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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING DATE, THE HEARING MAY BE CANCELLED.

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.

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

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

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

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

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## Public Hearings

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty nor more than thirty days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

This information shall be published in the *Administrative Register* at the same time as the initial publication of the administrative regulation. Any person interested in attending the hearing must submit written notification of such to the administrative body at least five days before the scheduled hearing. If no written notice is received at least five days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will note upon the face of the original administrative regulation that the hearing was cancelled.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

## Amended After Hearing

### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Office of the Secretary Amended After Hearing

400 KAR 1:040. Administrative rules of procedure, discovery.

RELATES TO: KRS 151.182, 151.297, 151.990, 224.033, 224.071, 224.073, 224.081, 224.083, 224.750, 224.866, 224.994, 224.995, 350.028, 350.070, 350.085, 350.093, 350.130, 350.465, 350.990

PURSUANT TO: KRS 13.082, 151.125, 224.028, 350.033, 350.255, 350.465

NECESSITY AND FUNCTION: KRS Chapters 151, 224, and 350 require the cabinet to conduct hearings and investigations concerning a wide variety of matters. This regulation establishes procedures for discovery.

Section 1. General Provisions Governing Discovery. (1) Discovery methods. In all proceedings under these rules except preliminary hearings pursuant to 405 KAR 7:090, Sec-

tions 3 and 4, parties may obtain discovery by one (1) or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or, for parties other than the cabinet, permissions to enter upon land or other property, for inspection and other purposes; and requests for admission. Unless the hearing officer orders otherwise under subsection (3) of this section, the frequency of use of these methods is not limited.

(2) Scope of discovery.

(a) In general. Parties may obtain discovery regarding any matter, not privileged or confidential under KRS 61.870 et seq., 224.035, 224.036 or other law, whether it relates to a claim or defense of the party seeking discovery or to a claim or defense of any other party, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears

reasonably calculated to lead to the discovery of admissible evidence.

(b) Insurance agreements. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(c) Hearing preparation: materials.

1. Subject to the provisions of paragraph (d) of this subsection, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (1) of this section and prepared in anticipation of the hearing by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) *only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the hearing officer shall protect against disclosure of [provided; however, that] the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding [may not be discovered].*

2. A party may obtain *without the required showing* a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain *without the required showing* a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for an order of the hearing officer. For purposes of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(d) Hearing preparations: experts. The parties shall exchange all information directed by the hearing officer, which may include facts known and opinions held by experts and acquired or developed in anticipation of a hearing. In addition, a party may, through interrogatories, require any other party to identify each person whom the other party expects to call as an expert witness at the hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. Upon motion, the hearing officer may order further discovery by other means, subject to such restrictions as to scope as the hearing officer may deem appropriate [, and such discovery shall be liberally allowed].

(3) Protective orders. (a) Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the hearing officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one (1) or more of the following: that the discovery not be had; that the discovery may be had only on specified terms and conditions, including a designation of the time or place; that the discovery may be had only by a method of discovery other than selected by the party seeking discovery; that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; that discovery be conducted with no one present

except persons designated by the hearing officer; that a deposition after being sealed be opened only by order of the cabinet; that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(b) If the motion for a protective order is denied in whole or in part, the hearing officer may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Section 10(1)(c) of this regulation apply to the award of expenses incurred in relation to the motion.

(4) Sequence and timing of discovery. Unless the hearing officer upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(5) Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement that response to include information thereafter acquired, except as follows:

(a) A party is under a duty seasonably to supplement a response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, or the identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the person is expected to testify, and the substance of the person's testimony.

(b) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which the party knows that the response was incorrect when made, or the party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(c) A duty to supplement responses may be imposed by order of the hearing officer, agreement of the parties, or at any time prior to the hearing through new requests for supplementation of prior responses.

Section 2. Persons Before Whom Depositions May Be Taken. (1) Within the state. Depositions taken in this state shall be taken before an examiner; a judge, clerk, commissioner or official reporter of a court; a notary public; or before such other persons and under such other circumstances as shall be authorized by law. The term "officer" in Sections 4(3), (5), (6), 5(1), (2), and 6(4) of this regulation means any person before whom a deposition may be taken under this section.

(2) Without the state. Depositions may be taken out of this state before a commissioner appointed by the Governor of the state where taken or before any person empowered by a commission directed to the person by consent of the parties or by order of the hearing officer; or before a judge of a court, a justice of the peace, mayor of a city, or notary public; or before such other persons and under such circumstances as shall be authorized by the law of this state or the place where the deposition is taken.

Section 3. Stipulations Regarding Discovery Procedure. Unless the hearing officer orders otherwise, the parties may, by written stipulation, provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and modify the procedures provided



by these rules for other methods of discovery, except that stipulations extending the time for responses to discovery may be made only with the approval of the hearing officer.

**Section 4. Depositions Upon Oral Examination.** (1) When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena. The deposition of a person confined in prison may be taken only by leave of a court having appropriate jurisdiction and on such terms as the court prescribes.

**(2) General requirements.**

(a) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, the matter upon which each person will be examined, and the name or descriptive title and address of the person before whom the deposition is to be taken. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(b) The hearing officer may for cause shown enlarge or shorten the time for taking the deposition.

(c) The hearing officer may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at the party's own expense.

(d) The notice to a party deponent may be accompanied by a request made in compliance with Section 8 of this regulation for the production of documents and tangible things at the taking of the deposition. The procedure of Section 8(2) of this regulation shall apply to the request.

(e) A party may in the notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one (1) or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This paragraph does not preclude taking a deposition by any other procedure authorized in these rules.

**Section 3. Examination and Cross-Examination.** (1) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered

in accordance with Section 4(2)(c) of this regulation. If requested by one (1) of the parties, the testimony shall be transcribed.

(b) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and that party shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(4) Motion to terminate or limit examination. At any time during the taking of the deposition, or motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the hearing officer may order the person conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Section 1(3) of this regulation. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the hearing officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of Section 10(1)(c) of this regulation apply to the award of expenses incurred in relation to the motion.

(5) Submission to witness. Any party to an action may make a written request before the officer taking a deposition therein that it be submitted to the witness. In such an event, when the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness unless the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer before whom the deposition is taken shall sign it and state on the record the fact of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress the hearing officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(6) Certification and filing by officer. (a) The officer before whom the deposition is taken shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. The officer before whom the deposition is taken shall promptly deliver the deposition to the docket coordinator or send it by certified mail to the docket coordinator for filing.

(b) Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that the person producing the materials may substitute copies to be marked for identification, if a fair opportunity is afforded all parties to verify the copies by comparison with the originals, and if

the person producing the materials requests their return, the officer before whom the deposition is taken shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the hearing officer, pending final disposition of the case.

(c) Upon payment of reasonable charges therefor, not to exceed those fixed by statute, the officer shall furnish a copy of the deposition to any party or to the deponent.

(7) Failure to attend or to serve subpoena; expenses. (a) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the hearing officer may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by the party and the party's attorney in so attending, including reasonable attorney's fees.

(b) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because the party expects the deposition of that witness to be taken, the hearing officer may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by the party and the party's attorney in so attending, including reasonable attorney's fees.

Section 5. Depositions Upon Written Questions. (1) Serving questions; notice. (a) After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoenas. The deposition of a person confined in prison may be taken only by leave of court of appropriate jurisdiction on such terms as that court prescribes.

(b) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and the name or description title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Section 4(2)(e) of this regulation.

(c) The hearing officer may establish an expeditious schedule for the service of cross, redirect, and recross questions.

(2) The officer before whom the deposition is to be taken to take responses and prepare record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Sections 4(3), (5) and (6) of this regulation, to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions which were received. Neither party agent, or attorney shall be present at the examination of the witness.

Section 6. Use of Depositions in Proceedings. (1) Use of depositions. At the hearing any part or all of a deposition

so far as admissible may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

1. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Section 4(2)(e) or 5(1)(b) of this regulation to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the hearing officer finds that: the witness is dead; or the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or the witness is at a greater distance than 100 miles from the place of the hearing or out of the state, unless it appears that the absence of the witness was procured by the party offering the deposition; or the witness is the Governor, Secretary, Auditor or Treasurer of the state; or the witness is a judge or clerk of a court; or the witness is a postmaster; or the witness is a president, cashier, teller or clerk of a bank; or the witness is a practicing physician, dentist or lawyer; or the witness is a keeper, officer or guard of a penitentiary; or the witness is of unsound mind, having been of sound mind when his deposition was taken; or the witness is prevented from attending the trial by illness, infirmity, or imprisonment; or the witness is in the military service of the United States or of this state or if the hearing officer finds that such circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witness orally at the hearing, to allow the deposition to be used.

(d) If only a part of a deposition is offered in evidence by a party, an adverse party may require introduction of any other part which ought in fairness to be considered with the party introduced, and any party may introduce any other parts.

(e) Substitution of parties does not effect the right to use depositions previously taken.

(2) Objections to admissibility. Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(3) Effect of taking or using depositions. The taking of a deposition or the questioning of a deponent shall not make evidence admissible which is otherwise incompetent or constitute a waiver of objections to its admissibility.

(4) Effect of errors and irregularities. (a) As to notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(b) As to disqualification of person before whom deposition is to be taken. Objection to taking a deposition because of disqualification of the person before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) As to taking of deposition.

1. Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking

of the deposition, unless the ground of the objection is one (1) which might have been obviated or removed if presented at that time.

2. Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

3. Objections to the form of written questions are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within three (3) days after service of the last questions authorized.

(d) As to completion and return of deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer before when the deposition was taken under Sections 5 and 6 of this regulation are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

Section 7. Interrogatories to Parties. (1) Availability; procedures for use. (a) Any party may serve upon any other party written interrogatories to be answered by the party served, or if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served upon any party at any time after the commencement of the action. A copy of the interrogatories, answers and all related pleadings shall be filed with the docket coordinator and, unless otherwise ordered, upon all parties.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within thirty (30) days of service or within such other time as specified by the hearing officer. The party submitting the interrogatories may move for an order under Section 10(1) of this regulation with respect to any objection to or other failure to answer an interrogatory.

(2) Scope; use at trial.

(a) Interrogatories may relate to any matters which may be inquired into under Section 1(2) of this regulation, and the answers may be used to the extent permitted by the rules of evidence.

(b) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the hearing officer may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pre-hearing conference or other later time.

(3) Option to produce business records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden

of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

Section 8. Production of Documents and Things. (1) Scope. Any party may serve on any other party a request to produce and permit the party making the request, or someone acting on the party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Section 1(2) of this regulation and which are in the possession, custody or control of the party upon whom the request is served; provided, however, that nothing herein shall be construed so as to limit or impose additional requirements on the cabinet with respect to its authority to enter property or to conduct inspections authorized by law.

(2) Procedure. The request may be served on any party without leave of the hearing officer at any time after commencement of the action. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The party upon whom the request is made shall serve written response within thirty (30) days or within such other time as specified by the hearing officer.

Section 9. Requests for Admission. (1) A party may serve upon any other party a written request for admission, for purposes of the pending action only, of the truth of any matters within the scope of Section 1(2) of this regulation set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. The request may be served at any time after the commencement of the action. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(2) Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within thirty (30) days after service of the request, or within such shorter or longer time as the hearing officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states

that a reasonable inquiry has been made and that the information known or readily obtainable is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for the hearing may not, on that ground alone, object to the request; the party may deny the matter or set forth reasons why the matter cannot be admitted or denied.

(3) The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objection is justified, the hearing officer shall order that an answer be served. If the hearing officer determines that an answer does not comply with the requirements of this section, the hearing officer may order either that the matter is admitted or that an amended answer be served. The hearing officer may, in lieu of these orders, determine that final disposition of the request be made at a pre-hearing conference or at a designated time prior to the hearing. The provisions of Section 10(3) of this regulation apply to the award of expenses incurred in relation to the motion.

(2) Effect of admission. Any matter admitted under Section 9 of this regulation is conclusively established unless the hearing officer on motion permits withdrawal or amendment of the admission. The hearing officer may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the hearing officer that withdrawal or amendment will prejudice the party in maintaining the action or defense on the merits. An admission made by a party under Section 9 of this regulation is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.

Section 10. Failure to Make Discovery: Sanctions. (1) Motion for order compelling discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

(a) Motion.

1. If a deponent fails to answer a question propounded or submitted under Section 4 or 5 of this regulation or a corporation or other entity fails to make a designation under Sections 4(2)(e) or 5(1)(b) of this regulation, or a party fails to answer an interrogatory submitted under Section 7 of this regulation, or a party fails to allow examination under Section 8 of this regulation, the discovering party may move for an order compelling an answer or a designation or an order compelling examination in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

2. If the motion is denied in whole or in part, the hearing officer may make such protective order as the hearing officer would have been empowered to make on a motion made pursuant to Section 1(3) of this regulation.

(b) Evasive or incomplete answer. For the purposes of this rule an evasive or incomplete answer is to be treated as a failure to answer.

(c) Award of expenses of motion.

1. If the motion is granted the hearing officer shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the

hearing officer finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

2. If the motion is denied, the hearing officer shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the hearing officer finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

3. If the motion is granted in part and denied in part, the hearing officer may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(2) Failure to comply with order.

(a) Sanctions by the hearing officer. If a party or an officer, director, or managing agent of a party or a person designated under Section 4(2)(e) or 5(1)(b) of this regulation to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under Section 10(1) of this regulation, the hearing officer may make such orders in regard to the failure as are just, and among others the following:

1. An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purpose of the action in accordance with the claim of the party obtaining the order;

2. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing designated matters in evidence;

3. An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

(b) Expenses on failure to obey order. In lieu of any of the foregoing orders or in addition thereto, the hearing officer shall require the party failing to obey the order or the attorney advising the party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the hearing officer finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(3) Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under Section 9 of this regulation, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the hearing officer for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The hearing officer shall make the order unless it finds that the request was held objectionable pursuant to Section 9(1) of this regulation, or the admission sought was of no substantial importance, or the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or there was other good reason for the failure to admit.

(4) Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection.

(a) If a party or an officer, director, or managing agent of a party or a person designated under Section 4(2)(e) or 5(1)(b) of this regulation to testify on behalf of a party fails to appear before the officer who is to take his deposition, after being served with a proper notice, or to serve answers

or objections to interrogatories submitted under Section 7 of this regulation, after proper service of the interrogatories, or to serve a written response to a request for examination submitted under Section 8 of this regulation, after proper service of the request, the hearing officer on motion may make such orders in regard to the failure as are just, and among others, the hearing officer may take any action authorized under subparagraphs 1, 2, and 3 of Section 10(2)(a) of this regulation. In lieu of any order or in addition thereto, the hearing officer shall require the party failing to act to pay the reasonable expenses, including attorney's fees, caused by the failure unless the hearing officer finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(b) The failure to act described in this rule may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided in Section 1(3) of this regulation.

(5) Expenses against the Commonwealth. Expenses and attorney's fees are not to be imposed upon the Commonwealth under Section 10 of this regulation, except as otherwise provided in 405 KAR 7:090, Section 13.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: April 23, 1984

RECEIVED BY LRC: April 23, 1984 at 4: p.m.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Office of the Secretary  
Amended After Hearing

**400 KAR 1:050. Administrative rules of procedure, burden of proof.**

RELATES TO: KRS 151.182, 151.297, 151.990, 224.033, 224.071, 224.073, 224.081, 224.083, 224.750, 224.866, 224.994, 224.995, 350.028, 350.070, 350.085, 350.093, 350.130, 350.465, 350.990

PURSUANT TO: KRS 13.082, 151.125, 224.028, 350.033, 350.255, 350.465

NECESSITY AND FUNCTION: KRS Chapters 151, 224, and 350 require the cabinet to conduct hearings and investigations concerning a wide variety of matters. This regulation identifies burdens of proof.

Section 1. (1) In a hearing held pursuant to KRS 151.182(1), [151.297,] 224.081(1), 405 KAR 7:090, Sections 5(1)(b) and (2), the cabinet shall have the burden of persuasion to establish a case for the requested relief.

(2) In a hearing held pursuant to KRS 151.182(2), 151.297, 224.071, and 224.081(2), or 405 KAR 7:090, Section 5(1)(a), the petitioner shall have the burden of persuasion to establish a case for the requested relief.

(3) The respondent in any action shall have the burden of persuasion to establish any affirmative defense.

(4) Any person seeking an exemption shall have the burden of persuasion to establish that the person qualifies for the exemption.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: April 23, 1984

RECEIVED BY LRC: April 23, 1984 at 4 p.m.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement  
Amended After Hearing

**405 KAR 7:090. Hearings.**

RELATES TO: KRS 224.033, 224.081, 224.083, 350.028, 350.070, 350.090, 350.093, 350.130, 350.255, 350.465, 350.990

PURSUANT TO: KRS 13.082, 224.033, 350.020, 350.028, 350.255, 350.465, 350.610

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to surface coal mining and reclamation operations and coal exploration. This regulation sets forth hearing, notice, penalty assessment and other procedural and due process provisions for the permanent regulatory program.

Section 1. Applicability. This regulation shall govern the conduct of all hearings by the cabinet for the review of determinations on permits for surface coal mining and reclamation operations and coal exploration, including issuance, denial, suspension, revocation, modification, and compliance with the terms of any permit; notices of non-compliance and orders for remedial measures; orders for cessation and immediate compliance issued pursuant to KRS 350.130(1) and (4); orders to abate and alleviate; determinations on performance bond amount, duration, release, and forfeiture; and all other matters which in the discretion of the cabinet are appropriate for adjudication and determination by the cabinet and arise by virtue of an order or determination of the cabinet pursuant to the permanent regulatory program for surface coal mining and reclamation operations and coal exploration as set forth in KRS Chapter 350 and Title 405, Chapters 7 through 24.

Section 2. Construction. This regulation shall be construed to achieve just, timely and inexpensive determinations of all questions appropriate for determination pursuant to Section 1 of this regulation.

Section 3. Proposed Penalty Assessment. (1) The cabinet shall notify any person issued a notice of non-compliance and order for remedial measures or an order for cessation and immediate compliance of its proposed penalty assessment. The proposed assessment shall be made by authorized personnel within the Department of Surface Mining Reclamation and Enforcement.

(2) In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(3) (a) The cabinet shall *mail, postage prepaid*, [send] its notice of the proposed penalty assessment, together with copies of applicable worksheets, to the person *to whom the notice or order was issued or that person's representative*, [against whom the assessment is proposed] within fifteen (15) working days after issuance of the final notice of inspection of noncompliance. [The notice of assessment shall be sent by certified mail, return receipt requested, or by



registered mail, addressed to the agent for service or the permanent address shown on the permit application; or if no address is shown on the application, to such other address as is known to the cabinet.]

(b) *Failure by the cabinet to serve any proposed assessment within fifteen (15) working days after issuance of the final notice of inspection of noncompliance shall not be grounds for dismissal of all or part of such assessment unless the person against whom the proposed penalty has been assessed:*

1. *Proves actual and substantial prejudice as a result of the delay; and*

2. *Makes a timely written objection to the delay. An objection shall be timely only if made on or before the date of the preliminary hearing, or if the preliminary hearing is waived, on or before the date of the formal hearing.*

(4) (a) The person to whom a proposed penalty assessment was sent who chooses not to contest the fact of the violation or the assessment shall pay the proposed penalty assessment in full to the cabinet within thirty (30) days from the date of mailing of the assessment.

(b) The person to whom a proposed penalty assessment was sent may contest the penalty, as well as the fact of the violation, by attending the preliminary hearing scheduled pursuant to Section 4 of this regulation or by requesting a formal hearing in writing pursuant to Section 5(1)(b) [(2)]. Prepayment of penalties shall be made as provided therein.

Section 4. Preliminary Hearings. (1) Following issuance by the cabinet of a notice of noncompliance and order for remedial measures or an order for cessation and immediate compliance, the cabinet shall schedule a preliminary hearing on the fact of the violation and the proposed penalty assessment unless such hearing is waived by the person to whom the notice or order was issued. The preliminary hearing shall be *scheduled for a date [held]* no later than sixty (60) days after the date of mailing of the proposed penalty assessment: Provided that, where the preliminary hearing is to consider a notice or order requiring cessation of mining by a permittee, such hearings shall be held within thirty (30) days of the issuance of such notice or order. *Failure by the cabinet to schedule a hearing for a date within sixty (60) days or to hold a hearing concerning a notice or order requiring cessation of mining within thirty (30) days, respectively, shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed makes a timely objection on or before the date of the preliminary hearing and proves actual and substantial prejudice as a result of the delay.* The scheduling of the preliminary hearings shall not operate as a stay of any notice or order.

(2) Notice of the preliminary hearing shall be *served in accordance with Section 6 of this regulation* [sent by certified mail, return receipt requested, to the person to whom the notice or order was issued]. Notice shall also be sent to any person who filed a report which led to the *issuance of the notice or order being contested*. The cabinet shall post notice of the preliminary hearing at the regional office closest to the minesite at least five (5) days before the hearing. Any person shall have the right to attend and participate in the preliminary hearing.

(3) If a preliminary hearing is held before the time provided in Section 3 for mailing of the proposed penalty assessment, the cabinet may propose such assessment at the preliminary hearing.

(4) The person contesting the assessment need not pay the proposed amount into escrow prior to the preliminary

hearing. [, but may wait and make payment pursuant to subsection (7) of this section, unless] *If such person waives the preliminary hearing, [in which case] the payment provisions of subsection (6) shall apply.*

(5) The hearing officer may make a preliminary determination to affirm, raise, lower, or vacate the proposed penalty, or to *affirm*, terminate, modify, or vacate the notice or order with which the preliminary hearing is concerned. The hearing officer shall state his or her reasons therefor in writing and with particularity. Within thirty (30) days after the preliminary hearing is held, the *hearing officer shall file his or her preliminary determination with the cabinet. Upon receipt, the cabinet shall immediately mail, postage prepaid* [cabinet shall send by certified mail, return receipt requested, or by registered mail], notice of the hearing officer's determination to the parties to the hearing and to any person who filed a report which led to the issuance of the notice or order which was the subject of the preliminary hearing.

(6) The person to whom the notice or order was issued may, within *thirty (30) [fifteen (15)]* days of the mailing of the proposed penalty assessment, waive the preliminary hearing in writing and request a formal hearing to contest either the fact of the violation or the proposed penalty assessment, or both. Such person must forward to the cabinet *an amount equal to the proposed penalty assessment* for placement into an escrow account, within thirty (30) days after mailing of the proposed assessment.

(7) (a) An authorized representative of the cabinet shall attend the preliminary hearings.

(b) If a person to whom a notice or order was issued fails without good cause to attend the scheduled preliminary hearing or to comply with subsection (6) above, he or she *shall [may]* be deemed to have waived all rights to contest the fact of the violation or the proposed penalty, and the cabinet *shall [may]* enter a final order containing the findings set forth in *subsection (10) of this section* [Section 5(2)(c) of this regulation].

(8) [(c)] If an agreement is reached at the preliminary hearing, the cabinet shall present *the terms of the agreement to the hearing officer and shall present* in person or mail, postage prepaid [send by certified mail, return receipt requested, or by registered mail], a written settlement agreement to the person to whom the notice or order was issued. Such person shall sign the settlement agreement upon presentation immediately following the preliminary hearing or return it to the cabinet within ten (10) days of the date on which it was mailed. *If the signed settlement agreement is returned more than ten (10) days after its presentation or mailing, it may be voided at the cabinet's discretion.* The parties to the agreement will be deemed to have waived their rights to further hearings or review of the matter, except as expressly provided in the settlement agreement. The settlement agreement shall set forth the facts and circumstances giving rise to the agreement, including a statement of the violation or violations concerned. The penalty agreed to shall be due and payable thirty (30) days after signing of the settlement agreement. [Failure to return the signed settlement order within ten (10) days after its presentation or mailing by the cabinet shall render the agreement void.] *If the matter is not settled, the hearing officer shall [then] issue his or her preliminary determination not later than thirty (30) days after the preliminary hearing was held, and the provisions of subsection (9) of this section* [paragraph (d)] shall apply.

(9) [(d)] If no agreement is reached, any party may, within *thirty (30) [fifteen (15)]* days after the presentation

or mailing of the hearing officer's determination following the preliminary hearing, request a formal hearing [pursuant to Section 5]. Any such request by the person to whom the notice or order was issued shall be accompanied by payment of an amount equal to the proposed penalty (as amended or affirmed pursuant to the preliminary hearing) to the cabinet, to be held in escrow. If the cabinet is the party requesting a formal hearing, the payment into escrow need not be made. Failure to request a formal hearing or to submit payment within the prescribed time shall be deemed a waiver of all rights to further hearings or review of the matter, and shall be grounds for issuance of a final order of the cabinet pursuant to subsection (10) of this section [Section 5(2)(c)].

*(10) Failure to request a formal hearing in a timely manner shall be considered an admission of the fact of the violation and acceptance of the proposed penalty assessment. If no request for a formal hearing is made within thirty (30) [fifteen (15)] days after the mailing of the hearing officer's preliminary determination following the preliminary hearing, the cabinet shall forthwith enter and mail a final order finding:*

1. *That the person has waived his or her right to a hearing;*

2. *That the findings and conclusions contained in the preliminary determination of the hearing officer are admitted; and*

3. *That the penalty assessment contained in the preliminary determination of the hearing officer is due and payable to the cabinet within thirty (30) [fifteen (15)] days, after mailing of the final order.*

*[(8) The hearing office shall terminate any preliminary hearing when he or she determines that the dispute cannot be resolved or that the parties are not diligently pursuing a resolution of the dispute.]*

*[(11) [(9)] No person who presided at a preliminary hearing shall either preside at a subsequent hearing in the same matter or participate in any further decision or any subsequent administrative appeal.*

**Section 5. Formal Hearing.** (1) *Requests for formal hearing by persons other than the cabinet:*

(a) Except as provided in paragraph (b) of this subsection [subsection (2) of this section], any person aggrieved by an order or determination of the cabinet may request in writing, pursuant to KRS 224.081(2), that a hearing be conducted by the cabinet. The right to demand such a hearing shall be limited to a period of thirty (30) days after the requester has had actual notice of the action, or could reasonably have had such notice.

(b) [(2) (a)] Any person issued a notice of noncompliance and order for remedial measures or an order for cessation and immediate compliance may request a de novo formal hearing with the cabinet and pay the proposed penalty assessment into escrow pursuant to Section 4(6) or Section 4(9) of this regulation [(7)(d)]. Such request shall be filed with the Docket Coordinator, Office of General Counsel, [sent by certified mail, return receipt requested, or by registered mail, to] at the cabinet's central office in Frankfort.

[(b)] The request for a hearing shall include a short and plain statement why the amount of the penalty proposed to be assessed, or the fact of the violation, or both, is being contested. The request for a hearing shall plainly identify the notice or order that the requester is contesting. The request shall not operate as a stay of any order or notice.

[(c) Failure to request a formal hearing in a timely manner shall be considered a waiver of the right to contest the

fact of the violation or the proposed penalty assessment. If no request for a formal hearing is made within fifteen (15) days after the mailing of the hearing officer's preliminary determination following the preliminary hearing, the cabinet shall forthwith enter and mail by certified mail, return receipt requested, or by registered mail, a final order finding:]

[1. That the person should be considered to have waived his or her right to a hearing;]

[2. That the findings and conclusions contained in the preliminary determination of the hearing officer should be deemed admitted; and]

[3. That the proposed penalty assessment, as adjusted by the hearing officer following the preliminary hearing, is due and payable to the cabinet within fifteen (15) days.]

*(2) Initiation of formal hearing by the cabinet.*

[(3)] (a) *The cabinet may initiate a formal hearing and may seek revocation or suspension of the permit and forfeiture of the bond [show cause proceedings] whenever:*

1. *It has reason to believe that a violation of KRS Chapter 350 or Title 405, Chapters 7 through 24 has occurred or is occurring; or*

2. *A permittee has failed to pay a civil penalty assessed in a final order of the cabinet or to undertake remedial measures mandated by a final order of the cabinet or to abate violations it was determined to have committed by a final order of the cabinet; or*

3. *The cabinet chooses to contest a preliminary hearing determination, or*

4. *The provisions of KRS 350.990(9) apply; or*

5. *The cabinet has reason to believe that additional remedies should be sought or that an order should be entered against any person to protect the environment or the health and safety of the public; or*

6. *The criteria of 405 KAR 10:050, Section 3(2) apply.*

(b) *The cabinet shall initiate a formal hearing and shall pursue revocation or suspension of the permit and forfeiture of the bond [show cause proceedings] whenever:*

[1. The cabinet has reason to believe that additional remedies should be sought or order entered against any person to protect the environment or the health or safety of the public; or]

1. [2.] *The permittee has willfully failed to comply with an order for cessation and immediate compliance; or*

2. [3.] *The cabinet has determined, pursuant to paragraph (c) [(f)] of this subsection, that a pattern of violations of any requirements of KRS Chapter 350, Title 405, Chapters 7 through 24, or any permit conditions exists or has existed, and that the violations were caused by the permittee willfully, or through unwarranted failure to comply with those requirements or conditions; or*

3. *The criteria of 405 KAR 10:050, Section 3(1) apply.*

[(c) The complaint issued by the cabinet may require a person to show cause why his permit should not be suspended or revoked or his bond forfeited. The cabinet shall:]

[1. If practicable, publish notice of the show cause order, including a brief statement of the procedure for intervention in the proceeding, in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county or counties of the surface coal mining and reclamation operations or coal exploration operation; and]

[2. Post the notice at the appropriate regional office of the department.]

[(d) If the permittee requests a hearing on the show cause order, a formal hearing shall be provided pursuant to this regulation. The cabinet shall give at least twenty-one

(21) days' written notice of the date, time, and place of hearing to the permittee and any intervenor and shall post notice at the appropriate regional office of the department.]

[(e) The cabinet may decline to issue a show cause order, or may vacate an outstanding show cause order, if it finds that, taking into account exceptional factors present in the particular case, it would be demonstrably unjust to issue or to fail to vacate the show cause order. The basis for this finding shall be fully explained and documented in the records of the case.]

(c) *Pattern of violations.*

1. [(f) The cabinet shall determine that a pattern of violations exists if it finds there were violations of the same or related requirements of KRS Chapter 350, Title 405, Chapters 7 through 24, or permit conditions, during three (3) or more inspections of the permit area within any twelve (12) month period.] The cabinet may determine that a pattern of violations exists or has existed, based on two (2) or more inspections of the permit area within any twelve (12) month period, after considering the circumstances, including:

a. [1.] The number of violations, cited on more than one (1) occasion, of the same or related requirements of KRS Chapter 350, Title 405, Chapters 7 through 24, or permit conditions;

b. [2.] The number of violations, cited on more than one (1) occasion, of different requirements of KRS Chapter 350, Title 405, Chapters 7 through 24, or permit conditions; and

c. [3.] The extent to which the violations were isolated departures from lawful conduct.

2. *The cabinet shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of KRS Chapter 350, Title 405, Chapters 7 through 24 or permit conditions during three (3) or more inspections of the permit area within any twelve (12) month period. If, after such review, the cabinet determines that a pattern of violations exists or has existed, the cabinet shall request a formal hearing pursuant to subsection (2) of this section.*

3. [(g)] In determining the number of violations within any twelve (12) month period, the cabinet shall consider only violations issued as a result of inspections carried out on or after May 3, 1978. The cabinet may not consider violations issued as a result of other inspections in determining whether to exercise its discretion under paragraph (c)1 [(f)] of this subsection, except as evidence of the willful or unwarranted nature of the permittee's failure to comply.

4. *Whenever a permittee fails to abate a violation contained in a notice of noncompliance or cessation order within the abatement period set in the notice or order or as subsequently extended, the cabinet shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this subsection and shall initiate a formal hearing as provided in this section.*

(3) At any formal hearing held pursuant to Section 5(1) or (2) of this regulation to which it is a party, the cabinet may seek any combination of the following:

(a) Permit suspension or revocation;

(b) Bond forfeiture;

(c) Civil penalties;

(d) A determination, pursuant to KRS 350.060, 350.085, and 350.130, that a person or persons shall not be eligible to receive another permit or conduct future operations;

(e) A determination, pursuant to KRS 350.990(9), that any director, officer, or agent of a corporation willfully

and knowingly authorized, ordered, or carried out a violation or failed or refused to comply with any final order; and

(f) Any and all other relief to which it may be entitled by KRS Chapters 224 and 350.

(4) [(h)] If the cabinet revokes or suspends the permit or exploration approval, the permittee shall immediately cease surface coal mining operations on the permit area shall:

(a) [1.] If the permit or exploration approval is revoked, complete reclamation within the time specified in the order; or

(b) [2.] If the permit or exploration approval is suspended, complete all affirmative obligations to abate all conditions, practices or violations, as specified in the order.

(5) *If a final order of the cabinet has been issued after a preliminary hearing, any issues adjudicated by such order shall be conclusive as between the parties to that hearing and shall not be readjudicated at any subsequent formal hearing between the same parties.*

(6) [(4)] *Administrative summons.* [Notice of hearing.] Upon request pursuant to subsection (1) [or (2)] of this section, or upon initiation by the cabinet pursuant to subsection (2) [(3)], the cabinet shall schedule a hearing before the cabinet to be held not less than twenty-one (21) days after the notice of demand for such a hearing, unless the person complained against waives in writing the twenty-one (21) day period. The administrative summons, including a notice of hearing, shall be served in accordance with Section 6 of this regulation [person, or sent by certified mail, return receipt requested, or by registered mail]; and shall include a statement of the time, place, and nature of the hearing; the legal authority for the hearing; reference to the statutes and regulations involved; and a short statement of the reason for granting of the hearing. For all formal hearings initiated pursuant to Section 5(2) of this regulation, notice shall also be mailed to any intervenors, shall be posted at the appropriate regional office of the cabinet and, if practicable, notice shall be published in a newspaper of general circulation in the area of the surface coal mining operation or coal exploration operation.

(7) [(5)] Prior to a formal hearing, and upon seven (7) days' written notice to all parties, [delivered personally or sent by certified mail, return receipt requested, or by registered mail,] the hearing officer may hold a pre-hearing conference to consider simplification of the issues, admission of facts and documents which will avoid unnecessary proof, limitation of the number of witnesses, and such other matters as will aid in the disposition of the matter. Final disposition of the matter may be made at such a conference by stipulation, settlement, agreed order, or default for non-appearance. The parties may hold such additional conferences as may be proper to resolve any issue in dispute.

(8) [(6)(a)] All formal hearings shall be de novo as to all issues of fact and law, provided that those findings previously adjudicated by a final order of the cabinet following a preliminary hearing shall be binding against any party or parties to the preliminary hearing leading to the final order. Any party to a hearing may be represented by counsel, make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. The cabinet may compel the attendance of witnesses and the production of documents by the issuance of subpoenas. An independent hearing officer shall preside at the hearing, shall keep order, and shall conduct the hearing in accordance with reasonable administrative practice. Oaths and affirmations shall [may]



be administered by the hearing officer or court reporter. [The pertinent] Provisions of 400 KAR 1:030, 400 KAR 1:040, and 400 KAR 1:050 [the Kentucky Rules of Civil Procedure] shall apply to cases before the cabinet, consistent with KRS Chapter 350 and these regulations. The hearing officer shall permit any party to represent himself. Failure to appear without good cause or failure to comply with any pre-hearing or interlocutory order of the hearing officer shall be grounds for a default.

(9) [(b)] Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts [, if the original is not readily available]. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the cabinet's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The cabinet's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(10) [(c)] Each formal hearing shall be recorded, and a transcript made available on the motion of any party or by order of the hearing officer. Unless otherwise agreed, the party requesting the transcript shall provide payment for the original, and all others desiring copies shall pay the cost thereof. The record of such hearing, consisting of all pleadings, motions, rulings, documentary and physical evidence received or considered, a statement or matters officially noticed, questions and offers of proof, objections and rulings thereon, proposed findings and recommended orders, and legal briefs, shall be open to public inspection and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.035. When certified as a true and correct copy of the testimony by the cabinet, the transcript shall constitute the official transcript of the evidence.

(11) [(7)] The hearing officer shall make a determination after hearing and based on a *preponderance of the* [substantial] evidence appearing in the record as a whole, setting forth whether the violation did in fact occur, the amount of the penalty recommended by the hearing officer, and remedial or compliance actions recommended to be taken by the permittee. The hearing officer may *recommend* [order] suspension or revocation of a permit or forfeiture of a bond if a *permittee has violated any provision of KRS Chapter 350 or Title 405, any permit condition or final order, including failure to pay a civil penalty assessed in a final order of the cabinet. The hearing officer shall recommend revocation of a permit and forfeiture of a bond if the permittee has demonstrated a pattern of viola-*

*tions or willfully failed to comply with an order for cessation and immediate compliance or the conditions of 405 KAR 10:050, Section 3(1) are met. The hearing officer may recommend, pursuant to KRS 350.060, 350.085, and 350.130 that a person or persons should not be eligible to receive another permit or conduct future operations. The hearing officer may recommend that [shall require] a person or permittee [in a recommended order, agreed settlement order, consent order, or stipulation,] be required to abate, repair, alleviate or [and] prevent violations of KRS Chapter 350, Title 405, Chapters 7 through 24, or any permit condition, which violations are found to exist on the basis of a preponderance of the [substantial] evidence.*

(12) [(8)] Subject to Section 5(5) of this regulation, the [civil penalties assessed for violations of KRS Chapter 350, Title 405, Chapters 7 through 24 or for violation of any permit condition shall be part of the affirmative case presented by the cabinet. The] hearing officer shall *recommend* [determine] the amount of a civil penalty based exclusively on the record of the hearing. The hearing officer may compute the amount of the penalty to be assessed irrespective of any computation offered by any party, and shall consider the same factors set forth above at Section 3(2) for consideration in setting proposed penalty assessments. The hearing officer shall state with particularity the reasons, supported by the record of the hearing, for the penalty assessed in his final written report.

(13) [(9)(a)] Except as provided in Section 9 [8] of this regulation for permit hearings, the hearing officer shall, within thirty (30) days of the close of the hearing record, make a report and a recommended order to the secretary. The report and recommended order shall contain the appropriate findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant a reasonable extension. The hearing officer shall *mail, postage prepaid*, [serve] a copy of his report and recommended order to [upon] all parties. The parties may file within seven (7) days of *mailing* [service] of the hearing officer's report and recommended order exceptions to the report and recommended order. There shall be no other or further submissions.

(14) The secretary shall consider the report and recommended order and any exceptions filed and pass upon the case within a reasonable time. The secretary may remand the matter to the hearing officer [for further deliberation], adopt the report and recommended order of the hearing officer as the cabinet's final order, or issue his or her own final order [based on the hearing officer's report and any exceptions thereto].

(15) [(b)] After completion of the hearing and filing of exceptions,] The cabinet shall *mail* [notify the parties in writing, by certified mail, return receipt requested, of] the final decision of the cabinet *to the parties*. If any extension of time is granted by the secretary for a hearing officer to complete his report, the cabinet shall notify all parties at the time of the granting of the extension.

(16) [(c)] The secretary shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) such extensions shall be granted.

(17) [(d)] A final order of the cabinet shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the cabinet and the facts and law upon which the decision is based.

(18) [(10)] There shall be no ex-parte communications between *the parties or representatives of the parties and the hearing officer.*

(19) [(11)] Any person aggrieved by a final order of the cabinet may seek judicial review as set forth in KRS 224.085 and 350.032(2).

**Section 6. Service.** Any proposed penalty assessment, notice of preliminary hearing, notice of formal hearing or other document required to be served in accordance with this section shall be served by one (1) of the following methods:

(1) The cabinet may place a copy of the document to be served in an envelope, and address the envelope to the person to be served at the address set forth in the caption or at the address set forth in written instructions furnished by the initiating party. The cabinet shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return receipt requested. The cabinet shall forthwith enter the fact of mailing in the record and make a similar entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, that fact shall be entered in the record. The cabinet shall file the return receipt or returned envelope in the record. Service by certified mail is complete upon delivery of the envelope or as provided by subsection (3) of this section. The return receipt shall be proof of the time, place and manner of service. To the extent that the United States postal regulations permit authorized representatives of local, state, or federal governmental offices to accept and sign for 'addressee only' mail, signature by such authorized representative shall constitute service on the addressee; or

(2) The cabinet may cause the document, with necessary copies, to be transferred for service to any person authorized by the secretary or by any statute or rule, other than by paragraph (1) of this subsection, to deliver them, who shall serve the documents, and the return endorsed thereon shall be proof of the time and manner of service; or

(3) As an alternative to other methods of service specified by statute or regulation, service of process may be made upon a person issued a permit by the cabinet or upon a person who has submitted an exploration notice pursuant to 405 KAR 8:020 by placing in the United States mail as certified mail, return receipt requested, a copy of the document directed to the named agent for service or the permittee as specified on the face of the permit at the permanent address specified in the permit application or by the permittee. Service is effective upon acceptance of the document by any person at the permanent address, upon refusal to accept the document by any person at the permanent address, or upon failure to claim the document prior to its return to the cabinet by the United States Postal Service. The return receipt shall be proof of the acceptance, refusal, or failure to claim the document.

(4) The methods of service specified by this regulation shall be supplemental to and shall be accepted as an alternative to any other method of service specified by other applicable law.

**Section 7. [6] Location of Hearings.** Preliminary hearings and formal hearings shall, upon written request filed within fifteen (15) days of the mailing of the proposed penalty assessment, by the cabinet or the operator to whom the notice or order was issued, be held at or reasonably close to the minesite, or at any other location acceptable to the parties. The appropriate regional office of the department [of Surface Mining Reclamation and Enforcement] nearest to the mine site shall be deemed reasonably close unless a closer location is requested by the cabinet or the

operator and agreed to by the hearing officer in his or her discretion.

**Section 8. [7.] Temporary Relief.** (1) Pending the completion of the investigation and hearings provided for in this regulation, the chief hearing officer may, *subject to review by the secretary*, grant temporary relief from any notice or order issued pursuant to 405 KAR 12:020 or permit determination of the cabinet. Any request for such relief shall be in writing and shall contain a detailed statement giving reasons why such relief should be granted. The chief hearing officer may grant such temporary relief after making a written finding that such relief is warranted, and shall state the reasons for his or her finding. The chief hearing officer shall grant or deny such relief expeditiously: Provided that, where the person requests temporary relief from an order for cessation and immediate compliance issued pursuant to KRS 350.130(1) or (4), the chief hearing officer shall grant or deny such temporary relief within five (5) days of receipt of such request.

