080			401 KAR 35:270	241		401 KAR 50:015		
Amended	91	12-2-83	Amended	880	12-2-83	Amended	628	3-1-84
401 KAR 34:090			401 KAR 35:290	241	12-2-83	401 KAR 50:040		
Amended	92		401 KAR 35:310	242	12-2-83	Amended	631	3-1-84
Amended	551	12-2-83	401 KAR 35:320	242	12-2-83	401 KAR 50:041	691	
401 KAR 34:100			401 KAR 35:330	243	12-2-83	Withdrawn		2-27-84
Amended	99		401 KAR 38:010			401 KAR 53:005		
Amended	558	12-2-83	Amended	134		Amended	431	3-1-84
401 KAR 34:110			Amended	591	12-2-83	401 KAR 53:010		
Amended	105	12-2-83	401 KAR 38:020			Amended	432	3-1-84
401 KAR 34:120			Amended	137	12-2-83	401 KAR 59:042	692	3-1-84
Amended	106		401 KAR 38:030			401 KAR 59:050		
Amended	564	12-2-83	Amended	138		Amended	632	3-1-84
401 KAR 34:130			Amended	595	12-2-83	401 KAR 59:260		
Amended	108	12-2-83	401 KAR 38:040			Amended	434	
401 KAR 34:140			Amended	141		Amended	1071	4-1-84
Amended	109	12-2-83	Amended	598	12-2-83	401 KAR 59:265	695	3-1-84
401 KAR 34:144			401 KAR 38:050			401 KAR 59:270	696	3-1-84
Amended	111	12-2-83	Amended	145		401 KAR 61:015		
401 KAR 34:148			Amended	601	12-2-83	Amended	434	
Amended	113	12-2-83	401 KAR 38:060			Amended	1072	4-1-84
401 KAR 34:152			Amended	148	12-2-83	401 KAR 61:080		
Amended	114	12-2-83	401 KAR 38:070			Amended	440	
401 KAR 34:156			Amended	152		Amended	1078	4-1-84
Amended	115	12-2-83	Amended	605		401 KAR 61:165		
401 KAR 34:159			Amended	880	12-2-83	Amended	1125	
Amended	116		401 KAR 38:080			401 KAR 61:170		
Amended	567	12-2-83	Amended	157	12-2-83	Amended	441	
401 KAR 34:162			401 KAR 38:090	244		Amended	1079	4-1-84
Amended	117		Amended	610	12-2-83	401 KAR 63:005		
Amended	568	12-2-83	401 KAR 38:100	247		Amended	634	3-1-84
401 KAR 34:165			Amended	613	12-2-83	405 KAR 7:020		
Amended	119	12-2-83	401 KAR 38:150	248	12-2-83	Amended	781	
401 KAR 34:168	194	12-2-83	401 KAR 38:160	249	12-2-83	405 KAR 7:030		
401 KAR 34:172			401 KAR 38:170	249	12-2-83	Amended	788	
Amended	120		401 KAR 38:180	250	12-2-83	405 KAR 7:090		
Amended	570	12-2-83	401 KAR 38:190	251	12-2-83	Amended	789	
401 KAR 34:176			401 KAR 38:200	252	12-2-83	405 KAR 8:030		
Amended	121		401 KAR 38:210	253	12-2-83	Amended	796	
Amended	571	12-2-83	401 KAR 38:500	254	12-2-83	405 KAR 8:040		
401 KAR 34:200			401 KAR 39:010			Amended	804	
Amended	122	12-2-83	Amended	161	12-2-83	405 KAR 16:060		
401 KAR 34:210			401 KAR 39:020	255		Amended	813	
Amended	126	12-2-83	Amended	614	12-2-83	405 KAR 16:090		
401 KAR 34:220	196	12-2-83	401 KAR 39:030	255		Amended	815	
401 KAR 34:230	200	12-2-83	Amended	615	12-2-83	405 KAR 16:140		
401 KAR 34:240			401 KAR 39:040	255		Amended	817	
Amended	130		Amended	615	12-2-83	405 KAR 16:190		
Amended	572	12-2-83	401 KAR 39:050	256		Amended	818	
401 KAR 34:320	203	12-2-83	Amended	616	12-2-83	405 KAR 18:090		
401 KAR 35:010			401 KAR 39:060	256		Amended	821	
Amended	132	12-2-83	Amended	616	12-2-83	405 KAR 18:140		
Amended	1089		401 KAR 39:070	256		Amended	823	
401 KAR 35:020	204	12-2-83	Amended	616	12-2-83	405 KAR 18:190		
401 KAR 35:030	206	12-2-83	Amended	1090		Amended	824	
401 KAR 35:040	207	12-2-83	401 KAR 40:010			405 KAR 20:060		
401 KAR 35:050	209		Amended	162	12-2-83	Amended	635	12-2-83
Amended	575	12-2-83	401 KAR 40:020			405 KAR 30:010		