(2) The chief hearing officer may grant temporary relief from notices and orders of the cabinet issued pursuant to 405 KAR 12:020, under such conditions as he or she may prescribe, if:

(a) A hearing on the request for temporary relief has been held in the locality of the permit area, or at any other location acceptable to the cabinet and the person to whom the notice or order was issued, in which all parties were given an opportunity to be heard;

(b) The person requesting such relief shows that there is substantial likelihood that the findings on the merits in a hearing conducted by the cabinet will be favorable to such person; and

(c) Such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(3) Where a person requests temporary relief from a permit or coal exploration determination, the chief hearing officer may, under such conditions as he or she may prescribe, pending final determination of the proceeding, grant such temporary relief as he or she deems appropriate, if:

(a) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief.

(b) The person requesting that relief shows that there is a substantial likelihood that he or she will prevail on the merits of the final determination of the proceeding; and

(c) The relief will not effect adversely the public health or safety, or cause significant, imminent environmental harm to land, air, or water resources; and

(d) The relief sought is not the issuance of a permit where a permit has been denied, in whole or in part, by the cabinet.

**Section 9. [8.] Review of Permit and Coal Exploration Determinations.** Review of determinations by the cabinet on permits and revisions and renewals thereof, concerning issuance; denial; imposition of conditions; application for transfer, sale, or assignment of rights; or applications for coal exploration shall be conducted pursuant to this regulation, provided that the cabinet shall issue its final decision within twenty (20) days after the hearing, as set forth in KRS 350.090(1). The burden of proof shall be on the party seeking to reverse the determination of the cabinet. Temporary relief may be requested pursuant to Section 8 [7] of this regulation.

Section 10. [9.] Orders to Abate and Alleviate. Whenever the secretary, pursuant to KRS 224.071, issues an order to abate and alleviate, the cabinet shall, as soon as possible, not to exceed ten (10) days thereafter, provide the person to whom the order was issued an opportunity to be heard. The holding of a hearing pursuant to this section shall not operate as a termination or stay of such an order or of the affirmative obligations imposed on any person by the order, unless the hearing officer shall find on the record that the obligations have been met or that the order was improper or inappropriate.

Section 11. [10.] Penalties. (1) Any person or permittee who violates any of the provisions of KRS Chapter 350, Title 405, Chapters 7 through 24, or a permit condition or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit, exploration approval or other authorization or who violates any determination or order promulgated pursuant to the provisions therein, may be assessed a civil penalty of not more than \$5,000 for each day during which such violation continues. A civil penalty of not more than \$5,000 for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4).

(2) Whenever a violation has not been abated during the abatement period set forth in a notice of noncompliance and order for remedial measures or in an order for cessation and immediate compliance, a civil penalty of not less than \$750 shall be assessed for each day during which such failure to abate [violation] continues, up to a maximum of thirty (30) days, *except that: [Provided that,]*

(a) *Such penalty for the failure to abate the violation shall not be assessed for more than thirty (30) days for each such violation. If the permittee has not abated the violation within the thirty (30) day period, the cabinet shall take appropriate action within thirty (30) days to ensure that abatement occurs or to ensure that there will not be a recurrence of the failure to abate; and*

(b) If the person to whom the notice or order was issued initiates review proceedings with respect to the violation, and the abatement requirements are suspended in a temporary relief proceeding pursuant to Section 8 [7] of this regulation, following a determination that the person requesting relief will suffer irreparable loss or damage from the application of the requirements, then the abatement period shall be extended until the date when the cabinet issues its final order concerning the violation in question.

(3) Any person who engages in surface coal mining and reclamation operations or coal exploration operations without first securing a permit or exploration approval according to Title 405, Chapters 7 through 24, shall be assessed a civil penalty of not less than \$5,000 nor more than \$25,000. Each day shall constitute a separate violation. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where a permittee through inadvertence has exceeded the boundaries of the permit in effect at that time.

(4) *Whenever a corporate permittee violates any provision of KRS Chapter 350 or regulations promulgated pursuant thereto, or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.*

(5) [(4)] Penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky or the Cabinet for Natural Resources and Environmental Protection by the cabinet's office of general counsel, or upon the secretary's request, by the attorney general.

(6) [(5)] (a) If any party seeks judicial review of a final order of the cabinet involving a penalty, the proposed penalty shall continue to be held in escrow until completion of the review. If no judicial review is sought, the escrowed funds shall be transferred to the cabinet for payment to the Kentucky State Treasurer as provided by law.

(b) If a final order of the cabinet or final decision of a reviewing court results in the reduction or elimination of the proposed penalty, the cabinet shall within thirty (30) days of receipt of the order refund the appropriate amount with interest at the statutory rate from the date of payment into escrow.

(c) If a final order of the cabinet or final decision of a reviewing court increases the penalty, the person to whom the notice or order was issued shall pay the difference to the cabinet within thirty (30) days after receipt of the order.

Section 12. [11.] Intervention and Consolidation. (1) Any person may petition in writing for leave to intervene at any stage of a proceeding under this regulation.

(2) A petitioner for leave to intervene shall incorporate in the petition a statement setting forth the interest of the petitioner and, where required, a showing of why that interest is or may be adversely affected.

(3) Unless the petitioner's interest is adequately represented by existing parties, the hearing officer shall grant intervention where the petitioner:

(a) Had a statutory right to initiate the proceeding in which he wishes to intervene; or

(b) Has an interest which is or may be adversely affected by the outcome of the proceeding.

(4) If neither paragraph (a) nor paragraph (b) of subsection (3) above applies, the hearing officer shall consider the following in determining whether intervention is appropriate:

(a) The nature of the issues;

(b) The adequacy of representation of petitioner's interest which is provided by the existing parties to the proceeding;

(c) The ability of the petitioner to present relevant evidence and argument; and

(d) The effect of intervention on the agency's implementation of its statutory mandate.

(5) Any person granted leave to intervene in a proceeding may participate in such proceeding as a full party or, if desired, in a capacity less than that of a full party. If an intervenor wishes to participate in a limited capacity, the extent and the terms of the participation shall be in the discretion of the hearing officer.

(6) When proceedings involving the same permittee or a common question of law or fact are pending before the cabinet, such proceedings are subject to consolidation pursuant to a motion by a party or at the initiative of the hearing officer.

Section 13. [12.] Costs and Expenses. (1) Any person may file a petition for award of costs and expenses including attorneys' fees reasonably incurred as a result of that person's participation in any proceeding held pursuant to this regulation which results in a final order of the cabinet.

(2) The petition for an award of costs and expenses, including attorneys' fees, must be filed with the *cabinet* [hearing officer who issued the final order] within forty-five (45) days of receipt of the *final* [such] order. Failure to make a timely filing of the petition may constitute a waiver of the right to such an award.

(3) A petition filed under this section shall include the name of the *party* [person] from *which* [whom] costs and expenses are sought and the following shall be submitted in support of the petition:

(a) An affidavit setting forth in detail all costs and expenses including attorneys' fees reasonably incurred for, or in connection with, the person's participation in the proceeding;

(b) Receipts or other evidence of such costs and expenses; and

(c) Where attorneys' fees are claimed, evidence concerning the hours expended on the case, the customary commercial rate of payment for such services in the area, and the experience, reputation and ability of the individual or individuals performing the services.

(4) Any person served with a copy of the petition shall have thirty (30) days from service of the petition within which to file an answer to such petition.

(5) Appropriate costs and expenses including attorneys' fees may be awarded *as follows*: [by the cabinet to any person as the secretary deems proper.]

(a) *To any person from the permittee, if the person initiates any administrative proceedings reviewing enforcement actions, upon a finding that, on or after May 18, 1982, a notice of noncompliance or order for cessation was issued for violations of KRS Chapter 350, Title 405, or permit conditions or that an imminent hazard existed, or to any person who participates in an enforcement proceeding where such a finding is made, if the hearing officer finds and the secretary concurs that the person made a substantial contribution to the full and fair determination of the issues; or*

(b) *To any person other than a permittee or his representative from the cabinet, if the person initiates or participates in any proceeding under KRS Chapter 350 upon a finding that the person made a substantial contribution to a full and fair determination of the issues; or*

(c) *To a permittee from the cabinet when the permittee demonstrates that the cabinet issued an order of cessation or a notice of noncompliance or initiated a formal hearing in bad faith and for the purpose of harassing or embarrassing the permittee; or*

(d) *To a permittee from any person where the permittee demonstrates that the person initiated a proceeding under this regulation or participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the permittee; or*

(e) *To the cabinet where it demonstrates that any person applied for review pursuant to this regulation or that any party participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the cabinet or the Commonwealth.*

(6) An award under this section may include reimbursement for:

(a) Costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred as a result of initiation and/or participation in a proceeding under this regulation; and

(b) Costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award before the cabinet.

Section 14. [13.] Judicial Review. The commencement of proceedings for judicial review of any determination of the cabinet shall not operate as a stay of the final order of the cabinet, unless specifically ordered by the court.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: April 23, 1984

RECEIVED BY LRC: April 23, 1984 at 4 p.m.

#### **PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance Amended After Hearing**

**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 or fails to pass 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

M. H. WILSON, Secretary

APPROVED BY AGENCY: April 3, 1984

FILED WITH LRC: May 15, 1984 at 2:15 p.m.

#### **CABINET FOR HUMAN RESOURCES Department for Social Insurance Amended After Hearing**

**904 KAR 2:006. Technical requirements; AFDC.**

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

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance pro-

gram of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with Title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

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

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

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, *forced separation of seven (7) days or more*, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, deportation or single parent adoption. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(3) Incapacity defined. Incapacity is any condition of mind or body which makes a parent physically or mentally unable to provide the necessities of life for his/her needy child. The condition must be anticipated to continue for at least thirty (30) days beyond the date of application and may be presumed to continue during a period in which the parent is undergoing diagnostic studies and/or evaluation of rehabilitation potential. Incapacity of the parent must prevent him/her from working in an occupation in which he/she previously engaged, or another job for which he/she is equipped and which is accessible in the county or community where he/she normally resides. If a job opportunity exists in the community or county, it shall be

considered accessible regardless of its immediate availability. Scarcity of work does not establish incapacity unless there is a causal relationship between the parent's unemployment and actual physical or mental disability. Lack of paid work experience does not preclude the parent from being considered incapacitated.

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

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

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

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

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

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

**Section 4. Age and School Attendance.** A child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program prior to or during the month of their nineteenth birthday. Full and part-time is defined in 904 KAR 2:016, standards for need and amount; AFDC. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to re-enter school.

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

**Section 6. Strikers.** (1) A family shall be ineligible for benefits for any month in which the natural or adoptive parent, with whom the child is living is, on the last day of such month, participating in a strike; and

(2) No individual shall be considered eligible for benefits for any month if, on the last day of such month, such individual is participating in a strike.

(3) Strike shall be defined to include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

**Section 7. Work Registration.** (1) Unless exempt under the criteria specified in Title IV of the Social Security Act and 45 CFR Section 224.20(b), an individual who has applied for or is receiving AFDC shall be ineligible for benefits if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause. Participation in a strike shall not constitute good cause.

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

- (a) An individual under age sixteen (16);
- (b) A child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation;
- (c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days;
- (d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days;
- (e) An individual age sixty-five (65) or over;
- (f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible;
- (g) A parent or other relative who cares for a child under six (6), and who personally provides full-time care of the child with only very brief and infrequent absences from the child;
- (h) A person so far remote from a work incentive project that his/her effective participation is precluded;
- (i) An individual who is employed not less than thirty (30) hours per week, in unsubsidized employment expected to last a minimum of thirty (30) days, except when there is a temporary break in such employment expected to last longer than ten (10) days.

Section 8. Cooperation in Child Support Activities. (1) Inclusion of a specified relative in the AFDC budget is dependent upon his/her cooperation in child support activities pursuant to 45 CFR 232.12 and refusal, except for "good cause," results in ineligibility of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

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

(3) Pursuant to 45 CFR Part 232.40, the Cabinet for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.

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

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

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

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

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

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

Section 9. Potential Entitlement for Other Programs. All applicants/recipients must apply for any statutory benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 10. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 11. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any child support owed for the child not to exceed the amount of AFDC payments made to the recipient.

[Section 12. Photo-Identification Card. [Effective August 1, 1983,] The payee for a person or persons determined to be eligible for AFDC shall be subject to the photo-identification card requirement. All payees for AFDC benefits shall be photographed and issued a photo-identification card which may [shall] be used as identification in cashing an AFDC check. All payees shall pose for their photo-identification cards, except that:]

[(1) Invalids, or other individuals, including the homebound, not able to pose for a photo-identification card because of physical or mental handicaps under criteria established by the cabinet, shall receive a suitable card to meet the requirement stated herein.]

[(2) Any religious belief, as stated by a member of the clergy of a person's established religion and verified through direct contact with such, which prohibits the photographing of an individual member, exempts that person from this requirement, and that person shall receive a suitable card to meet the requirement stated herein.]

[(3) A payee may be provided the opportunity to demonstrate good cause for not being photographed. If good cause is established, the provision set forth in [subsection (2) of] this section pertaining to issuance of a suitable [photo-identification] card will be followed.]

Section 12. [13] Provisions of this regulation shall be effective January 1, 1984 except for the deletion of Section 12 of this regulation relative to photo-identification card which shall be effective upon filing.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12 noon



# Proposed Amendments

## LEGISLATIVE RESEARCH COMMISSION Administrative Regulations (Proposed Amendment)

1 KAR 1:010. Form of administrative regulations; Administrative Register; codification.

RELATES TO: KRS Chapter 13A

PURSUANT TO: KRS 13A.070 [13.090]

NECESSITY AND FUNCTION: KRS Chapter 13A [13.090] requires the Legislative Research Commission to prescribe rules governing the manner and form in which administrative regulations shall be prepared. This proposed administrative regulation is to assure uniformity of all proposed administrative regulations submitted for publication in the Administrative Register.

Section 1. Subject to the exceptions set forth in KRS Chapter 13A [13.080], the administrative regulations required to be filed to be effective include every regulatory document, promulgated by an agency of the Commonwealth, which is intended to have general future applicability and legal effect and will be relied upon by the agency as authority for, or invoked or used in the discharge of, any of its functions or activities. An agency may incorporate by reference any material, the publication of which would be unduly cumbersome, bulky or expensive. The administrative regulation incorporating this material by reference shall include a summary of the subject matter, the date of incorporation by reference and information on how the material may be obtained. The material shall be regulatory only in the form existing at the date of incorporation by reference. The complete text of the material incorporated by reference shall be forwarded to the Legislative Research Commission at the time the proposed administrative regulation incorporating the material is forwarded. *If the material incorporated by reference is to be amended, repealed or rescinded, the administrative body shall amend the administrative regulation through the amendment process set out in KRS Chapter 13A and this administrative regulation.*

Section 2. Each proposed administrative regulation forwarded to the Legislative Research Commission and each duplicate shall be typewritten or mechanically reproduced on a separate sheet of white paper size 8½ x 11 inches. The Cabinet, [ and] Department and division of the administrative body shall be listed at the top of the first [each] page. A space at least two (2) inches square in the upper right hand corner shall be left clear for the Legislative Research Commission's stamp showing the date and time of receipt of the proposed administrative regulation. Each proposed administrative regulation shall include in the upper left hand corner the statute number to which the administrative regulation relates or which will be affected by the administrative regulation, and a citation of the statutory authority pursuant to which it was adopted. Beneath these citations shall be a brief statement which sets forth the necessity for issuing the administrative regulation and a summary of the functions intended to be implemented by the administrative regulation. A proposed administrative regulation affecting an existing administrative regulation shall set forth the number of the administrative regulation being amended, superseded or

repealed as the case may be. No administrative regulation may be amended by reference to a section only. The proposed amendment shall contain the full text of the administrative regulation being amended. Each proposed administrative regulation shall bear the date of approval of the administrative body [adoption]. The original copy shall be signed by the proper authority of the promulgating [adopting] administrative body and by an attorney, officially representing the agency, certifying that he has examined and approved the proposed administrative regulation as to form [and legality]. Each proposed administrative regulation shall state the place, time and date of the public hearing scheduled and the manner in which interested persons may submit their notification of attending the public hearing [views or request a hearing] pursuant to KRS Chapter 13A [13.085(4)].

Section 3. In proposed amendments to an existing administrative regulation [s amending a regulation that has become effective after July 1, 1974], the new wording shall be underlined and the deleted wording shall be placed in brackets. Generally the new wording should precede the bracketed wording but there may be exceptions for the sake of clarity.

Section 4. The Administrative Register shall be published the first day of each month and shall include all proposed administrative regulations received by the Legislative Research Commission by noon on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is noon on the working day which immediately precedes the Saturday, Sunday, or holiday.

Section 5. The administrative body shall, [ immediately] upon receipt from public participants of their intent to attend the public hearing, notify the Regulations Compiler by telephone that the public hearing will be held. If no written notice of intent to attend the public hearing is received at least five (5) days before the hearing, the administrative body shall immediately notify the Regulations Compiler by telephone and follow-up letter that the public hearing has been cancelled [of a request for a public hearing pursuant to KRS 13.085, notify in writing the Administrative Regulations Compiler of the date, time and place of the scheduled hearing]. Following completion of the hearing, the administrative body shall [promptly] forward to the Legislative Research Commission within fifteen (15) days after the public hearing a copy of the administrative regulation [accompanied by a statement] indicating any changes in the original wording resulting from the hearing [, a summary of any comments submitted at the hearing,] and a statement of [affirmative] consideration as required by KRS 13A.280 [13.085(4)]. Upon receipt of these documents, the proposed administrative regulation will be submitted to the appropriate review subcommittee of the Legislative Research Commission. [The Legislative Research Commission shall act on a proposed regulation within forty (40) days of publication unless a public hearing is scheduled.]

Section 6. The Administrative Regulations Compiler shall codify prior to publication all administrative regulations received by the Legislative Research Commission.

The numbering within the body of the *administrative* regulation shall be the responsibility of the promulgating body. However, the Compiler retains the authority to divide or renumber an *administrative* regulation if necessary for clarity. The following formula shall be employed by the administrative body in the numbering of each *administrative* regulation. Each section shall begin with the word "Section" followed by an arabic number. Subsections shall be designated by an arabic number in parentheses. *Paragraphs shall be designated by letters of the alphabet in parentheses, e.g., (a), (b), (c), etc. Subparagraphs shall be designated by an arabic number followed by a period, e.g., 1., 2., etc.*

Section 7. (1) An administrative body shall attach to the back of the original and each copy of a proposed administrative regulation the following forms:

- (a) Regulatory impact analysis;
  - (b) If the administrative regulation was not tiered, a written statement as to why tiering was not used; and
  - (c) Fiscal note if the administrative regulation relates to any aspect of local government or any service provided thereby.
- (2) The forms required in subsection (1) of this section are hereby adopted by reference.

REPRESENTATIVE BOBBY H. RICHARDSON  
SENATOR JOE PRATHER  
Co-Chairmen  
VIC HELLARD, JR., Director

APPROVED BY AGENCY: May 2, 1984

FILED WITH LRC: May 3, 1984 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 10 a.m., in the Capitol Annex. Those interested in attending this hearing shall contact: Susan C. Harding, Regulations Compiler, Legislative Research Commission, Room 46, State Capitol, Frankfort, Kentucky 40601.

#### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY (Proposed Amendment)

11 KAR 5:010. Authority, purpose, name of grant programs.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS [13.082,] 164.748(4)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth the purpose and names of these grant programs.

Section 1. The State Student Incentive Grant Program (SSIG) authorized under KRS 164.740 to 164.764 provides eligible Kentucky residents grant assistance in order to pursue eligible courses of study at Kentucky educational institutions.

Section 2. The Kentucky Tuition Grant Program (KTG) authorized under KRS 164.780 and 164.785 provides qualified Kentucky residents who bear the major costs of attending accredited independent colleges and universities

within the Commonwealth a tuition or fees grant as supplementary aid where need exists.

Section 3. Awards from the State Student Incentive Grant Program, the Kentucky Tuition Grant Program, or a combination of the two (2) may be referred to as KHEAA grants.

Section 4. The KHEAA grant programs are administered in accordance with procedures established by the authority and delineated in the 1984-85 [1983-84] KHEAA Grant Manual, incorporated herein by reference. A current copy of the manual shall be maintained on file with the Legislative Research Commission. Copies of the manual may be obtained upon request to the authority.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: April 25, 1984

FILED WITH LRC: May 15, 1984 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing regarding this regulation is scheduled to be held in Room 107 of the New Capitol Annex, on Friday, June 29, 1984, at 1:30 p.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601.

#### DEPARTMENT OF PERSONNEL (Proposed Amendment)

101 KAR 1:010. Definitions.

RELATES TO: KRS 18A.005 [18.110]

PURSUANT TO: KRS 18A.075 [13.082, 18.170]

NECESSITY AND FUNCTION: KRS 18A.075 [18.170] requires the State Personnel Board to adopt comprehensive rules consistent with the provisions of KRS Chapter 18A. This rule is necessary to define key terms used in the rules which are not defined in KRS Chapter 18A (18A.005) [(18.110)].

Section 1. The following words and phrases when used in these rules have the following meanings unless otherwise clearly indicated in the context:

(1) "Act," "The Act," "Merit System Act" means House Bill 199 approved by the Governor March 17, 1960, and House Bill 120 approved by the Governor on February 22, 1972 (and other amendments adopted since the original Act);

(2) "Personnel officer" means that employee of each agency immediately responsible for the personnel administration of the agency;

(3) "Probation" means the first six (6) months of service following appointment, promotion, reemployment, or reinstatement, except a reinstatement ordered by the board, to any position which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred;

(4) "Public hearing" means a meeting of the board open to the public, held after at least five (5) calendar days notice has been given thereof, at which any interested party may appear and be heard;



(5) "Public notice" means a written notice on a bulletin board accessible to the public during business hours and other publicity as may be deemed necessary to assure responsible notice to those concerned. A copy of such notice shall be filed with the Secretary of State as a public record.

(6) "Appointing authority" means the agency head or any person formally designated by him as authorized to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, position actions, dismissals, suspensions, layoffs, and disciplinary actions. Such designation shall be signed by the agency head and by the designee and shall be filed with the Commissioner of Personnel prior to exercise of the delegated authority by the designee. Such authorization shall remain effective only during the incumbency of the agency head making the designation.

THOMAS C. GREENWELL, Commissioner  
PHILIP TALIAFERRO, Chairman

APPROVED BY AGENCY: April 13, 1984

FILED WITH LRC: April 27, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 11 a.m. in Room 381 of the Capitol Annex. Those interested in attending this hearing shall contact: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

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

**301 KAR 2:111. Deer and turkey hunting on special areas.**

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390

PURSUANT TO: KRS 13A.350[13.082]

NECESSITY AND FUNCTION: This regulation pertains to the deer gun and archery season and the turkey archery season on special deer areas. 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 deer and turkey within reasonable limits based upon an adequate supply.

Section 1. Deer and Turkey Season on Special Deer Areas. Unless stated herein, statewide deer gun and archery season regulations apply.

(1) Land Between the Lakes Wildlife Management Area located in Trigg and Lyon Counties.

(a) Deer archery hunts (either sex): White-tailed deer only. October 3 [5] through November 10 [6] and December 8 [10] through December 31.

(b) Quota deer hunts:

1. Quota gun hunts: White-tailed or fallow deer as specified on permit. Antlered, antlerless, or any deer as specified on permit. November 14, 17-18, 20-21, and 28-29 [10, 16-17, 22-23, and 26-27].

2. Quota archery hunts: Only antlerless white-tailed or

fallow deer unless otherwise specified on the permit, in that portion of the Environmental Education Area [Center] designated as hunt area 17. November 14, 17-18, 20-21, 24-25 and 28-29 [10, 12-13, 16-17, and 22-23].

(c) Turkey archery hunts: Gobblers only with visible beards. Statewide season limits only. October 3 [5] through November 10 [6] and December 8 [10] through December 31. Hunter must have a valid wild turkey permit in possession when a turkey is taken. Turkey hunting will not be allowed after a hunter has harvested a deer.

(d) Quota deer gun hunt for youths only: One (1) white-tailed deer of either sex on November 24-25 [12-13]. Hunting is restricted to persons at least ten (10) years of age but who have not reached their 16th birthday. Each youth must be accompanied by an adult and must have a valid Kentucky hunting license, a state deer permit, a Land Between the Lakes Youth Hunt Permit and a state approved Hunter Safety Certificate.

(e) Bag limits: The deer bag limit for the Kentucky portion of Land Between the Lakes is two (2) deer; provided only one (1) deer of either sex is taken during the Land Between the Lakes deer archery season October 3 [5] through November 10 [6] and December 8 [10] through December 31, and one (1) deer is taken during any quota gun or quota archery hunts at Land Between the Lakes. Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas, may take a second deer at Land Between the Lakes by means of any type of legal weapon permitted on this area. Persons who take their first deer at Land Between the Lakes are eligible to take their second deer elsewhere in Kentucky including other designated special deer areas by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state, *except that three (3) may be taken if one (1) was taken during the Bernheim Forest Refuge Hunt on February 3-6, 1984.*

(f) Areas open and closed to hunting: State line to Barkley Canal is open to hunting except for developed public use areas (unless posted as open), safety zones and posted areas.

(g) Youth and quota hunt applications: A drawing by computer will select hunters for each of these hunts. Application forms are available from, and must be submitted to, Quota Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231. Completed applications must be received by the wildlife staff at the Land Between the Lakes Administrative Office no later than 3:30 p.m. on the last Wednesday in July.

(h) Checking in and out:

1. Quota gun hunters. All gun hunters, including those camping in Land Between the Lakes, must check in prior to hunting, but will not be required to check out unless a deer is harvested. Hunters must check in between 9:00 a.m. and 5:00 p.m. the day before the hunt, or after 4:00 a.m. on hunt days. Check stations will be open from 4:00 a.m. to 6:30 p.m. (CST) on hunt days.

2. Archery hunters. Archery hunters are not required to check in or out except on quota hunts. All deer and turkey harvested must be checked out.

(i) Permits and tagging requirements:

1. Permits. A Land Between the Lakes hunting permit is required for each hunter participating in the deer and turkey archery season and an L.B.L. computer card permit is required for each hunter participating in the quota gun or quota archery deer hunts.

2. Tags. All harvested deer and turkey must be tagged

with a Land Between the Lakes permanent game tag before being removed from the area. In addition, all deer and turkey harvested must have the state tag attached. Hunters eligible to harvest a second deer at Land Between the Lakes must present their stamped (at a check station) and punched "A" tag portion of their Kentucky first deer permit. They will be issued a free Land Between the Lakes permanent game tag which must be accompanied by a Kentucky second deer permit to be valid. Permanent Land Between the Lakes game tags will be attached to all harvested deer and turkey at Land Between the Lakes check stations.

(j) Prohibited and permitted weapons. All deer hunting weapons listed in the statewide deer gun and archery season regulation are permitted except for crossbows and muzzle-loading handguns.

(k) For Land Between the Lakes general hunting rules refer to 301 KAR 2:050.

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

(a) Deer archery and muzzle-loading rifles (either sex): September 22 [24] through October 5 [7].

(b) Deer gun and archery (either sex): October 6 [8] through November 18 [20] and December 1 [3] through December 31 on selected areas and January 1 through January 13, 1985. 1984 deer tags will be valid during the January portion of this season.

(c) Turkey archery hunts: *Gobblers only with visible beards. Statewide season limits apply. September 22 through October 5. Only those turkey hunters who possess valid deer and turkey hunting permits are permitted to hunt turkey. Turkey hunting will not be permitted after a hunter has harvested a deer. This rule applies only when deer and turkey are hunted concurrently and not during the spring turkey hunting season.*

(d) [(c)] Bag limits: The bag limit for Kentucky license holders hunting on Fort Campbell will be two (2) deer of either sex taken by either gun or bow. Prior to November 18 [20], once a hunter has taken his first deer on Fort Campbell, he is not eligible for weekend drawings (i.e., he can only hunt on Wednesdays through Fridays or on weekend standby) until the reopening of deer hunting on December 1 [3]. At that time if he has not harvested his limit he is eligible for the weekend drawing until he has taken his limit. Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas, may take a second deer at Fort Campbell by means of any type of legal weapon permitted on this area. Persons who take their first deer at Fort Campbell are eligible to take their second deer elsewhere in Kentucky including other designated special deer areas by means of any legal deer hunting weapon. Each deer taken must be tagged with a valid Kentucky first or second deer tag. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state, *except that three (3) may be taken in one (1) was taken during the Bernheim Forest Refuge Hunt on February 3-6, 1984.*

(e) [(d)] Permits and tagging requirements:

1. Deer hunters must purchase a fifteen dollar (\$15) post hunting and fishing permit which includes a Fort Campbell deer tag, at building #6645. All Fort Campbell deer hunters must also have a valid Kentucky deer permit. Persons sixty-five (65) years of age or older are not required to purchase a post hunting and fishing permit.

2. All deer taken on post by Kentucky hunters must have a valid Kentucky first or second deer tag attached to the carcass and the "A" tag portion of the permit stamped by post authorities at building #6645.

(f) [(e)] Prohibited and permitted weapons: Handguns and crossbows are prohibited. Center-fire rifles of .240 caliber or larger will be permitted only in areas west of Palmyra Road. Hunting arrows must be not less than twenty-four (24) inches in length, equipped with broadhead barbed blades not less than seven-eighths (7/8) inch nor more than two (2) inches wide for single two (2) edged blades, or not more than three and one-half (3½) inches in circumference for three (3) or more blades. The minimum weight for all broadheads is 100 grains. Explosive heads are prohibited on arrows.

(g) [(f)] Hunter safety certificate: All deer hunters between the ages of twelve (12) and sixteen (16) must possess a hunter safety certificate.

(h) [(g)] Special clothing requirements: All deer gun hunters must wear a cap and jacket or panels of daylight fluorescent orange totaling 500 square inches.

(3) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties:

(a) Deer archery hunt (either sex): October 13 [1] through November 11 [October 30].

(b) Deer gun hunt (either sex): November 24-25 [26-27], December 8-9 [10-11] and December 15-16 [17-18].

(c) Bag limits: The post bag limit is one (1) deer of either sex. Persons who have taken their first deer elsewhere in Kentucky, including other designated special deer areas may take their second deer at Fort Knox by any legal weapon permitted on this area. Persons who take their first deer on Fort Knox are eligible to take their second deer elsewhere in Kentucky, including other designated special deer areas, by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state, *except that three (3) may be taken if one (1) was taken during the Bernheim Forest Refuge Hunt on February 3-6, 1984.*

(d) Applications: Separate applications are required for archery and gun hunts. For inquiries concerning deer hunting call AC502-624-7311.

1. Archery hunts: Civilians not working on post must apply for weekend archery hunts by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than July 14 [16] or later than July 29 [31] to be considered for the drawing for weekend archery hunts. Applicants drawn will be assigned two (2) weekends of archery hunting. Applications must include type of hunt (archery), name and address of each hunter, a self-addressed stamped envelope and a fifteen (15) dollar money order, certified check or cashier's check for each hunter, made payable to Treasurer of the United States. Mail applications to Morale Support Activities, Hunt Control Office, Fort Knox, Kentucky 40121. Weekday archery hunting will be on a first come, first served basis. Sign-up for weekday hunts must be made forty-eight (48) hours in advance at Hunt Control Headquarters Building 1060.

2. Gun hunts: Civilians not working on post must apply for a two (2) day gun hunt by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than August 11 [13] or later than August 26 [28] to be considered for a random drawing. Hunters will be assigned one (1), two (2) day hunting period. Applications must contain the type of hunt (gun), names and addresses of each hunter, a self-addressed stamped envelope and a fifteen (15) dollar

money order, certified check or cashier's check for each hunter, made payable to Treasurer of the United States. Mail applications to Morale Support Activities, Hunt Control Office, Fort Knox, Kentucky 40121.

(e) Check stations and validation of state deer permit: All deer taken during the archery season must be checked in at Building 1060. Deer taken during the gun hunts must be checked in at Building 7331 on 9th Avenue. Deer tags must be stamped "Taken at Fort Knox" to be valid.

(f) Hunting hours: One-half (½) hour before sunrise until 5:00 p.m. local prevailing time. Hunters must clear hunt control by 7:00 p.m.

(g) Prohibited and permitted weapons: Only breech-loading and muzzle-loading shotguns of twelve (12) gauge maximum and twenty (20) gauge minimum firing a single projectile, and muzzle-loading rifles of .38 caliber to .58 caliber firing a single projectile will be permitted. Crossbows are prohibited.

(h) Hunter safety certificates: All deer hunters under the age of sixteen (16) must possess a hunter safety certificate.

(4) Blue Grass Ordnance Depot Activity located in Madison County:

(a) Deer archery hunts: During the month of October with specific dates designated by the Activity Commander and subsequently announced through the news media.

(b) Deer gun hunts: During the month of November with specific dates designated by the Activity Commander and subsequently announced through the news media.

(c) Bag limits: The post bag limit is one (1) deer of the sex announced on the day of the hunt. Persons who have taken their first deer elsewhere in Kentucky, including other designated special areas, may take their second deer on Blue Grass Ordnance Depot by any legal weapon permitted on this area. Persons who take their first deer on Blue Grass Ordnance Depot are eligible to take their second deer elsewhere in Kentucky, including other designated special deer areas by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state, *except that three (3) may be taken if one (1) was taken during the Bernheim Forest Refuge Hunt on February 3-6, 1984.*

(d) Applications: Hunters may submit applications for the archery hunts or the gun hunts, but not for both. Applications for the drawings must be made on a postcard with only one (1) hunter allowed per card. More than one (1) postcard per individual will disqualify the applicant. When a husband and wife or adult and juvenile or a *maximum of three (3) people* desire to hunt together, the required information may be written on individual three (3) inch by five (5) inch cards, stapled together, and mailed in one (1) envelope. Each applicant must furnish name and address (including zip code), telephone number and specify whether gun or archery hunting is desired. Hunters, their hunting dates and areas will be selected by a drawing. All cards or envelopes must be postmarked no earlier than August 10 or later than September 9 [11] to be eligible for the drawing. A fifteen (15) dollar per person fee will be charged for hunting payable on the assigned hunting date. Mail all applications to: Commander, Lexington-Blue Grass Depot Activity, Attention: Chairman, Wildlife Management Subcommittee, Lexington, Kentucky 40511.

(e) Age limits: No one under the age of fourteen (14) will be allowed to hunt. Hunters under sixteen (16) must be accompanied by an adult.

(f) Prohibited and permitted weapons: Only breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile are permit-

ted. Only longbows and compound bows having a pull weight of forty (40) pounds or greater are permitted. Crossbows are prohibited.

(g) Harvest quota: Hunting will be discontinued whenever the designated deer harvest quota is reached or upon the direction of the Activity Commander.

(h) Hunter Safety Certificates: All deer hunters under the age of sixteen (16) years must possess a hunter safety certificate.

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

(a) Deer quota gun hunts: Open to either sex deer beginning the first Saturday in November and lasting for two (2) consecutive days and either sex deer beginning the third Saturday in November and lasting for two (2) consecutive days.

(b) Drawing: Only those persons selected by a drawing will be allowed to hunt.

(c) Bag limits: The refuge bag limit is one (1) deer of either sex. Persons who have taken their first deer elsewhere in Kentucky, including other designated special areas, may take their second deer on Reelfoot National Refuge by any legal weapon permitted on this area. Persons who take their first deer on Reelfoot National Refuge are eligible to take their second deer elsewhere in Kentucky, including other designated special deer areas by means of any legal deer hunting weapon. Under no circumstances may an individual hunter take more than two (2) deer anywhere in the state, *except that three (3) may be taken if one (1) was taken during the Bernheim Forest Refuge Hunt on February 3-6, 1984.*

(d) Check stations: All deer hunters are required to check in and out at designated check stations.

CARL E. KAYS, Commissioner  
DR. ROBERT C. WEBB, Chairman  
G. WENDELL COMBS, Secretary

APPROVED BY AGENCY: May 3, 1984

FILED WITH LRC: May 3, 1984 at 2:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 2 p.m. in the meeting room of the Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: William D. Graves, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET Department of Education Bureau of Administration and Finance (Proposed Amendment)

702 KAR 1:005. Textbook program plan.

RELATES TO: KRS 156.400 to 156.476, 157.100 to 157.190

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

NECESSITY AND FUNCTION: KRS 156.400 to 156.476 sets up the Kentucky Textbook Commission and the statutory policies and procedures for the adoption, purchase, use and distribution of textbooks to be utilized in the schools of the Commonwealth. KRS 157.100 to 157.190 require that the Department of Education pur-

chase textbooks for certain grades and set up management procedures for the textbook program. This regulation establishes the standards and procedures which are necessary to carry out such statutory requirements dealing with textbooks.

Section 1. [Effective July 15, 1982, and thereafter,] The subjects included in the "Program of Studies for Kentucky Schools" shall be arranged into six (6) groups as follows: Group I—Social Studies K-12; Group II—Language Arts K-12 (except Reading K-8 and Literature K-12); Group III—Science K-12; Group IV—Mathematics K-12; Group V—Reading K-8, Music K-12, Industrial Arts 7-12, Business Education 7-12, (except *Introduction to Computers 9-11, Data Processing I 11-12, Data Processing II 12, Word Processing I 11-12, and Word Processing II 12*), Vocational Education 7-12 (except *Air Conditioning 10-12, Auto Body Repair 10-12, Auto Mechanics 10-12, Electricity 10-12, Electronics 10-12, Machine Shop 10-12, and Radio/TV Repair 10-12*), and Trades and Industry 11-12; and Group VI—Literature K-12, Art Education K-12, Foreign Language 3-12, Driver Education 9-12, and Health and Physical Education K-12.

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

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

- (a) Reclaimed by publishers;
- (b) Transferred to local school districts, institutions of higher education, or other appropriate agencies; or
- (c) Sold by the State Board of Education.

All sales and transfers shall be properly receipted and filed in the Division of [Free] Textbook Services. Official adoption samples, however, must be disposed of in accordance with KRS 156.470.

Section 3. (1) Each adoption year before the September listing, the State Textbook Commission shall conduct a hearing for the purpose of interviewing publisher agents and representatives and providing an opportunity for agents and representatives to make presentations on textbooks submitted for listing.

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

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

- (a) Name and address of the person or organization requesting the hearing;
- (b) Title, author and copyright date of the textbook in question;
- (c) Sections of the textbook being questioned and nature of concern;
- (d) Anticipated problems that would be created if the textbook is placed in use; and
- (e) Suggested alternatives.

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

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

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

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

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

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

(5) [(4)] All bidders for textbook contracts shall file with the Division of [Free] Textbook Services the name of a Kentucky person, firm, or corporation upon whom process may be served. The name of the process agent, together with such other information concerning said agent, shall be made available to the proper authorities for the purpose of serving process.

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

Superintendent of Public Instruction. The request need not be in any prescribed form but shall clearly state:

- (1) The publisher that will conduct the pilot;
- (2) The purpose of the pilot;
- (3) The subject and grade levels in which the pilot will be conducted;
- (4) The schools where the pilot will be conducted;
- (5) The name of the school district staff member supervising the pilot;
- (6) Beginning and ending date of pilot; and
- (7) Brief summary of evaluation procedures.

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

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

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

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

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

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

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

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

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

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

(7) Publishers shall provide thirty (30) days prior to date of the commission meeting a sample textbook and a summary description of the revised edition that compares it

with the textbook and/or program presently on the State Multiple List.

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

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

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

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

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

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

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

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

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

(c) Kindergarten programs;

(d) Special education classes; and

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

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

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

(a) Pre-printed organized materials including reference books, pamphlets, magazines, weekly readers, workbooks,



worktexts, textbooks not on the State Multiple List, kits, master units, programmed instructional materials, and similar qualifying materials.

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

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

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

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

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

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

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

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

(6) *Regulations relating to the purchase of media materials, audio-visual equipment and all other instructional materials and supplies by local school districts shall contain the following requirements:*

(a) *Items to be purchased should be identified as consumable or non-consumable;*

(b) *Each local school district shall establish a per pupil allocation of funds to purchase equipment, materials and supplies, and of this allocation a portion shall be for consumable items and the remainder for non-consumable items;*

(c) *Local school districts may use all or a portion of student fees as part of the per pupil allocation of funds to purchase instructional equipment, materials and supplies;*

(d) *Each local school district shall survey teachers to determine their needs for instructional equipment, materials, and supplies. The local district board of education shall take into consideration the survey of teacher needs in the purchase of instructional equipment, materials, and supplies; and*

(e) *A financial report on allocations to and expenditures for instructional equipment, materials and supplies shall be*

*prepared annually by the school district and shall be a public record.*

Section 13. (1) The school districts shall make textbook adoptions for all the subjects in the six (6) adoption groups. The number of adopted textbooks, however, shall not exceed three (3) textbooks and/or programs per subject in any one (1) grade in grades kindergarten through eight (8) and ten (10) textbooks and/or programs per subject in any one (1) grade in grades nine (9) through twelve (12).

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 16. (1) Local school districts shall establish and maintain a textbook rental program for grades nine (9) through twelve (12) by renting to pupils all currently adopted, state-provided textbooks purchased prior to July 1, 1984, and purchasing and renting textbooks from each scheduled incoming adoption group beginning in 1984 with Adoption Group IV (Mathematics). This does not prohibit local districts from using local funds to provide a free textbook program.

(2) The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall establish annually a maximum textbook rental fee based on the cost of the adoption group scheduled for purchase and the cost of replenishments. Beginning with the 1984-85 school year, the maximum rental fee shall be based on four (4) dollars per two (2) semester course that requires the use of basal textbooks. Local school districts, at their option, may charge a deposit fee not to exceed two (2) dollars per two (2) semester course to be refunded if textbooks are returned in satisfactory condition. Textbook rental fees for pupils enrolled for less than a full school year shall be prorated based on the number of days of membership.

(3) The school district's central office shall requisition textbooks from the State Multiple List for the grades nine (9) through twelve (12) rental program from the Division of Textbook Services. The Division of Textbook Services shall process the requisitions to the different publishers. The textbooks are to be shipped to the local school districts. Publishers shall invoice the local school districts.

(4) Local school districts shall maintain an exacting accountability system subject to audit. All textbook rental monies shall be receipted to pupils and turned in to the school district's central office. The central office shall establish separate accounting for the textbook program and make payment to publishers for textbooks for grades nine (9) through twelve (12).

(5) School districts shall purchase a complete basal textbook program for grades nine (9) through twelve (12) the first year of each scheduled adoption for each subject in the adoption group for which basal textbooks are appropriate.

(6) The Division of Textbook Services shall provide local districts with requisition forms, an annual inventory report, and the information necessary for districts to maintain an efficient textbook rental program for grades nine (9) through twelve (12).

(7) All textbook statutes and regulations governing the textbook program for elementary and secondary schools not invalidated by the textbook rental program statutes and regulations shall be applicable to the textbook rental program for grades nine (9) through twelve (12).

Section 17. [16.] (1) The Division of [Free] Textbook Services shall provide Annual Report and requisition forms to all school districts. These forms shall be prepared in duplicate. The original copy shall be sent to the Division of [Free] Textbook Services and the second copy retained by the district. The Annual Report (FT-8) and requisition (FT-9) may be filed after March 1 and shall be filed by June 30.

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

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

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

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

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

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

(8) A complete record shall be kept by the school district for all state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12) [free textbooks] delivered to teachers or principals of the different schools. Form FT-5 or a comparable form shall be used. Form FT-5 will be furnished upon request in quantities equal to number of teachers or principals.

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

Section 18. [17.] The Division of [Free] Textbook Services shall encourage and facilitate the transfer of surplus textbooks that may be in local school districts' textbook depositories. The Division of [Free] Textbook Services shall, at appropriate times during a school year, solicit from the districts a list of surplus textbooks and mail to all districts a master list of available textbooks. Districts that need textbooks on the master list will request the Division of [Free] Textbook Services to initiate a transfer. The district having possession of the surplus textbooks requested by a district shall ship the books and notify the Division of [Free] Textbook Services the number of books shipped and cost of transportation. Upon receipt of the books, the receiving district will notify the Division of [Free] Textbook Services. The Division of [Free] Textbook Services shall inter-account funds by transferring the cost of the textbooks and transportation cost from the receiving district to the shipping district's textbook account. The cost to the receiving district of all transferred textbooks shall be fifty percent (50%) of the wholesale price plus transportation.

Section 19. [18.] Pupils or parents shall compensate school districts for textbooks lost, damaged, or destroyed while in their possession and the compensation shall be as follows: 100 percent of retail cost for one (1) and two (2) year old textbooks; seventy-five percent (75%) of retail cost for three (3) and four (4) year old textbooks; and

twenty-five percent (25%) of retail cost for five (5) and six (6) year old textbooks.

Section 20. [19.] (1) Textbooks to be rebound shall not qualify for publisher replacement under Section 8 of this regulation. Textbooks with five (5) or more years of use shall be rebound only in extreme cases of shortages and emergencies.

(2) Textbooks in need of rebinding shall be reported on Form FT-16 to the Division of [Free] Textbook Services with the Annual Report. After approval, the request is forwarded to the bindery under contract with the Commonwealth of Kentucky. The bindery shall pick up books or instruct the districts to ship the books collect. Rebound books shall be returned to the school district by the bindery with shipping charges prepaid. The bindery shall mail the invoice to the Division of [Free] Textbook Services for payment. Such payments shall not be charged to the textbook account of local school districts.

Section 21. [20.] (1) District superintendents shall make an accurate count of all *state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12)* [free textbooks] under adoption that are suitable for classroom instruction and report same on the Annual Report (FT-8).

(2) The Division of [Free] Textbook Services shall file an annual exchange report with publishers identifying the titles and number of textbooks purchased to replace textbooks no longer suitable for classroom instruction. A claim requesting credit memorandums in the amount of the difference between the wholesale and exchange price for each textbook purchased shall be filed with publishers. The credit memorandums shall be used in payment of invoices for textbooks purchased from said publishers during the next purchase year. Publishers shall relinquish their claim for exchange textbooks if not claimed within a reasonable period of time after replacement.

(3) The local superintendent shall assume responsibility for the disposal of unclaimed textbooks no longer suitable for classroom instruction and may dispose of them in the following manner:

(a) Make the unclaimed textbooks available to teachers for use in grouping, reference, supplementary and other classroom activities.

(b) Make the unclaimed textbooks available to pupils within the school district.

(c) Publicize in the local newspaper that unclaimed textbooks are available to individual residents of the local district. Unclaimed textbooks disposed of in this manner shall not be made available to used textbook dealers.

(d) Make the unclaimed textbooks available to civic organizations for the purpose of distribution to undeveloped countries.

(e) Make the unclaimed textbooks available to recycling operations.

(f) Destroy unclaimed textbooks in any manner that is practical and in the best interest of the state and local school district. Any funds from the sale of unclaimed textbooks shall be paid into the state treasury.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing of this regulation will be held on June 21, 1984, at 1 p.m.,

in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND HUMANITIES CABINET

Department of Education

Bureau of Administration and Finance

(Proposed Amendment)

702 KAR 5:020. Program cost calculation.

RELATES TO: KRS 157.370

PURSUANT TO: KRS [13.082,] 156.070, 157.370

NECESSITY AND FUNCTION: KRS 157.370 sets forth the basic statutory framework by which local school districts are to be reimbursed from the Foundation Program for transportation costs. This regulation implements and interprets, where necessary, those statutory *provisions* [revisions], in order to set out the method and steps for completion of the calculation of the districts' pupil transportation program costs.

Section 1. A county district's net transported pupil density shall be determined by dividing the district's net ADA for pupils transported one (1) mile or more to school by the number of square miles in this district's primarily served area.

Section 2. The net ADA for a county district's pupils transported one (1) mile or more to school shall be determined from the local superintendent's annual statistical report for the district.

Section 3. The number of square miles in the primarily served area of a county district shall be determined by deducting from the total square mile area of the county, the square mile area of any independent district located within the county, and by deducting the square mile area of any portion of the district located more than one (1) mile from one (1) of the district's pupil transportation vehicle routes.

Section 4. A county district's gross transported pupil density shall be used in constructing a graph required by KRS 157.370. This density shall be determined by dividing the district's gross ADA for all pupils transported as shown on the superintendent's annual statistical report for the district by the number of square miles in the district's primarily served area.

Section 5. An independent district's net transported pupil density shall be determined by dividing the district's net ADA for pupils transported one (1) mile or more to school by the number of square miles in this district's primarily served area.

Section 6. The net ADA for an independent district's pupils transported one (1) mile or more shall be determined from the local superintendent's annual statistical report for the district.

Section 7. The number of square miles in the primarily served area of an independent district shall be determined by deducting from the total square mile area of the district, the square mile area of any portions of the district that are



located more than one (1) mile from one (1) of the district's pupil transportation vehicle routes.

Section 8. An independent district's gross transported pupil density shall be used in constructing the graph required by KRS 157.370. This density shall be determined by dividing the district's gross ADA for all pupils transported as shown on the local superintendent's annual statistical report for the district by the number of square miles in the district's primarily served area.

Section 9. In calculating the amount to be added each year to the district's pupil transportation program cost for pupil transportation vehicle depreciation, only those wholly district-owned vehicles shown on the district's pupil transportation school bus inventory for each year as having a rated pupil seating capacity of *ten (10)* [sixteen (16)] or more, [and] as *meeting the Kentucky Minimum Specifications for School Buses; Revised, for the model year in which the vehicles were manufactured, and as being less than nine (9) model years old if gasoline powered or twelve (12) model years old if diesel powered*, shall be included. School buses used exclusively for activity purposes or that are not properly equipped and maintained in safe and satisfactory condition for the transportation of pupils shall not be included in the district's pupil transportation vehicle depreciation schedule.

Section 10. In calculating the depreciation cost for a new school bus purchased by a district during any school year, the model year of the vehicle chassis shall be considered to be the model year of the vehicle with the exception that, for inventory and calculation purposes by the Division of Pupil Transportation, all school buses purchased new and shown by the district as having been added to its school bus inventory during the school year shall be considered to be of the same model year regardless of when said vehicles were delivered during that school year or manufacturer's model year designation. The model year of all said vehicles to be the same as the year shown on the cover of the booklet containing the Kentucky Minimum Specifications for School Buses; Revised, as referenced by 702 KAR 5:060, that were in effect during the first half of the school year in which said vehicle was added to the district's inventory.

Section 11. The annual depreciation cost for any school bus shown on the district's annual school bus inventory that is within the *applicable* [eight (8) year] depreciation schedule shall not be calculated unless said vehicle is maintained by the district in a safe and satisfactory condition, as evidenced by safety inspections performed pursuant to 702 KAR 5:030, for transporting pupils to and from school.

Section 12. The amount to be added each school year to the district's pupil transportation program cost for pupil transportation vehicle depreciation shall be determined by:

(1) (a) Multiplying the number of qualifying vehicles of the same rated pupil seating capacity purchased *new prior to the 1985 model* [in any school] year by one-eighth (1/8) of the bid price of a school bus of the same rated pupil seating capacity purchased through the state bid price contract plan in the same school year. The annual depreciation amount for each school bus shall be calculated to the nearest whole dollar.

(b) *Starting with the 1985 model year vehicles, multiplying the number of qualifying vehicles of the same rated*

*pupil seating capacity purchased new by one-eighth (1/8) of the bid price of gasoline powered and one-eleventh (1/11) of the bid price of diesel powered school buses of the same rated pupil seating capacity purchased through the state bid price contract plan in the same school year.*

(c) [(b) Starting with the 1971-72 school year transportation cost calculation,] A district that purchases a new school bus during any school year of a rated pupil seating capacity shall furnish the Division of Pupil Transportation with certain qualifying information including the price paid for said vehicle from which said division shall establish a reasonable price to be used for the purpose of calculating the annual depreciation on said vehicles [over an eight (8) year period] based on the number of seats and other major cost factors.

(d) [(c)] The amount calculated for the depreciation for all qualifying school buses on the district's inventory shall be determined in the manner prescribed in subsection (1) of this section. The model year of the vehicle chassis shall determine the number of years that these vehicles remain within the *applicable* [eight (8) year] depreciation schedule except where exceptions are shown in other sections of this regulation.

(2) Whenever a district purchases a used school bus of a model year that would place it within the *applicable* [eight (8) year] depreciation schedule and which meets the safety requirements of the Kentucky Minimum Specifications for School Buses; Revised, for the model year in which the vehicle was manufactured, certain qualifying information and the price paid for said vehicle shall be reported to the Division of Pupil Transportation. *If said vehicle is diesel powered and manufactured prior to the 1985 model year or if said vehicle is gasoline powered*, depreciation [of said vehicle] shall be calculated for each school year for which said vehicle remains within the eight (8) year depreciation schedule by adding one-eighth (1/8) of the price paid for said vehicle to the district's pupil transportation vehicle depreciation schedule. *If said vehicle is diesel powered and manufactured after the 1984 model year*, depreciation shall be calculated for each school year for which said vehicle remains within the *eleven (11) year depreciation schedule by adding one-eleventh (1/11) of the price paid for said vehicle to the district's pupil transportation vehicle depreciation schedule*. In no case shall this amount exceed the annual amount of depreciation calculated for a vehicle of the same model year and rated pupil seating capacity category that was purchased new through the state bid price contract plan. For inventory and calculation purposes by the Division of Pupil Transportation, the model year of the older component, either chassis or body, shall be considered to be the model year of the vehicle and shall determine the number of years that said used vehicle remains within the *applicable* [eight (8) year] depreciation schedule.

(3) Whenever a district purchases a new school bus chassis and has its district-owned used school bus body installed thereon or purchases a new school bus body and has it installed on its district-owned used school bus chassis, certain qualifying information and the price paid for said new component shall be reported to the Division of Pupil Transportation. For inventory and calculation purposes by the Division of Pupil Transportation, the model year of such vehicle shall be considered to be the model year of the older component, chassis or body, and the depreciation shall be calculated for the number of years the vehicle remains within the *applicable* [eight (8) year] depreciation schedule on the same basis as a new vehicle of the same rated pupil seating capacity purchased through the state bid price contract plan during that particular model year.

(4) The amounts calculated for school bus depreciation under subsections (1), (2), and (3) of this section shall be added together to make up the district's annual cost for pupil transportation vehicle depreciation.

Section 13. The final step in the district's tentative cost calculation shall be made by multiplying the district's graph adjusted cost per pupil per day by the aggregate number of days attendance of the district's pupils transported one (1) mile or more to school.

Section 14. The graph adjusted pupil transportation cost per pupil per day shall be determined by applying the district's transported pupil density of the graph as provided in KRS 157.370.

Section 15. The aggregate number of days the district's pupils were transported one (1) mile or more to school shall be determined by multiplying the average daily attendance of these pupils by the number of days the district's schools were in session up to the number required under the foundation program.

Section 16. When the net average daily attendance of foundation transported pupils in any district for the first two (2) months of the current school year is greater than it was for the first two (2) months of the previous school year, the district is eligible to apply for an adjustment for the current year increase.

Section 17. Application for an adjustment increase or a report on the absence of an increase shall be made by each district board prior to December 1.

Section 18. The net average daily attendance of the district's foundation transported pupils computed for the first two (2) months of the previous school year shall be compared with the same two (2) month period of the current school year and the percent of growth determined.

Section 19. The district's tentative formula adjusted cost for pupil transportation shall then be multiplied by the percent of growth to determine the additional cost to be added as a current year increase.

Section 20. The calculated amount for current year increase shall then be added to the district's tentative pupil transportation cost calculation to make up the district's final formula adjusted cost for pupil transportation for the current school year.

Section 21. During the school year in which any independent school district starts to provide pupil transportation when said district's schools open, said district's adjustment for current year growth shall be calculated by multiplying said district's net average daily attendance of foundation transported pupils for the first two (2) months that said district's schools are in session by the average calculated cost per pupil per year for all independent school districts as shown in the pupil transportation tentative cost calculations bulletin dated for that school year. The amount calculated for growth shall be the only pupil transportation program cost considered for Minimum Foundation Program allotment purposes for said district for that school year.

Section 22. During the school year in which any independent school district starts to provide pupil transportation

after said district's schools have been in session for two (2) months or more, there shall be no adjustment calculated for current year growth for said district for Minimum Foundation Program allotment purposes for that school year.

Section 23. During any school year following the school year in which any independent school district started to provide pupil transportation that the average daily attendance for the first two (2) months that said district's schools were in session shows a growth in foundation program transported pupils of 100 percent or less, the adjustment for current year growth shall be calculated as provided in Sections 16, 17, 18, 19, and 20 of this regulation. If said district's growth in foundation transported pupils for the first two (2) months shows a growth of more than 100 percent, the adjustment for current year growth shall be calculated first as provided in Sections 16, 17, 18, 19, and 20 of this regulation; and secondly, by multiplying the net increase in the average daily attendance of foundation transported pupils by the average calculated cost per pupil per year for all independent districts as shown in the pupil transportation tentative cost calculation bulletin dated for that school year. The lesser of the two (2) amounts shall then be added to said district's pupil transportation tentative cost calculation for Minimum Foundation Program allotment purposes.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 2 p.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND HUMANITIES CABINET

Department of Education

Bureau of Pupil Personnel Services

(Proposed Amendment)

703 KAR 2:020. Calendar.

RELATES TO: KRS [2.110, 2.190, 18.350, 158.060,] 158.070

PURSUANT TO: KRS 158.070[13.082]

NECESSITY AND FUNCTION: *KRS 158.070 defines the school term and holidays and other days to be included or excluded from the calendar.* This regulation is necessary for efficient management, control and operation of schools and to assure uniformity in the days all approved schools are in session.

Section 1. On or before June 15 of each year, local boards of education shall, upon recommendation of the superintendent, adopt a school calendar fixing the opening and closing dates of each school month, designating the dates of school days within each school month and describing the school days on which schools will be dismissed in accordance with State Board of [for Elementary and

Secondary] Education regulations. This section shall apply to all local boards of education operating experimental or year-round school programs.

Section 2. Each local board of education shall, on or before July 1 of each year, file a copy of the adopted school calendar with the Department of Education for approval as to the compliance with these regulations. No district shall be paid any installment of its Foundation Program allotment until the school calendar for that district has been so approved.

Section 3. A local board of education may amend its school calendar upon recommendation of the superintendent within the limitations of pertinent State Board of [for Elementary and Secondary] Education regulations.

Section 4. All amendments to school calendars shall be submitted on the appropriate form to the Department of Education for approval as to compliance with these regulations *no later than April 15 of each year. Any subsequent amendments to school calendars in the same school year shall be submitted to the Department of Education no later than five (5) days after the meeting of the local board of education at which the amendment is approved.* [prior to the date of change in the existing school calendar except:]

[(1) In cases of emergency beyond the control of a local board of education, post approval of an amendment may be requested; and]

[(2) If schools are closed prior to the regular February meeting of the local board of Education due to a national, state, or local disaster or mourning as provided by KRS 158.070(3)(a) and (b), an amendment shall be submitted no later than five (5) days after this meeting. If the disaster occurs on the date of the regular February meeting, or thereafter, the amendment shall be submitted no later than five (5) days after the next meeting of the local board of education.]

Section 5. The school calendar shall provide for the same number of days of classroom instruction in all schools operated by a local board of education.

Section 6. The four (4) days on which schools may be dismissed for holidays as provided for in KRS 158.070 shall be selected from those listed in KRS 2.110, 18.350 and 158.070 subject to the provisions of such sections, except in presidential election years the day of the regular election may [must] be used as one of the allowable holidays. *School districts shall be closed on this date as required by KRS 2.190, but districts may exclude the date from their school calendar and not count it as one (1) of their four (4) allowable holidays. In this case, school districts would choose their four (4) allowable holidays from those listed in KRS 2.110.*

Section 7. Local boards of education may use one (1) day of the minimum school term for the opening of schools and one (1) day for the closing of schools without the presence of pupils.

Section 8. Local boards of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. Proper approval for these four (4) days shall be secured from the State Department of Education.

Section 9. If local boards of education do not dismiss schools for four (4) holidays, one (1) day for opening schools, and one (1) day for closing schools as provided by KRS 158.070(3), the number of days of actual classroom instruction shall be increased accordingly.

Section 10. The two (2) consecutive days schools are required to be closed for the purpose of permitting professional school employees to attend state-wide professional meetings and the one (1) day for regional or district professional meetings shall not be counted as a part of the minimum school term. The Superintendent of Public Instruction will approve dates which have been selected by the local boards of education for regional or district meetings.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 10 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Bureau of Pupil Personnel Services

(Proposed Amendment)

703 KAR 2:050. Attendance; resident, non-resident.

RELATES TO: KRS 157.320, [156.030, 157.350,] 158.030, 158.240, 159.035, 161.200

PURSUANT TO: KRS 157.320(9), 157.070(4) [13.082]

NECESSITY AND FUNCTION: *KRS 157.320 defines average daily attendance of pupils for Minimum Foundation purposes; KRS 158.030 defines the minimum age for school attendance; KRS 158.240 and 159.035 defines attendance credit for moral instruction and 4-H activities; and KRS 161.200 requires attendance records to be kept by teachers.* Regulations are necessary to assure uniformity in recording attendance of all pupils in the schools of Kentucky.

Section 1. The word "pupil" as the basis for average daily attendance as provided for in Kentucky Revised Statutes and for all other uses in the public school system shall mean all persons who are in attendance at school between the ages of six (6) and twenty-one (21) years. Any pupil who meets requirements of KRS 158.030 for entering school shall be considered six (6) years of age for attendance purposes.

Section 2. The daily attendance of pupils shall be determined by recording their attendance immediately following the opening of school in the morning and immediately following the lunch period in the afternoon. *Pupils shall be present the entire day to receive a full day's attendance credit.* Pupils not present at these sessions shall not be counted in attendance in determining average daily attendance unless:

(1) The pupils are absent as participants in school activities which have been authorized by the local board of education and which are a definite part of the instructional program of the school, or

(2) The pupils are absent as participants in activities which are provided in KRS 158.240 and 159.035. Pupils shall not be counted in attendance when they are absent as spectators at school activities.

Section 3. Pupils shall not be counted in attendance unless they are physically present in the school. They shall be counted absent although such absence is due to factors beyond their control such as inclement weather or failure of the transportation system to operate.

Section 4. (1) Pupils enrolled in both a public common school and a non-public school under a dual enrollment plan shall be counted in attendance for ADA purposes for the time they are in attendance at the public school under straight shared-time.

(2) "Straight shared-time" is defined as an arrangement whereby a child regularly or concurrently attends a public common school part-time and a non-public school part-time pursuing part of his education under the direction and control of the public common school and the remaining under the direction of the non-public school.

Section 5. Pupils enrolled in a public common school and attend the public common school one-half ( $\frac{1}{2}$ ) day and attend the remainder of the school day in a state vocational technical school or an area vocational education center shall be counted in full-time attendance at the public common school.

Section 6. If a local district under the provision of KRS 157.360, enrolls handicapped children in a private school or agency approved by the State Board of [for Elementary and Secondary] Education upon the recommendation of the Bureau of Education for Exceptional Children, the private school or agency shall certify the attendance of these children to the Department of Education at the close of the second school month and at the close of the school year. This attendance shall be counted in a public school designated by the local district.

Section 7. No pupil shall be allowed to make up absence for the purpose of counting such make-up activities in computing average daily attendance.

Section 8. A copy of the written agreement local boards of education execute for average daily attendance of non-resident pupils as provided by KRS 157.350(4), and the attendance report for the first two (2) months of the current school year as required by KRS 157.360(3) shall be submitted to the State Department of Education prior to November 10 of each year, on forms furnished by the State Department of Education.

(1) Names of non-resident pupils, whose attendance is covered by the agreement, shall be listed on the back of the agreement on file in the office of the local board of education and also on the back of the copy of the agreement filed with the State Department of Education.

(2) Changes may be made in the original non-resident pupil agreement, up to the close of the school year, to include only the non-resident pupils enrolling after the close of the second school month. A copy of the amended agreement shall be on file in the office of the local board of education and a copy of the amendment(s) submitted to

the State Department of Education along with the local superintendent's annual statistical report, no later than June 30 of the current school year.

(3) In the event local boards of education fail to enter into a written agreement for non-resident pupils as outlined in subsections (1) and (2), Section 8 of this regulation, the local board of education educating the non-resident pupils shall not receive attendance credit for these non-resident pupils.

Section 9. The teacher's register of daily attendance or reasonable facsimile recommended by the Superintendent of Public Instruction and approved by the State Board of [for Elementary and Secondary] Education shall be the original source of attendance data for all pupils enrolled in the public elementary and secondary schools of the Commonwealth of Kentucky and shall be maintained in accordance with the instructions which are prepared and distributed by the State Department of Education.

Section 10. If a local board of education elects to follow the provisions of KRS 161.200(2) for keeping and reporting pupil attendance, the board shall submit a written plan to the Superintendent of Public Instruction for approval.

[Section 11. The school days on which schools are dismissed in accordance with State Board for Elementary and Secondary Education regulations shall be counted as school days and the reason for dismissal shall be indicated by writing in the attendance column of the teacher's register of daily attendance or the approved facsimile under the date of the day so dismissed.]

[Section 12. Dates of days excluded from the school month by reason of State Board for Elementary and Secondary Education regulations shall not be entered in the teacher's register of daily attendance or facsimile.]

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 3:285. Programs for the gifted and talented.

RELATES TO: KRS 158.600 to 158.620

PURSUANT TO: KRS [13.082,] 156.070, 156.130, 156.160

NECESSITY AND FUNCTION: This regulation relates to the funding and operation of [experimental] programs for gifted and talented pupils and directs the Department of Education to administer the Gifted and Talented Education Act of 1978.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the "Guidelines: Kentucky [for] Gifted [and Talented] Programs" as adopted on May 8, 1984 [11, 1982], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

Section 2. The "Guidelines: Kentucky [for] Gifted [and Talented] Programs" shall be followed by local school districts in developing programs to apply for state funds to operate such programs.

Section 3. Each local school district receiving state funds for the operation of a gifted and talented program shall be evaluated by the State Department of Education, Bureau of Instruction, to determine the effectiveness of the program.

Alice McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 22, 1984, at 9 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Vocational Education  
(Proposed Amendment)

##### 705 KAR 1:010. Annual program plan.

RELATES TO: KRS 156.010, 156.035, 163.020, 163.030

PURSUANT TO: KRS [13.082,] 156.035

NECESSITY AND FUNCTION: KRS 156.010 designates the Department of Education as the sole state agency for developing and approving state plans required by federal law as prerequisites to receiving federal funds for vocational education; KRS 156.035 authorizes the State Board of Education to implement any act of Congress appropriating and apportioning funds to the state and to provide for the proper disbursement of such funds; KRS 163.020 accepts and agrees to comply with federal vocational education acts; and KRS 163.030 gives the State Board authority to comply with state and federal vocational education laws. The 1985 [1984] Kentucky Annual Program Plan and 1983 [1982] Accountability Report for Vocational Education is necessary in order to be eligible to receive federal funds under P.L. 94-482, and this regulation formally adopts such plan developed and approved by the Department of Education.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, the 1985 [1984] Kentucky Annual Program Plan and 1983 [1982] Accountability Report for Vocational Education shall be prepared and approved by the State Board of Education, in accordance with the appropriate federal guidelines, and submitted to the U.S. Secretary of Education by June 30, 1984 [1983], for approval. This document is incorporated by reference

and hereinafter shall be referred to as the 1985 [1984] Kentucky Annual Program Plan and 1983 [1982] Accountability Report for Vocational Education. Copies of the document may be obtained from the Bureau of Vocational Education, State Department for Occupational Education.

Alice McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 26, 1984, at 11 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND HUMANITIES CABINET

Department of Education  
Bureau of Vocational Education  
(Proposed Amendment)

##### 705 KAR 2:030. Foundation program units.

RELATES TO: KRS 156.070, 157.360, 163.020, 163.030

PURSUANT TO: KRS [13.082,] 156.035, 156.070, 163.030

NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of the common schools; KRS 157.360 requires the Superintendent of Public Instruction to allot to school districts, as a part of the Foundation Program, classroom units for vocational education for classes meeting state board regulations; and KRS 163.020 and 163.030 mandate that the state provide for and administer a vocational education program. This regulation establishes methods and procedures to cover the allocation of vocational education units under the Foundation Program.

Section 1. Local school districts shall request vocational education units May 15. The request shall be made only for programs which have been included in the required local plan for vocational education. Request for new units shall be based on plans submitted by the local school district which are developed in conjunction with the regional vocational staff and the Program Services [Development] Division, Bureau of Vocational Education.

Section 2. Vocational units shall be allocated to local school districts to provide vocational education programs for the secondary school students in that district. A calculation shall be made to determine the relative number of units per district as compared to their proportionate share of the total statewide secondary, grades 9-12 [7-12], enrollment. Districts having less than their calculated number of units shall receive priority in the allocation of new units. Only that portion of a teacher's time devoted to vocational education shall be used for calculating vocational units. Vocational units shall be allocated only for those programs that have:

(1) Certified teachers who satisfy the requirements of the Kentucky State Plan for Vocational Education and meet the requirements of the Kentucky Program of Studies.

(2) Facilities and equipment which meet established minimum requirements.

(3) A curriculum which serves at least one (1) of the objectives of vocational education. Failure to meet any one (1) of these criteria shall be cause to withhold the vocational unit.

Section 3. The following activities shall be approvable for vocational units:

(1) A planning period for up to one-tenth (0.1) vocational unit for teachers with two (2) vocational periods and up to two-tenths (0.2) vocational unit for teachers with three (3) or more vocational periods.

(2) One (1) class period for supervision of cooperative vocational education or work experience programs when there is a minimum of ten (10) and a maximum of fifteen (15) participating students with training agreements on file; two (2) class periods for this purpose when the number of students enrolled is a minimum of sixteen (16) and a maximum of twenty-seven (27). When only one (1) supervision period is provided, the supervision and planning periods shall be scheduled consecutively during the time students are on the job.

(3) One (1) class period for one (1) teacher in each vocational program area to work with activities of integrated and approved vocational student organizations.

(4) One (1) class period for one (1) designated teacher to serve as a vocational department head in a high school with five (5) or more full-time equivalent vocational teachers.

(5) One (1) class period for each agriculture teacher for supervision of occupational work experience programs for a minimum of thirty (30) and a maximum of fifty (50) students; two (2) periods for a teacher with more than fifty (50) students when at least twenty (20) students are juniors or seniors.

(6) Class period(s) for supervision of cooperative work experience and agriculture programs supervision require a prerequisite of at least three (3) vocational teaching periods for the teacher.

Section 4. Class sizes shall be considered in allocating vocational education units. (1) All vocational classes shall have a minimum membership of ten (10) students.

(2) Two (2) sections of the same class shall have a minimum average of twelve (12) students per class; three (3) or more sections of the same class shall have a minimum average of fifteen (15).

(3) The maximum number of students per class shall be based on the class setting. For a classroom setting, the maximum enrollment shall be thirty (30). For a laboratory or shop setting, the maximum enrollment shall be twenty-seven (27) or the number for which the facility is equipped, whichever is less. For a supervised out-of-school setting, the maximum enrollment shall be twenty-seven (27).

(4) Approval by the Superintendent of Public Instruction is required for justification of exceptions. Justifications shall be submitted by the local superintendent concurrent with the professional staff data forms.

Section 5. Vocational classes which are laboratory, shop, or practical exercise classes shall require two (2) consecutive class periods if the gross period of time for one (1) class is less than sixty (60) minutes. Programs having exploratory objectives shall be considered on individual requests as exceptions to the minimum length of class period.

Section 6. The Superintendent of Public Instruction shall calculate units for programs offered in local high schools based on the information provided on the profes-

sional staff data (PSD) form which is completed on September 15 and amended as of February 1. The PSD shall be used to determine the amounts of time devoted to vocational programs, services, and activities. Additional justification shall be provided as needed to justify periods not devoted to teaching. Units shall be allocated for each vocational period calculated to the nearest tenth of a unit.

Section 7. The allocation of units to local school districts sending students to state vocational-technical schools and area vocational education centers shall be calculated on the basis of the number of students enrolled as of October 1. A vocational education unit shall be allotted for thirty (30) students attending the school three (3) hours per day, five (5) days per week or equivalent to this amount of student time. Units will be calculated to the nearest one-tenth (0.1) unit. The "contract" vocational unit shall be calculated at the value for a Rank II teacher with four (4) to nine (9) years experience and one (1) month extended employment. The unit shall include the foundation program value for salary, capital outlay, and current expenses.

Section 8. The funds calculated from the Foundation Program for units for students attending state-operated vocational schools shall be divided. *The capital outlay allotment for each unit as defined in the biennial budget* [Twenty (20) percent] shall be transferred to the local school district owning the facility and *the remainder of the funds* [eighty (80) percent] transferred to the Bureau of Vocational Education for operating the program. If the facility is state-owned, 100 percent of the funds shall be transferred to the Bureau of Vocational Education.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 26, 1984, at 9 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

**705 KAR 4:010. General standards.**

RELATES TO: KRS 156.031 [156.112], 163.020, 163.030, 163.087

PURSUANT TO: KRS 156.031, [13.082, 156.112,] 163.030, 163.087

NECESSITY AND FUNCTION: KRS 156.031 [156.112] gives the State Board of Education the function and authority to develop and adopt policies and regulations by which the Department of Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating occupational education programs, services, and activities; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes; and KRS 163.087 give the State



*Board authority to set fees.* This regulation establishes general standards for all vocational education programs.

Section 1. Vocational education programs shall be designed to serve one (1), or combinations, of the following groups of persons: secondary, postsecondary, short term adult, long term adult, disadvantaged, and handicapped. Instructional programs will not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or handicap.

Section 2. Vocational instruction shall be provided to serve occupations within the following vocational program areas: agribusiness, business and office, health and personal services, home economics, industrial, marketing and distributive, practical arts, public service, and special vocational.

Section 3. Objectives of the instruction shall be designed to: (1) Prepare individuals for gainful employment as semi-skilled or skilled workers, technicians, or semi-professionals in recognized occupations and in new or emerging occupations; or

(2) Prepare individuals for enrollment in advanced or highly skilled vocational and technical education programs; or

(3) Assist individuals in the career development process of career awareness and indepth career exploration necessary for making meaningful occupational choices; or

(4) Up-grade and up-date individuals in their present occupations; or

(5) Achieve any combination of the above.

Section 4. The content of instruction in vocational education programs shall: (1) Be based on a consideration of the skills, attitude, and knowledge required to achieve the objective of such instruction and include a planned sequence of those essentials of education or experience (or both) deemed necessary for the individual to achieve such objectives.

(2) Be developed and conducted in consultation with potential employers and other individuals having skills and substantive knowledge of the occupation or the occupational fields included in instruction.

(3) Include the most up-to-date knowledge and skills necessary for competencies required to meet the objectives of such instruction.

(4) Be sufficiently extensive in duration and intensive within a scheduled unit of time to enable the student to achieve the objectives of instruction.

Section 5. The vocational program of instruction shall combine and coordinate classroom instruction with field, shop, laboratory, cooperative work, or other occupational experience which:

(1) Is appropriate to the objectives of instruction,

(2) Is of the sufficient duration to develop competencies necessary for the student to achieve such objectives, and

(3) Is supervised, directed, or coordinated by persons qualified under the Kentucky State Plan for the Administration of Vocational Education.

Section 6. Secondary vocational education programs shall provide a variety of learning experiences and related services. Programs in grades seven (7) and eight (8) shall be coordinated to allow students to explore clusters of occupations. Programs at grades nine (9) and ten (10) shall provide indepth exploration courses by occupational area.

Programs at grades eleven (11) and twelve (12) shall provide specialized skill development to make individuals more employable in one (1) group of occupations than any other. Students enrolled in public or private schools shall be permitted to enroll in state-operated vocational programs consistent with that school's student enrollment quota for cooperating local school districts.

Section 7. Long-term adult (postsecondary) programs shall be designed for occupational preparation of persons sixteen (16) years of age or older who have completed or left the regular high school. The programs shall be organized on a full-time basis during the day or evening hours. Students may enroll in all or any part of the scheduled program. *The initial registration fee for half-time and full-time in-state, adult students in state-operated schools shall be twenty dollars (\$20) for FY '85 and FY '86; and for out-of-state students, forty dollars (\$40) for FY '85 and eight dollars (\$8) in FY '86; and for out-of-state students, twenty-five dollars (\$25) for FY '85 and FY '86. The monthly tuition for half-time, in-state adult students shall be five dollars (\$5) in FY '85 and thirty dollars (\$30) for FY '86. The monthly tuition for full-time, in-state adult students shall be ten dollars (\$10) for FY '85 and sixteen dollars (\$16) for FY '86; and for out-of-state students, fifty dollars (\$50) for FY '85 and sixty dollars (\$60) for FY '86. The fees and tuition for FY '86 shall be continued until changed by the State Board of Education.* [Registration and tuition fees shall be set annually by the State Board of Education.]

Section 8. Short-term adult programs shall be designed to meet the needs of persons who have entered the labor market or are temporarily unemployed and who need training in preparing or supplementing knowledge and skills for employment and/or job advancement. Courses shall consist of either single or multiple units of intensive instruction. *The fees for adult short-term classes for one (1) to eleven (11) hours of instruction per week shall be twenty-five cents (\$.25) per hour for in-state and out-of-state students for FY '85 and FY '86. These fees shall be in effect until such time as the State Board changes them.* [Student fees for short-term adult vocational education programs shall be set annually by the State Board of Education.]

Section 9. The vocational program shall be designed to accommodate students with special learning needs mainstreamed into the regular program. Special vocational programs in specific occupational areas or incorporating a variety of occupational areas shall be permitted when the handicapped conditions warrant.

Section 10. Instructional personnel in vocational education shall be qualified and fully certified under the provisions of the Kentucky State Plan for Vocational Education and other regulations of the State Board of Education. Work experience requirements not included as a part of certification programs shall be approved by the Superintendent of Public Instruction.

Section 11. All instructional personnel shall attend district, regional, or state in-service education meetings called and/or approved by the Superintendent of Public Instruction when such meetings are reimbursed by funds from the Bureau of Vocational Education. Instructional personnel may be excused by the local superintendent when the reasons are justified and submitted in writing to the Superintendent of Public Instruction.

Section 12. Annual plans for vocational programs and applications for funds for the next school year shall be submitted by local educational agencies to the regional program coordinator for vocational education by April 15. The program plan shall be reviewed by the regional staff and the Bureau of Vocational Education staff and approved by the Superintendent of Public Instruction prior to program implementation.

Section 13. Recognized vocational student organizations shall be an integral part of the instructional program and shall be supervised by qualified vocational education personnel.

Section 14. Each occupational preparation program area shall have an active program advisory committee to assist in planning, implementing, and evaluating programs.

Section 15. A continuous evaluation of the vocational education program shall be conducted by the local educational agency in accordance with requirements and instruments developed or approved by the Department of Education and by the local educational agency to determine the effectiveness of the program in terms of its objectives. The evaluation shall include a follow-up of students after their termination from the program. The Superintendent of Public Instruction shall designate the records and reports to be kept by local educational agencies operating approved vocational education programs. Staff from the Department of Education shall make periodic evaluation visits for program improvement purposes.

Section 16. Where applicable, all vocational education programs shall operate according to guidelines developed by state and/or national licensure, certification, and registration agencies having jurisdiction over graduates who seek employment in occupations governed by such agencies.

Section 17. Classrooms, libraries, shops, laboratories, and other facilities, including instructional equipment, supplies, teaching aids, and other materials, shall be provided in quantity and quality to meet the objectives in the vocational instruction. Although the amount of supplies needed by each class will vary in local districts, the districts shall provide an appropriate portion of the operating money allotted with each vocational unit. The facilities for any vocational education program shall be of adequate size and design to accommodate the activities and number of work stations unique to each program. Facilities and equipment shall be approved by the Superintendent of Public Instruction.

Section 18. Vocational preparation programs shall provide a curriculum of sufficient length to permit students to secure entry-level skills in the occupations for which they are training. They shall conform to the requirements in the Kentucky Program of Studies.

Section 19. Minimum and maximum class size shall be based on program design and available facilities. No class shall be offered for less than ten (10) students.

Section 20. *A five dollar (\$5) shop fee shall be charged for each live work project accepted by the school requiring more than one (1) hour of labor. No shop fees shall be charged for projects in schools located in correctional in-*

*stitutions. Student exemptions may be made in compliance with written school policies. Customers will purchase the necessary materials for a shop job or be charged the cost of the materials plus twenty (20) percent markup when they do not provide their own materials. Cosmetology charges shall be based on the State Cosmetology Board requirements.*

Section 21. [20.] A vocational school may be permitted to provide an optional senior plan for students from secondary schools being served by that vocational school. A senior plan provides that a student may choose to attend a vocational school for six (6) hours a day while enrolled in a high school for the senior year. The local district shall receive ADA credit for students participating in this plan.

(1) The vocational school requesting permission to implement an optional senior plan shall receive approval from the State Superintendent of Public Instruction in accordance with this and other Kentucky Administrative Regulations.

(2) For ADA calculation purposes, students accepted in the senior plan shall be enrolled in a public school in Kentucky.

(3) The local school superintendent shall certify that students participating in this program will be eligible for graduation upon successful completion of the program.

(4) An annual evaluation of the senior plan shall be submitted to the State Board.

(5) With approval of the local board of education, a local high school may choose to participate in the senior plan. Individual students will have the option of participating in the senior plan or the usual plan of attending a vocational school three (3) hours a day for the junior and senior year.

(6) Participation in the senior plan shall in no way jeopardize the student's high school standing in terms of participation in other high school activities. Participation in the high school activities shall be the responsibility of the local board of education and appropriate arrangements for such participation will be ensured by the vocational school.

Section 22. [21.] Requests for exceptions to any standards for vocational instructional programs shall be submitted in writing by the local educational agency, recommended by the appropriate program unit director, and approved by the Superintendent of Public Instruction. Exceptions shall be limited to experimental programs, innovative programs, and unusual cases and shall be approved on an individual and annual basis.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 26, 1984, at 10 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.



**EDUCATION AND HUMANITIES CABINET**  
**Department of Education**  
**Bureau of Education for Exceptional Children**  
**(Proposed Amendment)**

**707 KAR 1:051. Exceptional children's programs.**

RELATES TO: KRS 157.200 to 157.290, 157.360 [157.285]

PURSUANT TO: KRS [13.082,] 156.070, 157.220, 157.221, 157.250, 157.360 [156.160]

NECESSITY AND FUNCTION: KRS 157.200 to 157.290 set forth the state statutory framework for special education programs for exceptional children; and KRS 157.360 provides the mechanism for state financial support of local school district programs for exceptional children. [To promulgate State Board for Elementary and Secondary Education regulations for programs for exceptional children.] This regulation establishes requirements for special education programs and is necessary to assure uniformity in providing special education and related services to exceptional children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for exceptional children of school attendance age pursuant to KRS 157.200 to 157.290 [157.285] inclusive, and the criteria listed in this chapter.

(1) Classroom units. Local school districts shall request classroom units for the education of exceptional children from the State Department of Education by filling out the appropriate application(s) as provided by the Bureau of Education for Exceptional Children, and in accordance with KRS 157.360(6). Application(s) shall be made pursuant to schedules established by the Bureau of Education for Exceptional Children.

(a) In order to receive tentative allotment of minimum foundation classroom units local school districts shall assure that the following criteria are met:

1. Approved teacher;
2. Approved housing;
3. Approved program plan; and
4. Minimum number of children for type of unit requested.

(b) Pursuant to KRS 157.360(6)(c) and (d), local school districts may choose between two (2) options for reimbursement for exceptional child units to provide home or hospital instruction. The two (2) options are as follows:

1. One (1) unit may be allocated for each ten (10) children in average daily attendance for the current school year, as provided by KRS 157.360(6)(c); or

2. The district may provide home or hospital instruction on an hourly basis, as provided by KRS 157.350(6)(d). The hourly reimbursement rate per child for districts utilizing this option shall be calculated as follows:

State Average Teacher's Salary		Current Operating Expense		=	Hourly Reimbursement Rate
185 Day School Term	X 6 Instruc- tional Hours	175 Day Instruc- tional Term	X 6 Instruc- tional Hours		

A maximum of three (3) instructional hours per child per week will be reimbursed. The total reimbursement amount must be spent on teacher salary, travel expenses and teaching supplies for the home/hospital program. A minimum of seventy-five (75) percent of the total reimbursement amount must be allocated for teacher salary.

An amount not to exceed twenty-five (25) percent of the total reimbursement amount shall be allocated for travel expenses and teaching supplies and equipment.

(c) [(b)] Local school districts shall receive final allotment of minimum foundation classroom units provided the above criteria are met and the local school district validates to the State Department of Education that said unit(s) is operating pursuant to criteria listed in this chapter. Validation shall be made by filling out appropriate record(s) as provided by the Bureau of Education for Exceptional Children and shall be made pursuant to established schedules. *Final allotment of funds due each district for reimbursement of home and hospital instruction programs shall not be distributed until all monthly attendance reports due for a given school district are received by the Department of Education.*

(2) Fractional classroom unit. A fractional classroom unit is a unit having fewer pupils than the prescribed pupil-teacher ratio as indicated in regulations pertaining to the specific categorical program or if the program is in operation for less than a full day or full school year. Such units shall be allotted and certified on a basis proportionate to the pupil-teacher ratio and/or the proportionate length of the school day or the school year.