401 KAR 35:060	210	12-2-83	Amended	162	12-2-83	Amended	280	10-5-83
401 KAR 35:070	213	12-2-83	401 KAR 40:030			405 KAR 30:025		
401 KAR 35:080	216	12-2-83	Amended	164	12-2-83	Amended	285	10-5-83
401 KAR 35:090	217		401 KAR 40:040			405 KAR 30:160		
Amended	577	12-2-83	Amended	165	12-2-83	Amended	286	
401 KAR 35:100	223		401 KAR 40:050			Amended	756	11-2-83
Amended	582	12-2-83	Amended	166	12-2-83	405 KAR 30:250		
401 KAR 35:110	228	12-2-83	401 KAR 47:020			Amended	288	10-5-83
401 KAR 35:120	228		Amended	166		501 KAR 4:010	365	10-5-83
Amended	588	12-2-83	Amended	617		501 KAR 4:020	366	10-5-83
401 KAR 35:130	231	12-2-83	Amended	885	12-2-83	501 KAR 4:030	367	10-5-83
401 KAR 35:180	231	12-2-83	401 KAR 47:040			501 KAR 4:040	367	10-5-83
401 KAR 35:190	232	12-2-83	Amended	168	12-2-83	501 KAR 4:050	368	10-5-83
401 KAR 35:200	233		401 KAR 47:070			501 KAR 4:060	371	10-5-83
Amended	590	12-2-83	Amended	172	12-2-83	501 KAR 4:070	372	10-5-83
401 KAR 35:210	234	12-2-83				501 KAR 4:080	373	10-5-83

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501 KAR 4:090	373	10-5-83	702 KAR 1:025			801 KAR 1:060	1028	
501 KAR 4:100	374	10-5-83	Amended	1095		Amended	1117	3-31-84
501 KAR 4:110	374	10-5-83	702 KAR 2:110	952	2-1-84	801 KAR 1:070	1028	
501 KAR 4:120	375	10-5-83	702 KAR 3:070			Amended	1117	3-31-84
501 KAR 4:130	376	10-5-83	Amended	644	12-2-83	801 KAR 1:080	1029	
501 KAR 4:140	376	10-5-83	702 KAR 3:170			Amended	1117	3-31-84
501 KAR 5:010	377	10-5-83	Amended	1096		801 KAR 1:090	1029	
501 KAR 5:020	378	10-5-83	704 KAR 3:292			Amended	1117	3-31-84
501 KAR 5:030	379	10-5-83	Amended	1097		801 KAR 1:100	1029	
501 KAR 5:040	379	10-5-83	704 KAR 10:022			Amended	1117	3-31-84
501 KAR 5:050	380	10-5-83	Amended	904		803 KAR 2:015		
501 KAR 5:060	383	10-5-83	704 KAR 20:005			Amended	299	12-2-83
501 KAR 5:070	384	10-5-83	Amended	292	9-7-83	803 KAR 2:016		
501 KAR 5:080	384	10-5-83	Amended	644	12-2-83	Amended	302	12-2-83
501 KAR 5:090	385	10-5-83	Amended	830	1-4-84	803 KAR 2:020		
501 KAR 5:100	385	10-5-83	704 KAR 20:020			Amended	304	9-7-83
501 KAR 5:110	386	10-5-83	Amended	292	9-7-83	Amended	648	
501 KAR 5:120	386	10-5-83	704 KAR 20:030			Withdrawn		11-29-83
501 KAR 5:130	387	10-5-83	Amended	1098		Amended	906	2-1-84
601 KAR 9:073	506		704 KAR 20:100			803 KAR 2:027		
Withdrawn		12-16-83	Amended	294	9-7-83	Amended	308	9-7-83
601 KAR 9:074	1026	3-31-84	704 KAR 20:155			Amended	652	12-2-83
601 KAR 9:080	327	1-4-84	Repealed	698	12-2-83	803 KAR 2:070		
601 KAR 9:085	327	1-4-84	704 KAR 20:156	698	12-2-83	Amended	308	9-7-83
601 KAR 9:090	328	1-4-84	704 KAR 20:185			803 KAR 2:180		
601 KAR 9:095	328	1-4-84	Amended	294	9-7-83	Amended	309	9-7-83
601 KAR 9:100	328	1-4-84	704 KAR 20:198			803 KAR 2:200	330	
601 KAR 9:105	329	1-4-84	Amended	295	9-7-83	Amended	619	12-2-83
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Amended	1007		Repealed	295	9-7-83	804 KAR 9:040	510	11-2-83
Amended	1118	5-1-84	704 KAR 20:207			805 KAR 1:110	1109	
601 KAR 13:030			Repealed	330	9-7-83	805 KAR 4:090		
Amended	1007	3-31-84	704 KAR 20:208	330	9-7-83	Amended	312	9-7-83
602 KAR 50:010			704 KAR 20:222			805 KAR 4:100		
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Amended	768	1-4-84	Withdrawn		12-2-83	806 KAR 9:070		
602 KAR 50:020			Amended	905		Amended	1127	