(3) Approved teacher, personnel. Appropriate state certification shall be as required and provided in Title 704, KAR Chapter 20. *Teachers providing instruction to exceptional children in home and hospital programs shall meet state requirements regarding certification to teach children with such exceptionalities.*

(4) Program plan. The appropriate program plan for exceptional pupils in the local school district shall be determined by the needs of the pupils. Consideration shall be given to the least restrictive environment concept in the placement of pupils. Programs shall be organized and operated under one or more, or a combination of the following:

(a) Classroom units plans:

1. A resource plan shall be a program which serves exceptional pupils who shall be entered on the class roll of a regular class teacher and shall do part of their classwork in the regular class. The pupils shall receive special instruction from the resource teacher as specified on their individual education programs. The number of pupils served by the resource teacher and the number of pupils in the resource room for instructional purposes at any one (1) time shall be determined by the appropriate categorical regulations. The resource plan shall utilize a classroom-based teacher or an itinerant teacher.

2. A special class plan shall be a classroom-based program which serves exceptional pupils who shall be entered on the class roll of the special class teacher. The pupils shall participate in the regular class program to the maximum extent appropriate as specified on the pupils' individual education programs. The number of pupils and the chronological age range for pupils enrolled in the special class shall be determined by the appropriate categorical regulations. A classroom-based teacher shall be utilized for this plan.

3. A hospital instructional [based] plan shall be a program which provides educational services on a regularly scheduled basis to pupils in a hospital setting. The itinerant teacher providing educational services in the hospital shall keep a regular Kentucky attendance register. A pupil receiving services in a hospital setting shall have a minimum of two (2) one (1) hour visits per week in order to be counted as being in attendance five (5) days. Special

education and related services for the identified exceptional pupil in a hospital setting shall be provided as specified on the pupil's individual education program (IEP). The hospital *instructional* [based] plan shall utilize a classroom-based teacher, [or] an itinerant teacher, or a visiting teacher.

4. A home instruction plan shall be a program which provides educational services to pupils at the home on a regularly scheduled basis. The teacher providing educational services at the home shall keep a regular Kentucky attendance register. A pupil receiving educational services under this plan shall have a minimum of two (2) one (1) hour visits per week in order to be counted in attendance five (5) days. Special education and related services for the identified exceptional pupil served under this plan shall be provided as specified on the pupil's individual education program (IEP). The home instruction plan shall utilize an itinerant teacher or a visiting teacher.

(b) Teacher and housing. Each classroom unit plan shall be housed as specified and shall operate utilizing one (1) of the following types of teachers:

1. A classroom-based teacher shall be an approved teacher who shall provide educational services to exceptional students in a classroom provided for such services. The classroom-based teacher providing services through the resource plan or special class plan shall be housed in an elementary or secondary school dependent upon the age range of the pupils or in an approved special school or facility. Classroom location shall be made consistent with the least restrictive environment concept. Classrooms shall meet the standards for regular classrooms pursuant to 702 KAR 4:060. The classroom-based teacher providing services in a hospital setting shall be housed in facilities and/or rooms appropriate and adequate for instructing pupils in small groups or individually.

2. An itinerant teacher shall be an approved teacher who travels to exceptional pupils' school(s), class(es), homes, or hospital setting(s) on a regularly scheduled basis to work with pupils either individually or in small groups. Those pupils being served in a school facility shall be entered on the class roll of a regular class teacher and shall receive the majority of their instruction through the regular program. The itinerant teacher shall work with the pupils in an area in the regular classroom or in a room provided for such services. Housing for the itinerant teacher providing services in a school shall be in facilities and/or rooms appropriate for instructing pupils in small groups or individually and shall be housed in an elementary or secondary school dependent upon the age range of the pupils or in an approved special school or facility. The itinerant teacher shall be provided permanent work space. For the itinerant teacher who travels to the pupils' school(s), class(es), homes, or hospital setting(s) the board of education shall defray travel expenses incurred by personnel in the execution of duties related to the program pursuant to 702 KAR 3:120.

3. A visiting teacher shall be an approved teacher in a home and/or hospital program who travels to the necessary setting to provide appropriate instruction to pupils on an hourly basis. Teacher salary, travel expenses, and teaching supplies for the visiting teacher will be provided through the funding mechanism set forth in Section 1(b) of this regulation.

(c) A variation plan shall be an alternative to the above plans. The local school district shall submit a written request to and receive approval from the Bureau of Education for Exceptional Children prior to implementation of a variation plan. Written requests for such plan shall be

made pursuant to provisions established by the Bureau of Education for Exceptional Children. In granting approval the Bureau of Education for Exceptional Children shall assure that approved requests for such plan shall contain but not be limited to the following components:

1. Rationale for need of the variation plan;
2. Detailed description of the plan;
3. Verification of teacher's certification in the categorical area of the majority of the students to be served; and
4. Method of evaluation to be used to determine effectiveness of the plan.

(5) Length of school day. The length of school day shall be the same as for non-handicapped children except as specified in KRS 157.270 and 158.060. Requests for and approval of changes in length of school day shall be made in writing pursuant to provisions established by the Bureau of Education for Exceptional Children.

(6) Instructional materials and equipment. Instructional materials and equipment appropriate to the educational needs of the identified exceptional child shall be provided as required under 704 KAR 2:020.

Section 2. Identification of Exceptional Children. Each local school district shall have in operation policies and procedures to insure that all exceptional children are identified, located and evaluated. As used here, this requirement refers to all exceptional children who are in need of special education and related services and are residing within the jurisdiction of the local school district, including those exceptional children who are out of school; in local school district programs; and, being served by other public and private agencies and institutions within the local school district's jurisdiction. Local school district policies and procedures shall include the development, implementation, monitoring and evaluation of a practical method of determining:

- (1) Which children are currently receiving needed special education and related services; and
- (2) Which children need special education and related services but are not currently receiving these services.

Section 3. Admissions and Release Committees. Local school district personnel shall establish one (1) district-wide administrative admissions and release committee and a school-based admissions and release committee in each school with appropriate membership and functions as listed below. In addition, for those school districts with a school census figure of 15,000 or over, sub-district admissions and release committees may be established pursuant to approval by the Bureau of Education for Exceptional Children.

(1) Administrative Admissions and Release Committee. The membership of the Administrative Admissions and Release Committee (AARC) shall consist of:

- (a) Director, local school district's program for exceptional children or person having such responsibility, chairperson (permanent member);
- (b) Local school district superintendent or designee (permanent member);
- (c) Referred pupil's principal and teacher (if the child is enrolled in public or private school);
- (d) Involved instructional supervisor depending on the age and level of the child;
- (e) The parent(s) of the referred child;
- (f) The referred child, where appropriate;
- (g) Personnel responsible for providing evaluation information, where appropriate; and

(h) Other persons as requested by any member of the AARC.

(2) The functions of the AARC shall include the following:

(a) Receive referrals of the following nature:

1. Written information on identified children not currently enrolled in the local school district, including those children enrolled in non-public schools, who are thought to need special education and related services.

2. Cases where the school-based admissions and release committee is not able to determine an appropriate educational placement for a referred pupil and make recommendations as to appropriate educational placement.

3. Cases from school-based admissions and release committee where appropriate services are not available within the school.

(b) Follow due process procedures to insure that exceptional children and their parent(s) are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement.

(c) Assure that appropriate evaluations on referred children are obtained or conducted.

(d) Review written results of the formal and informal evaluation to determine if the referred child meets eligibility criteria for a category of exceptionality.

(e) Determine if the identified child needs special education and related services.

(f) Develop an individual education program (IEP) for the identified child needing special education and related services to make recommendations as to appropriate services and/or programs for the identified child. The AARC shall determine if the local school district can provide appropriate services, if local programs must be changed to accommodate the identified child, if additional services or programs will be developed, or if the child must receive services outside the local school district. For those pupils who shall receive services within the local school district, the appropriate school-based admissions and release committee shall assume responsibility for the implementation, monitoring, evaluation and annual review of the IEP as well as annual review of placement. In those cases where the local school district has determined that appropriate special education and related services cannot be provided through existing programs in the local school district, services shall be provided to the identified child pursuant to the following:

1. Local school district referral of an exceptional child to a public or private agency. The Administrative Admissions and Release Committee shall:

a. Contact a public agency or approved private agency/organization, as provided in 707 KAR 1:070, which provides the type of services specified on the child's IEP regarding the possible referral of the child to the agency.

b. Insure that a representative(s) of the receiving agency shall participate in a meeting(s) with the AARC regarding the possible referral. Participation may be provided through attendance at meetings, written communications, and/or individual or conference calls. Receiving agency means an approved agency/organization which has indicated a willingness to provide the services requested by the local school district.

c. In collaboration with representative(s) of the receiving agency, review and revise, where appropriate, the child's IEP.

d. In collaboration with representative(s) of the receiving agency, determine if such agency is the appropriate agency to provide the specified services. If the agency is an

appropriate one, such agency assumes responsibility for implementing the provisions of the special education and related services specified on the IEP.

e. The local school district shall be responsible for providing continued educational services to the child until such time as the child enters the programs provided by the receiving agency.

2. Placement of an exceptional child in a public or private agency:

a. Public agency (another local school district, Kentucky School for the Blind, Kentucky School for the Deaf). Upon admission of the referred child to the agency's program, the agency shall: Assume responsibility for providing special education and related services to the exceptional child as specified on the IEP; and, insure that the child and parent(s) are afforded all rights and protections as required and provided in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060.

b. An admissions and release committee of the receiving public agency shall: Conduct meetings for the purposes of reviewing and where appropriate revising the IEP, assure that the IEP shall be reviewed on at least an annual basis and revised where appropriate; insure that any review (including annual review) and revision of the IEP shall be done with the input and approval of the parent(s); and, insure that any review and revisions of the IEP shall include input and approval of the local school district placing the child in the program. The participation of the parent(s) and the local school district placing the child may take place through attendance at meetings, written communications and/or individual or conference calls.

c. Monitoring and evaluation of the IEP shall be done by specific members of the receiving public agency's admissions and release committee at intervals specified on the IEP. This shall be done to document progress and mastery of objectives specified in the IEP. Written results of such monitoring and evaluation shall be forwarded to the parent(s) and the Administrative Admissions and Release Committee of the local school district placing the child in the agency's program.

d. Responsibilities of the Administrative Admissions and Release Committee of the local school district placing the child in another public agency shall be: participation in meetings called by the receiving agency for the purpose of review and revision of the IEP; and, at least annually, review the exceptional child's IEP and review the placement of each exceptional child receiving services outside the local school district in relation to his educational progress in that setting.

e. Private agency/organization (as defined in 707 KAR 1:070) the private agency shall provide those special education and related services specified on the child's IEP. At the discretion of the local school district, the private agency may initiate and conduct meetings for the purposes of reviewing and revising the child's IEP. When circumstances warrant, the private agency shall be responsible for notifying the local school district of the need to initiate and conduct a meeting for such purposes. The local school district shall insure that the parent(s) and a local school district representative(s) are involved in any decision regarding review and revisions of the child's IEP; and, agree to any placement changes before such changes are implemented.

f. Responsibilities for the Administrative Admissions and Release Committee of the local school district placing the child in a private agency shall be: participation in meetings called by the receiving agency regarding review

and revision of the IEP; at least annually, review the exceptional child's IEP and review the placement of each exceptional child receiving services outside the local school district in relation to the educational progress in that setting; and, insuring that the child and parent(s) are afforded all rights and protections as required and provided in Sections 9 and 10 of this regulation and 707 KAR 1:060.

(g) For those referred pupils who are determined by the AARC not to need special education and related services, the AARC shall provide the referring person and the parents with written explanation of why the child is not to receive special education and related services, shall provide in writing recommended remedial action, and shall provide written notice pursuant to 707 KAR 1:060.

(3) School-based admissions and release committee (SBARC): The membership of the school-based admissions and release committee shall consist of:

(a) Chairperson, building principal or designee. The designee shall be recommended by the building principal and approved by the local school superintendent. This person shall not be a regular or special education teacher, (permanent member).

(b) Referring person(s) or the referred child's regular teacher(s);

(c) Teacher(s) of exceptional children;

(d) Parent(s) of the referred pupil;

(e) The referred child, where appropriate;

(f) Other persons providing input into the referred pupil's educational program as requested by any member of the SBARC; and

(g) Personnel responsible for providing evaluation information, as appropriate. For a child who has been evaluated for the first time, the chairperson shall assure that a member of the evaluation team participates in the meeting; or that a representative of the school district is present who is knowledgeable about the evaluation procedures used with the child and is familiar with the results.

(4) The functions of the SBARC shall include the following:

(a) Receive written referrals on pupils currently enrolled in the school and thought to need special education and related services.

(b) Follow due process procedures to insure that exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement.

(c) Assure that appropriate evaluations on referred children are obtained or conducted.

(d) Review written results of the formal and informal evaluations to determine if the referred child meets eligibility criteria for a category of exceptionality.

(e) Determine if the identified child needs special education and related services.

(f) Develop an individual education program (IEP) for the identified child needing special education and related services to make recommendations as to appropriate services and/or programs for the identified child.

(g) At least annually, review the pupil's IEP and review the placement of each exceptional child in the school in relation to his or her educational progress in that setting to determine:

1. Continuation of current educational placement;

2. Change in educational placement; or

3. That special education and related services are no longer needed.

(h) For those referred pupils who are determined by the SBARC not to need special education and related services

the SBARC shall provide the referring person and the parents with written explanation why the child is not to receive special education and related services, shall provide in writing recommended remedial actions, and shall provide written notice pursuant to 707 KAR 1:060.

(i) Refer cases where appropriate services are not available within the school to the AARC.

(5) If at any time during the school year, the child's IEP or educational placement appears to be inappropriate to the parent(s), the principal, the teacher(s) or specialist(s) providing services to the child, any one of such persons may request a review of placement. The appropriate admissions and release committee shall conduct the review. The child, parent(s) and local school district shall be afforded all due process rights as described in 707 KAR 1:060. When a review is requested for the purpose of securing a more restrictive or less restrictive environment, the appropriate admissions and release committee shall determine that the child's needs can appropriately be met in the proposed setting and the child's placement and educational program shall be changed and support services provided as necessary.

(6) At any time, during the three (3) years following an individual evaluation utilized for initial placement purposes, or for re-evaluation purposes, the parent(s), principal, teacher(s), or specialist(s) providing services to the child may request a re-evaluation. The appropriate admissions and release committee shall be responsible for assuring that such evaluation(s) are obtained or conducted, and shall follow the procedures outlined in Section 3(2) and (4), functions of the AARC and SBARC.

(7) Sub-district admissions and release committees: For those school districts with a school census figure of 15,000 or over, sub-district admissions and release committees (ARCs) may be established within the local school district to facilitate school to school placements. The sub-district ARCs shall not supplant administrative and school-based admissions and release committees and their respective functions. Sub-district ARCs shall be established to conform with district-specified school groupings. Those local school districts wishing to establish sub-district ARCs shall submit a written request to and receive approval from the Bureau of Education for Exceptional Children prior to implementation of the plan and pursuant to provisions specified by the Bureau of Education for Exceptional Children. The membership and functions of sub-district committees shall be similar to the membership and the functions of the administrative admissions and release committee.

**Section 4. Child Evaluation.** Child evaluation refers to the sum total of information needed to make educational decisions about the child, including information obtained from such sources as informal and formal testing, aptitude and achievement tests, behavior observation, teacher/parent interviews, work samples, social/developmental history, medical history, school records and anecdotal records. The appropriate admissions and release committee shall be responsible for assuring that child evaluation information is obtained from all available sources, documented and carefully considered in making placement decisions pursuant to the following:

(1) All due process procedures related to evaluation as required and provided in Section 9 of this regulation and 707 KAR 1:060 shall be followed.

(2) Appropriate evaluations shall be conducted by a multidisciplinary team. Evaluation personnel shall be

determined by the appropriate admissions and release committee and shall include at least one (1) teacher or other specialist with knowledge in the suspected area of exceptionality.

(3) Areas for evaluation shall be determined by the appropriate admissions and release committee and as specified by regulations related to the suspected area of exceptionality, including where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(4) Evaluation procedures: To the maximum extent possible, child evaluation procedures, shall be non-discriminatory in that:

(a) Techniques and/or materials used are non-biased relative to race, culture, socio-economic status or impaired sensory, manual, or speaking skills, in order to insure that tests results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure.

(b) Qualified personnel provide the evaluation services. Qualified personnel refers to those certified special education personnel and others who have met, approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area of child evaluation. Such personnel shall be trained in specific areas of child evaluation and shall assure that they:

1. Have the expertise to conduct the evaluation;
2. Understand the use of the different evaluation procedures; and
3. Properly administer and interpret the evaluation results.

4. Such personnel may include but are not limited to: educational diagnosticians, assessment specialists, classroom teachers, speech and language therapists, psychologists, psychometrists, counselors.

(c) Tests and materials are provided and administered in the child's native language or primary mode of communication, unless it is clearly not feasible to do so.

(d) Tests and materials have been validated for the specific purpose for which they are used.

(e) Tests and materials are administered by trained personnel in conformance with the instructions provided by the producer.

(f) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(5) No single evaluation procedure shall be used to determine an appropriate program for a child.

(6) Each child placed in a program for exceptional children shall be re-evaluated every three years or more frequently as warranted.

(7) Any evaluation conducted within one year prior to the current referral may be accepted by the appropriate admissions and release committee as a legitimate substitute for another evaluation of the same type provided the information obtained meets the criteria specified above in subsection (1) to (5).

**Section 5. Individual Education Programs (IEP).** The appropriate admissions and release committee shall be responsible for the development, implementation, and monitoring/evaluation of each exceptional child's individual education program.

(1) Development. The individual education program shall include but not be limited to the following components:

(a) Present level of educational/behavioral performance including a written summary of strengths and weaknesses.

(b) Annual goals based on child's current level of functioning.

(c) Short term instructional objectives for each of the annual goals. Short term instructional objectives refer to measureable intermediate steps between the present level of educational/behavioral performance and the specified annual goals. These objectives are identified for the purpose of periodically reviewing and evaluating pupil progress toward meeting the annual goal(s) specified on the IEP.

(d) Specific special education and related services needed to meet the specified goals and objectives.

(e) Extent to which the child will participate in the regular education program.

(f) Projected dates for initiation of specified educational and related services.

(g) Anticipated duration of the specified special education and related services.

(h) Appropriate objective criteria and evaluation procedures; and

(i) Schedule for determining, at least on an annual basis, whether the goals and objectives are being achieved.

(2) Implementation and evaluation. The appropriate admissions and release committee shall be responsible for assuring that strategies and activities designed to meet short-term objectives are implemented, and that the child's progress toward and mastery of the short-term objectives is evaluated at least annually.

(a) For each short-term objective specified on the IEP the appropriate admissions and release committee shall assign a specific person(s) who shall be responsible for determining and implementing appropriate strategies and activities that will assist the child in achieving the specified objectives and goals.

(b) The implementer(s) shall maintain records of student progress in achieving short term objectives.

(c) The above records shall be utilized by the implementer and the appropriate admissions and release committee for on-going evaluation of the IEP to determine the effectiveness and appropriateness of the IEP and to document implementation of the IEP.

**Section 6. Placement.** Placement shall mean the special education and related services provided an exceptional child and shall not refer solely to enrollment in a minimum foundation program classroom unit for exceptional children.

(1) All exceptional children as defined in KRS 157.200 are eligible for placement. The appropriate admissions and release committee shall identify the specific handicapping condition of the child. The specific area of exceptionality (handicapping condition) of the child shall be that category for which the child meets eligibility criteria following evaluation procedures as specified in the appropriate categorical regulations.

(2) All due process procedures related to placement as required and provided in Section 9 of this regulation and 707 KAR 1:060 shall be followed.

(3) For each identified exceptional child needing special education and related services, the appropriate admissions and release committee shall:

- (a) Determine placement;
  - (b) Base placement on the child's IEP;
  - (c) Determine placement at least annually; and
  - (d) Make placement consistent with the least restrictive environment concept as required in Section 7.
- (4) Temporary placement. Temporary placement may



occur for thirty (30) school days, upon written request from the parent(s), for those exceptional pupils who are new enrollees to the local school district and who have been provided special education and related services by another local school or agency in the school days preceeding the request. Documentation shall be on record that special education and related services were provided to the pupil by the other school district or agency. The pupil shall be placed in the same type program as previously provided and in accordance with the IEP. Within the thirty (30) school days the admissions and release committee shall convene to carry out its functions as specified in Section 3(4).

(5) Trial placement. Trial placement shall be a temporary placement for students not new to the school or school system and may be considered pursuant to the following conditions:

(a) The placement shall be for no longer than four (4) school months and shall not be continued beyond this time as a trial placement.

(b) Written rationale justifying the trial placement shall be provided by the admissions and release committee recommending such placement and shall be maintained with the IEP.

(c) The pupil shall have an IEP specifying trial placement and the starting and ending dates of such placement.

(d) A trial placement shall not serve as a substitution for a more appropriate placement.

(e) The appropriate admissions and release committee shall review the trial placement no later than four (4) school months after initiation of services to determine the effectiveness of such services, and to make recommendations for continuation in that program or a change in program.

(f) All due process procedures as required and provided in Sections 9 and 10 of this regulation and 707 KAR 1:060 shall be afforded the parent, child, and school, including written parental permission for trial placement.

(6) Change in placement. Change in placement refers to those actions that cause a significant alteration in programming for a child who is currently receiving special education and related services.

(a) Change in placement shall mean, but not be limited to, a change from:

1. Special education and related services to regular education, including regular education with support services;

2. One (1) categorical program to another (e.g., TMH to EMH);

3. Or to a more or less restrictive environment (e.g., special class to resource room).

(b) Any change in placement shall follow due process procedures to insure that exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation, and placement, including the written prior notice requirements as specified in 707 KAR 1:060.

(c) Any change in placement shall be subject to established admissions and release committee procedures and consideration of the least restrictive environment concept.

Section 7. Least Restrictive Environment. Least restrictive environment refers to that educational setting or program in which he identified child can function most effectively based upon his/her unique needs and capabilities.

(1) To the maximum extent appropriate exceptional children as defined in KRS 157.200 including those

children in public or private institutions or other care facilities shall be educated with children who are not identified as exceptional.

(2) Self-contained classes, separate schooling or other removal of exceptional children from the regular educational environment shall occur only when the nature or severity of the exceptionality is such that education in the regular class with the use of supplementary aids and services cannot be achieved satisfactorily.

(3) Unless an exceptional child's individual education program requires some other arrangement, the child shall be educated in the school in which he or she would attend if not identified as exceptional.

(4) Each agency providing educational services shall insure that a continuum of placement alternatives is available to meet the needs of exceptional children for special education and related services. The alternatives shall include but not be limited to instruction in the regular classroom, special classes, special schools and home and hospital instruction. The alternatives shall also make provision for supplemental services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.

(5) The identified child shall be returned to the most normal setting possible when specified goals and objectives have been achieved, consistent with the child's capabilities and educational needs and as determined by the appropriate admissions and release committee.

Section 8. Program Completion. An exceptional pupil shall be granted a high school diploma pursuant to meeting criteria and standards as provided in the "Program of Studies for Kentucky Schools." These pupils should be considered a part of the graduating class and no distinction shall be made in the ceremonies.

Section 9. Procedural Safeguards. (1) Each local school district shall establish and implement reasonable timelines in order for the identification, evaluation, and placement of referred pupils to occur without delay and pursuant to the specifications of this section and 707 KAR 1:060.

(2) Each child and his or her parent(s) and the local school district shall be guaranteed procedural safeguards in decisions regarding identification, location, evaluation and educational placement of the child in programs for exceptional children as provided in 707 KAR 1:060, the "Due Process Policy and Procedure Manual." These safeguards shall include the following:

(a) The child shall be represented by his or her parent(s) at all decision making points in the identification, evaluation and placement process. "Parent" refers to a natural mother or father, adoptive mother or father, a legally appointed guardian, a person acting as a parent of a child, (grandparent, stepparent, etc.) or a surrogate parent appointed to act in this capacity.

(b) The parent(s) shall receive written notification from the local school district that their child has been referred as a possible candidate for programs for exceptional children and that the child has the right to receive a free, appropriate public education.

(c) Parent(s) shall receive written notification in English and the primary language of the home regarding identification, evaluation and placement procedures.

(d) The local school district shall obtain written parental permission prior to initial individual evaluation and initial placement in a program for exceptional children.

(e) The local school district shall provide the parent(s) with written notification of continuation of placement.



(f) The parent(s) shall have the right to obtain an independent educational evaluation conducted by a qualified examiner. The results of this evaluation must be considered in decisions regarding the provision of a free appropriate public education to the child.

(g) In accordance with procedures outlined in 707 KAR 1:060, the "Due Process Policy and Procedure Manual," either the parent(s) or the local school district may request an impartial due process hearing to resolve disagreements regarding proposed or refused actions related to the identification, evaluation and educational placement of exceptional children. Appeals related to the due process hearing decision shall be conducted pursuant to 707 KAR 1:080.

(h) Where a child's parent(s) or guardian(s) are not known, are unavailable or the child is a ward of the State, such child shall be assigned a surrogate parent to represent him/her in all matters relating to the provision of a free, appropriate public education.

1. The State Department of Education and local school districts, in cooperation with other public and private agencies, shall recruit persons who can and will serve as surrogate parents. The State Department of Education, Bureau of Education for Exceptional Children, shall maintain a registry of such persons to act in this capacity. Persons selected as surrogate parents shall:

a. Have no other vested interest that would conflict with their primary allegiance to the child they would represent;

b. Be committed to personally and thoroughly acquainting themselves with the child and the child's educational needs;

c. Be familiar with the educational system within the state; and

d. Be readily accessible to the children they represent.

2. Assignment of a surrogate to a particular child shall be made according to the following procedures:

a. Any person may file a request for the assignment of a surrogate to a child with the child's local school district with a copy of the request to the State Department of Education, Bureau of Education for Exceptional Children.

b. The local school district shall send a notice of the request for a surrogate to the adult in charge of the child's place of residence and to the parent(s) or guardian(s) at their last known address in an effort to determine the need for a surrogate parent.

c. If the local school district determines need for a surrogate as provided in subsection (2)(a) of this section, the State Department of Education, Bureau of Education for Exceptional Children, shall be notified in writing of such need. The Bureau of Education for Exceptional Children shall assign a surrogate within seven (7) calendar days of the notification.

d. The assigned surrogate shall represent the child in all matters relating to identification, evaluation and placement, and the provision of a free appropriate public education.

e. Surrogates shall not be assigned to children who have reached the age of majority.

f. An individual assigned as a surrogate shall not be an employee of a public agency involved in the education or care of the child.

(i) Testing and evaluation materials utilized for the purpose of evaluation and placement of exceptional children must be selected and administered so as not to be racially or culturally discriminatory.

(j) Decisions regarding the placement of exceptional children shall be made with regard to educating these pupils to the maximum extent appropriate with their non-handicapped peers in the least restrictive environment.

Section 10. Confidentiality of Personally Identifiable Information. The public agency shall develop and adopt policies and procedures consistent with the provisions of the Family Educational Rights and Privacy Act and confidentiality requirements of PL 94-142 for all exceptional children. These shall include the following:

(1) Parent(s) shall be notified annually of all requirements concerning personally identifiable information.

(2) Educational records collected, maintained, and used by the agency are open for inspection and review by the child's parent(s) and a representative of the parent(s).

(3) The agency shall comply with a parental request to inspect and review records without unnecessary delay, before any meeting of the admissions and release committee, before an impartial due process hearing, and in no case more than forty-five (45) days after the request has been made.

(4) Upon request of the parent(s) the public agency must provide an explanation and interpretation of such records.

(5) Copies of the records must be provided if failure to do so would prevent the parent(s) from exercising their right to review and inspect the records. A nominal fee may be charged unless it would prevent such access rights. A fee may not be charged for record search or retrieval.

(6) An agency may presume that the parent(s) has the authority to inspect and review records relating to his/her child unless the agency has been advised that the parent(s) does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

(7) A record of access shall be maintained for those individuals obtaining access to such records, except the parent(s) and authorized parties of the agency, including the name of the party, the date of access, and the purpose for which the party was authorized to use the records.

(8) Information from records containing data on more than one (1) child shall be provided in such a way as to preserve the confidentiality of the other pupils.

(9) A list of the location and types of education records collected, maintained and used by the agency shall be provided by the agency to parent(s) on request.

(10) The parent(s) have the right to request an amendment of information in the education records pursuant to the following:

(a) The agency shall decide whether to amend the information within a reasonable period of time of receipt of the request and shall notify the parent(s) of this effect.

(b) If the agency refuses to amend the records, it shall inform the parent(s) of their right to a record amendment hearing.

(c) If the result of the hearing does not require such amendment, the parent(s) has the right to place a statement outlining the points of dissent in the education records. This statement must accompany the information each time it is released.

(d) If the agency amends the records as a result of the hearing, it shall so inform the parent(s) in writing.

(11) Parental consent must be obtained before disclosing personally identifiable information to individuals or agencies unless otherwise authorized to do so as delineated in the Family Educational Rights and Privacy Act and PL 94-142.

(12) Each agency shall protect the confidentiality of records at collection, storage, disclosure and destruction stages and shall insure that all persons collecting or using records receive training in confidentiality requirements.

(13) One (1) agency official shall assume responsibility for insuring the confidentiality of personally identifiable information.

(14) A current listing of the names and titles of individuals in the public agency who have access to education records must be maintained for public inspection.

(15) Public agencies must inform the parent(s) when education records are no longer needed for educational services and destroy that information upon request of the parent(s). The agency must inform the parent(s) that such information could be needed later for social security benefits or other purposes. A permanent record of the pupil's name, address, phone, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 22, 1984, at 10 a.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND HUMANITIES CABINET

Department of Education

Bureau of Education for Exceptional Children  
(Proposed Amendment)

707 KAR 1:055. Programs for home instruction and/or hospital instruction.

RELATES TO: KRS 157.270, 157.360, [157.200 to 157.285,] 159.030

PURSUANT TO: KRS [13.082,] 156.070, 157.220 [156.160]

NECESSITY AND FUNCTION: KRS 157.270 provides for home and hospital instruction of appropriate exceptional children; KRS 157.360 provides the state funding mechanism for home and hospital instruction of exceptional children; and KRS 159.030 provides for home and hospital instruction for all pupils whose physical or mental condition renders school attendance inadvisable. [To promulgate State Board for Elementary and Secondary Education regulations for home instruction and/or hospital instruction.] This regulation is necessary to assure uniformity in providing special education and related services in the home and/or hospital setting and to conform with Public Law 94-142, and in order to assure uniform educational services for non-exceptional children in the home or hospital setting.

Section 1. General Provisions. Local school boards of education shall operate programs for home instruction and/or hospital instruction for children of school attendance age pursuant to KRS 157.200 to 157.290 [157.285], inclusive, and the criteria listed in this section.

Section 2. Eligibility Criteria. An admissions and release committee shall determine that an exceptional child shall be eligible for instruction in the home, hospital, or sanatorium provided the following criteria are met:

(1) The child is identified as exceptional by meeting the eligibility criteria for one (1) of the categorical programs;

(2) The identified child needs special education and related services; and/or

(3) The condition of the identified child prevents or renders inadvisable attendance at school, based on a signed medical statement(s) as required by KRS 159.030(2). Forms for the required statement(s) shall be provided by the Department of Education.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of exceptional children, as defined in KRS 157.200, in the home instruction and/or hospital instruction programs. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed. The admissions and release committee shall review the statement of the child's condition and any additional reports, information, and assessments that it deems necessary for the placement of each individual child in an appropriate educational program.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4 and the appropriate categorical regulation(s). Evaluations shall include:

- (1) A developmental and social history;
- (2) Medical statement(s) pursuant to KRS 159.030;
- (3) An individual assessment of basic skills, (i.e., math, reading, language);
- (4) Written behavioral observation; and/or
- (5) Additional reports, information, and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each exceptional child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program. The IEP is required for each exceptional child placed in a program for home instruction and/or hospital instruction.

Section 6. Placement. Placement in a home instruction and/or hospital instruction program shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6. The child shall be returned to a less restrictive and more appropriate educational environment when improvement of the condition renders this advisable. Home instruction shall not be used as a substitute for a more appropriate educational placement for exceptional children. A responsible adult shall be in the home during the time the home instruction teacher is present.

Section 7. Classroom Plan. Programs for home instruction and/or hospital instruction shall be established pursuant to the plan(s) as described in 707 KAR 1:051, Section 1.

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for home instruction and/or hospital instruction shall be:

Classroom Plans (Units)	Average Daily Attendance [Membership]	Age Range
Home Instruction Plan— <i>Itinerant Teacher</i>	10 [5 to 10]	unlimited
Hospital Based— Special Class Teacher	10 [6 to 15]	unlimited
Home or Hospital Based— Visiting Itinerant Teacher	1 to 10 [5 to 12]	unlimited

[(2) Variations of the above shall be considered for approval upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:]

- [(a) Age and grade level of the pupils;]
- [(b) Physical condition of the pupils; and]
- [(c) Support personnel.]

Section 9. Temporary Placement for Non-Exceptional Children. Local boards of education shall implement referral and placement procedures in accordance with local board policy for children with temporary conditions such as fractures, surgical recuperation, or other short-range physical or health impairments who do not meet eligibility criteria for a category of exceptionality. The condition of pregnancy is not to be considered a physical or health impairment in and of itself. Local school districts [kidney infection, and pregnancy; and local boards] do not need to follow the due process procedures outlined in 707 KAR 1:051 when placing non-exceptional students, but must assure that the condition of the identified child prevents or renders inadvisable attendance at school based on a signed medical statement(s) as required by KRS 159.030. Forms for the required statement(s) shall be provided by the Department of Education.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: May 8, 1984

FILED WITH LRC: May 15, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 22, 1984, at 1 p.m., in the State Board Room, 1st Floor, Capital Plaza Tower. Those interested in attending this hearing shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction (Proposed Amendment)

##### 815 KAR 7:010. Administration and enforcement.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall

establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building Code.

#### Section 1. Definitions used in Title 815, Chapter 7:

(1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.

(3) "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.

(4) "Department" means the Department of Housing, Buildings and Construction.

(5) "Industrialized building system" or "building system" means a structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at a building site in Kentucky. "Industrialized building system" includes: a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precut wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.

(6) "KBC" means the Kentucky Building Code as established in this chapter.

(7) "Major structural change" means alterations or repairs made within any period of twelve (12) months, costing in excess of fifty (50) percent of the physical value of the structure, as determined by a comparison of the BOCA chart of construction costs and the value of the structure as established by the tax records of the county in which the property is located.

(8) "Person" means a person, partnership, corporation or other legal entity.

(9) "Single family dwelling" means one (1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(10) "Trade or brand name house" means any single structure made of precut or prefabricated panels, sections or individual pieces that are sold or prefabricated under a name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional homebuilding and electrical and plumbing installation techniques.

(11) "Fire official" means the chief of the fire department or of the fire prevention bureau, or if there is not a jurisdiction fire department or fire prevention bureau, such officer as shall be designated by the appointing authority of the jurisdiction, or his duly appointed representative, to enforce the provisions of KRS 227.300 and 815 KAR 10:020.

Section 2. Scope: This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) *The provisions of this code relating to the construction, repair, alteration, enlargement, restoration and moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local government authority as historic buildings, subject to the approval of the board of appeals, when such buildings are judged by the building official to be safe and in the interest of public health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, relocation, and location within the fire limits. All such approvals must be based on the applicant's complete submission of professional architectural and engineering plans and specifications bearing the professional seal of the designer.*

(5) Nothing in the KBC shall require historic buildings listed on the state or federal register to conform to new building requirements because of their restoration.]

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

Section 3. Applicability: (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 above.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19.

Section 4. Ordinary Repairs: Ordinary repairs to structures may be made without application or notice to the building official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, or the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement or relocation of any standpipe, water supply, sewer or drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health and general safety.

Section 5. Installation of Service Equipment: When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by the provisions of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

Section 6. Existing Structures: (1) The legal use and occupancy of any structure existing on the effective day of this code or for which it had been heretofore approved, may be continued without change, except as may be specified in this regulation.

(2) Existing structures, when altered or repaired, as specified in this section, shall be made to conform with the requirements of the KBC for new structure, only to the extent provided herein.

(3) Alterations: All alterations, repairs, and additions except those "ordinary repairs" as defined in Section 4, shall be made in accordance with the terms of the KBC for new structure.

(4) Remodeling: Any major structural change, or a change to a more restrictive use group shall cause the entire building to be brought into conformity with the KBC requirements for new structures.

(5) Increase in size: If the building is increased in floor area or number of stories, the entire structure shall be made to conform with the requirements of the KBC in respect to life safety.

(6) Part change in use: If a portion of the structure is changed to a new more restrictive use group, and that portion is separated from the remainder of the structure with the required vertical and horizontal fire separation assemblies it shall be made to conform to the requirements for the new use and occupancy and the existing portion shall not be subjected to the requirements of the KBC relating to new structures.

Section 7. Departments of Building Inspection: (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and shall meet the qualifications for the position which may be established by the appointing authority.

(3) Official records shall be kept of all business and activities of the various local building departments or state

building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

**Section 8. Duties and Powers of the Building Official:** The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous or temporary occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as business or mercantile occupancies having a capacity which does not exceed 100 persons, including buildings used for assembly type purposes but having a capacity of less than fifty (50).

(3) All buildings classified as factory or industrial occupancies having a capacity which does not exceed 100 persons.

**Section 9. Duties and Powers of the Department.** (1) It shall be the responsibility of the department to review plans and specifications, issue permits and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification.

(2) Any local government may petition to the department for additional plan review responsibility. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual.

(4) The building official or his authorized representative should carry proper credentials of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board procedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contain-

ed in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix B, "Accepted Engineering Practice," and Appendix C, "Accredited Materials Standards" of the 1978 Edition of BOCA, Inc., filed herein by reference, shall be deemed to represent accepted engineering practice with respect of materials, equipment, system or method construction therein specified, and shall therefore be acceptable.

**Section 10. New Materials and Modifications:** (1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA, Inc., or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsibility may vary or modify such provision upon application of the owner or his representative only if the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department and the local fire official.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

**Section 11. Inspections:** (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a permit (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsibility the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as

on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent and the fire official.

(7) The building official shall cooperate with the fire official by allowing the fire official to inspect all buildings during construction. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and if a certificate of occupancy is issued contrary to said written recommendations the building official shall give written notification of his decision to the fire official and the department at once.

Section 12. Right of Entry: Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

Section 13. Application for Permit Required: (1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except that ordinary repairs, as defined in Section 4, which do not involve any violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the department may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for

conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan: There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey.

(7) Engineering details: The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

Section 14. Permits Required: (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the con-



struction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans: The building official shall stamp or endorse in writing both sets of corrected plans approved, and one (1) set of such approved plans shall be retained by him and the other set shall be available at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be available on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

Section 15. Conditions of Permit. (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the permit.

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

Section 16. Fees: (1) A permit to begin work for new construction, alteration, removal, or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for construction, alteration, and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of

unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

Section 17. Certificate of Use and Occupancy. (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky Building Code, or assembled or installed in conformance with applicable instructions; except that:

(a) A building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(b) A building for which plans were prepared at least three (3) months prior to the effective date of the KBC and upon which construction was begun prior to the effective date of the KBC in a locality not then requiring a building permit may be completed and occupied without a building permit.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy shall specify the following information from the 1978 edition of the BOCA Basic Building Code: the use group, in accordance with the provisions of Article 2; the fire grading as defined in Article 2 and Table 902; the maximum live load on all floors as prescribed in Article 7; the occupancy load in the building and all parts thereof as defined in Article 2 and Article 6; and any special stipulations and conditions of the building permit.

Section 18. Posting Structures. (1) Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use (use groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the department, which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

Section 19. Violations and Remedies. (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsible for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) Violation of penalties: Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief: The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

Section 20. Notice to Owner: (1) Upon notice from the building official that work on any building or structure is

being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the standards of safety for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:015.

Section 22. Local Board of Appeals. (1) The mayor, chairman of the board of trustees, or county judge executive of a local government which is enforcing the Kentucky Building Code, may, upon approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals of the decisions of the local building official.

(2) Local governments which are enforcing the Kentucky Building Code may cooperate with each other and provide a local appeals board and shall adhere to the provision of KRS Chapter 65 when entering into such cooperative agreements.

(3) No local building official or employee of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has financial interest.

(4) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt.

(5) All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered mail no later than ten (10) days prior to the date of the hearing.

(6) The local appeals board shall render a decision within five (5) working days after the hearing. The board may uphold, amend or reverse the decision of a local building official, and there shall be no appeal from the decision of the local appeals board other than by appeal to the board.

Section 23. Appeals Procedures. (1) Where a local ap-

peals board exists, a party including the local fire official must first appeal to the local board when aggrieved by a decision of the local building official.

(2) A party aggrieved by a decision of a local building official where no local appeals board exists may appeal directly to the board. The board shall further hear appeals directly from a party aggrieved by the decision of an agent of the department or the State Fire Marshal.

(3) Application for appeal may be made when it is claimed in writing that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used, or that the building official has refused to grant a modification to the provisions of this code covering the manner of construction of materials to be used in the erection, alteration or repair of a building or structure.

(4) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct hearings, and those appointed shall act in all matters concerning the appeal for the entire board.

(5) The board may adopt such rules, regulations and by-laws as are necessary to conduct said appeals; and no member of the board or committee may vote on any matter which will result in his direct or indirect financial gain.

(6) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

(7) The commissioner shall immediately notify the board when an appeal is received. The commissioner or a designated employee of the department shall then investigate the evidence pertaining to such an appeal, based upon the results of such investigation, make recommendations to the board or committee on the disposition of the case in question.

(8) No employee of the department shall investigate or make recommendation on an appeal to his own decision, but shall defer in such cases to employees who are not party to the decision which lead to the appeals.

(9) In conducting such investigation, the commissioner or the designated representatives, acting for the department shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause disposition to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issue by consent of the parties.

(10) The commissioner shall cause such investigation to be completed and forwarded with written recommendations to the board within thirty (30) days after receiving such an appeal.

Section 24. Action of the Board. (1) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its regularly scheduled meeting but no later than thirty (30) days after receipt of such recommendations.

(2) If the board has authorized an appeals committee to hear an appeal, the committee shall act for the board in all matters related to the appeal.

(3) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner. The board may further exercise the same powers of investigation as granted to the commissioner in Section 23. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(4) The board may uphold, amend or reverse the decision of a local appeals board, a local building official or the state building official; and the decision of the board or the appeals committee shall be final.

(5) The chairman of the board shall notify the appropriate building official and he or she shall take immediate action in accordance with the decision of the board.

(6) There shall be no appeal from the board's decision except to the circuit court within whose jurisdiction the property in question is located. Application for review shall be made to the proper court within thirty (30) days following that decision.

#### Section 25. Construction Control and Responsibilities:

(1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 26. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 27. Effective Dates for KBC Application. (1) Any building required by Section 9(1) to be submitted to the Department of Housing, Buildings and Construction and which has not been submitted and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 8 to be submitted to a local government for plan review and which has not been lawfully approved for construction prior to the

following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 28. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained.

Section 29. Day Care Centers. Family child day care homes, group day care homes and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A. Phamplet.#101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 11, 1984 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 1 p.m., in the offices of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department of Housing, Buildings and Construction  
Division of Fire Prevention  
(Proposed Amendment)

**815 KAR 45:015. Aid to fire departments.**

RELATES TO: KRS 17.210, 136.392

PURSUANT TO: KRS [13.082,] 17.250

NECESSITY AND FUNCTION: KRS 17.250 requires the State Fire Marshal to allot funds to local volunteer fire departments in order to promote better fire protection through better facilities and equipment. This proposed regulation sets out standards and procedures for determining the amount or use of volunteer fire department aid.

Section 1. Definitions. (1) Certified firefighter. For the purpose of these regulations shall be one who has received at least 150 hours of certified fire training as recognized by the Commission on Fire Protection Personnel Standards and Education and receives at least twenty (20) hours certified training annually thereafter.

(2) Certified training. For the purpose of these regulations means firefighter training given or verified by a cer-

tified instructor and approved and recorded by the commission.

(3) Commission. For the purpose of these regulations means the Commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020.

(4) Fire apparatus. For the purpose of these regulations means an operational truck type vehicle, equipped with a pump of sufficient capacity to fight fires and with sufficient space to carry hose and other firefighting equipment.

(5) Full-time paid firefighter. For the purpose of these regulations means individuals who work for a salary a minimum of 2,080 hours per year as an employee of a fire department or fire protection district.

(6) Volunteer fire department. For the purpose of these regulations means a fire department which has a membership consisting of less than fifty percent (50%) of its members being full-time paid firefighters and the remaining number being volunteer firefighters.

(7) Newly formed department. For the purpose of these regulations means a department which has organized to the point of having at least twelve (12) members and a chief, having either in their possession or on order an operational fire apparatus. They shall also have funds, equipment, land and buildings of such sufficient value made available to the newly formed fire unit from any source whatever for the year in which the allotment is to be made to match or exceed the amount of the aid allotment.

Section 2. Eligibility. (1) The State Fire Marshal shall allot on an annual basis (*August 1 through September 30* [April 1 through March 31]) an equal share of the funds accruing to and appropriated for volunteer fire department aid to all eligible departments.

(2) To qualify to receive aid under the Volunteer Fire Department Aid Law, volunteer fire departments in cities of all classes, fire prevention districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083 and all other organized volunteer fire departments operated and maintained on a non-profit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth must maintain at least twelve (12) firefighters, a chief and at least one (1) operational fire apparatus.

(3) Any fire department or entity eligible for and receiving funding pursuant to these regulations shall have a minimum of *fifty percent (50%)* [seventy-five percent (75%)] of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(4) Each fire department shall furnish the Office of State Fire Marshal an update list of active firefighting members of the fire department by the 31st of *July* [March] each year so that the *fifty percent (50%)* [seventy-five percent (75%)] certification requirement can be checked.

(5) To be eligible to receive funds, a newly formed fire department must have at least twelve (12) firefighters, a chief and at least one (1) operational fire apparatus or one (1) on order. They must have *fifty percent (50%)* [seventy-five percent (75%)] of their membership with at least one-half ( $\frac{1}{2}$ ) of their training hours toward certification by *July* [March] 31 within their first year of existence and plans to receive the balance of the required hours for certification within the second year of their existence. Each year thereafter, they shall meet the requirements of the commission to retain certification.

Section 3. Participation Requirement. (1) It shall be the responsibility of the Chief Officer or his appointed representative of each department of furnish any information required by the Fire Department Aid Coordinator for determination of eligibility.

(2) Any volunteer fire department seeking aid pursuant to the authority of KRS 17.250 shall file an application on blanks which may be obtained from the Office of the State Fire Marshal.

(3) Such applications shall be executed in duplicate, one (1) copy to be retained by the applicant and the original to be forwarded to the State Fire Marshal.

Section 4. Verification and Inspection. (1) The application for aid shall contain or have attached thereto a detailed statement of the equipment to be purchased, repairs to be made, or other purposes for which the allotment is to be expended and such other information as the State Fire Marshal may require to give proper consideration to the request.

(2) Where a new department is being established, there shall be furnished with the application additional information as to the territory to be served and plans and specifications for the establishment of the department.

(3) The Fire Department Aid Coordinator shall, upon receipt of the application, advise the State Fire Marshal as to the validity of the qualifications and approval for grant-in-aid.

(4) The State Fire Marshal or the Fire Department Aid Coordinator or their representative may make an inspection of the applicant's department to determine [its] comparative needs *within the department* before allotment is made.

Section 5. Processing Applications for and Expenditure of Aid. [(1) Applications for aid for current fiscal year, July 1 to June 30 received on or before September 30, will be disbursed during the last quarter of the fiscal year.]

[(2) Applications for allotment for any fiscal year, submitted during the first quarter, July 1 through September 30 of such year, will be processed during the second quarter of the year October 1 through December 31. Allotments made will be disbursed during the last quarter of the fiscal year, April 1 through June 30 for all funds available for the year involved. Applications received after September 30 of any fiscal year will be held for approval or disapproval, for participation in funds during the next fiscal year.]

(1) [(3)] No allotment may be expended for any purpose other than that for which it is approved without the approval of the Fire Department Aid Coordinator.

(2) [(4)] If approved allotment is insufficient to cover cost of equipment or other approved purpose, funds granted for any fiscal year may be deposited in any bank legally authorized by applicant, to be held for a period not to exceed five (5) years from the initial request. If additional time beyond the five (5) years is needed, a written request shall be made to the Fire Department Aid Coordinator giving reasons why additional time is needed. This shall be held in a special and separate bank account marked Fire Department Aid.

(3) [(5)] If an allotment is granted to a department and is not to be used for purchase of equipment for which it was granted, the chief of the department shall:

(a) Contact the Fire Department Coordinator directly giving reason why he wishes to make a change in the original equipment list;

(b) Resubmit a new equipment list which is to be approved by the State Fire Marshal; or

(c) Refund the grant-in-aid allotment.

(4) [(6)] Amounts expended for expenses of firemen in attending fire related school or classes shall not exceed \$200 for any one (1) department. This shall be an item entered on your regular equipment list.

(5) [(7)] When expenditure is made of any allotted funds, copies of receipted bills shall be forwarded (by the 31st of December of the current fiscal year) to the Fire Department Aid Coordinator and after his approval shall be forwarded to the State Fire Marshal. If grant is to be used toward the retirement of a pre-existing debt for purchase of land, buildings or equipment, proof of such expenditure in the form of affidavit or cancelled note shall be furnished the State Fire Marshal. Any false statements made knowingly by an applicant shall call for refund of grant monies and prosecution under existing statutes.

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 14, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 1 p.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance (Proposed Amendment)

904 KAR 5:100. Claimant's reporting requirements.

RELATES TO: KRS 341.350, 341.380

PURSUANT TO: KRS 13A.100 [13.082], 194.050, 341.115

NECESSITY AND FUNCTION: This regulation sets forth the reporting requirements that the claimant must meet to draw benefits and the date when the claim will be valid. It further sets out the length of time a claim may be backdated and the procedures for mail claims.

Section 1. Registration for Work. A worker must be registered for work before he shall be eligible to receive benefits. The completion of an initial application for benefits shall also serve as the registration for work. Such registration shall remain active during the worker's benefit year as defined in KRS 341.090(2).

Section 2. Initial and Reopened (Additional) Claims for Benefits. (1) In order for a worker to file an initial or reopened claim for benefits he shall report in person to a public employment office and complete such forms and conform to such procedures as are approved by the secretary in Section 2000 and 3000 of the local office manual.

(2) In areas serviced by a full-time public employment office, such initial or reopened claim shall be dated as of the first day of the week in which such worker first reports to such public employment office for the purpose of filing a claim for benefits.



(3) In areas serviced by an itinerant public employment office, such initial or reopened claim shall be dated as of the first day of the week in which the worker becomes unemployed provided he reports to such itinerant office for the purpose of filing a claim for benefits on the first day such office is open following his last day of work; otherwise such claim shall be dated as of the first day of the week in which the worker reports at an itinerant or full-time public employment office.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section such initial or reopened claim may be dated as of the first day of any week of unemployment in which the worker worked less than his customary full-time hours for his regular employer, provided such worker reports to a public employment office for the purpose of filing a claim for benefits within fourteen (14) days after the date he was paid for such week.

(5) Upon the presentation by the worker of reasons found to constitute good cause for failure to report at an earlier date, the secretary may authorize the backdating of initial or reopened claims in an area serviced by a full-time public employment office to the first day of a week which ended not earlier than fourteen (14) days prior to the day on which he first reported or indicated his desire to file such claim, and in an area serviced by an itinerant office to the first day of the week which ended not earlier than twenty-eight (28) days prior to the day on which he first reported.

**Section 3. Continued Claims for Benefits.** (1) In order for a worker, who has filed his initial claim for benefits and has established a benefit year, to file a continued claim for benefits he shall report in person, except as hereinafter provided, to a public employment office and complete such forms and conform to such procedures as are approved by the secretary.

(2) Continued claims for benefits shall cover the week or the two (2) weeks of unemployment (depending on whether the worker is reporting on a weekly or bi-weekly basis) immediately prior to the date on which they are filed.

(3) Upon the presentation by the worker of reasons found to constitute good cause for failure to file at an earlier date, the secretary may authorize the backdating of continued claims in an area serviced by a full-time public employment office to cover a week or weeks of unemployment ended not earlier than twenty-eight (28) days prior to the date on which they are filed and in an area serviced by an itinerant public employment office to cover a week or weeks of unemployment ended not earlier than thirty-five (35) days prior to the date on which they are filed.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, such continued claim may be dated as the first day of any week of unemployment in which the worker worked less than his customary full-time hours for his regular employer and for which week he filed a continued claim, provided such worker reports to a public employment office for the purpose of filing a claim for benefits within fourteen (14) days after the date he was paid for such week.

(5) Continued claims for partial benefits shall be certified as to earnings when so required by procedures approved by the secretary, except that the failure of an employer to properly certify earnings shall not result in a denial of benefits otherwise due under the law.

**Section 4. Mail Claims.** (1) The secretary may establish procedures whereby an individual may file his continued claims by mail if reporting in person would require expen-

diture of an unreasonable amount of travel or money. Such continued claim shall cover the week or weeks indicated on the claim form.

(2) Claims filed by mail shall be considered filed on the day they are deposited in the mail and postmarked. The provisions of this regulation governing the dating and backdating of continued claims filed in areas serviced by a full-time employment office shall also apply to claims filed by mail, and unless such claims are filed within the time prescribed herein, they shall not be allowed.

**Section 5. Claims by Re-employed Workers.** Notwithstanding the provisions of Section 3 of this regulation, a worker, who having filed his initial claim for benefits and having established a benefit year and who by reason of having returned to full-time employment is unable to report in person to a public employment office, may file a continued claim for benefits by completing such forms in accordance with such procedures as are approved by the secretary and submitting such forms by mail to the Division of [for] Unemployment Insurance. Such continued claim shall cover the week of unemployment indicated on the claim form provided that such week of unemployment ended not earlier than thirty-five (35) days prior to the date on which such claim was deposited in the mail.

**Section 6. Eligibility Review.** An unemployed worker claiming benefits shall report in person to a public employment office, as directed, on a periodic basis for the purpose of continued benefit eligibility review.

**Section 7. Failure to Comply with Regulations.** Notwithstanding any other provisions of this regulation, if the secretary finds that the failure of any worker to file a claim for benefits, and register for work within the specified time, was due to the failure on the part of the employer to comply with any of the provisions of the commission's regulations, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim or to failure by the division's personnel to discharge necessary responsibilities, the worker shall have fourteen (14) days after he has received appropriate notice of such findings of the secretary, within which to file such claim, provided that no claim shall be allowed which is filed later than thirteen (13) weeks subsequent to the end of the actual or potential benefit year involved.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at noon.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.



**CABINET FOR HUMAN RESOURCES**  
**Department for Employment Services**  
**Division of Unemployment Insurance**  
**(Proposed Amendment)**

**904 KAR 5:130. Appeals.**

RELATES TO: KRS 341.440

PURSUANT TO: KRS 13A.100 [13.082], 194.050, 341.115

**NECESSITY AND FUNCTION:** This regulation sets up the appeals process and general rules for the conduct of hearings.

**Section 1. Appeals to Referee.** (1) The presentation of an appeal to a referee:

(a) Any interested party wishing to appeal to a referee from a notice of determination may do so by filing with the Division of [for] Unemployment Insurance or its authorized representative a written statement clearly indicating the party's intention to appeal.

(b) An appeal to a referee shall be considered filed at the time it is delivered to a representative of the division or deposited in the mail as indicated by the postmark thereon.

(2) Notification of hearings: All hearings shall be scheduled promptly and notices thereof shall be mailed to all interested parties at least seven (7) days before the date of hearing specifying the time and place of hearing, except that, the referee may, when the exigencies of the situation in his judgment require, set a case for hearing before the expiration of seven (7) days, only then, however, upon agreement of all interested parties.

(3) Disqualification of referees: No referee shall participate in the hearing of an appeal in which he has an interest. Challenges to the interest of any referee shall be heard and decided by the commission.

**(4) Hearing of appeals:**

(a) The claimant and any other party to the appeal may present such evidence as may be pertinent and may question the opposite party and his witnesses. The referee shall, if he deems it necessary to secure full information on the issues, examine each party who appears and his witnesses. The referee may take any additional evidence which he deems necessary; but, if additional evidence is taken, all interested parties shall be afforded an opportunity of examining and refuting the same.

(b) The parties to an appeal, with the consent of the referee, may stipulate the facts involved, in writing. The referee may decide the appeal on the basis of such stipulation or may schedule a hearing and take such further evidence as he deems necessary.

(c) The hearing shall be scheduled and held at a place where the claimant can attend without undue expense or inconvenience, giving consideration to the claimant's place of employment.

(d) *The hearing may be conducted via teleconference if the residence of the claimant and his former employer's place of business are not in close geographic proximity, if the claimant resides in a state other than Kentucky or if other circumstances warrant.*

(e) [(d)] The referee may in his discretion grant a continuance of a hearing in order to secure necessary evidence.

**(5) Decisions:**

(a) After the hearing is concluded the referee shall promptly set forth in writing his finding of facts on the issues involved, his decision and the reasons therefor; provided, however, that if the appellant fails to appear and

prosecute his appeal, the referee may summarily affirm the determination.

(b) Copies of the decision shall be mailed to the claimant and other parties to the appeal, and a copy shall be retained in the division's files.

(c) *The mechanical recording of the hearing shall be retained in the division's files pending further appeal. If no such appeal is initiated, the recording shall be destroyed sixty (60) days from the date the decision is mailed.*

(d) Any referee decision may be superseded and amended after being released in order to correct obvious technical errors or omissions. Such corrected decision shall have the same appeal rights as the decision which it amends or corrects.

(e) *If the decision is such that previously awarded benefits are to be denied either retroactively or forthwith, than a stop payment directive shall be issued to the division by the referee on the date the decision is mailed to the claimant.*

**Section 2. Appeals to the Commission.** (1) Presentation of an appeal to the commission:

(a) Any interested party wishing to appeal to the commission from a decision of a referee may make written application with the commission, the division or its authorized representative for leave to appeal in any form which clearly indicates the party's intention to appeal. A notice of such application for leave to appeal shall be mailed by the division to other interested parties.

(b) An application for leave to appeal shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or the division or deposited in the mail, as indicated by the postmark thereon.

(c) The commission may grant or deny the application for leave to appeal without a hearing or may notify the parties to appear at a specified place and time for argument on the application.

**(2) Hearing of appeals:**

(a) Except in instances where the commission orders cases removed to it from a referee, all appeals to the commission may be heard upon the records of the division and the evidence and exhibits introduced before the referee. In the hearing of an appeal on the record, the parties may, if they desire, present written arguments and, at the commission's discretion be allowed to present oral arguments. *The parties shall have ten (10) days from the date of mailing of the commission's notification of appeals receipt within which to file written argument. The commission may extend the time for filing written argument upon a showing of good cause by either party to the appeal. Written argument shall be considered filed when delivered to a representative of the commission, or deposited in the mail, as indicated by the postmark thereon.*

(b) The commission may, however, direct the taking of additional evidence before it, if needed, in order to determine the appeal. If, in the discretion of the commission, additional evidence is necessary to determine the appeal, the parties shall be notified of the time and place such evidence shall be taken at least seven (7) days prior to the date on which the evidence will be taken.

(c) The commission, at its discretion, may return any case or issue to a referee for the taking of such additional evidence as it desires. The referee shall take the testimony in the manner prescribed for the hearing of appeals before referees and shall thereupon return the record to the commission for its decision thereon. *The commission may*

order a new hearing when, in its discretion, such action is necessary in order to assure all parties of a fair hearing.

(3) The hearing of appeals by the commission on cases ordered removed to it from any referee: The procedure on any case before a referee, ordered by the commission to be removed to it, shall be presented, heard and decided by the entire commission in the manner as prescribed for the hearing of other cases before the referee.

(4) The determination of appeals before the commission:

(a) Following the conclusion of a hearing the commission shall promptly announce its decision, which may be either an affirmation of the decision of the referee, or a separate finding of facts, decision and reasons therefor. The decision shall be in writing and shall be signed by the members of the commission who heard the appeal. *At the discretion of the commission, its decisions may be designated as representing precedent for future cases of similar circumstance. Decisions designated as precedent shall be binding on all lower levels of determination.*

(b) If a decision of the commission is not unanimous, the decision of the majority shall control. The minority may file a dissent from such decision of the majority setting forth the reasons why it fails to agree with the majority.

(c) Copies of the decision shall be mailed to all interested parties.

(5) *Reconsideration:*

(a) *A party adversely affected by a decision of the Kentucky Unemployment Insurance Commission may, within twenty (20) days of the mailing date of such decision, file application for reconsideration of the commission's decision. The commission may grant or deny the application for reconsideration. An application for reconsideration shall be considered initiated and filed at the time it is delivered to an authorized representative of the commission or division, or deposited in the mail as indicated by the postmark thereon.*

(b) *An application for reconsideration of a decision of the commission shall not stay the running of time for appeal to the circuit court, if such application is denied.*

(6) *Precedent decision process and digest. The Kentucky Unemployment Insurance Commission shall develop, distribute, and maintain a manual or digest containing all precedent decisions currently valid. Such manual shall be available, on request, at a fee established by the commission. Individual decisions shall be available on request without charge.*

Section 3. General Rules for Both Appeal Stages. (1) Issuance of subpoenas: Subpoenas requested by a claimant or an employer to compel the attendance of witnesses and/or the production of records for any hearing of an appeal shall be issued only on a sworn statement by the party applying for the issuance thereof setting forth the substance of the anticipated proof to be obtained and the need therefor.

(2) Appeal record: All reports, forms, letters,

transcripts, communications, statements, determinations, decisions, orders, and other matters, written or oral, from the worker, employer, or personnel or representative of the division which have been written, sent, or made in connection with an appealed claim shall constitute the record with respect to such claim.

(3) Supplying information from the records of the Division of [for] Unemployment Insurance: Information from the records of the division shall be furnished to an interested party or his representative to the extent necessary for the proper presentation of the party's case, only upon written request therefor. All requests for such information shall state, as clearly as possible, the nature of the information desired. Nothing in this regulation shall prevent an interested party or his representative from examining a record in the hands of a referee at a hearing.

(4) Conduct of hearings: All hearings shall be conducted informally without regard to common law, statutory or technical rules or procedure and in such manner as to determine the substantial rights of the parties. The parties and their witnesses shall testify under oath or affirmation. All issues relevant to the claim shall be considered and passed upon.

(5) Reopening hearings: Any party to an appeal who fails to appear at the scheduled hearing may, within seven (7) days from the date thereof, request a rehearing. The request shall be granted if such party has shown good cause for his failure to appear. The request shall be in writing and shall set forth the reasons for his failure to attend the scheduled hearing. The request shall be mailed or delivered to the office where the appeal was filed or the Appeals Branch, the Division of [for] Unemployment Insurance, Frankfort, Kentucky. Upon the rehearing being granted, notice of the time and place of the reopened hearing shall be given to the parties or to their representatives.

(6) *Providing of testimony (tapes) to interested parties:*

(a) *Parties or their authorized representatives may secure a duplicate of the recording of testimony made at the referee hearing by contacting the Kentucky Unemployment Insurance Commission at the address listed on the referee decision.*

(b) *The fee for such copies shall be five (5) dollars per cassette tape.*

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

# Proposed Regulations

## KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

### 11 KAR 3:040. Lender participation requirements.

RELATES TO: KRS 164.740(15), 164.744(1), 164.748(5), 164.766

PURSUANT TO: KRS 164.748(4)

**NECESSITY AND FUNCTION:** The Kentucky Higher Education Assistance Authority (authority), in accordance with its contract of insurance, insures the repayment of educational loans originated by eligible lenders. This regulation sets forth the conditions under which the authority will execute a contract of insurance with an eligible lender.

Section 1. The authority will execute a contract of insurance with any organization which:

(1) Qualifies as an eligible lender in accordance with 20 USC section 1085 (section 435 of the Higher Education Act of 1965) as amended and KRS 164.740(7);

(2) Is approved to lend money in the Commonwealth of Kentucky;

(3) Is located in Kentucky;

(4) Is capable of meeting the requirements of due diligence in the making, servicing, and collection of authority insured loans;

(5) Provides the disclosures required by 20 USC section 1083a (section 433A of the Higher Education Act of 1965) as amended; and

(6) Is financially and administratively capable of meeting its obligations and complying with the requirements of the authority's programs.

Section 2. Loan guarantees shall be issued by the authority only to organizations which have in force a contract of insurance with the authority.

Section 3. Nothing in this regulation shall be interpreted so as to restrict the eligibility of the Student Loan Marketing Association, or other eligible lenders pursuant to 20 USC section 1085, from holding loans insured by the authority provided such loans have been transferred to such holder in accordance with terms which have been agreed to in writing between the authority and such holders.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: April 25, 1984

FILED WITH LRC: May 15, 1984 at 9 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing regarding this regulation is scheduled to be held in Room 107 of the New Capitol Annex, on Friday, June 29, 1984, at 1:30 p.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601.

## KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

### 15 KAR 1:030. Administrative Reserve Fund.

RELATES TO: KRS 164A.060(4),(16), 164A.090, 164A.110

PURSUANT TO: 164A.060(8)

**NECESSITY AND FUNCTION:** The Kentucky Higher Education Student Loan Corporation is empowered to enter an agreement with a corporate trustee to whom it may pledge or assign revenues or assets of the corporation. Such trustee is obligated to hold and apply trust funds for the purposes set forth in KRS 164A.010 et seq., subject to regulations. The corporation is further empowered to pay reasonable fees related to the making, purchasing, and servicing of insured student loans. It is essential to the efficient operation of the corporation's programs that sufficient funds be maintained and restricted to be applied solely for specific purposes. The purpose of this regulation is to establish an Administrative Reserve Fund for servicing the corporation's student loan portfolio.

Section 1. There shall be created an Administrative Reserve Fund to be held by the trustee on behalf of the corporation which shall be restricted as provided in Sections 2 and 3 of this regulation.

Section 2. The Administrative Reserve Fund shall be applied exclusively to the payment of fees and/or expenses incurred in the servicing of insured student loans held by the corporation. For this purpose, servicing shall include, but not be limited to, data processing, record retention, billing, collection, litigation, and any other act associated with the transfer, holding, or recovery of a loan.

Section 3. The principal of the fund shall be maintained at a level which is at least equal to the estimated annualized cost of servicing the corporation's student loan portfolio unless expenditures of such principal are necessary to fund the corporation's operating budget as it pertains to the servicing of student loans owned by the corporation. For this purpose, the corporation shall cause to be estimated, prior to June 1 of each year, a sum necessary to adequately provide servicing for all loans held or reasonably expected to be held by the corporation in the next fiscal year. Such estimate shall be communicated promptly to the trustee and may be reviewed and adjusted at the sole discretion of the corporation. Expenditures from the fund shall be consistent with such operating budgets as may, from time to time, be adopted by the board and filed with the trustee.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: April 26, 1984

FILED WITH LRC: May 15, 1984 at 9 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing regarding this regulation is scheduled to be held in Room 107 of the New Capitol Annex, on Friday, June 29, 1984, at 1:30 p.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Student Loan Corporation, 1050 U.S. 127 South, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Kentucky Nature Preserves Commission**

**400 KAR 2:010. Definitions.**

RELATES TO: KRS 146.425, 146.460, 146.490

PURSUANT TO: KRS 146.485

NECESSITY AND FUNCTION: KRS 146.485 requires the Kentucky Nature Preserves Commission to develop regulations for the selection, acquisition, management, protection and use of natural areas and nature preserves, and for the conduct of commission affairs. This regulation provides for the defining of certain essential terms used in 400 KAR 2:020 through 400 KAR 2:050.

Section 1. (1) "Advisor" means any individual selected by the commission to serve in an advisory capacity to the commission pursuant to KRS 146.435;

(2) "Articles of dedication" means the writing by which any estate, interest, or right in a natural area is formally dedicated as provided in KRS 146.410 to 146.530;

(3) "Act" means the enabling legislation of the Kentucky Nature Preserves Commission KRS 146.410 to 146.530;

(4) "Commission" means the Kentucky Nature Preserves Commission;

(5) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(6) "Secretary" means the Secretary of the Natural Resources and Environmental Protection Cabinet;

(7) "Custodian" means any person, organization, agency, or institution as selected by the commission to serve as the managing agent for a nature preserve;

(8) "Natural area" means any area of land or water, or of both land and water, in public or private ownership which retains or has reestablished to some degree, in the judgment of the commission, its natural character, though it need not be completely natural and undisturbed; or provides habitat for endangered, threatened, or special concern plants and animals; or has a unique or diverse biological or ecological significance; or has an interesting or rare biological community; or has geological, cultural, historical, or educational significance;

(9) "Natural preserve" means a natural area, and land necessary for its protection, any estate, interest or right which has been formerly dedicated under the provisions of KRS 146.410 to 146.530 and for which articles of dedication have been ratified and filed;

(10) "Endangered" means a species which is monitored by the commission and is in danger of extirpation and/or extinction throughout all or a significant portion of its range in Kentucky, including those species proposed or recognized as federally endangered that occur in Kentucky;

(11) "Threatened" means a species which is monitored by the commission and is likely to become endangered within the foreseeable future throughout all or a significant portion of its range in Kentucky, including those species proposed or recognized as federally threatened that occur in Kentucky;

(12) "Special concern" means a species that is monitored by the commission because it exists in a limited geographic area, it may become threatened or endangered due to modification or destruction of habitat, certain characteristics or requirements make it especially vulnerable to specific pressures, or experienced researchers have identified other factors which threaten its existence in Kentucky;

(13) "List of endangered, threatened, and special concern plants and animals" means the list of those species which have been identified by the commission;

(14) "Register of natural areas" means the list of those natural areas worthy of preservation but not available for dedication. Terrestrial natural areas may only be registered with the consent of the landowner; stream segments may be registered upon such a determination by the commission.

JONE E. RICKERT, Chairman

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning this regulation has been scheduled for June 28, 1984, at 7 p.m. at the offices of the Nature Preserves Commission, 407 Broadway, Frankfort, Kentucky 40601. Those interested in attending should provide written notice to Richard R. Hannan at the above address.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Kentucky Nature Preserves Commission**

**400 KAR 2:020. The Nature Preserves Commission.**

RELATES TO: KRS 146.410, 146.425, 146.430

PURSUANT TO: KRS 146.425(2), 146.485

NECESSITY AND FUNCTION: KRS 146.485 requires the Kentucky Nature Preserves Commission to make and publish regulations for the conduct of commission affairs. This regulation sets forth the administrative structure of the commission and rules for transacting the business of the commission.

Section 1. Officers. (1) The officers of the commission shall be a chairman and a secretary.

(2) The chairman and secretary shall be elected annually by the commission at its first regular meeting in the calendar year.

(3) Duties of officers.

(a) The chairman shall preside at meetings of the commission. In the name of the commission, and subject to its approval, he shall sign the minutes of each meeting, certifying that the minutes have been approved by the commission to be recorded as the minutes of that meeting. On behalf of the commission, and with its consent, he shall approve and sign contracts, memoranda of agreement, Articles of Dedication, natural areas registration certificates, out-of-state travel vouchers, and such other agreements as may be entered into, and approved by, the commission, unless such authority is delegated to the secretary or director of the commission.

(b) The secretary of the commission shall perform the duties of the chairman when the chairman is unable to execute his duties due to absence or other disability. The secretary shall record the minutes of the meetings of the commission in the manner set forth in this regulation. The secretary shall sign the minutes of each meeting, to certify that they are an accurate record of the meeting and are to be recorded as the minutes of the meeting.

Section 2. Director. The commission may hire a full-time director who shall be qualified by training and experience to administer the duties of the commission, which shall include the following:

(1) Employing personnel, upon the advice and consent of the commission;

(2) Approval, as indicated by his signature thereto, of documents necessary to perform the administrative function of the commission, including, but not limited to, time sheets, leave and compensatory time request forms, in-state travel approval, and request for purchase and payment forms;

(3) Signing of documents requiring the signature and approval of the chairman of the commission to certify that the documents have been reviewed by the commission staff;

(4) Managing the day to day affairs of the commission, and its staff;

(5) Preparing a report on the condition of each nature preserve and each registered natural area to be submitted to the commission at its final quarterly meeting in each even numbered year.

(6) Such other duties as may be directed by the commission and recorded in the minutes of its meetings.

Section 3. Meetings. (1) There shall be four (4) quarterly meetings of the commission each year. A schedule of meetings including times and places for the coming year shall be set by the commission at its last meeting of the calendar year. This schedule may be altered upon motion approved by a quorum of the commission.

(2) Special meetings of the commission may be called at such time and place as designated by the chairman or four (4) members of the commission.

(3) Notice of regular quarterly meetings of the commission shall be given to each member of the commission and advisors, in writing by mailing not less than seven (7) nor more than twenty-one (21) days prior to the meeting. The notice shall contain a date, time, and place of the meeting, and set forth the agenda of the meeting. Special meetings shall require three (3) days notice.

(4) Minutes of meetings. Minutes shall be kept of all meetings of the commission and recorded in volumes kept for that purpose in the office of the commission.

(5) Conduct of meetings.

(a) "Robert's Rules of Order, Revised" shall govern the conduct of all meetings of the commission.

(b) The order of business at all meetings of the commission shall be as follows:

1. Roll call and establishment of a quorum, which shall consist of three (3) members of the commission;
2. Reading and disposition of the minutes of the previous meetings;
3. Report of the director;
4. Old business;
5. New business.

JONE E. RICKERT, Chairman

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULE: A public hearing concerning this regulation has been scheduled for June 28, 1984, at 7 p.m. at the offices of the Nature Preserves Commission, 407 Broadway, Frankfort, Kentucky 40601. Those interested in attending should provide written notice to Richard R. Hannan at the above address.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Kentucky Nature Preserves Commission

**400 KAR 2:030. Dedication of nature preserves and registration of natural areas.**

RELATES TO: KRS 146.410, 146.420, 146.440, 146.470, 146.490, 146.505

PURSUANT TO: KRS 146.460, 146.465, 146.475, 146.485, 146.495

NECESSITY AND FUNCTION: KRS 146.485 requires the commission to establish rules for the selection, acquisition, management, protection, and use of natural areas and nature preserves, and to maintain a state registry of natural areas, an inventory of natural types, flora and fauna, and other records of natural areas and nature preserves. This regulation sets forth procedures for the dedication and maintenance of nature preserves, and the registration and maintenance of inventories relating to natural areas and nature preserves.

Section 1. Dedication of Nature Preserves. (1) Upon the determination by the director of the commission that an area constitutes a natural area worthy of protection through dedication as a nature preserve, and that the owner is willing to have his land or a portion thereof dedicated as a nature preserve, the director may recommend to the commission that the area be dedicated as a nature preserve.

(2) (a) A natural area shall become a nature preserve upon acceptance of the articles of dedication by the commission.

(b) Articles of dedication shall be recorded in the county in which the natural area is located, the office of the secretary of state, and the office of the commission.

Section 2. Articles of Dedication. (1) The articles of dedication shall be the management document for each nature preserve. Management, use, development and public access of each nature preserve shall be in accordance with the provisions set forth in the articles of dedication, or as provided by these regulations.

(2) The articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as such other provisions as may be necessary to further the purposes of the Act.

(3) Articles of dedication may vary in provisions from one (1) nature preserve to another in accordance with differences in the characteristics and conditions of the area involved, or for other reasons found necessary by the commission and the landowner, grantor, deviser, or donor.

(4) Before the Commonwealth of Kentucky, through the commission, acquires a nature preserve in fee simple, it shall be the responsibility of the director to propose to the commission provisions for incorporation into the articles of dedication.

Section 3. Amendment of Articles of Dedication. (1) Articles of dedication may be amended by the commission upon a finding by the commission that such amendment will not permit an impairment, disturbance, use or development of the nature preserve inconsistent with the purposes for which the area was dedicated or inconsistent with the Act.

(2) If fee simple ownership is not held by the Commonwealth of Kentucky, no amendment to the articles of

dedication shall be made without the written consent of the owner of other interests therein.

(3) Findings and determinations of the commission to amend articles of dedication may be set forth in the minutes of the commission.

**Section 4. Buffer Areas.** (1) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as a buffer area in the same manner as a nature preserve.

(2) The articles of dedication may contain provisions for the management, use, development, and public access of the buffer area that differ from those for the adjacent nature preserve.

**Section 5. Registration of Natural Areas.** (1) Upon the determination by the director of the commission that an area constitutes a natural area worthy of preservation, which is not otherwise available for dedication, the director may recommend to the commission that the area be entered into the register of natural areas.

(2) No area shall be registered without the consent of the landowner or managing public agency.

(a) Such consent may include an agreement by the landowner to give notice to the commission of any change in ownership, allow limited public access, or include voluntary management agreements designed to protect the natural features of the area.

(b) Upon request of the landowner or managing public agency the location of registered areas shall be kept confidential and not released as a public record of the commission. Specific information as to the location of the registered natural area also may, upon determination by the commission, be restricted so as to assure protection of the natural features and limit uncontrolled visitation.

(3) Registration by the commission of certain natural areas, where no landowner or managing public agency can give consent, involving stream segments deemed waters of the Commonwealth, shall be by determination of the commission.

**Section 6. Identification of Natural Areas.** (1) For the purposes of identifying natural areas for potential protection as nature preserves areas, the commission may develop, maintain, and periodically update a state list of endangered, threatened and special concern flora and fauna, adding and deleting entries to the list based upon biological information.

(2) The commission may develop, maintain, and update a list of natural areas which warrant protection through dedication as a nature preserve or registration as a natural area.

**Section 7. Selection of Custodian.** (1) When the commission has acquired an interest less than a fee simple in a nature preserve, the selection of a custodian may be made by the owner of the other interest therein subject to the rules and regulations of the commission and the articles of dedication for the nature preserve. Otherwise the commission shall determine the custodian, if any.

(a) The custodian shall demonstrate to the commission the ability to administer the nature preserve in accordance with the articles of dedication and these regulations.

(b) The commission shall act as custodian of the nature preserve until such time as a custodian is approved, or if the custodian fails to administer the nature preserve in ac-

cordance with the articles of dedication and these regulations.

(2) When the commission has acquired a fee simple interest in a nature preserve, the commission may select a custodian.

(a) The commission shall publish notice of its intent to select a custodian in the county, or counties, in which the preserve is located, and/or for the state at large.

(b) The notice shall state:

1. The location of the nature preserve.

2. Where the articles of dedication are recorded.

3. That a written proposal is to be submitted to the commission.

4. The date by which the proposal shall be submitted.

5. The address to which the proposal shall be submitted.

(c) If more than one (1) proposal is received, a hearing shall be conducted for the purpose of selecting a custodian pursuant to the provisions of 400 KAR 2:050.

JONE E. RICKERT, Chairman

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning this regulation has been scheduled for June 28, 1984, at 7 p.m. at the offices of the Nature Preserves Commission, 407 Broadway, Frankfort, Kentucky 40601. Those interested in attending should provide written notice to Richard R. Hannan at the above address.

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Kentucky Nature Preserves Commission

**400 KAR 2:040. Management, use, and protection of nature preserves.**

RELATES TO: KRS 146.410, 146.440

PURSUANT TO: KRS 146.465, 146.475, 146.485

NECESSITY AND FUNCTION: KRS 146.485 requires the commission to establish rules for the management, use, and protection of nature preserves. This regulation sets forth rules to be applied to the management and use of all nature preserves, and to fulfill the purposes of KRS 146.440.

**Section 1. Applicability.** These rules shall apply to all nature preserves unless exceptions are set forth in the articles of dedication. The reasons for any exceptions shall be set forth in the records of the commission.

**Section 2. Boundary Markers.** (1) Nature preserves boundaries shall be made evident by posting boundary markers in a conspicuous manner, or as approved by the commission.

(2) Boundary fences and barriers may be installed as approved by the commission; such shall not be in a form that will create a detrimental effect on movement of wildlife or other natural objects.

**Section 3. Intrusions.** There shall be no intrusions of structures, easements, rights-of-way, or land uses which do not conform with these rules and with the purposes and definition of a nature preserve as specified in the Act, except as allowed by the articles of dedication.



Section 4. Emergency Situations. (1) Emergency situations shall be reported immediately to the director by the custodian of the preserve.

(2) Emergency situations that require immediate action to prevent injury to persons or damage to property, as determined by the director or the commission, shall be handled in such a manner as to cause minimal damage to natural conditions.

Section 5. Access Lanes. Vehicular access lanes shall be installed and maintained within a nature preserve only where essential for patrol, fire control, or other management or research activities and shall be in accordance with plans approved by the commission. Such lanes shall be closed to all except service vehicles. They shall provide a single track, and clearing shall not extend more than seven (7) feet on each side of the center of the lane. Service vehicles only shall be used on such designated access lanes except in emergency situations.

Section 6. Firebreaks. When boundary firebreaks are needed, they shall be constructed in a buffer area outside the preserve if possible. Firebreaks within a preserve shall be kept in a minimum and shall be constructed only in accordance with plans approved by the commission. Temporary firebreaks, made by mowing, raking, or wetting, may be used in conjunction with a managed burn.

Section 7. Trails. (1) A trail system shall conform to the objectives of the nature preserve. Trails shall be designed so as to affect only part of the preserve and to have minimal impact on natural features. Trails shall be designed to have no significant impact on endangered or threatened species or fragile or limited natural communities or features.

(2) Location and form of any trails other than natural wildlife paths shall be approved by the commission. Trails shall be adequate to provide for permitted use of a preserve and to prevent erosion, trampling of vegetation, and other deterioration, but otherwise shall be kept to a minimum. Use of paving materials, footbridges, and elevated walks is permissible when provided for in the trail plan approved by the commission. Synthetic materials, painted or chemically treated wood, or stone or earth materials from outside the preserve may be used in trail construction only as specified by the commission.

(3) No species listed as endangered, threatened, or special concern shall be removed, damaged, or altered in trail construction or maintenance.

Section 8. Other Structures and Improvements. Necessary signs, information booths, trash receptacles, and minor structures required to house research instruments or hand tools are permitted if specifically approved by the commission or by permission of the commission for research activities. All other structures and service facilities shall be located in service or buffer areas. Signs and structures shall be specified by the commission.

Section 9. Service Areas. Service areas may be established within buffer areas to provide access and parking, management facilities, and visitor facilities. Provision for necessary service areas may be included in the articles of dedication or as approved on a case specific basis by the commission.

Section 10. Scenic and Landscape Management. No measures shall be taken to alter natural growth or features

for the purpose of enhancing the beauty, neatness, or amenities of a preserve. There shall be no cutting of grass, brush, or other vegetation, thinning of trees, removal of dead wood, opening of scenic vistas, or planting, except as approved by the commission.

Section 11. Elimination of Safety Hazards. (1) Installation of guard rails, fences, steps, and other devices necessary for visitor safety may be approved by the commission. Dead trees or branches that constitute a safety hazard to persons on trails or in other authorized use areas may be felled.

Section 12. Removal or Introduction of Objects. (1) Except as provided in the articles of dedication or as approved by the commission, there shall be no removal or consumptive use of any material, product, or object from a nature preserve and there shall be no introduction of any material, product, or object to a nature preserve. Prohibited activities include, but are not limited to, grazing by domestic animals; farming; gathering of firewood or other plant products; mining or quarrying; and dumping, burying or spreading of garbage, trash or other materials.

(2) As approved by the commission, artifacts may be removed or demolished as follows:

(a) Old interior fences may be removed, giving consideration to leaving posts to mark boundaries between former land uses;

(b) Rubbish may be removed; and

(c) Structures having no utilitarian, historical, scientific, or habitat value may be demolished or removed.

(3) Scientific specimens and materials may be collected and removed as determined by the commission.

(4) Hunting, fishing, and trapping shall not be allowed unless provided for in the articles of dedication for the preserve, approved by the commission. Additional rules, regulations, or restrictions may be adopted by the commission on a preserve basis to ensure that the preserve is protected adequately from an inappropriate overbalance of game species.

Section 13. Water Level Control. Natural water levels shall not be altered. Water levels which have been altered by man may be changed if identified as being essential for the maintenance and restoration of natural conditions.

Section 14. Fire Control. (1) All wildfires shall be brought under control as quickly as possible. After a fire within a nature preserve, there shall be no cleanup, fire hazard reduction, or replanting except with the approval of the commission. Approval shall be based upon health and safety considerations, or the need for restoration.

(2) Prescribed burning may be undertaken as approved by the commission. A written plan shall be prepared for each prescribed burn. Approval may be given if the prescribed burning plan is in compliance with this section. Fire shall be kept away from fences and other structures that may be damaged. Burning shall not be done under conditions more hazardous than specified in the prescribed burn plan. No chemicals that are known to cause damage to or alteration of natural conditions shall be used. Use of equipment and vehicles shall be specified in the prescribed burn plan. No equipment or vehicles that would cause damage or alteration to the natural features of the preserve shall be used.