Amended	444	1-4-84	704 KAR 20:235			806 KAR 9:130		
602 KAR 50:030			Amended	646	12-2-83	Amended	173	8-3-83
Amended	445	1-4-84	Amended	1098		806 KAR 38:080	510	11-2-83
602 KAR 50:040			704 KAR 20:245			807 KAR 5:001		
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602 KAR 50:050			704 KAR 20:280	698	12-2-83	807 KAR 5:002		
Amended	446	1-4-84	704 KAR 20:285	699		Amended	313	9-7-83
602 KAR 50:060			Amended	990	3-1-84	807 KAR 5:008		
Amended	447		705 KAR 2:030			Amended	291	9-7-83
Amended	770	1-4-84	Amended	647	12-2-83	807 KAR 5:021		
602 KAR 50:070			705 KAR 5:040			Repealed	1029	3-31-84
Amended	447		Amended	295	9-7-83	807 KAR 5:022	1029	3-31-84
Amended	770	1-4-84	705 KAR 5:050			810 KAR 1:001		
602 KAR 50:080			Amended	296	9-7-83	Amended	652	3-1-84
Amended	448	1-4-84	705 KAR 7:020			810 KAR 1:002		
602 KAR 50:090			Amended	1100		Amended	654	12-2-83
Amended	448		705 KAR 7:030			810 KAR 1:003		
Amended	771	1-4-84	Amended	1100		Amended	656	2-1-84
602 KAR 50:100			705 KAR 7:060	1108		810 KAR 1:004		
Amended	449		706 KAR 1:010			Amended	660	2-1-84
Amended	772	1-4-84	Amended	297	9-20-83	810 KAR 1:005		
602 KAR 50:110			706 KAR 2:010	952	2-1-84	Amended	661	12-2-83
Amended	450	1-4-84	707 KAR 1:060			810 KAR 1:006		
602 KAR 50:115			Amended	298	9-7-83	Amended	663	3-1-84
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602 KAR 50:120			Amended	298	9-7-83	Amended	666	12-2-83
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Amended	772	1-4-84	Amended	1008		Amended	668	12-2-83
603 KAR 3:010			Amended	1115	3-31-84	810 KAR 1:009		
Amended	636		801 KAR 1:010			Amended	669	12-2-83
Withdrawn		1-23-84	Amended	1008		810 KAR 1:011		
603 KAR 4:035			Amended	1115	3-31-84	Amended	671	12-2-83
Amended	826		801 KAR 1:020			810 KAR 1:012		
Withdrawn		1-23-84	Amended	1008		Amended	676	12-2-83
603 KAR 5:070			Amended	1116	3-31-84	810 KAR 1:013		
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603 KAR 5:110			Amended	1008		810 KAR 1:014		
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Amended	910	2-1-84	902 KAR 55:050			Amended	365	10-5-83
811 KAR 1:030			Repealed	951	2-1-84			
Amended	914	2-1-84	902 KAR 55:055					
811 KAR 1:035			Repealed	952	2-1-84			
Amended	916	2-1-84	904 KAR 1:004					
811 KAR 1:040			Amended	350	10-5-83			
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811 KAR 1:050			904 KAR 1:010					
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811 KAR 1:070			904 KAR 1:011					
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811 KAR 1:190			Amended	1127				
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811 KAR 1:195			Amended	322	3-26-84			
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811 KAR 1:200			Amended	355	10-5-83			
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815 KAR 7:020			Amended	323	9-7-83			
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815 KAR 20:070			904 KAR 1:150					
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815 KAR 20:072			Amended	1080	4-1-84			
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815 KAR 20:100			Amended	339	10-5-83			
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815 KAR 20:120			904 KAR 1:210	332	9-7-83			
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