Section 15. Erosion Control. Erosion and soil deposition due to past or present disturbance by man or natural

conditions within or outside of preserve may be controlled as approved by the commission.

#### Section 16. Management of Vegetation and Wildlife.

##### (1) Control of plant succession.

(a) Control of plant succession by deliberate manipulation may be undertaken if preservation or restoration of a particular vegetation type or preservation of an endangered species of native flora or fauna is designated an objective of the nature preserve by the commission.

(b) Plant succession control measures may be undertaken in such a manner as approved by the commission.

(c) Vegetation may be managed within the following limitations:

1. Plant species not native to the site or vicinity may be eliminated by cutting, girdling, grubbing, or basal or spot foliar application of specified herbicide;

2. The time of burning during the year, the frequency of burning, and the fractional amount of the area that may be burned each year shall be specified;

3. Invading native woody species may be eliminated or controlled by cutting, girdling, grubbing, or basal application of specified herbicide.

(d) The use of herbicides may be specified by the commission.

##### (2) Control of noxious species.

(a) Species of plants and animals which are noxious in fact shall be controlled only if they are determined by the commission to be jeopardizing the natural integrity of the preserve.

(b) Except for removal from trails, access lanes, and firebreaks as approved by the commission, there shall be no control of native plants which are not noxious but may otherwise appear undesirable.

(c) There shall be no control of predators, rodents, insects, snakes, or other animals except as approved by the commission, even though they may appear harmful or undesirable.

##### (3) Control of exotic species.

(a) Control of exotic plants and animals may be undertaken in a manner approved by the commission. There may be no attempt to eradicate exotic species that have become a stable part of the biotic community unless this can be accomplished without disturbance of natural conditions.

(b) Control of exotic plants may be undertaken by control of plant succession as provided in this regulation or by management practices allowed in this regulation.

(4) Any measures for population control of any species to be applied must be provided for in a written plan approved by the commission. Except as provided in the articles of dedication or approved by the commission, control measures shall be undertaken only by the commission staff or others approved by the commission.

(5) Management of endangered, threatened, and special concern species, and species of management concern.

(a) Habitat manipulations and protective measures in favor of particular species shall be undertaken only as approved by the commission. Approval shall be based upon a finding by the commission that describes the proposed activities and addresses species life history, habitat requirements of the species, characteristics and objectives of the preserve and other relevant information.

(b) Control of plant succession in favor of particular species shall be as provided in this regulation.

(6) Introduction of plants and animals. No plants or animals or their reproductive bodies shall be brought into a nature preserve or moved from one (1) place to another within a preserve except with approval of the commission.

Section 17. Use Tolerance. Human use of preserve shall be allowed only to such extent and in such manner as will not impair natural conditions. The articles of dedication may specify the controls and restrictions to be placed on access and use. The commission as owner, or the landowner and the commission upon agreement, may further restrict access and use as necessary to protect the preserve.

Section 18. Character of Visitor Activity. (1) Visitor activity shall be regulated to prevent disturbance of a preserve beyond what it can tolerate without permanent deterioration. Visitors without permits for research or educational activities shall be restricted to trails and areas open to off-trail use and may be otherwise restricted in movement. Persons wishing to traverse a nature preserve elsewhere than on trails or other areas open to visitation shall obtain permission from the commission.

(2) Public use shall be in accordance with the articles of dedication of the preserve, and such rules as may be approved by the commission for a nature preserve.

Section 19. Access Control. (1) Ingress and egress shall be allowed only at such locations and under such conditions as may be specified by the commission.

(2) The owner, custodian, and commission have the authority to further limit access to the preserve as may be necessary for protection and proper management of the preserve.

Section 20. Orientation and Guidance of Visitors. Orientation and guidance of visitors shall be in accordance with the articles of dedication, and as approved by the commission. Interpretive signs, structures or labels shall conform to this regulation.

Section 21. Permission for Research or Educational Activities. (1) A person wishing to engage in research or educational activities on a nature preserve not otherwise permitted by these rules or by the articles of dedication for the preserve shall secure permission of the commission. If the activities are to be carried on by a group, permission may be issued to the group leader who shall be responsible for the actions of the group.

(2) Permission is required for educational use of a preserve only if activities are to include collecting or activities other than walking and observation.

(3) The application for permission shall be on a form prescribed by the commission. It shall include the name, address, position, professional qualifications, and general field of interest of the applicant and a description of the proposed activities including the objective, methods and procedures to be followed, records to be kept, duration of the project areas to be visited, frequency and length of visits, and detailed description of disturbances to be made. If collecting is to be done it shall be in accordance with this regulation. Information shall be provided on the species or objects to be taken, number of specimens, method of taking, and disposition of specimens. The commission shall provide permission application forms to persons requesting them.

(4) The permission may contain specific provisions and restrictions. Permission may be modified, suspended, or revoked by the commission for violations of the conditions of permission, this section, or based upon a determination of the commission that the activity jeopardizes the nature preserve. Each holder of permission shall submit to the commission an annual report in such form as may be prescribed by the commission. Permission for an activity

of no more than the calendar year expires on December 31 of that year. Permission for an activity of longer than one (1) year may be extended annually upon submission of an annual report.

**Section 22. Collecting on Nature Preserves.** (1) Persons wishing to collect scientific specimens for deposition in a permanent institutional collection available to the public or for purposes of an approved research project may do so pursuant to terms of permission as specified in this regulation.

(2) Permission may restrict the collecting of certain species or specimens. There shall be no collecting of material for classroom or laboratory observation and study or mass collecting by class groups. Exceptions may be provided in the articles of dedication of the nature preserve, or as set forth by the commission.

**Section 23. Record.** A record shall be kept for each nature preserve. One (1) copy shall be held by the commission at its Frankfort office. The record shall include annual reports of the custodian and all other pertinent documentary material, studies, reports, and descriptions of significant events. Responsibility for assembling the record shall be with the commission director, in conjunction with the custodian of the preserve.

JON E. RICKERT, Chairman

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing concerning this regulation has been scheduled for June 28, 1984, at 7 p.m. at the offices of the Nature Preserves Commission, 407 Broadway, Frankfort, Kentucky 40601. Those interested in attending should provide written notice to Richard R. Hannan at the above address.

# **NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Kentucky Nature Preserves Commission**

**400 KAR 2:050. Hearings and appeals.**

**RELATES TO:** KRS 146.465, 146.480, 146.495, KRS Chapter 424

**PURSUANT TO:** KRS 146.475, 146.485, 146.530

**NECESSITY AND FUNCTION:** KRS 146.475 and 146.485 require the commission to establish rules for the protection of nature preserves. KRS 146.530 requires the commission to establish a procedure whereby orders and final determinations of the commission may be appealed administratively. This regulation sets forth the procedure to be followed by the commission in conducting hearings on issues related to nature preserves.

**Section 1. Applicability.** This regulation shall apply to hearings conducted by the commission including the following purposes: (1) Determining whether there exists an imperative and unavoidable public necessity that justifies the taking of a nature preserve, or any part thereof, by another public body, or disposition of a preserve or any part thereof by the commission.

(2) Determining whether proposed amendments to the articles of dedication of a preserve will not permit an impairment, disturbance, use or development of the preserve that is inconsistent with the articles of dedication or the Act.

(3) Determining whether there exists differences in the characteristics and conditions of a proposed nature preserve, or other reasons, that justify making an exception in the articles of dedication to the requirements of these regulations.

(4) Determining the custodian of a nature preserve when the nature preserve is owned by the commission in fee simple.

**Section 2. Notice of hearings.** Notice of hearing shall be given in accordance with KRS Chapter 424. (1) The notice shall:

- (a) State the time, place, and purpose of the hearing;
- (b) Be published not less than seven (7) nor more than twenty-one (21) days prior to the hearing; or
- (c) Be published in the county, or counties, in which the nature preserve is located, and for the state at large.

(2) The notice may:

- (a) Be published more than once as directed by the commission;
- (b) Set forth the address to which written comments on the purpose of the hearing may be submitted, and the date by which those written comments shall be submitted.

**Section 3. Hearings.** (1) The hearing shall be conducted in the following manner:

(a) The hearing shall be held at a time and place to be set by the commission and may be held in conjunction with a regular meeting of the commission.

(b) Any interested person may appear at the hearing and make an oral or written presentation regarding the purpose of the hearing. The commission may regulate the length, order, and excessive repetition of oral presentations.

(c) The director may make a presentation and recommendation for action to the commission at the hearing.

(d) The commission shall consider all written and oral presentations in making its determination.

(e) The commission, through the chairman, shall issue a final determination within sixty (60) days of the hearing. The determination shall set forth the findings of the commission in reaching its determination.

(2) (a) The final determination of the commission shall be submitted to the secretary of the cabinet for the secretary's approval within five (5) days of its issuance.

(b) Copies of the final determination shall be sent to any person who made a written or oral presentation to the commission and any other person who makes a request in writing to the commission for a copy.

**Section 4. Appeals.** (1) Any final determination of the commission may be appealed to the secretary of the cabinet.

(2) The appeal shall be taken by filing with the secretary of the cabinet exceptions to the final determination of the commission with the secretary of the cabinet within fifteen (15) days of its issuance. The exceptions shall state specifically the grounds relied upon by the appellant.

(3) The secretary shall approve the final determination of the commission unless, based upon the findings set forth in the final determination or any exceptions thereto, the secretary finds:

(a) There is no imperative and unavoidable public necessity due to the existence of a viable alternative to the proposed granting or disposition of a nature preserve or any part thereof;

(b) The determination of the commission is inconsistent with the articles of dedication or the Act; or

(c) The commission acted without or in excess of its power.

(2) The secretary shall, within forty-five (45) days, approve the final determination of the commission, or notify the commission in writing of the secretary's refusal to approve the final determination and set forth the reasons therefor. Failure of the secretary to so act shall constitute approval of the commission's action.

(3) Notice of the secretary's approval or disapproval shall be sent to all persons as provided for in Section 3(2) of this regulation.

JONE E. RICKERT, Chairman

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning this regulation has been scheduled for June 28, 1984, at 7 p.m. at the offices of the Nature Preserve Commission, 407 Broadway, Frankfort, Kentucky, 40601. Those interested in attending should provide written notice to Richard R. Hannan at the above address.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department of Environmental Protection  
Division of Water

401 KAR 4:200. Documents and procedures incorporated by reference for the administration of the regulatory provisions of Kentucky's water resources law.

RELATES TO: KRS 151.125, 151.140, 151.150, 151.160, 151.182, 151.184, 151.200, 151.230, 151.240, 151.250, 151.260, 151.280, 151.293, 151.295, 151.297, 151.310

PURSUANT TO: KRS 151.125

NECESSITY AND FUNCTION: KRS 13A.120 prohibits an administrative body from issuing standards or by any other name a document where an administrative regulation is required or authorized by law. KRS 13A.130 prohibits an administrative body from using a policy, memorandum, or other form of action to modify or expand a statute or administrative regulation, or to expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation. This regulation provides for the incorporation by reference allowed under 1 KAR 1:010 of the documents needed by the Natural Resources and Environmental Protection Cabinet to implement 401 KAR Chapter 4, Water Resources.

Section 1. Stream Construction Permits. The following documents and policy are incorporated by reference for the purpose of determining whether to issue or deny permits for any construction or reconstruction in or along a stream pursuant to KRS 151.250:

(1) Documents.

(a) National Engineering Handbook, Section 4, Hydrology; Soil Conservation Service; August, 1972.

(b) HEC-2 Water Surface Profiles (Computer Program); U.S. Army Corps of Engineers; September, 1982.

(c) Federal Emergency Management Agency, National Flood Insurance Program, Part 59—General Provisions; FEMA; May 31, 1979.

(d) Kentucky Model Flood Damage Prevention Ordinance; Booker Associates, Inc.; August, 1983.

(e) Technique for Estimating Magnitude and Frequency of Floods in Kentucky; U.S. Geological Survey, Water-Resources Investigations 76-62; November, 1976.

(f) Drainage Areas of Streams at Selected Locations in Kentucky; U.S. Geological Survey, Open-File Report 81-61; January, 1981.

(g) TP-149, A Method for Estimating Volume and Rate of Runoff in Small Watersheds; Soil Conservation Service; April, 1973 Revised.

(h) Floodway, Flood Boundary and Floodway Maps; Flood Insurance Rate Maps; Flood Hazard Boundary Maps; Federal Emergency Management Agency; (Dates Vary).

(i) Executive Order 77-927, National Flood Insurance Program; Signed by Governor Julian Carroll, September 30, 1977.

(2) Policy. Division of Water policy document DOW 84-01 is hereby incorporated by reference.

Section 2. Dam Construction Permits. The following documents are incorporated by reference for the purpose of determining whether to issue or deny permits to construct, reconstruct, modify, or remove any dam on apurtenance thereto:

(1) Documents.

(a) Drainage Manual; Commonwealth of Kentucky, Dept. of Transportation; 1983 (Revised); Page 400.

(b) DAMS 2, Structure Site Analysis Computer Program; Soil Conservation Service; October, 1982 (Draft).

(c) HEC-1, Flood Hydrograph Package (Computer Program); U.S. Army Corps of Engineers; September, 1981.

(d) HEC-2, Water Surface Profiles (Computer Program); U.S. Army Corps of Engineers; September, 1982.

(e) Guidelines for the Geotechnical Investigation and Analysis of Existing Earth Dam; Division of Water; June, 1980.

(f) General Discussion of Dam Breach Analysis; Division of Water; August, 1979.

(g) TR-20, Computer Program for Project Formulation Hydrology, Soil Conservation Service; May, 1983 (Draft of Second Edition).

(h) ICES LEASE-1, Slope Stability Analysis (For Computer); Bailey and Christian, Massachusetts Institute of Technology; April, 1969.

(i) REAME, Computerized Slope Stability Analysis; Y. H. Huane, Institute for Mining and Minerals Research; February, 1983.

(j) SWASE, Computerized Slope Stability Analysis; Y. H. Huang, Institute for Mining and Minerals Research; 1983.

(k) NWS Dam—Break Flood Forecasting Model (Computer Program); Dr. D. L. Fread, National Weather Service; July 18, 1983.

(2) Policy. (Reserved).

Section 3. Water Withdrawal Permitting. The following documents and policies are included by reference for the purpose of determining whether to approve or deny permits to withdraw water pursuant to KRS 151.150:

(1) Documents:

(a) Flow Duration at Selected Stream-Sites in Kentucky (USGS Open File Report 80-1221).

(b) Drainage Areas of Streams at Selected Sites in Kentucky (USGS Open File Report 81-61).

(c) USGS Streamflow/Basin Characteristics (unpublished).

(2) Policy.

(a) For the purpose of evaluating withdrawals from streams, the seven (7) day, ten (10) year low flow will be maintained in order to ensure proper water quality and provide for aquatic life needs.

(b) In evaluating applications for groundwater withdrawals, the cabinet will allow the withdrawal of reasonable amounts without requiring submission of extensive data and analysis. However, if the cabinet has reason to believe that groundwater withdrawals will be of such location or extent that existing uses will be impaired, the cabinet shall require detailed analysis of the proposed withdrawal's effects. If a permitted groundwater withdrawal adversely affects previously permitted groundwater users or domestic water supplies, the withdrawal shall be reduced to a rate that no longer causes adverse effects or all affected users shall be provided with sufficient water to meet their needs.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on June 29, 1984, at 10 a.m., in the Capital Plaza Tower. A person interested in attending this hearing shall submit by June 25, 1984 a written request to: Richard T. Shogren, Director, Division of Water, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department of Environmental Protection  
Division of Water

**401 KAR 5:200. Documents incorporated by reference for water quality and wastewater treatment.**

RELATES TO: KRS 224.011, 224.020, 224.033, 224.034, 224.060, 224.073, 224.075, 224.081, 224.083, 224.110, 224.135, 224.140

PURSUANT TO: KRS 224.033, 224.045

NECESSITY AND FUNCTION: KRS 13A.120 prohibits an administrative body from issuing standards or by any other name a document where an administrative regulation is required or authorized by law. KRS 13A.130 prohibits an administrative body from using a policy, memorandum, or other form of action to modify or expand a statute or administrative regulation, or to expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation. This regulation provides for the incorporation by reference allowed under 1 KAR 1:010 of the documents used by the Natural Resources and Environmental Protection Cabinet to implement 401 KAR Chapter 5, Water Quality.

Section 1. Operating and Construction Permits for Wastewater Treatment Facilities. (1) The following documents, which are in effect at the time of the effective date of this regulation, are incorporated herein by reference:

(a) U.S. Environmental Protection Agency; Guidance Manual for POTW Pretreatment; U.S. Environmental Protection Agency, Washington, D.C.; October, 1983.

(b) U.S. Department of the Army, Corps of Engineers, Office of the Chief of Engineers; Dredging and Dredged

Material Disposal; Department of the Army, Washington, D.C.; March, 1983.

(c) Great Lakes Board of Sanitary Engineers; Recommended Standards for Sewage Works; Health Education Service, Inc., Albany, N.Y.; 1978.

(d) U.S. Environmental Protection Agency; Title 40 Code of Federal Regulations (CFR) Parts 4, 6, 7, 8, 12, 15, 16, 25, 29, 30, 32, 33, and 35; U.S. Government Printing Office, Washington, D.C.; 1983 Edition and Annual Reprints thereafter.

(e) U.S. Environmental Protection Agency; Title 48 Code of Federal Regulations (CFR) Part 15; U.S. Government Printing Office, Washington, D.C.; 1983 Edition and Annual Reprints thereafter.

(f) U.S. Environmental Protection Agency; Criteria Documents for Toxic Pollutants listed in Volume 45 of Federal Register, page 79318; U.S. Environmental Protection Agency, Washington, D.C.; November, 1980.

(g) U.S. Environmental Protection Agency; Quality Criteria for Waters; U.S. Environmental Protection Agency, Washington, D.C.; 1976.

(2) The following policy statements which are in effect at the time of the effective date of this regulation are incorporated herein by reference: Kentucky Division of Water; Five Mile Policy Requiring No Wastewater Discharges Within 5 miles of Water Intake; Division of Water, Frankfort, Kentucky; no date.

(3) Documents cited in this section. Subsection (1)(f) and (g) of this section are for reference purposes only. Incorporation of these documents by reference does not constitute adoption by the state of U.S. Environmental Protection Agency numerical criteria for these pollutants. The use of these documents is site specific depending on stream quality and characteristics, and observed biological communities.

Section 2. Compliance With and Enforcement of State Water Laws and Regulations. (1) The following documents, which are in effect at the time of the effective date of this regulation, are incorporated herein by reference: (Reserved).

(2) The following policy statements, which are in effect at the time of the effective date of this regulation, are incorporated herein by reference.

(a) Kentucky Division of Water; Enforcement Management System; Division of Water, Frankfort, Kentucky; April, 1983.

(b) Kentucky Division of Water; Policy Memorandum—Notice of Violation; Division of Water, Frankfort, Kentucky; November, 1983.

(c) Kentucky Division of Water; State Municipal Strategy; Division of Water, Frankfort, Kentucky; April, 1984.

Section 3. Wastewater Operator Certification. (1) The following documents, which are in effect at the time of the effective date of this regulation, are incorporated herein by reference:

(a) Oerther, Robert; Process Control Manual; Finance Printing Press, Frankfort, Kentucky; 1981.

(b) Water Pollution Control Federation; Operation of Wastewater Treatment Plants MOP 11; Water Pollution Control Federation, Washington, D.C.; 1976.

(c) New York State Department of Environmental Conservation; Manual of Instruction for Wastewater Treatment; Health Education Service, Inc. Albany, N.Y.; 1978.

(2) The following policy statements which are in effect at



the time of the effective date of this regulation are incorporated herein by reference: (Reserved).

Section 4. Water Quality Standards and Use Designation Determinations. (1) The following documents, which are in effect at the time of the effective date of this regulation, are incorporated herein by reference:

(a) Kentucky Division of Water—Division of Environmental Services; Stream Use Designation Methods Manual; Division of Water, Frankfort, Kentucky; 1984.

(b) U.S. Environmental Protection Agency; Water Quality Standards Handbook; U.S. Environmental Protection Agency, Washington, D.C.; 1983.

(c) U.S. Environmental Protection Agency; Technical Support Manual: Waterbody Surveys and Assessments for Conducting Use Attainability Analysis; U.S. Environmental Protection Agency; Washington, D.C.; 1983.

(d) Kentucky Division of Water; Wasteload Allocation Modeling Methodology; Division of Water, Frankfort, Kentucky; 1983.

(2) The following policy statements which are in effect at the time of the effective date of this regulation are incorporated herein by reference: (Reserved).

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on June 29, 1984, at 10 a.m., in the Capital Plaza Tower. A person interested in attending this hearing shall submit by June 25, 1984 a written request to: Richard T. Shogren, Director, Division of Water, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department of Environmental Protection  
Division of Water

**401 KAR 6:200. Documents incorporated by reference, relative to public and semi-public water supplies and swimming pools.**

RELATES TO: KRS 223.170, 223.180, 223.190, 223.210, 224.032

PURSUANT TO: KRS 223.200, 224.032

NECESSITY AND FUNCTION: KRS 13A.120 prohibits an administrative body from issuing standards or by any other name a document where an administrative regulation is required or authorized by law. KRS 13A.130 prohibits an administrative body from using a policy, memorandum, or other form of action to modify or expand a statute or administrative regulation, or to expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation. This regulation provides for the incorporation by reference allowed under 1 KAR 1:010 of the documents used by the Natural Resources and Environmental Protection Cabinet to implement 401 KAR Chapter 6, Sanitary Engineering.

Section 1. Plan Review (1) Documents.

(a) Health Education Service, Inc., Recommended Standards for Water Works: A Report of the Committee of the

Great Lakes—Upper Mississippi River Board of State Sanitary Engineers, Health Education Service, Inc., 1976.

(b) Health Education Service, Inc., Manual of Individual Water Supply Systems, EPA-430/9-74-007, U.S. Government Printing Office, Washington, D.C., 1975.

(c) Bellack, Erwin, Fluoridation Engineering Manual, U.S. EPA, Water Supply Division, Washington 20460, 1972.

(d) National Sanitation Foundation, Annual Listing: Swimming Pool Equipment, National Sanitation Foundation, Ann Arbor, 1984.

(2) Policy.

(a) Kentucky Division of Water, General Design Criteria for Surface and Ground Water Supplies, 1984.

(b) Kentucky Division of Water, General Guidelines for Conducting Stream Studies for Wastewater Discharges Proposed Within Five Miles Upstream from Public Water Supply Sources or from the Location of Public Water Supply Intakes Within Five Miles Downstream from Wastewater Discharges, 1983.

Section 2. Compliance. (1) Documents.

(a) APHA-AWWA-WPCF, Standard Methods 15th Edition American Public Health Association, Washington, D.C., 1980.

(b) U.S. Environmental Protection Agency, Handbook for Analytical Quality Control in Water and Wastewater Laboratories, EPA 600/4-79-019, U.S. EPA, Washington, D.C., 1979.

(c) U.S. Environmental Protection Agency, Handbook for Evaluating Water Bacteriological Laboratories, EPA-670/9-75-006, Washington, D.C.

(d) U.S. Environmental Protection Agency, Manual for the Interim Certification of Laboratories Involved in Analyzing Public Drinking Water Supplies—Criteria and Procedures, EPA-600/8-78-008, Washington, D.C., May 1978.

(e) U.S. Environmental Protection Agency, Microbiological Methods for Monitoring the Environment, EPA-600/8-78-017, Washington, D.C., 1978.

(2) Policy. Kentucky Division of Water, Policy Memorandum Compliance Procedures for Public and Semi-public Water Supplies, January, 1984.

Section 3. Operator Training and Certification. Documents. (1) New York State Department of Health, Manual of Instruction for Water Treatment Plant Operators, Health Education Service, Albany.

(2) Kentucky Division of Water, Training Manuals for Large Water Plant Operators, Finance Printing Press, Frankfort, 1984.

(3) Kentucky Division of Water, Training Manual for Small Water Plant Operators, Finance Printing Press, Frankfort, 1984.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on June 29, 1984, at 10 a.m., in the Capital Plaza Tower. A person interested in attending this hearing shall submit by June 25, 1984 a written request to: Richard T. Shogren, Director, Division of Water, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.



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

**401 KAR 30:070. Reference documents.**

RELATES TO: KRS 13A.130, 224.005, 224.033, 224.830 through 224.889, 224.994

PURSUANT TO: KRS 13A.210, 224.033

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to promulgate regulations for the management of solid and hazardous wastes. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 30 through 49. This regulation incorporates by reference essential documents used in connection with the waste management regulations as provided under 1 KAR 1:010.

Section 1. Interpretive Documents Incorporated by Reference. The documents listed in subsections (1) and (2) of this section are adopted and filed herein by reference. Copies of these documents may be obtained from the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

- (1) "Guidelines for Landspreading of Solid Waste," (1982).
- (2) Waste Management Policy Number:
  - (a) I.1.a., "Hazardous Waste Permitting—Compliance with Local Veto," (May 17, 1983).
  - (b) I.1.3., "Delisting," (April 6, 1984).
  - (c) I.2.a., "Closure of Permitted Solid Waste Sites," (July 29, 1983).
  - (d) IV.1.a., "Sampling Procedure—Splitting Samples," (September 15, 1983).
  - (e) VI.1.a., "Definition of Waste-Fuel Exemption," (October 26, 1983).
  - (f) VI.1.b., "Regulatory Interpretation: Sham Recycling," (April 6, 1984).
  - (g) VI.1.c., "Regulatory Interpretation: Mixture of "F" Listed Solvents," (April 6, 1984).
  - (h) VI.1.d., "Regulatory Interpretation: EPA Guidance of K061 Listing," (April 6, 1984).
  - (i) VI.1.e., "Regulatory Interpretation: Plating Waste Generators," (April 6, 1984).
  - (j) VI.1.f., "Regulatory Interpretation: Empty Containers," (April 6, 1984).

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower Auditorium on June 29, 1984 at 10 a.m. EDT. Persons interested in attending this hearing shall contact: J. Alex Barber, Director, Division of Waste Management, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 18 Reilly Road, Frankfort, Kentucky 40601.

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

**401 KAR 50:016. Policies incorporated by reference.**

RELATES TO: KRS 13A.130, 224.320, 224.330, 224.340

PURSUANT TO: KRS 13A.210, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the incorporation by reference of the policies that are used by the Division of Air Pollution.

Section 1. (1) The following document from the Kentucky Division of Air Pollution is incorporated herein by reference: "Policies of the Division of Air Pollution," May, 1984.

(2) Copies may be obtained from: Division of Air Pollution, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

Section 2. The provisions of this regulation shall supersede any conflicting provisions of any regulation promulgated prior to the effective date of this regulation.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 29, 1984 at 10 a.m. in the Capital Plaza Tower Auditorium. Those interested in attending this hearing shall notify in writing: Hisham M. Sa'aid, Assistant Director, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement

**405 KAR 1:015. Documents incorporated by reference.**

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 350.028

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to adopt regulations pertaining to strip mining. This regulation provides for incorporation by reference of documents relied on by the cabinet in implementing the interim program.

Section 1. Reclamation Advisory Memoranda. The following Reclamation Advisory Memoranda (RAM) issued by the Department for Surface Mining Reclamation and Enforcement are incorporated herein by reference for the purposes of Title 405, Chapter 1. Copies may be obtained from the department.

(1) RAM #10, "a) Existing Underground Coal Mines; Time Extension for Application for Permit, b) Supplemental Mine Map Required for Small Operators," March 1, 1979.

(2) RAM #14, "Reporting Results of Water Quality Monitoring," August 3, 1979.

(3) RAM #18, "Incremental Bonding," March 6, 1980.

(4) RAM #22, "Approval of Permanent Water Impoundments," May 8, 1980.

(5) RAM #23, "Retention of Roads," May 23, 1980.

(6) RAM #24, also identified as #81-01, "AOC Variances on Steep Slopes," March 19, 1981.

(7) RAM #27, also identified as #81-04, "Reclamation Deferments," April 29, 1981, except for the statement on page 3 under coal marketing problems that such deferments may be given for a "single" period of six (6) months. Such deferments may be renewed.

(8) RAM #33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(9) RAM #56, "Overlapping Permits," December 1, 1982.

(10) RAM #75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(11) RAM #78, "Departmental Policies: Withdrawal and Maintenance of Mining Permit Applications," April 23, 1984.

Section 2. Secretary's Orders. The following Secretary's Order issued by the Secretary of the Cabinet is incorporated herein by reference for the purposes of Title 405, Chapter 1. Copies may be obtained from the department. "In Re: Steep Slope Remining," September 19, 1983.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 29, 1984, at 10 a.m., in the Capital Plaza Tower Auditorium. Those interested in attending this hearing shall notify in writing: Steve Taylor, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement

405 KAR 3:015. Documents incorporated by reference.

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 350.028

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to adopt regulations pertaining to surface effects of underground mining. This regulation provides for incorporation by reference of documents relied on by the cabinet in implementing the interim program.

Section 1. Reclamation Advisory Memoranda. The following Reclamation Advisory Memoranda (RAM) issued by the Department for Surface Mining Reclamation and Enforcement are incorporated herein by reference for the purposes of Title 405, Chapter 3. Copies may be obtained from the department.

(1) RAM #10, "a) Existing Underground Coal Mines; Time Extension for Application for Permit, b) Supplemen-

tal Mine Map Required for Small Operators," March 1, 1979.

(2) RAM #14, "Reporting Results of Water Quality Monitoring," August 3, 1979.

(3) RAM #22, "Approval of Permanent Water Impoundments," May 8, 1980.

(4) RAM #23, "Retention of Roads," May 23, 1980.

(5) RAM #24, also identified as #81-01, "AOC Variances on Steep Slopes," March 19, 1981.

(6) RAM #33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(7) RAM #56, "Overlapping Permits," December 1, 1982.

(8) RAM #75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(9) RAM #78, "Departmental Policies: Withdrawal and Maintenance of Mining Permit Applications," April 23, 1984.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 29, 1984, at 10 a.m., in the Capital Plaza Tower Auditorium. Those interested in attending this hearing shall notify in writing: Steve Taylor, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement

405 KAR 7:015. Documents incorporated by reference.

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 350.028, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to adopt regulations pertaining to surface coal mining and reclamation operations under the permanent regulatory program. This regulation provides for incorporation by reference of documents referred to in these regulations and other documents relied on by the cabinet in implementing the permanent regulatory program.

Section 1. Reclamation Advisory Memoranda. The following Reclamation Advisory Memoranda (RAM) issued by the department are incorporated herein by reference for the purposes of 405 KAR Chapters 7 through 24. Copies may be obtained from the department. Where there is a conflict between these documents on a particular item, the document of later date shall prevail.

(1) RAM #33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(2) RAM #35, "Permanent Program Transition Application," May 14, 1982.

(3) RAM #46, "Status Report on Transition Application Review," August 25, 1982.

(4) RAM #48, "Lands Unsuitable for Mining Program Information Resource Center," September 14, 1982.

(5) RAM #53, "Procedures and Priorities for Review of Transition Comprehensive Applications," November 17, 1982.

(6) RAM #55, "Initial Completeness Requirements for Transition Comprehensive Applications," December 1, 1982.

(7) RAM #56, "Overlapping Permits," December 1, 1982.

(8) RAM #57, "Applicant Changes to Transition Applications," December 1, 1982.

(9) RAM #58, "Priority I Deadline for Sediment Structure Compliance Demonstrations," February 14, 1983.

(10) RAM #62, "Extension of Priority II Technical Submission Date," April 12, 1983.

(11) RAM #63, "Submission of Sediment Structure Compliance Demonstration Data and Other Technical Data," April 22, 1983.

(12) RAM #64, "Certificates of Liability Insurance Update," June 10, 1983.

(13) RAM #65, "Submission of Transitioned Application, Priority II, III, and IV Applications," June 10, 1983.

(14) RAM #66, "Submission of Sediment Pond Compliance Demonstrations for Priority I Transitioning Permits," August 5, 1983.

(15) RAM #68, "Submission of Priority II Data," September 23, 1983.

(16) RAM #72, "Submission of Technically Complete Applications, Priority III and IV," November 29, 1983.

(17) RAM #73, "Delayed Filing of Performance Bonds on Technically Acceptable Applications for Transitioning Permanent Program Permits," February 6, 1984.

(18) RAM #75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(19) RAM #76, "Revision to RAM #73: Maximum Period of Bond Deferral Reduced from 5 Years to 3 Years," April 2, 1984.

(20) RAM #77, "Reinstatement of Small Operator Assistance," April 2, 1984.

(21) RAM #78, "Departmental Policies: Withdrawal and Maintenance of Mining Permit Applications," April 23, 1984.

Section 2. Technical Reclamation Memoranda. The following Technical Reclamation Memoranda (TRM) issued by the department are incorporated herein by reference for the purposes of 405 KAR Chapters 7 through 24. Copies may be obtained from the department.

(1) TRM #1, "Existing Structures," October 22, 1982.

(2) TRM #9, "Revegetation Standards for Success," February 1, 1983.

Section 3. Penalty Assessment Manual. The following document issued by the department is incorporated herein by reference for the purposes of 405 KAR Chapters 7 through 24. Copies may be obtained from the department. "Penalty Assessment Manual," July 1983.

Section 4. Documents Referred to Within These Regulations. The following documents which are referred to within 405 KAR Chapters 7 through 24 are incorporated by reference for the purposes of 405 KAR Chapters 7 through 24.

(1) "Standard Methods for the Examination of Water and Wastewater," fourteenth edition, 1976. Prepared by American Public Health Association, American Water Works Association, and Water Pollution Control Federa-

tion. Copies may be obtained from American Public Health Association, 1015 Eighteenth Street NW, Washington, D.C. 20036.

(2) "Methods for Chemical Analysis of Water and Wastes," March 1979, U.S. Environmental Protection Agency. Copies may be obtained from U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory, 26 W. St. Clair Street, Cincinnati, Ohio 45268.

(3) "Soil Taxonomy," Agriculture Handbook 436, 1975, U.S.D.A.—Soil Conservation Service. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(4) "Soil Survey Manual," Agriculture Handbook No. 18, 1951, U.S. Department of Agriculture. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(5) "ASTM STANDARD D388-77, Standard Specification for Classification of Coal by Rank," 1977, American Society for Testing and Materials. Copies may be obtained from American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(6) "Environmental Criteria for Electric Transmission Lines," 1970, U.S. Department of the Interior, U.S. Department of Agriculture. Copies may be obtained from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(7) REA Bulletin 61-10, "Protection of Bald and Golden Eagles from Powerlines," 1972 U.S. Department of Agriculture. Copies may be obtained from the U.S. Department of Agriculture, Washington, D.C.

(8) Technical Release No. 60, "Earth Dams and Reservoirs," 1976, U.S.D.A.—Soil Conservation Service. Copies may be obtained from U.S. Soil Conservation Service, Washington, D.C.

(9) "Kentucky Standard and Specification for Pond (378)," 1978 U.S. Soil Conservation Service. Copies may be obtained from the Soil Conservation Service, 333 Waller Ave., Lexington, KY.

(10) ANSI S1.4-1971, "Specification for Sound Level Meters," 1971, American National Standards Institute, Inc. Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, NY.

(11) AASHTO T99-74, "Standard Methods of Test for the Moisture-Density Relations of Soils Using 5.5 lb. (2.5 Kg) Rammer and a twelve (12) in. (305 mm) Drop," 1974, American Association of State Highway and Transportation Officials. Copies may be obtained from American Association of State Highway and Transportation Officials, 444 N. Capitol Ave., Washington, D.C. 20001.

Section 5. Permit Application Review Procedures. The following Permit Application Review Procedures (PARP) issued by the department are incorporated herein by reference for the purposes of 405 KAR Chapters 7 through 24. Copies may be obtained from the department.

(1) PARP #2, "Lands within 100 feet, measured horizontally, of a cemetery," April 18, 1983.

(2) PARP #6, "Advertising Schedule Variance," July 29, 1983.

(3) PARP #11, "Condition of Issuance for Transitioning Underground Permits," November 15, 1983.

Section 6. Policy Memorandum. The following policy memorandum issued by the cabinet is incorporated herein by reference for the purposes of 405 KAR Chapters 7 through 24. Copies may be obtained from the department.

Departmental Policy Memorandum #81-003, "Conflict of Interest," June 19, 1981.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 29, 1984, at 10 a.m., in the Capital Plaza Tower Auditorium. Those interested in attending this hearing shall notify in writing: Steve Taylor, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Surface Mining  
Reclamation and Enforcement

405 KAR 30:015. Documents incorporated by reference.

RELATES TO: KRS 350.600

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

NECESSITY AND FUNCTION: KRS 350.600 requires the cabinet to adopt regulations for oil shale operations. This regulation provides for incorporation by reference of documents referred to in these regulations.

Section 1. Documents Referred to in These Regulations. The following documents which are referred to in 405 KAR Chapter 30 are incorporated herein by reference for the purposes of 405 KAR Chapter 30.

(1) Agriculture Handbook 282, "Railfall-Erosion Losses from Cropland," U.S. Department of Agriculture. Copies may be obtained from the U.S. Department of Agriculture, Washington, D.C.

(2) Engineering Memorandum No. 5, "Design Criteria for Dams and Associated Structures," KY Division of Water. Copies may be obtained from the Division of Water, Frankfort, KY 40601.

(3) "Soil Taxonomy," Agriculture Handbook 436, 1975, U.S.D.A.—Soil Conservation Service. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(4) "Soil Survey Manual," Agriculture Handbook No. 18, 1951, U.S. Department of Agriculture. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(5) "Environmental Criteria for Electric Transmission Lines," 1970, U.S. Department of the Interior, U.S. Department of Agriculture. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(6) REA Bulletin 61-10, "Protection of Bald and Golden Eagles from Powerlines," 1972 U.S. Department of Agriculture. Copies may be obtained from the U.S. Department of Agriculture, Washington, D.C.

(7) "Kentucky Standard and Specification for Pond (378)," 1978 U.S. Soil Conservation Service. Copies may be obtained from the Soil Conservation Service, 333 Waller Ave., Lexington, KY.

(8) ANSI S1.4-1971, "Specification for Sound Level Meters," 1971, American National Standards Institute,

Inc. Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, NY.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 29, 1984, at 10 a.m., in the Capital Plaza Tower Auditorium, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing: Steve Taylor, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

### CORRECTIONS CABINET

501 KAR 6:010. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on May 14, 1984 and hereinafter should be referred to as Corrections Policies and Procedures or institutional policies and procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

(1) The corrections policies and procedures:

- 1.1 Legal Assistance for Corrections Staff
- 1.2 News Media
- 1.6 Extraordinary Occurrence Reports
- 2.1 Inmate Canteen
- 3.1 Code of Ethics
- 3.2 Inclement Weather and Emergency Conditions Policy
- 3.3 Holding of Second Jobs by Bureau Employees
- 3.10 Staff Clothing and Personal Appearance
- 3.12 Institutional Staff Housing
- 3.14 Corrections Cabinet Payroll Deduction Policy and Procedure
- 4.1 Attendance at Professional Meetings
- 4.2 Staff Training and Development
- 4.3 Firearms and Chemical Agents Training
- 4.4 Educational Assistance Program
- 6.1 Open Records Law
- 8.4 Emergency Preparedness
- 9.1 Use of Force
- 9.3 Transportation of Convicted Offenders
- 9.4 Transportation of Inmates to Funerals or for Reasons of Illness to Immediate Family
- 9.5 Return of Escapees by Automobile
- 9.6 Contraband
- 9.7 Storage, Issue and Use of Weapons Including Chemical Agents
- 9.8 Search Policy

9.9	Transportation of Inmates	28.5	Special Report to the Parole Board
9.15	Institutional Entry and Exit Policy and Procedures	28.7	Out-of-State Investigations
10.1	Inmates Serving a Sentence of Death		(2) The Kentucky State Reformatory Procedures Memorandum:
10.2	Special Management Inmates		
10.3	Safekeepers	KSR 01-005	Public Information and News Media Relations
10.4	Special Needs Inmates	KSR 02-002	Special Management Inmates—Operations, Rules and Regulations for Unit D
11.2	Nutritional Adequacy of the Diet for Inmates	KSR 02-003	Inmate Summer Dress Regulations
11.3	Special Diet Procedures	KSR 02-004	Special Management Inmates—Unit D Classification
12.1	Resident Clothing	KSR 02-006	Operational Procedures and Rules and Regulations for Unit A, B, C
13.1	Pharmacy Policy and Formulary	KSR 02-007	Sanitation and General Living Conditions
13.2	Health Maintenance Services	KSR 02-008	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
14.2	Personal Hygiene Items	KSR 02-009	Housing Unit Assignment
14.3	Marriage of Inmates	KSR 02-011	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
14.4	Legal Services Program	KSR 02-012	Inmate Rights
15.1	Hair and Grooming Standards	KSR 02-014	Assessment/Classification Center Operations Rules and Regulations
15.2	Offenses and Penalties	KSR 02-016	Dormitory 10 Operations
15.3	Meritorious Good Time	KSR 02-017	Special Needs Unit
15.4	Governor's Meritorious Good Time Award	KSR 03-004	Horizontal Gates/Box 1 Enter and Exit Procedure
15.5	Restoration of Forfeited Good Time	KSR 03-005	Gate I Entrance and Exit Procedure
15.6	Adjustment Procedures and Programs	KSR 03-012	Shift Assignment/Reassignment
16.1	General Inmate Visiting Procedure	KSR 03-016	Use of Force
16.2	Inmate Correspondence	KSR 03-022	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
16.3	Telephone Calls		
17.1	Inmate Personal Property	KSR 04-009	Inmate Family Emergency—Life Threatening Illness or Death in Inmate's Immediate Family
17.2	Assessment Center Operations	KSR 04-010	Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery, or Death of an Inmate
17.3	Controlled Intake of Inmates	KSR 04-011	Emergency Preparedness Training
18.4	Classification of the Inmate	KSR 05-001	Governor's Meritorious Good Time Award
18.5	Custody/Security Guidelines	KSR 05-002	Restoration of Forfeited Good Time
18.6	Classification Document	KSR 05-003	Differential Status for SU (QUIT) Inmates
18.7	Transfers	KSR 05-004	Returns from Other Institutions
18.8	Guidelines for Transfers Between Institutions	KSR 05-005	Discharge of Residents to Hospital or Nursing Home
18.9	Out-of-State Transfers	KSR 05-006	Inmate I.D. Cards
18.10	Pre-Parole Progress Reports	KSR 05-007	Violations of Law or Code of Conduct by Inmates on Parole Furlough
18.11	Kentucky Correctional Psychiatric Center Transfer Procedures	KSR 05-008	Identification of Mentally Retarded Inmates
18.12	Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill	KSR 05-009	Identification Department Admissions and Discharges
18.13	Population Categories	KSR 05-010	Inmate Work Incentives
19.1	Government Services Projects	KSR 05-011	Pre-Parole Progress Report
19.2	Community Services Projects	KSR 05-012	Inmate Rules and Discipline
20.1	Study Release	KSR 05-013	On-the-Job Training
20.6	Vocational Study Release	KSR 06-001	Visiting Regulations
22.1	Privilege Trips	KSR 06-003	Legal Aide Office and Law Library Services
25.1	Gratuities	KSR 06-004	Inmate Library Services
25.2	Public Official Notification of Release of an Inmate	KSR 06-005	State Items Issued to Inmates
25.3	Pre-Release	KSR 06-007	Inmate Personal Property
25.4	Inmate Furloughs	KSR 06-008	Inmate Correspondence and Mailroom Operations
25.6	Community Center Program		
25.7	Expedient/Expanded Expedient Release		
25.8	Extended Furloughs		
27.1	Supervision: Case Classification		
27.2	Risk/Needs Administration		
27.4	Supervision Plan: General		
27.7	Classification of Caseloads		
27.8	Travel Restrictions		
27.9	Conditions of Supervision		
27.10	Preliminary Revocation Procedures		
27.11	Apprehension and Transportation of Violators of Probation, Parole and Conditional Release		
27.12	Fugitive Section/Probation and Parole		
27.13	Supervision Fee		
28.2	Investigations: General		
28.3	Pre-Sentence Investigations (To the Court)		
28.4	Pre-Parole (Pre-Sentence) Investigation (To the Institution and State Parole Board)		

KSR 06-009	Library Services for Unit D	KSR 14-001	Regulations for Hospital Patients
KSR 06-010	Inmate Canteen	KSR 14-002	Medication for Inmates Leaving Institution Grounds
KSR 06-012	Meal Planning for General Population	KSR 14-003	Dental Care for Patients
KSR 06-013	Special Diets	KSR 14-004	Medical and Dental Sick Call
KSR 06-014	Food Service Inspections	KSR 14-005	Services for Mentally Retarded Inmates
KSR 06-015	Inmate Access to Telephones	KSR 14-006	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 06-017	Entry/Exit to Visitation Building	KSR 14-007	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 06-018	Dining Room Dress Code for Inmates	KSR 14-008	Institutional Laboratory Procedures
KSR 06-019	Legal Aide Office and Inmate Law Library Supervision	KSR 14-009	Institutional Pharmacy Procedures
KSR 06-021	A/C Center and Unit D Inmate Access to Legal Aide Services	KSR 14-010	Requirements for Medical Personnel
KSR 08-003	Vocational School Referral and Release Process	KSR 14-011	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 08-006	Academic School Programs	KSR 14-012	Health Standards/Regulations for Food Service Employees
KSR 08-007	Kentucky Inter-Prison Press	KSR 14-013	Vision Care/Optomtery Services
KSR 08-008	Research Activities	(3) The Kentucky State Penitentiary Operations Memorandum:	
KSR 08-009	Inmate Organizations	KSP 010000-04	Public Information and Media Communication
KSR 08-010	Chaplain's Responsibility and Inmate Access to Religious Representatives	KSP 020000-01	General Guidelines for KSP Employees
KSR 08-011	Religious Programming	KSP 020000-02	Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
KSR 08-012	Criteria for Participation in Jefferson Community College Program	KSP 020000-03	Work Planning and Performance Review
KSR 09-001	Extraordinary Occurrence Report	KSP 020000-04	Employee Disciplinary Procedures
KSR 09-002	Inmate Master File	KSP 020000-05	Proper Dress for Uniformed and Non-Uniformed Personnel
KSR 09-003	Cooperation and Coordination with Oldham County Court	KSP 020000-06	Employee Grievance Procedure
KSR 09-004	Records Audit	KSP 020000-07	Personnel Registers and Advertisements
KSR 09-005	Security of Inmate Records	KSP 020000-09	Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files
KSR 09-006	Management Information Systems	KSP 020000-10	Overtime Policy
KSR 10-001	Employee Dress and Personal Appearance	KSP 020000-15	Legal Assistance
KSR 10-004	Intra-Agency Promotional Opportunity Announcements	KSP 020000-20	Equal Employment Opportunity Complaints
KSR 10-005	Employee Time and Attendance	KSP 020000-23	Recruitment and Employment of Ex-Offenders
KSR 10-006	Travel Expense Reimbursement	KSP 020000-24	Educational Assistance Program
KSR 10-007	Employee Tuition Reimbursement	KSP 020000-25	Mediation and Appeal Procedure for WPPR
KSR 10-009	Workers' Compensation	KSP 030000-01	Inventory Records and Control
KSR 10-010	Equal Employment Opportunity Complaints	KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSR 10-011	Employee Greivance Procedure	KSP 030000-05	Inmate Personal Funds
KSR 10-014	Prohibited Employee Conduct, Disciplinary Actions, and Appeals Process	KSP 030000-06	Inmate Commissary Program
KSR 10-015	Affirmative Action Program	KSP 040000-02	Inmate Records Section
KSR 10-016	Confidentiality of Personnel Records	KSP 040000-08	Inmate Equal Opportunity Policy
KSR 10-020	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein	KSP 050000-14	Searches of Inmates, Visitors, Staff, Vehicles, Cells and Area Shakedown and Preservation of Evidence
KSR 10-021	Personnel Selection, Retention and Promotion	KSP 060000-01	Telephones
KSR 10-022	Institutional Tower Room Regulations	KSP 060000-02	General Operational Procedures for Special Management Unit
KSR 10-023	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions	KSP 060000-03	Operational Procedures for Special Management Inmates Assigned to Disciplinary Segregation, Administrative Segregation, Administrative Control Unit and Special Security Unit
KSR 10-025	Work Planning and Performance Review (WPPR)		
KSR 10-026	Inclement Weather and Employee Work Attendance		
KSR 11-001	Screening of Checks and Money Transfers from Inmate Personal Accounts		
KSR 11-011	Inmate Personal Accounts		
KSR 11-012	Institutional Funds and Issuance of Checks		
KSR 12-001	Crime Scene Camera		
KSR 12-002	Inmate Grievance Procedure		
KSR 12-003	Collection, Preservation, and Identification of Physical Evidence		
KSR 12-005	Drug Abuse Testing		
KSR 13-002	Guidelines for Contractors		



KSP 060000-04	Operational Procedures for Special Management Inmates Assigned to Protective Custody	KSP 110000-11	Classification Committee—Transfer Requests
KSP 060000-09	Protective Custody Unit—Attorney Telephone Calls	KSP 110000-12	Classification Committee—Inmate Work Assignments
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program	KSP 110000-13	Classification Document
KSP 060000-12	Administrative Control Protective Custody	KSP 110000-14	Vocational School Placement
KSP 070000-02	Sick Call	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center
KSP 070000-03	Health Evaluations	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 070000-04	Consultations	KSP 110000-17	Detention Cells
KSP 070000-11	Medical and Dental Services for Western Kentucky Farm Center	KSP 120000-04	Academic Education
KSP 070000-13	Pharmacy Procedures	KSP 120000-07	Community Center Program
KSP 070000-14	Medical Records	KSP 120000-08	Inmate Furloughs
KSP 070000-16	Psychiatric and Psychological Services	KSP 120000-11	Religious Services—Staffing
KSP 070000-17	Dental Services for Special Management Units	KSP 120000-18	Religious Services—Religious Programming
KSP 070000-19	Optometric Services	KSP 120000-20	Marriage of Inmates
KSP 070000-20	Menu Preparation and Planning	KSP 120000-24	Muslim Services
KSP 070000-24	General Sanitation and Safety, and Protection Standards and Requirements	KSP 120000-31	Extended Furloughs
KSP 070000-25	Food Service Inspections	(4) The Luther Luckett Correctional Complex Policies and Procedures:	
KSP 070000-30	Therapeutic Diets	LLCC 01-08-01	Institutional Legal Assistance
KSP 090000-01	Inmate Work Programs	LLCC 01-09-01	Public Information and News Media Access
KSP 090000-06	Utilization of Legal Postage and Copy Privileges by Indigents	LLCC 02-01-02	Fiscal Management: Accounting Procedures
KSP 090000-07	Access to the Inmate Legal Aide Office	LLCC 02-01-03	Fiscal Management: Checks
KSP 090000-08	Inmate Legal Aide Office	LLCC 02-01-04	Fiscal Management: Insurance
KSP 090000-12	WKFC Residents—Access to Kentucky State Penitentiary Legal Library	LLCC 02-03-01	Fiscal Management: Audits
KSP 100000-02	Visiting Program	LLCC 02-06-01	Property Inventory
KSP 100000-03	Disposition of Unauthorized Property	LLCC 03-01-01	General Guidelines for LLCC Employees
KSP 100000-04	Inmate Grooming and Dress Code	LLCC 03-02-01	Proper Dress for Uniformed Personnel
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items	LLCC 03-03-01	Employee Grievance Mechanism
KSP 100000-06	Mail	LLCC 03-04-01	Employee Records
KSP 100000-07	Long Distance Telephone Service	LLCC 03-05-01	Personnel Registers
KSP 100000-08	Behavioral Counseling Record	LLCC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control
KSP 100000-09	Due Process/Disciplinary Procedures	LLCC 03-08-01	Shift Transfers
KSP 100000-10	Mail, Search and Seizure	LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit Management Staff
KSP 100000-11	Authorized and Unauthorized Property for Inmates	LLCC 03-09-01	Promotion Board
KSP 100000-12	Packages	LLCC 03-10-01	Affirmative Action: EEO
KSP 100000-14	Property Room and Inventory Procedures	LLCC 03-12-01	Confidentiality of Information by Consultants, Contract Personnel and Volunteers
KSP 100000-15	Uniform Standards for Fire Safety, Sanitation and Security of all Cells	LLCC 08-01-01	Offender Records
KSP 100000-18	Inmate Grievance Committee Hearings	LLCC 08-02-01	Records—Release of Information
KSP 100000-20	Legal Services Program	LLCC 11-02-01	General Population Status
KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines	LLCC 11-03-01	LLCC Population Categories
KSP 100000-22	Special Management Unit Legal Services Program	LLCC 11-07-01	Adjustment Procedure for Minor Rule Violation
KSP 100000-24	Resident Legal Services Office Library	LLCC 11-09-01	Rules and Regulations of the Unit
KSP 110000-02	PFO I Transfers to Medium Security Institutions	LLCC 11-13-01	Yard, Walkway and Recreation Field Dress Code and Conduct
KSP 110000-03	Governor's Meritorious Good Time Award Committee	LLCC 11-15-01	Post-Parole Furloughs
KSP 110000-04	Pre-Parole Report	LLCC 11-16-01	Restoration of Forfeited Good Time
KSP 110000-06	General Guidelines of the Classification Committee	LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
KSP 110000-07	Statutory Good Time Restoration	LLCC 11-20-01	Program Services for "Special Needs" Inmates
KSP 110000-08	Award of Meritorious Good Time	LLCC 12-01-01	Special Management Inmates
KSP 110000-10	Special Needs Inmates		

LLCC 13-04-01	Food Service: Meals	NTC 03-04-01	Shift Transfers
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets	NTC 03-06-01	Workers' Compensation
LLCC 13-05-02	Medical Screening of Food Handlers	NTC 03-07-01	Merit System Registers and Placement of Advertisements
LLCC 13-06-01	Food Service: Inspections and Sanitation	NTC 03-09-01	Maintenance Confidentiality and Challenge of Information Contained in Employee Personnel File
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products	NTC 03-10-01	Employment of Ex-Offenders
LLCC 14-01-01	Procedures for Providing Clothing, Linens and Other Personal Items	NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings
LLCC 14-05-01	Institutional Inspections	NTC 04-01-01	Training and Staff Development
LLCC 15-01-01	Sick Call and Pill Call	NTC 06-01-01	Offender Records
LLCC 15-02-01	Psychological Services	NTC 06-01-02	Records—Release of Information
LLCC 15-03-01	Pharmacy	NTC 10-01-01	Special Management Inmates
LLCC 15-04-01	Dental Services	NTC 11-03-01	Food Service: General Guidelines
LLCC 15-05-02	Licensure and Training Standards	NTC 11-04-01	Food Service: Meals
LLCC 15-06-02	Emergency and Specialized Health Services	NTC 11-04-02	Menu, Nutrition and Special Diets
LLCC 15-06-03	Emergency Medical Care Plan	NTC 11-05-02	Medical Screening of Food Handlers
LLCC 15-07-01	Medical and Dental Records	NTC 11-06-01	Inspections and Sanitation
LLCC 15-08-01	Special Diets	NTC 11-07-01	Purchasing, Storage and Farm Products
LLCC 15-11-01	Provision of Psychiatric Services from the KCPC/Responsibilities of the Department of Corrections	NTC 12-01-01	Institutional Inspections
LLCC 15-12-01	Disabled and Infirm Inmates	NTC 12-02-01	Personal Hygiene for Inmates (Clothing and Linens)
LLCC 16-01-01	Inmate Rights and Responsibilities	NTC 12-02-02	Personal Hygiene Items
LLCC 16-02-01	Inmate Grievance Procedure	NTC 13-01-01	Emergency Medical Care Plan
LLCC 16-03-01	Inmate Law Library	NTC 13-01-02	Emergency and Specialized Health Services
LLCC 17-01-01	Due Process/Disciplinary Procedure	NTC 13-02-01	Outside Hospital Security
LLCC 18-01-01	Inmate Correspondence	NTC 13-03-01	Sick Call and Pill Call
LLCC 18-02-01	Inmate Visiting	NTC 13-04-01	Pharmacy
LLCC 20-01-01	Personal Property Control	NTC 13-05-01	Dental Services
LLCC 20-02-01	Authorized Inmate Personal Property	NTC 13-06-01	Licensure and Training Standards
LLCC 20-03-01	Unauthorized Items	NTC 13-08-01	Medical and Dental Records
LLCC 20-04-02	Inmate Canteen	NTC 13-09-01	Special Diets
LLCC 20-05-01	Inmate Control of Personal Funds	NTC 13-11-01	Inmate Health Evaluation
LLCC 21-02-01	Classification/Security Levels	NTC 13-12-01	Disabled and Infirm Inmates
LLCC 21-03-01	Classification Process	NTC 14-01-01	Legal Services Program
LLCC 22-01-01	OJT/Job Assignments	NTC 14-03-01	Inmate Rights and Responsibilities
LLCC 23-01-01	Academic School	NTC 15-01-01	Restoration of Forfeited Good Time
LLCC 26-01-01	Religious Services	NTC 15-02-01	Due Process/Disciplinary Procedures
LLCC 28-01-01	Privilege Trips	NTC 15-02-02	Extra Duty Assignments
LLCC 28-03-01	Temporary Release/Community Center Release	NTC 15-03-01	Rules for Inmates Assigned to Minimum Security Living Area
LLCC 28-04-01	Pre-Parole Progress Report	NTC 15-03-02	Rules and Regulations for Dormitories
LLCC 28-04-02	Parole Eligibility Dates	NTC 16-01-01	Mail Regulations
		NTC 16-02-01	Visiting Policy
		NTC 16-02-02	Extended and Special Visits
		NTC 16-02-04	Visiting Policy for Inmates Residing in the Minimum Security Living Area
		NTC 16-03-01	Inmate Furloughs
		NTC 17-01-01	Personal Property Control
		NTC 17-01-02	Authorized Inmate Personal Property
		NTC 17-01-03	Unauthorized Inmate Property
		NTC 17-03-01	Assessment/Orientation
		NTC 18-01-01	Pre-Parole Progress Report
		NTC 18-01-02	Parole Eligibility Dates
		NTC 18-02-01	Instructions for Scheduling 6 Month Classification Reviews
		NTC 18-03-01	Classification Process
		NTC 18-04-01	Classification Committee
		NTC 18-05-01	Transfers to Other Institutions
		NTC 18-06-01	Meritorious Housing Dormitory
		NTC 20-01-01	Academic School Program
		NTC 22-01-01	Privilege Trips
		NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
		NTC 23-01-01	Religious Services

(5) The Northpoint Training Center Policies and Procedures:

NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Institutional Legal Assistance
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-01-02	Fiscal Management: Accounting Procedures
NTC 02-01-03	Fiscal Management: Checks
NTC 02-01-04	Fiscal Management: Insurance
NTC 02-03-01	Fiscal Management: Audits
NTC 02-08-01	Inmate Canteen
NTC 03-01-01	Employee Dress Code
NTC 03-02-01	General Guidelines for NTC Employees
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants

NTC 23-03-01 Marriage in Inmates  
 NTC 25-01-01 Release Preparation Program  
 NTC 25-01-02 Temporary Release/Community Center Release  
 NTC 25-02-01 Funeral Trips and Bedside Visits

(6) The Kentucky Correctional Institution for Women Policies and Procedures:

KCIW 01-06-01 Legal Assistance for Corrections Staff  
 KCIW 01-08-01 Public Information and News Media Access  
 KCIW 02-01-01 Comprehensive Insurance  
 KCIW 02-02-01 Fiscal Management: Audits  
 KCIW 02-02-03 Fiscal Management/Checks  
 KCIW 02-04-01 Accounting Procedures  
 KCIW 02-05-01 Inmate Canteen  
 KCIW 03-01-01 Travel Expense Reimbursement  
 KCIW 03-02-01 General Orders for all Staff  
 KCIW 03-03-01 Employee Grievance Procedure  
 KCIW 03-05-01 Employee Personnel File  
 KCIW 03-06-01 Affirmative Action EEO  
 KCIW 03-08-01 Work Planning and Performance Review  
 KCIW 03-09-01 Payroll and Personnel Manning Records  
 KCIW 03-10-01 Promotion Committee  
 KCIW 03-11-01 Personnel Registers  
 KCIW 03-12-01 Criminal History Checks on all Personnel and the Recruitment and Employment of Ex-Offenders  
 KCIW 06-01-01 Inmate Records  
 KCIW 10-01-02 Special Management Unit Programs, Placement and Review  
 KCIW 11-01-01 Food Service Operation Inspections  
 KCIW 11-01-02 Budgeting, Accounting, Purchasing Procedures for Food Products  
 KCIW 11-02-01 Menu Preparation, Special Diets  
 KCIW 11-03-01 General Guidelines for Food Service Manager  
 KCIW 11-04-01 Health Standards, Regulations for Food Service Employees  
 KCIW 12-01-01 Control of Pests and Vermin  
 KCIW 12-02-01 Laundry Facilities and Clothing Issuance  
 KCIW 12-04-01 Sanitation and General Living Conditions  
 KCIW 13-01-01 Medical and Dental Care  
 KCIW 13-01-02 Preliminary Health Evaluation  
 KCIW 13-01-03 Drug Distribution  
 KCIW 13-03-01 Emergency Care  
 KCIW 13-03-02 Infirmary Care and Outside Services  
 KCIW 13-03-03 Outside Hospital Security  
 KCIW 13-04-01 Emotionally Disturbed Inmates  
 KCIW 13-04-02 Psychiatric/Psychological Services  
 KCIW 14-01-02 Inmate Rights and Responsibilities  
 KCIW 14-02-01 Access to Attorneys and Designated Counsel Substitutes  
 KCIW 14-03-01 Inmates Not Subject to Discrimination  
 KCIW 14-04-01 Inmate Grievance Procedure  
 KCIW 15-01-01 Inmates Rules and Discipline  
 KCIW 16-01-01 Inmate Correspondence  
 KCIW 16-01-02 Inmate Mail Distribution  
 KCIW 16-02-01 Inmate Access to Telephone  
 KCIW 16-03-01 Inmate Visiting  
 KCIW 17-01-01 Assessment/Classification Unit Operation and Reception Programs

KCIW 17-01-02 Assessment/Classification Unit Rules and Regulations  
 KCIW 17-02-01 Identification Department, Admissions and Discharges  
 KCIW 17-03-01 Notifying Inmates Families of Admission and Procedures for Mail and Visiting  
 KCIW 18-02-01 Classification Procedures  
 KCIW 18-05-01 Special Needs Inmates  
 KCIW 19-01-01 Inmate Work Programs  
 KCIW 19-01-02 Inmate Work Program Participation  
 KCIW 20-01-01 Education Programs  
 KCIW 23-01-01 Religious Services  
 KCIW 25-01-01 Pre-Parole Progress Report  
 KCIW 25-02-01 Temporary Release/Community Center Release and Code of Conduct  
 KCIW 25-02-02 Furloughs  
 KCIW 25-03-01 Escorted Leaves into the Community  
 KCIW 27-01-01 Indigent Fund  
 KCIW 27-02-01 Inmate Money and Property Control  
 KCIW 27-02-02 Release of CETA Money Earned

(7) The Food Service Manual, Offender Records Manual and the Classification Manual are hereby approved by the Secretary of the Corrections Cabinet as authorized by KRS 196.035, 197.020, 439.470, 439.590 and 439.640.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 14, 1984 at 4:10 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for June 21, 1984, at 9 a.m., at the auditorium in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Financial Institutions**  
**Division of Banking**

**808 KAR 11:010. Acquisitions.**

RELATES TO: KRS 287.900

PURSUANT TO: KRS 287.020

NECESSITY AND FUNCTION: KRS 287.900 permits the formation of multibank holding companies and multiple bank ownership by individuals in Kentucky. This administrative regulation is to insure uniformity in the interpretation of those provisions which apply to the acquisition of banks of individuals and bank holding companies.

Section 1. (1) Fifteen (15) Percent Deposit Limitation. Once every calendar year, the department shall prepare a deposit summary which lists the total deposits in all banks in this state based upon the year-end reports made by the banks to their respective supervisory authorities. The departmental deposit summary shall be prepared as soon as practical following compilation of the data contained in the year-end reports.

(2) The year-end reports to be used by the department are the December 31, Report of Condition filed by the respective banks with the appropriate federal regulatory agencies to include the Federal Deposit Insurance Corpora-

tion for state non-member banks, the Federal Reserve Board for state member banks and the Comptroller of the Currency for national banks.

(3) Bank acquisitions under consideration by the department shall be based upon the departmental deposit summary available at the time of the acquisition application.

(4) In calculating the total deposits for the acquiring individual or company and the bank being acquired, the deposits for the year the departmental deposit summary is available shall be used.

Section 2. Acquisition Period. (1) The five (5), twelve (12) month periods after the effective date of KRS 287.900 during which individuals or companies may not acquire, directly or indirectly, control of more than three (3) banks in this state shall be as follows:

First Year—July 13, 1984—July 12, 1985;  
Second Year—July 13, 1985—July 12, 1986;  
Third Year—July 13, 1986—July 12, 1987;  
Fourth Year—July 13, 1987—July 12, 1988; and  
Fifth Year—July 13, 1988—July 12, 1989.

(2) Effective July 13, 1989, the limitation on the number of bank acquisitions is removed, and individuals and companies may acquire an unlimited number of banks so long as the acquisitions do not exceed the fifteen (15) percent deposit limitation.

Section 3. Emergency Acquisitions. If the commissioner or the Comptroller of the Currency determines that an emergency exists in regard to a state-chartered or national bank respectively, an individual or company may acquire control of the failing bank or bank holding company without being restricted by the three (3) bank acquisition limitation, the fifteen (15) percent deposit limitation or the time limitations for filing for change of control. Approval of the acquisition shall be based on the financial condition, the competence, experience and integrity of the individual or acquiring company or its principals.

BALLARD W. CASSADY, JR., Commissioner

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 11:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 10 a.m., EDT, in the offices of the Department of Financial Institutions, 911 Leewood Drive, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing: Wanda S. Harrod, Department of Financial Institutions, 911 Leewood Drive, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department of Financial Institutions  
Division of Banking

**808 KAR 11:020. Procedures.**

RELATES TO: KRS 287.095, 287.905

PURSUANT TO: KRS 287.020

NECESSITY AND FUNCTION: KRS 287.095 and 287.905 set forth the statutory procedures for filing applications by a bank holding company or individual to acquire control of a state-chartered bank or bank holding company which includes a state-chartered bank, the setting

of filing and examination fees and the examination of any holding company that controls a state-chartered bank. This administrative regulation is to insure uniformity in the procedures to be used in the application and examination processes.

Section 1. The provisions of KRS 287.095(1) and (2) are not applicable to transactions involving applications filed with the Federal Reserve Board for prior approval to become a one-bank holding company. The application process for prior approval to become a one-bank holding company is regulated by the Federal Reserve Board and such transactions are not subject to KRS 287.905. Action by a bank holding company to acquire control of a state-chartered bank or to acquire control of a bank holding company which includes a state-chartered bank is, however, subject to KRS 287.905. Applications by a bank holding company to acquire control of a state-chartered bank or to acquire control of a bank holding company which includes a state-chartered bank may be filed with the commissioner on or after July 13, 1984.

(2) Whenever a proposed change occurs in the outstanding voting stock of a state-chartered bank which is subject to KRS 287.095 or 287.905, in those cases where a bank holding company application or change of control notice is required by federal regulatory agencies, the concurrent filing of a copy of the application or notice submitted to the federal regulatory agency with the commissioner would fulfill the notice requirement of KRS 287.095 or 287.905. Notice is required to be filed with the commissioner in all cases where the change in ownership of voting stock would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of ten (10) percent or more of the outstanding voting stock of the bank. The filing of notice with the commissioner on forms used by federal regulatory agencies shall be treated as confidential information by the commissioner as provided by federal law.

(3) All bank holding company applications shall be filed concurrently with the application filed with the Federal Reserve Board and shall be on the same application form used by the Federal Reserve Board. All subsequent information furnished by the applicant to the Federal Reserve Board shall be concurrently filed with the department.

(4) A complete application is one which includes all information necessary for the commissioner to make a decision to approve or disapprove the application and has been accepted for processing by the Federal Reserve Board.

Section 3. Filing Fee. Each application shall include a non-refundable investigation fee of \$250. The fee assessed by the commissioner shall be paid prior to approval of the application by the commissioner.

Section 4. Examination Fees. If the commissioner examines or elects to participate in a joint examination with the applicable federal regulatory agency of any holding company that controls a state-chartered bank, the examination fee assessed against the company examined shall be based upon fair compensation for time and actual expenses.

Section 5. Publication of Notice. Publication of notice of intention of a bank holding company to acquire control of a state-chartered bank or to acquire control of a bank holding company which controls a state-chartered bank shall be the responsibility of the applicant pursuant to

Regulation Y issued by the Federal Reserve Board (12 CFR 225, as revised effective February 3, 1984).

Section 6. Hearings. The department shall not hold hearings on any application or notice. Hearings, if any, shall be conducted by the Federal Reserve Board in accordance with Regulation Y issued by the Federal Reserve Board (12 CFR 225, as revised effective February 3, 1984) or by the appropriate federal banking agency pursuant to the federal Bank Change in Control Act of 1978, as amended (12 U.S.C. 1817(j)).

Section 7. Nonbank Activities and Acquisitions. Nonbank activities and acquisitions for bank holding companies are regulated by the Federal Reserve Board in accordance with Regulation Y issued by the Federal Reserve Board (12 CFR 225, as revised effective February 3, 1984).

Section 8. Coordination with Federal Reserve Board. The commissioner shall coordinate the application process for acquisition of control of state-chartered banks and bank holding companies which control a state-chartered bank with the Federal Reserve Board to insure that no unreasonable delays occur in the approval process.

BALLARD W. CASSADY, JR., Commissioner

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 11:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 10 a.m., EDT, in the offices of the Department of Financial Institutions, 911 Leewood Drive, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing: Wanda S. Harrod, Department of Financial Institutions, 911 Leewood Drive, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Department of Housing, Buildings and Construction  
Commission on Fire Protection Personnel  
Standards and Education

**815 KAR 45:040. Survivor benefits, death of volunteer firefighter.**

RELATES TO: KRS Chapter 61

PURSUANT TO: KRS 61.315, 61.316

NECESSITY AND FUNCTION: KRS 61.315 and 61.316 authorize the payment of a survivor's benefit of \$25,000 to the survivors of a volunteer firefighter who is killed in the line of duty. This regulation establishes the procedures and criteria which shall be utilized to determine the eligibility of survivors of a firefighter killed in the line of duty, to be paid the survivor's benefit.

Section 1. Definitions. As employed in this regulation for determination of eligibility for payment of survivor benefits, the following words and phrases shall have the following meaning:

(1) Volunteer firefighter. Volunteer firefighter for the purpose of this regulation shall mean any active member of a volunteer fire department recognized under KRS 17.250 or a bystander present at the scene of an emergency who is recruited for assistance by the individual in charge.

(2) Performance of duty. A volunteer firefighter shall be deemed to be acting in the performance of his duties for the purpose of this regulation when engaged in activities of

firefighting, fire drills or other related training; rescue or emergency activities; provided such activities are performed at the direction or with the knowledge of an officer of the fire department or when immediate action is required at the scene of an emergency not involving his department or other emergency organization.

(a) These activities shall include repairing or doing other work about or in the fire or emergency apparatus or building and grounds of the fire department upon the authorization of the chief of the fire department or other authorized person in charge or while answering any emergency calls for any purpose or while riding in or upon the fire or emergency apparatus which is owned or used by the fire department or while performing other duties of such fire department as authorized by the jurisdiction which the department serves.

(b) These activities shall include going to or directly returning from such activities to the firefighter's home, place of business or other place where he shall have been when he received the call or alarm.

(c) These activities shall include organized meetings related to the fire service and travel to and from such meetings whether local, state, or national, as long as he is representing his local, state or national fire related organization.

(3) Active member. For the purpose of this regulation, an active firefighter is one that is listed on the department roster and participates in the department's training programs and other various activities.

(4) Heart or circulatory malfunction. For the purpose of this regulation, heart or circulatory malfunction shall mean myocardial infarction, angina pectoris, coronary thrombosis, cardiac arrest or a cerebral vascular accident which the symptoms of such malfunction are first medically treated within forty-eight (48) hours after participation in the performance of the duties of a voluntary firefighter as described in this regulation.

(5) Death in performance of duty. For the purpose of this regulation, death shall mean death which occurs as a direct result of an act or acts in the performance of duty as described in this regulation and shall include death which results from a heart or circulatory malfunction which is treated within forty-eight (48) hours after participation in the performance of said duties or the results of illness, sickness or injury caused by the performance of said duties which result in death within twelve (12) months of such stated activities as described in subsection (2) of this section provided death is not caused by suicide or self-inflicted injury.

(a) If death occurs after twelve (12) months and is believed to be related to the above state causes, the commission has the right of review with the possibility of determination of death in performance of duty.

(b) These activities shall not include participation in any sports or athletic event or contest, whether for the purpose of fund raising or any other purpose.

(6) Beneficiaries. Benefits shall be paid to the surviving spouse; if no surviving spouse, then payment shall be made to the surviving children; if no surviving spouse or children, the benefit shall be paid to any dependent parents of the deceased. Benefits paid under these statutes do not accrue to the decedent's estate. If decedent is not survived by an eligible survivor, no benefits shall be paid under either KRS 61.315 or 61.316.

(7) Heart or circulatory malfunction limitations. After July 15, 1984, should an individual become an active member of a fire department and has not within five (5)

years prior to the date of membership been medically diagnosed as having had or has received any medication for myocardial infarction, angina pectoris, coronary thrombosis, cardiac arrest or a cerebral vascular accident, his eligible survivors shall receive the benefits should he/she be killed in the line of duty.

(a) Should he/she have been medically diagnosed as having had or receiving any medication for the above illnesses within five (5) years prior to becoming an active member of a fire department and presents a medical statement to the commission from his/her doctor, that the individual has recovered or has been medically rehabilitated sufficiently to meet the physical demands of firefighting, his/her eligible survivors shall be eligible to receive the benefits granted through KRS 61.315 or 61.316 should said firefighter be killed in the line of duty.

(b) After July 15, 1984, should an active member of a fire department be medically diagnosed as having had or is prescribed medication for myocardial infarction, angina pectoris, coronary thrombosis, cardiac arrest or a cerebral vascular accident and returns to active fire service, his/her survivors shall not be eligible to receive benefits from this program in the event of the firefighter's death until a medical statement from his/her doctor that the individual has recovered or has been medically rehabilitated sufficiently to meet the physical demands of firefighting is supplied the commission. Upon review and approval of said statement by the commission, the firefighter's survivors shall again become eligible to receive benefits from this program.

(8) Autopsy. The commission reserves the right to request an autopsy providing sufficient cause can be shown for such a request. Should an autopsy be performed for any reason, a copy of the report signed by the individual who performs the autopsy and a notary public shall be furnished the commission.

(9) Dependents. "Child or children" includes stepchildren, legally adopted children, posthumous children and recognized illegitimate children. "Parent" includes stepparents and parents by adoption.

(10) Commission. Commission for the purpose of this regulation means the commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020.

Section 2. Application. Upon the death in the line of duty, as defined by this regulation, of a volunteer firefighter, the fire department of which he was a member at the time of death shall notify in writing the commission's administrator in the Office of State Fire Marshal, of the death. Upon receipt of such notification, the administrator shall send the proper forms to the notifying fire department in care of the chief as well as the proper forms to the known survivors of the deceased firefighter. Upon receipt of the forms furnished by the commission, the chief and survivors or their representative shall properly fill out the said forms and return them to the commission in care of the administrator. Upon the receipt of the properly filled out forms, a committee of the commission appointed by the chairman of the commission shall review the applications and forward them with their recommendations to the full commission for determination of eligibility. Should there be any questions about the application the committee and the administrator has the authority to seek clarification of the questions on behalf of the commission.

Section 3. Certification of Payment of Benefits. Upon certification of survivorship rights to the Volunteer

Firefighter's Death Benefit the Department of Finance shall draw a warrant in the amount of \$25,000 on the funds realized from the collection of the insurance premium surcharge as provided for in KRS 136.392; a check shall be issued by the State Treasurer and transmitted to the commission's administrator for payment to the eligible survivor or survivors.

Section 4. False and Fraudulent Statements. Any person who knowingly or willfully makes any false or fraudulent statements or representation in any record or report to the commission under KRS 61.315 and 61.316 or this regulation shall cause the survivors to become ineligible for further funds and those survivors may be responsible for the return to the State Treasury of those funds which were received through these false or fraudulent statements or representations.

Section 5. Appeals. (1) No decision of the commission which negatively affects the eligibility of a survivor to be a recipient of the fund shall be final until said survivor shall have been afforded an opportunity to be heard on the matters.

(2) An appeal may be taken from a final decision of the commission to withhold payment from the fund to any survivor. Said appeal shall be to the circuit court of the circuit where the controversy originated.

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 14, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on June 21, 1984, at 1 p.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

#### CABINET FOR HUMAN RESOURCES Office of the Secretary

900 KAR 3:010. Cabinet for Human Resources personnel policies.

RELATES TO: KRS Chapter 194

PURSUANT TO: KRS 194.020, 194.025, 194.050

NECESSITY AND FUNCTION: KRS 194.050 requires the secretary, as chief executive and administrative officer of the Cabinet for Human Resources to formulate, promote, establish and execute policies, plans and programs necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The function of this administrative regulation is to assure uniformity of personnel policies necessary for the various programs operated by the cabinet.

Section 1. Personnel Policy Manual. (1) As provided for by 1 KAR 1:010, Section 1, the Cabinet for Human Resources Personnel Policy Manual, revised 5-1-84, is incorporated in this administrative regulation as if fully set out herein.

(2) The official custodian of the CHR Personnel Policy Manual shall be the Director of the Division of Personnel Management who shall insure that it is available for public



inspection during normal business hours at his office on the 4th Floor, CHR Building, 275 East Main Street, Frankfort, KY.

(3) The Cabinet for Human Resources Personnel Policy Manual, revised 5-1-84, shall prescribe Cabinetwide Personnel Policies and Personnel Programs and shall comply with all applicable state and federal laws and regulations.

(4) Changes, additions and/or deletions of the CHR Personnel Policy Manual which would improve the personnel policies of the cabinet shall be recommended to the secretary by the Director of the Division of Personnel Management and made in accordance with applicable state law and administrative regulations.

MATTHEW J. AMATO, JR., Director  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 1:340. State health plan.

RELATES TO: KRS Chapter 194 and 216B

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs. The Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board utilizes the state health plan in review of applications for certificates of need to establish and modify health services and health facilities in the Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Kentucky State Health Plan 1983-1986, was adopted by the State Health Planning Council and approved by Governor John Y. Brown, Jr. on August 15, 1983 as the document that sets out planning policies and guidelines for use by the Kentucky Health Facilities and Health Services Certificates of Need and Licensure Board. A copy of the Kentucky State Health Plan is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The following portions of the Kentucky State Health Plan are hereby adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein:

(1) Acute care policies p. 25-32, with the exception of the following:

(a) Policies relating to excess capacity and utilization, p. 28.

(b) Policies relating to the containment of capital expenditures, p. 30.

(c) Policies relating to regionalization, p. 30.

(2) Long term care policies, p. 32-35.

(3) Health personnel policies, p. 36-41.

(4) Planning criteria and review standards, p. 42-62 with the exception of the following:

(a) Delicensure of excess capacity, p. 47.

(b) Hospital capital expenditure limit, p. 48.

(c) Tertiary and medical service centers designation, p. 49.

(5) Glossary.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 4:050. Kentucky family planning program.

RELATES TO: KRS 211.180, 214.185

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

NECESSITY AND FUNCTION: P.L. 91-571, the "Family Planning Services and Population Research Act of 1970" and 42 C.F.R., Part 59, authorizes grants for family planning services. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Family Planning program in accordance with applicable federal laws and regulations.

Section 1. State Plan for Family Planning Services. The Cabinet for Human Resources hereby adopts the "Kentucky State Plan for Family Planning Services—Fiscal Year 1983-1984" and the "Kentucky State Plan for Family Planning Services—Fiscal Year 1984-1985" by reference as the Kentucky Family Planning regulation covering all

phases of program operation including but not limited to program eligibility for services and provision for fee collections in accordance with federal regulations and guidelines, consent requirements, medical standards, quality assurance, and other relevant components of the program. A copy of the State Plan for Family Planning Services—Fiscal Year 1983-1984 (one (1) volume) and the State Plan for Family Planning Services—Fiscal Year 1984-1985 (three (3) volumes) have been filed with Region IV, Department of Health and Human Services, 101 Marietta Tower, Atlanta, GA 30323. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, KY 40621.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 8:020. Policies and procedures for local health department operations.**

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the July 1, 1982, edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the May 15, 1984, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and

Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the February, 1984, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the May 15, 1984, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the May 11, 1984, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the May 11, 1984, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES Department for Health Services**

**902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.**

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the May 1, 1984, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Western State Hospital Policy Manual" consisting of thirty-one (31) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 11:20 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing to the following by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**

**904 KAR 1:250. Incorporation by reference of materials relating to the Medical Assistance Program.**

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 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 incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Medical Assistance Program and is applicable for both the categorically and medically needy.

**Section 1. Incorporation by Reference.** The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

**Section 2. Listing of Incorporated Material.** The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective May 16, 1984;

(2) Federal "State Medicaid Manual," effective May 16, 1984;

(3) Federal action transmittals issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-69, 79-72, 79-76, 79-98, 79-111, 80-9, 80-16, 80-18, 80-23, 80-24, 80-32, 80-59, 80-70, 80-78, 80-94, 81-8, 81-15, 81-21, 81-23, 81-33, 81-35, 81-36, 81-40, 82-1, 82-2, 82-8, 82-9, 82-20, 82-23, 83-1, 83-4, 83-7, 83-8, 83-11, 84-1, 84-2, 84-4, and 84-5, effective May 16, 1984;

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, and 20-84, effective May 16, 1984;

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective May 16, 1984; and

(6) State Medicaid Program policies and procedures manuals issued by the cabinet, as follows:

(a) Home and Community Based Services Waiver Project Adult Day Health Care Services, effective May 16, 1984;

(b) Alternative Intermediate Services/Mental Retardation Project, effective May 16, 1984;

(c) Birthing Center Services, effective May 16, 1984;

(d) Community Mental Health Benefits, effective May 16, 1984;

(e) Dental Benefits, effective May 16, 1984;

(f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective May 16, 1984;

(g) Family Planning Benefits, effective May 16, 1984;

(h) Hearing Services Benefits, effective May 16, 1984;

(i) Home and Community Based Services Waiver Project, effective May 16, 1984;

(j) Home Health Benefits, effective May 16, 1984;

(k) Hospital Services Benefits, effective May 16, 1984;

(l) Independent Laboratory Services Benefits, effective May 16, 1984;

(m) Intermediate Care Facility Benefits, effective May 16, 1984;

(n) Mental Hospital Services Benefits, effective May 16, 1984;

(o) Nurse Anesthetist Services, effective May 16, 1984;

(p) Nurse Midwife, effective May 16, 1984;

(q) Pharmacy Benefits, effective May 16, 1984;

(r) Physician Benefits, effective May 16, 1984;

(s) Primary Care Benefits, effective May 16, 1984;

(t) Rural Health Clinic Benefits, effective May 16, 1984;

(u) Skilled Nursing Facility Benefits, effective May 16, 1984;

(v) Ambulance Transportation Benefits, effective May 16, 1984; and

(w) Vision Services Benefits, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
 E. AUSTIN, JR., Secretary

**APPROVED BY AGENCY:** May 15, 1984

**FILED WITH LRC:** May 15, 1984 at 12 noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**

**904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.**

RELATES TO: KRS 194.030(6) and KRS Chapter 205

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** KRS 194.010 designates the Cabinet for Human Resources as the primary state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, child support

enforcement, state supplemental payments for the aged, blind or disabled, disability determination, and collections which are essential for the implementation of those programs.

**Section 1. General Policy Relating to Program Materials Incorporated by Reference.** (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

**Section 2. Incorporation by Reference.** The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Department for Social Insurance Manual of Operations, effective May 16, 1984;

(2) Department for Social Insurance Manual of Forms, effective May 16, 1984; and

(3) Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES** Department for Social Insurance

**904 KAR 2:150. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.**

RELATES TO: KRS 194.030(6), 205.200, 205.220, 205.231

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Title IV-A of the Social Security Act, namely Aid to Families with Dependent Children, herein referred to as AFDC. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the AFDC program.

**Section 1. Incorporation by Reference.** The cabinet shall incorporate by reference materials used in the implementation of the Aid to Families with Dependent Children Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

**Section 2. Listing of Incorporated Materials.** The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal aid to families with dependent children regulations at 45 CFR Parts 200-299, and interim final regulations at 45 CFR Parts 200-299, effective May 16, 1984; and

(2) Federal aid to families with dependent children action transmittals, as follows: SSA-AT-77-44, 78-13, 78-14, 78-16, 78-21, 78-27, 78-28, 78-38, 79-2, 79-4, 79-5, 79-7, 79-11, 79-14, 79-18, 79-22, 79-26, 79-29, 79-31, 79-32, 79-33, 79-35, 79-42, 79-44, 80-2, 80-3, 80-9, 80-11, 80-19, 80-22, 80-24, 80-29, 80-30, 80-36, 80-38, 80-42, 80-44, 80-45, 80-50, 81-2, 81-7, 81-8, 81-10, 81-11, 81-12, 81-15, 81-16, 81-17, 81-18, 81-23, 81-29, 81-31, 81-33, 81-34, 81-35, 81-36, 81-37, 82-1, 82-5, 82-6, 82-9, 82-11, 82-13, 82-15, 82-16, 82-17, 82-18, 82-19, 82-20, 82-28, 82-33, 82-34, 83-6, 83-7, 83-10, 83-11, 83-13, 83-14, 83-17, 83-18, 83-21, 83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, and 84-7, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES** Department for Social Insurance

**904 KAR 2:160. Disability determinations program.**

RELATES TO: KRS 194.030(6), 205.200, 205.245, 205.520

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility, under KRS Chapter 205, to administer programs of public assistance in accordance with Titles IV-A and XIX of the Social Security Act, and KRS 205.245. The cabinet is also responsible, by agreement with the United States Department of Health and Human Services, for determinations of disability under the provisions of Titles II and XVI of the Social Security Act. This regulation incorporates into regulatory form, by reference, materials used in determinations of disability under Titles II, IV-A, XVI and XIX of the Social Security Act, and KRS 205.245. The program for making disability determinations shall be referred to herein as the disability determinations program.

**Section 1. Incorporation by Reference.** The cabinet shall incorporate by reference materials used in the implementation of the disability determinations program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

**Section 2. Listing of Incorporated Materials.** The

following materials are hereby incorporated by reference, effective on the date shown:

- (1) Social Security Disability Rulings, effective May 16, 1984;
- (2) Social Security Disability Program Operations Manual, Part 4, Chapters 7 and 9, effective May 16, 1984;
- (3) Social Security Disability Program Operations Manual, Part 04, Chapters 001, 003, and 005, effective May 16, 1984;
- (4) Social Security Disability Program Operations Manual, Part 04, Chapter 004, effective May 16, 1984; and
- (5) Social Security Disability Program Operations Manual, Part 04, Chapters 006, 007, 009, and 010, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILE WITH LRC: May 15, 1984 at 12 noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES** Department for Social Insurance

**904 KAR 2:170.** Incorporation by reference of materials relating to the Child Support Program.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

**Section 1. Incorporation by Reference.** The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

**Section 2. Listing of Incorporated Materials.** The following listed materials are hereby incorporated by reference, effective on the date shown:

- (1) Federal child support regulations at 45 CFR Parts 300-399, and interim final regulations at 45 CFR Parts 300-399, effective May 16, 1984;
- (2) Federal Office of Child Support Enforcement Action Transmittals as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-13, 83-15, and 83-18, effective May 16, 1984;

- (3) Department for Social Insurance Child Support Manual of Procedures, effective May 16, 1984;
- (4) Department for Social Insurance Child Support System Handbook, effective May 16, 1984; and
- (5) Department for Social Insurance Child Support Action Memorandums, as follows: DCSE-AM-82-07, 82-27, 82-36, 82-53, 83-16, 83-21, 83-29, 83-30, 83-31, 83-36, 83-38, 83-39, 83-48, 83-54, 84-09, 84-10, 84-11, 84-16, 84-18, 84-19, and 84-20, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

#### **CABINET FOR HUMAN RESOURCES** Department for Social Insurance

**904 KAR 2:180.** Incorporation by reference of materials relating to the home energy assistance program.

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky, to help meet the costs of home energy, in accordance with the provisions of P.L. 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981). This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Home Energy Assistance Program.

**Section 1. Incorporation by Reference.** The cabinet shall incorporate by reference materials used in the implementation of the Home Energy Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

**Section 2. Listing of Incorporated Materials.** The following materials are hereby incorporated by reference effective on the date shown:

- (1) Federal energy regulations at 45 CFR Part 96, and interim final regulations at 45 CFR Part 96, effective May 16, 1984;
- (2) Federal low income home energy assistance information memorandums as follows: SSA-IM-83-01, 83-02, 83-05, 83-06, 83-07, 83-09, 84-6, and 84-14, effective May 16, 1984;



(3) Federal low income home energy assistance information action transmittal as follows: SSA-AT-83-02, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 2:190. Incorporation by reference of materials relating to the Refugee Assistance Program.**

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 194.050 to administer programs to qualify for the receipt of federal funds providing cash and medical assistance to eligible Kentucky residents. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Refugee Assistance Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Refugee Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal regulations at 45 CFR Parts 400-401, and interim final regulations at 45 CFR Parts 400-401, effective May 1, 1984;

(2) Federal Office of Refugee Resettlement action transmittals as follows: ORR-AT-80-5, 80-6, 80-7, 81-1, 82-3, 83-1, 83-2, 83-6, and 83-6A, effective May 16, 1984; and

(3) Memorandum dated March 1, 1984 to State Agency Administrators of Refugee Resettlement Program and Cuban/Haitian Entrant Program, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 2:200. Collections program.**

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS Chapters 194 and 205 to operate public assistance programs, and is empowered by KRS 194.050 to promulgate regulations necessary for the administration of its programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Collections Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the collection program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed material is hereby incorporated by reference, effective on the date shown: Collections Branch Policy and Procedures Manual, effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 3:090. Incorporation by reference of materials relating to the Food Stamp Program.**

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR Parts 251-282, and interim final regulations at 7 CFR Parts 251-282, effective May 16, 1984;

(2) Department for Social Insurance Food Stamp Handbook, effective May 16, 1984; and

(3) Federal food stamp regional letters as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-19, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-25, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-39, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-59, 81-60, 81-62, 81-64, 81-65, 81-66, 81-67, 81-68, 82-2, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-14, 83-15, 83-17, 83-18, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-11, 84-12, 84-13, 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-21, 84-22, 84-23, 84-24, 84-26, 84-27, 84-28, 84-29, 84-30, 84-31, 84-32, 84-33, 84-34, 84-35, and 84-36 effective May 16, 1984.

JACK F. WADDELL, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

**CABINET FOR HUMAN RESOURCES**  
Department for Employment Services  
Division of Unemployment Insurance

**904 KAR 5:260. Unemployment insurance procedures.**

RELATES TO: KRS 341.005 through 341.990

PURSUANT TO: KRS 13A.100, 194.050(1), 341.115

NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an Unemployment Insurance Program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement

programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the Unemployment Insurance Program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the Unemployment Insurance Program as authorized by Title III of the Social Security Act and KRS 341, the following operating manuals are adopted by reference:

(1) Local Office Manual as issued February, 1984 and last revised May, 1984.

(2) Benefit Branch Procedures Manual issued May, 1982 and last revised December, 1983.

(3) Tax Collection and Accounting Branch Manual issued November, 1982 and last revised May, 1984.

(4) Administrative Support Branch Manual issued December, 1983 and last revised March, 1984.

(5) Unemployment Insurance Field Audit Manual issued February, 1984 and last revised May, 1984.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621

**CABINET FOR HUMAN RESOURCES**  
Department for Employment Services  
Division of Program Administration  
and Technical Services

**904 KAR 6:010. Work Incentive Program.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Title IV of the Social Security Act and 29 CFR, Part 56 authorizes the states to implement the Work Incentive Program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Work Incentive Program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Work Incentive Program as authorized by Title IV of the Social Security Act and as regulated in 29 CFR, Part

56, the following CFR and operating manuals are adopted by reference.

(1) Title 29 CFR, Part 56, as last revised November 30, 1981.

(2) United States Department of Labor, United States Department of Health, Education and Welfare, Joint Handbook No. 318, the WIN Handbook, issued October, 1979.

(3) The Kentucky Joint WIN Handbook, issued June, 1978 and last revised January, 1984.

(4) Regional Coordination Committee Operating Memorandum No. 14-83 WIN.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Employment Services  
Division of Program Administration  
and Technical Services

**904 KAR 6:020. Weatherization assistance for low income persons.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Chapter 42 USC 6861 authorizes the states to implement a weatherization program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the weatherization program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the weatherization program as authorized by 42 USC, 6861 and as regulated in Title 10 CFR Part 44, the following CFR and operating manuals are adopted by reference:

(1) Title 10 CFR Part 440, dated January 27, 1984.

(2) 1983 Weatherization Manual issued September, 1983 and last revised January, 1984.

(3) Weatherization Assistance Program Specifications and Installations Standards Manual issued October, 1983.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the

Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Employment Services  
Division of Program Administration  
And Technical Services

**904 KAR 6:030. Occupational training and experience project.**

RELATES TO: KRS 194.030(9), 205.650 through 205.690

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Title IV of the Social Security Act authorizes the states to implement occupational training programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Occupational Training and Experience Project in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Occupational Training and Experience Project as authorized by Title IV of the Social Security Act and as regulated in Title 29 CFR, Part 56 and Title 45 CFR, Chapter II, Part 224, the following operating manual is adopted by reference: Occupational Training and Experience Project Handbook issued August, 1983.

Section 2. The document incorporated by reference herein is on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
 Department for Employment Services  
 Division of Research and Planning

**904 KAR 6:040. Job training partnership act.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Public Law 97-300, The Job Training Partnership Act authorizes the states to implement a job training program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Job Training Program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Job Training Program as authorized by Public Law 97-300 and as regulated in 20 CFR Parts 626 through 638, the following CFR, Public Law and Conference Report are adopted by reference:

(1) 20 CFR Parts 626 through 638, dated March 15, 1983.

(2) Public Law 97-300, the Jobs Training Partnership Act of 1982.

(3) Job Training Partnership Act, Conference Report issued September 28, 1982.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Service, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
 E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
 Department for Employment Services  
 Division of Veterans' Employment Services

**904 KAR 6:050. Veterans' benefits.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Title 38, USC authorized the states to implement veterans' employment and training programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs man-

dated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the veterans' training and benefit programs in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the veterans' programs as authorized by Title 38, USC, and as regulated in 20 CFR Parts 652 and 653, the following CFR's, federal statutes and bulletins are adopted by reference:

(1) Title 20 CFR, Parts 652 and 653, dated March 30, 1984.

(2) Title 38, USC, Chapter 41, as amended through January 14, 1983.

(3) V.E.R. Bulletins A through 17.

(4) F.C.J.L. Bulletins 1 through 4.

(5) P.L. 96-466.

(6) P.L. 98-77.

(7) P.L. 97-300.

(8) Title 41 CFR, Part 60-250, dated June 25, 1976.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
 E. AUSTIN, JR., Secretary

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**CABINET FOR HUMAN RESOURCES**  
 Department for Social Services  
 Division of Field Services

**905 KAR 1:150. "Baby Doe" regulation.**

RELATES TO: KRS 199.011(6), 199.335

PURSUANT TO: KRS 194.050, 199.420

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services-Title XX," authorizes grants to states for social services and Section 504 of the "Rehabilitation Act of 1973" requires that federally assisted programs conform to 45 CFR Part 84. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement required reporting procedures.

Section 1. Nondiscrimination on the Basis of Handicap, Procedures Relating to Health Care for Handicapped Infants. The Secretary of the Cabinet for Human Resources hereby adopts 45 CFR, Part 84.55(c), "Nondiscrimination

on the Basis of Handicap, Procedures Relating to Health Care for Handicapped Infants," issued in the Federal Register, Volume 49, No. 8, January 12, 1984. 45 CFR, Part 84.55(c), as above cited, establishes the policy for federally funded hospitals and other health care facilities whereby hospitals report to the state child protective agency suspected unlawful medical neglect of handicapped infants. Such reports shall be made immediately to the Department for Social Services by use of the "Hotline" number which is 1-800-752-6200. 45 CFR, Part 84.55(c) may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m. in the Department for Health Service Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Field Services

**905 KAR 1:190. Conduct of hearings for revocation of supervised placement.**

RELATES TO: KRS Chapter 208.510

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 208.510 directs that any child who is on supervised placement from a residential treatment facility operated by the department and who violates the terms or conditions of supervised placement may be apprehended and returned to active custody of the department pending a hearing. The function of this regulation is to establish administrative procedures as provided in KRS 208.510.

Section 1. Definitions: (1) "Child" means a child who was alleged to have violated the conditions of supervised placement and for whom a request has been made for his/her return to the active custody of the department.

(2) "Commissioner" means the Commissioner of the Department for Social Services.

(3) "Preliminary Probable Cause Hearing" means a hearing conducted to determine if there is probable cause to believe that a child committed to the department and placed on supervised placement has violated the terms of his/her supervised placement and if the child should remain or be placed in a residential program pending a hearing before the Placement Violation Review Board.

(4) "Placement Violation Review Board" means a three (3) member board appointed by the Commissioner, Department for Social Services, to hear cases involving placement violations.

(5) "Chairperson" means the Deputy Commissioner or Director of the Division for Program Management, Department for Social Services.

(6) "Hearing Officer" means the Juvenile Court Liaison (JCL) assigned to hear the preliminary probable cause hearing.

(7) "Placement Violation Review Hearing" means a hearing held to determine if a child who has allegedly violated the terms of his/her supervised placement should be returned to the active custody of the department.

(8) "Cabinet" means the Cabinet for Human Resources.

Section 2. Applicability of Placement Revocation. In cases where the child has allegedly committed a new offense as provided in KRS 208.200(3) but has not violated the terms of supervised placement, administrative hearing procedures do not apply. In such cases, the juvenile courts have exclusive, original jurisdiction. In cases where the child has allegedly committed a new public offense and has also violated the terms of supervised placement, administrative hearing procedures are appropriate. Administrative hearing procedures do not apply in cases where the child is a danger to himself or others as a result of mental illness or mental retardation. Such cases will be handled in accordance with KRS 208.460 or KRS Chapter 202A or B.

Section 3. Documentation of Placement Violation. (1) If a juvenile service worker has reason to believe that a child on supervised placement has violated the terms of his or her placement, the worker should prepare for review by the Field Office Supervisor (FOS) a brief written document that should include, but is not limited to:

(a) Identifying information.

(b) The terms agreed upon by the child and worker.

(c) Explanation of how any or all of the terms of supervised placement have been violated by the child.

(d) Why revocation is in the best interests of the child.

(2) If after reviewing the documentation prepared by the juvenile worker the FOS feels that reasonable evidence exists that the child has violated the terms of his/her supervised placement and if immediate placement is necessary, the FOS will immediately contact the JCL who will initiate a preliminary probable cause hearing and arrange for placement of the child pending the hearing. Immediate placement should not be considered unless the child is considered to be a danger to himself or others, but not mentally ill. If immediate placement is not being requested, the FOS should forward a request for a hearing before the Placement Violation Review Board to the Deputy Commissioner.

Section 4. Preliminary Probable Cause Hearing. (1) Within forty-eight (48) hours of the child's placement in a facility, the JCL must conduct a hearing to determine if there is probable cause to believe that the child has violated his/her supervised placement conditions and if the child should remain in the residential facility pending a hearing before the Placement Violation Review Board. Due to the mandate to hold the hearing within forty-eight (48) hours of the child's placement in a facility, the written notice of the time and location of the hearing shall be hand-delivered to the child at the facility by the program manager of the facility and to the parent or guardian by the child's juvenile services worker. If the staff is unable to locate the child and/or parent or guardian, the hearing will still be held. The notice should:

(a) Include specific conditions of supervised placement alleged to be violated.

(b) Inform the child and his/her parents or guardian that they may be present at the hearing.

(c) Inform the child and parent or guardian that they may be represented by counsel.

(2) The hearing should be conducted in the county where the child is located by the JCL assigned to that district unless the JCL has prior knowledge of the allegations contained in the request for placement revocation. If the JCL has prior knowledge, the Manager of the Assessment and Placement Branch, acting on behalf of the commissioner, will appoint a JCL from an adjacent district to serve as the preliminary probable cause hearing officer.

Section 5. Legal Representation. The child and his/her family may be represented by legal counsel. If the child and his/her family cannot afford legal counsel, staff will refer them to the Public Defender's office or Legal Aid in their area. The Department for Social Services may be represented by an attorney from the Office of the Counsel.

Section 6. Conduct of the Hearing. (1) The actual hearing will be conducted with the JCL serving as the hearing officer and along the following guidelines:

(a) The JCL should open the hearing by citing the issues to be resolved, thus setting the parameters of the hearing. The issues should be the same as those contained in the hearing notice to the child and his/her parent or guardian.

(b) Attendance at the hearing will be limited to the child and his/her parent or guardian; staff involved; legal counsel for the child and staff; and a person to operate the recording equipment plus any witnesses called by either party.

(c) The parties to the complaint and the witnesses shall testify under oath or affirmation. KRS 194.025 provides that the Secretary of the Cabinet for Human Resources and his designated representatives may administer oaths and affirmations; therefore, the JCL may administer the oath.

(d) The child and his/her counsel and any other party to the hearing may present such evidence as shall be pertinent to the issue stated in the notice.

(e) The FOS may make an opening statement and shall present his/her side of the case first.

(f) Parties to the hearing shall be allowed to establish pertinent facts and circumstances relative to the issues; to bring witnesses; present evidence; and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(g) The JCL shall, if necessary to secure full information on the issue, examine each party who appears and his witnesses. The JCL may also take any additional evidence which he deems necessary including excerpts from the case record.

(h) All hearings shall be conducted informally without the strict rules of evidence.

(i) The hearing will be recorded.

(2) At the conclusion of the hearing, the JCL shall make known his decision to the child verbally to be followed up immediately in writing. The decision letter should contain the following information:

(a) Specific conditions of supervised placement alleged to be violated.

(b) A summary of the facts relating to the allegations of placement revocation obtained from testimony at the hearing.

(c) Statement of findings of facts.

(d) Decision regarding the validity of the allegation of placement violation and basis for the decision.

(3) A copy of the letter should also be sent to the commissioner, the Director of the Division of Field Services and the Director of the Division of Children's Residential Services and appropriate FOS and Social Services Manager.

(4) If probable cause is not established, the JCL shall make arrangements immediately for the child to be returned to his/her home or other placement. If probable cause is established, the JCL will immediately call the deputy commissioner to request a hearing before the Placement Violation Review Board.

Section 7. Placement Revocation Board. The commissioner of the department will appoint a three (3) member board to conduct the hearing. The deputy commissioner and the Director of the Division of Program Management have been designated by the commissioner as standing chairpersons. The other two (2) members of each board that is appointed will be chosen from a pool consisting of the District Foster Care Specialists and the Social Services Managers. If the Social Services Manager and/or District Foster Care Specialist have prior knowledge of the child's situation, a Specialist and Manager will be chosen from an adjacent district.

Section 8. Hearing Before Placement Violation Review Board. Upon receipt of the request for a hearing before the Placement Violation Review Board, the chairperson shall set the time and place of the hearing which shall be convenient to all parties. The hearing shall be held within seven (7) days from the date that the FOS officially contacts the JCL or the chairperson of the Placement Violation Review Board to request an administrative review.

Section 9. The Notice. (1) The child and his/her parent or guardian shall be notified by certified mail (return receipt requested) at their last known address of the location and time of the hearing. The notice shall include:

(a) Specific conditions of supervised placement alleged to have been violated.

(b) Notification that the child may be represented by counsel.

(2) Transportation for the child to the hearing shall be provided by appropriate field staff if he/she is in the community or by residential staff if he/she is being detained at a residential facility.

Section 10. Conduct of Hearing. The hearing is an administrative procedure and should be conducted along the following guidelines:

(1) The chairperson should open the hearing citing the issues to be resolved, thus setting the parameters of the hearing. These should be the same issues as those contained in the hearing notice.

(2) The parties to the hearing and the witnesses shall testify under oath or affirmation. KRS 194.025 provides that the Secretary of the Cabinet for Human Resources and his designated representatives may administer oaths and affirmations; therefore, the chairperson may administer the oath.

(3) All parties shall be allowed to establish pertinent facts and circumstances relative to the issues; to bring witnesses; present evidence; and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. (The chairperson may waive cross-examination upon a finding of good cause.)

(4) The hearing will be recorded.



Section 11. Decision of the Board. The board through the chairperson shall submit to the commissioner with three (3) days of the conclusion of the hearing written findings of fact along with a recommendation concerning the case. In the event that members of the board do not agree with the chairperson, they may submit separate findings of fact and recommendations.

Section 12. Final Decision. (1) The decision as to the disposition of the child is made by the commissioner and shall be final. If after reviewing the findings of fact and recommendation(s) the commissioner determines that the child has violated the conditions of supervised placement he may order the child's return to a residential program. In making the determination to return the child to the facility, the commissioner will take into consideration the seriousness of the violation(s) and whether or not it would be in the best interests of the child under the circumstances surrounding the case to return the child to a residential program. The commissioner may also direct an alternate disposition.

(2) The commissioner's decision letter is to sent to the child, his/her parent or guardian and counsel, if applicable, within three (3) days from the receipt of findings and recommendations of the board by certified mail (return receipt requested). Copies of the decision letter should also be forwarded to appropriate DSS staff. The letter sent to the child shall contain the following:

- (a) Specific conditions of supervised placement alleged to be violated.
- (b) Evidence relied upon in making the final decision.
- (c) Reasons for the disposition.
- (d) Statement of child's right to seek relief in the courts.

Section 13. 905 KAR 1:015, Supervised placement revocation procedures, is hereby repealed.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, 4 West, Frankfort, Kentucky 40621. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Program Management

**905 KAR 6:020. State plan for CSBG Program.**

RELATES TO: KRS 273.410 to 273.468

PURSUANT TO: KRS 194.050, 273.448

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle B—"Community Services Block Grant Program," enacted August 13, 1981, authorizes grants to states to ameliorate the causes of poverty in communities within the state. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to imple-

ment programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Community Services Block Grant program in accordance with applicable state and federal laws and regulations.

Section 1. State Plan for Community Services Block Grant Programs. The Cabinet for Human Resources hereby adopts by reference the "Community Services Block Grant Program Plan for the Commonwealth of Kentucky" for the fiscal and program year ending September 30, 1984, as the plan for utilization of CSBG funds. The plan includes assurances as required by federal law and regulations; provisions for use of funds by community action agencies; programmatic considerations such as geographic areas to be served, client eligibility, and complaint procedures; and fiscal considerations such as administration, required match, and allocation formula. The "Community Services Block Grant Program Plan" may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

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**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services

**905 KAR 7:010. Children's residential services policy manual.**

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle C, "Block Grant to States for Social Services—Title XX" provides grants to states for social service programs. KRS 208.410 requires the Cabinet for Human Resources to arrange for a program of care, treatment and rehabilitation of the children committed to it. The function of this regulation is to set forth policies which provide for the classification, segregation and specialized treatment of children according to their respective problems, needs and characteristics.

Section 1. Children's Residential Services Policy Manual. The Cabinet for Human Resources hereby adopts by reference the Policy Manual of the Department for Social Services, Division of Children's Residential Services, revised through May 11, 1984, as the operating policies for the care and treatment of juveniles committed to the cabinet and served by the Division of Children's Residential Services. The manual contains policies relating

to administration, assessment and placement, juvenile rights, records, treatment programs, discipline, security and control, personnel, staff development, fiscal management, food service, medical health services, physical plant, safety and emergency procedures, education and vocational services, placement violation, release and furloughs, and volunteers. The manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, or any of the institutions, day treatment programs, or group homes located in Ashland, Hopkinsville, Elizabethtown, Louisville, Newport, Owensboro, Bowling Green, Cromwell, Sudith, Lexington, London, Middlesboro, Morehead, Waddy, Walton, Monticello, West Liberty and Crittenden.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

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**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services

**905 KAR 7:030. Children's residential services facilities manuals.**

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 13A.201, 194.050

NECESSITY AND FUNCTION: P.L. 97-35, Subpart C, "Social Services Block Grant—Title XX" authorizes grants to states for the provision of social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement programs for the care and treatment of children who are delinquent, status offenders and mentally ill or emotionally disturbed. This regulation is tiered by facility based on type of child admitted, degree of security, and treatment program.

Section 1. Children's Residential Services Facilities Manuals. The Cabinet for Human Resources hereby adopts by reference as operating policies and procedures for the residential facilities, operated by the Department for Social Services, the following manuals: Northern Kentucky Treatment Center Policy and Procedure Manual revised through May 11, 1984; Lake Cumberland Boys' Camp Policy and Procedural Manual revised through May 11, 1984; Morehead Treatment Center Policy Manual dated 1983; Central Kentucky Treatment Center Policy Manual dated 1983; Green River Boys' Camp Policy and Procedures Manual revised through May 11, 1984; Woodsbend Boys' Camp Policies and Procedures revised through

May 11, 1984; Cardinal Treatment Center Policy and Procedural Manual revised through May 11, 1984; Rice-Audubon Policy and Procedural Manual revised through May 11, 1984; Lincoln Village Policy and Procedures Manual dated September 15, 1983; Re-Ed Treatment Program Policy/Procedural Manuals, Chapters II, III, and IV revised through May 11, 1984; and Central Kentucky Re-Ed Center Policy and Procedural Manual, Lexington, revised through May 11, 1984. These manuals set forth the policies and procedures for the care and treatment of juveniles residing in the above listed residential facilities. The manuals may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

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**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services

**905 KAR 7:040. Continuum of care for children in residential facilities.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 208.400 requires the department to arrange for a program of care, treatment and rehabilitation for children committed to it.

Section 1. Citation of Regulation. This regulation may be cited as continuum of care for children served by the Division of Children's Residential Services of the Department for Social Services.

Section 2. Philosophy of Treatment. The care provided by Children's Residential Services Division of the Commonwealth's Department for Social Services, Cabinet for Human Resources, offers a range of services varying in degrees of structure and restrictiveness with community and familial involvement. This care is based on the premise that each child presents a unique constellation of learning needs requisite to autonomous functioning in this society. The range of services includes psychiatric hospitalization, day treatment, five-day-a-week residential settings, gender specific and co-ed living arrangements, rural and urban environments. The primary objective of this continuum of care is to insure the continuity of treatment for children in substitute care. The purpose is to bring about a successful coordination of services to children requiring residential treatment. This system is designed to insure that children remain in their homes or, if not feasible, to be returned home as quickly as possible.



(1) The Commonwealth is committed to the protection and preservation of a child's right to humane care which includes but is not limited to:

- (a) The right to adequate food, clothing, and shelter;
- (b) The right to be free from physical, sexual or emotional injury or exploitation;
- (c) The right to develop physically, mentally or emotionally;
- (d) The right to educational instruction which will best help the child's development; and
- (e) The right to a secure, stable family.

(2) However, the cabinet also recognizes that there are occasions when, in order to protect and preserve these rights, it becomes in the best interests of the child's future development to be removed from his or her home.

(3) There is by design within this continuum of care an allotment of spaces for both entering and exiting children at each level. For example, each group home has spaces earmarked for children being transferred from a more restrictive program as well as providing spaces for children entering at this point. Also within each component's mini-system (i.e., group homes, day treatment, psychiatric hospital, clinical residential services, and residential services) there exists a microcosm of this same care, further expanding services opportunities. Hence, the group home mini-system offers short-term living arrangements with a high degree of community involvement, home visitation, and preparation for independent living and also offers a range of longer term living arrangements with a focus on social and vocational skills enhancement as well as completion of academic training.

(4) Services are provided to all residents of the Commonwealth ages four (4) to eighteen (18) with many branches/services available within a geographic proximity to a child's home. The programs have been designed to offer specialized services to children with similar needs.

**Section 3. Entering the System.** A holistic approach shall be taken with regard to the assessment of each child's treatment needs. This assessment shall be based on the child's history, experiences, self-report, interviews, and observations by appropriately qualified personnel. It shall include evaluation of physical, dental, behavioral, social, recreational, legal, religious, ethnic, educational, and vocational needs. This assessment precedes placement and takes into consideration a determination of the degree of dangerousness that the child's behavior and statements present. (Factors such as life-threatening behavior, the degree of criminal sophistication, prior institutional adjustment and environmental stressors are weighed in making a placement decision.) A primary aspect of this assessment is an on-going consideration of least restrictive placement. Based on this initial assessment identifying particular needs, the child shall enter the treatment continuum at the level of least restrictiveness. Referrals to the system should be directed to the Juvenile Services Specialist in your district.

**Section 4. Treatment Planning.** (1) Following the initial assessment and placement, short-term, time-limited, measurable treatment objectives as well as long-term treatment goals are developed by a planning team. Treatment planning is an on-going process with constant evaluation and re-evaluation based on the child's age, experiences, ethnic background, progress, and changing needs. Treatment shall ideally begin with an emphasis on the major problems prohibiting socially acceptable functioning. The

child shall learn new methods of dealing with daily life events in a more and more focused fashion so as to raise the youth's chances of successfully returning to independent (i.e., community) functioning.

(2) Treatment shall meet specific needs as related to a child's strengths and weaknesses. Whenever strengths can be identified they shall be employed to modify weaknesses. Treatment modalities shall include: varying degrees of structure; appropriate academic placement as per P.L. 94.142 (i.e., regular, learning disabled, behavior disordered, educably and trainably mentally handicapped classroom settings); individual counseling and psychotherapy; drug/alcohol education and counseling; sex education; family conferences and therapy; recreational activities; music, art, and movement therapies; group psychotherapy; structured skill groups; job assignments; incentive based social learning programs; and independent living skills training.

(3) Involvement in normal community activities and use of community resources shall increase in direct relation to a child's needs to develop autonomy. Skills needed to live responsibly shall be offered as a child is ready to acquire them. This system's insistence on family involvement takes into account research literature which shows this involvement to increase a child's chances of returning to a normal growth environment. Linkages shall be established with community-based agencies to further increase a child's chances of successful adjustment to community living.

(4) In developing an individualized care plan for a child, consideration shall be given to identifying factors within the child's community that need modification or strengthening prior to his/her return. Discharge planning shall involve successively less restrictive settings as a child's coping abilities improve along socially acceptable standards and as the child assumes mastery over his/her impulses.

**Section 5. Exiting the System.** As dictated by the child's needs and available supports and resources, a child may exit the continuum at any point.

**Section 6. Aftercare and Follow-Up.** Measures shall be taken to endeavor to insure a comprehensive service delivery system for each child according to his/her projected needs upon return to the community including the use of public and private resources. These resources will vary by child and shall include such options as alcohol and drug counseling, tutoring, volunteer work, vocational training, job assignment, a big brother or big sister, church involvement, etc. Regular assessment will also help to identify areas in which community services may help to maintain the child at home.

**Section 7. Program Description.** (1) The continuum of care offers varieties of treatment opportunities ranging from least to most restrictive with each level of care offering a range of structure options from low to high.

(2) Community-based services include the provision of day treatment opportunities for school-aged children living in the following areas: Ashland, Bowling Green, Christian County, Hardin County, Lexington, Louisville, Newport, and Owensboro. Day treatment may be used as a first line of community diversion or as the last level of transition back into the community. Because of the nature of the programs, day treatment clients continue to reside in their homes after school hours.



(3) Group home services offer residences across the state in the following areas: Ashland, Bowling Green, Cromwell, Frenchburg, Hopkinsville, Lexington, London, Louisville, Middlesboro, Morehead, Stanford, Waddy, and Walton. Group home living offers specialized and non-specialized situations that include vocational/educational training, agricultural training, honors settings, and transition back to the community. Family and community involvement are emphasized in the group home system. Specialization also includes a range of low to moderately structured settings. The clients reside in the facility. Referrals are accepted statewide.

(4) Residential services opportunities include programs for delinquent children at Rice-Audubon, Central Kentucky, Lincoln Village, Owensboro, Morehead Treatment Center, Lake Cumberland, Woodsbend, and Green River Boys' Camps. The programs vary in terms of the amount of structure and security, and are specialized as to a child's needs for socialization, education, vocational training, and family and community involvement. All offer reality-based counseling and traditional casework methods.

(5) Clinical services programs are designed to meet the special needs of emotionally disturbed and behaviorally disordered youth ages four (4) to eighteen (18), and offer therapy specific to the degree of disturbance. They are located at Children's Treatment Services, Northern Kentucky Treatment Center, Cardinal Treatment Center, and Louisville and Lexington Re-Ed.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services

**905 KAR 7:060. Children's residential facilities capacities.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 97-35 Subtitle C "Block Grants for Social Services—Title XX" authorizes grants to states for social services including staff development and training. KRS 208.400 mandates that the Cabinet for Human Resources manage and develop facilities necessary to provide an adequate and modern program of care, treatment and rehabilitation of children. The function of this regulation is to establish desired capacities for the residential facilities operated by the Department for Social Services for children.

Section 1. The Department for Social Services' Division of Children's Residential Services shall, in so far as possible, have as a goal facility capacities as follows:

- (1) Central Kentucky Treatment Center, 42;
- (2) Green River Boys' Camp, 32;
- (3) Woodsbend Boys' Camp, 33;
- (4) Owensboro Treatment Center, 33;
- (5) Morehead Treatment Center, 45;
- (6) Rice-Audubon, 37;
- (7) Lincoln Village Treatment Center, 36; and
- (8) Lake Cumberland Boys' Camp, 32.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

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**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services

**905 KAR 7:070. Children's residential staff training requirements.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 97-35 Subtitle C "Block Grants for Social Services—Title XX" authorizes grants to states for social services including staff development and training. KRS 208.400 mandates that the Cabinet for Human Resources manage and develop facilities necessary to provide an adequate and modern program of care, treatment and rehabilitation of children. The function of this regulation is to provide staff with training necessary to carry out their responsibilities.

Section 1. The Department for Social Services' Division of Children's Residential Services shall develop and implement a staff training program for all employees of the division which is consistent with good child care practices.

Section 2. General Staff Training Requirements. (1) Training shall be planned for all employees and shall be coordinated and implemented by a qualified employee of the supervisory level who has completed forty (40) hours of training as a trainer.

(2) A full-time staff person shall have responsibility for training, implementing and coordinating the program with other employee programs; other specialists may be used to instruct in specific areas.

(3) In facilities with more than fifty (50) employees, a staff member shall be assigned full time to the training function.

(4) The training program shall be reviewed annually.

(5) Training programs shall be presented by persons who are qualified in the areas in which they are training.

(6) Training by the division staff or training branch, outside specialist or through educational institutions shall be provided in compliance with Policy 1201 set forth in the Children's Residential Services' Policy Manual.

Section 3. New Employee Orientation. (1) All new full-

time employees shall receive forty (40) hours of orientation/training prior to being independently assigned to a particular job.

(2) The orientation/training is to include but not be limited to and at a minimum:

(a) Orientation to the purpose, goals, policies, and procedures of the program and parent agency;

(b) Working conditions, regulations, responsibilities and rights of employees; and

(c) An overview of the juvenile justice system and correctional field.

(3) Supervisory personnel shall provide immediate orientation for all newly employed personnel to familiarize them with all agency policies and procedures. Depending upon the employee(s) and the requirements of a particular job the orientation/training may include some preparatory instruction related to the particular job. Provisions shall be made for giving credit for prior training received.

Section 4. Training Responsibility. (1) It is the employee's responsibility to know and obtain the specified number of training hours required by division policy each year.

(2) The Program Development and Training Branch and their staff are responsible for planning and coordinating training programs which satisfy the division's policy and training mandate.

(3) Additional training requests shall be made from division staff to the training branch.

(4) Training credits may be given for prior course work, training, or on-the-job experience, but only if coordinated or documented by the training branch.

(5) A monthly training agenda shall be maintained by the training branch and shall be posted for staff review by mid-week prior to the beginning of the next month.

(6) A weekly update shall be issued from the Department for Social Services central office of changes, additions or deletions of the training agenda.

Section 5. Support Staff Training. (1) All clerical/support employees who have minimal contact with juveniles shall receive an additional sixteen (16) hours of training during the first year of employment and sixteen (16) hours of training each year thereafter.

(2) Clerical/support staff who are not in continuous contact with juveniles shall be given orientation to include but not limited to policies, organization, structure, programs and regulations of the facility and parent agency as well as task orientation relative to their particular job assignment.

(3) Support staff of the Division of Children's Residential Services who have regular or daily juvenile contact shall receive an additional forty (40) hours of training during their first year of employment and forty (40) hours of training each subsequent year of employment.

(4) Food service, industrial supervisors and other support personnel who, as a part of their job requirements, have day-to-day contact with juveniles shall receive specialized training to supplement their particular area of expertise.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275

East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621.

## CABINET FOR HUMAN RESOURCES

Department for Social Services

Division of Aging Services

### 905 KAR 8:010. Older Americans Act audit guide.

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 89-73, Older Americans Act of 1965, as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older people and requires that these grants be audited periodically. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to serve as a guide to auditors who audit programs under the Older Americans Act.

Section 1. Older Americans Act Audit Guide. The Cabinet for Human Resources hereby adopts, by reference, the "Older Americans Act Audit Guide" as the document to be used in auditing grants under any title of the Older Americans Act. The guide sets forth the requirements and procedures for auditing entities funded by the Older Americans Act. The guide may be reviewed during regular working hours in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

## CABINET FOR HUMAN RESOURCES

Department for Social Services

Division of Aging Services

### 905 KAR 8:030. Meal standards for the Older Americans Act.

RELATES TO: KRS 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 89-73, "Older Americans Act," as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194.050 authorizes the



Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. KRS 205.204 designates the Cabinet for Human Resources as the state agency to administer the Older Americans Act in Kentucky. The function of this regulation is to implement federal meal standards which are applicable to the Area Agencies on Aging.

Section 1. Meal Standards for Area Agencies on Aging. The Cabinet for Human Resources hereby adopts, by reference, "Meal Standards" complete to May 3, 1984, as the minimum standards for meals provided or contracted for by the Area Agencies on Aging under the Older Americans Act. This manual sets forth minimum standards for meal planning, food groups to be included, beverages, food preparation, personal hygiene, congregate meal delivery service, home delivered meals, commodity and/or cash payments, nutrition education, and emergency meals. The manual on meal standards may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9:00 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Aging Services

**905 KAR 8:040. Allocation formula for Older Americans Act.**

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 205.204 authorizes the cabinet to provide programs under the Older Americans Act.

Section 1. Title III of the Older Americans Act. Title III of the Older Americans Act, P.L. 97-115, Section 305(a)(2)(D), mandates that the state shall develop a formula for the distribution of funds in the state. The funding formula for allocation of Title III of the Older Americans Act for fiscal year 1985 shall be based upon the following:

(1) The amount of funds allocated to each district in FY 1984; and

(2) Increases and decreases in FY 1985 funding were distributed based upon each ADD's share of the total FY 1984 allocation for the state.

Section 2. Title V of the Older Americans Act. The Title V funding formula for FY 1985 shall include the following:

An equitable distribution of slots statewide with funds allocated based upon the number of slots per subproject sponsor in proportion to the total slots for the state.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Aging Services

**905 KAR 8:050. Older Americans Act procedural instructions for contractors.**

RELATES TO: KRS 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 89-73, Older Americans Act, as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 205.204 designates the Cabinet for Human Resources as the state agency for the purpose of administering the Older Americans Act. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to advise contractors of policies and procedures to be followed for programs funded under the Older Americans Act.

Section 1. Older Americans Act Procedural Instructions for Contractors. The Cabinet for Human Resources hereby adopts by reference "Procedural Instructions for Contracts," revised through May 11, 1984, as policies and procedures to be followed by contractors who participate in programs funded by the Older Americans Act. The policies and procedures set forth standards for senior citizen centers, multi-purpose senior centers, nutrition sites, and senior service sites; methods of documenting third party in-kind contributions; method for computing cost of meals prepared for sale to other vendors, procurement requirements, participant eligibility, and multi-year procurement process. These policies and procedures may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on June 21, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275



East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by June 16, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Aging Services

**905 KAR 8:080. Older Americans Act financial management and nutrition guides.**

RELATES TO: KRS 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 89-73, "Older Americans Act," as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Service Provider Financial Management and Accounting Manual, the Area Agencies on Aging Financial Management and Accounting Manual, and the Nutrition Services Providers Guide to Program Management.

Section 1. Older Americans Act Financial and Program Management Guides. The Cabinet for Human Resources hereby adopts the Service Provider Fiscal Management and Accounting Manual, DHHS Publication 82-20709, dated September, 1982; Area Agencies on Aging Financial Management and Accounting Manual, DHHS Publication 82-20710, dated September, 1982; Nutrition Services Providers Guide to Program Management, DHHS Publication 81-70671, 81-70672, 81-70673, dated September, 1981; and Nutrition Services Guide to Training, dated January 2, 1982, as the official guides to be used by the area agencies on aging and provider agencies for financial management and accounting and the nutrition program. Copies of these documents may be reviewed during regular working hours in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Aging Services

**905 KAR 8:110. Homecare fee schedule for the elderly.**

RELATES TO: KRS 205.460

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 205.460 directs the Cabinet for Human Resources to fund directly or through contracting entity or entities, in each district, a program of essential services for the elderly. KRS 205.460 also provides that the cabinet shall adopt a fee schedule based upon the elderly person's ability to pay for essential services. The function of this regulation is to set forth the manner in which fees are to be assessed and collected.

Section 1. Schedule of Fees. The following schedule shall be utilized in determining the amount of fee to be charged an eligible individual who has received home care services. The cost of the service unit as determined by the state or contracting entity in accordance with its contract is to be multiplied by the applicable percentage rate based upon income and size of family as set forth below:

Annual Income	Applicable Percentage by Size of Family	
	1	2
6,000 and below	0%	0%
6,001—7,000	20%	0%
7,001—8,000	40%	20%
8,001—9,000	60%	20%
9,001—10,000	80%	40%
10,001—11,000	100%	60%
11,001—12,000		80%
12,001—13,000		80%
13,001—14,000		100%

Section 2. Extraordinary Medical Expense Deduction. In determining the eligible individual's ability to pay a fee in accordance with Section 1, any extraordinary medical expenses may be taken into consideration. For the purpose of this regulation, extraordinary medical expenses means medical or medical-related expenses, including the cost of prescription drugs, which severely affects the income of the individual or the household.

Section 3. Needy Aged. In no event shall a fee be assessed an eligible individual who meets the definition of "needy aged" as set forth in KRS 205.010(6).

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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**CABINET FOR HUMAN RESOURCES**  
 Department for Social Services  
 Division of Aging Services

**905 KAR 8:130. Allocation formula for Homecare.**

RELATES TO: KRS 205.201, 205.460

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** KRS 205.201 directs the cabinet to promote and aid in establishing local programs and services for the elderly. KRS 205.460 authorizes the cabinet to fund a program of essential services to the elderly. The cabinet may contract with entities in each district for the provision of these services.

Section 1. Homecare for the Elderly. The Homecare

funding formula shall consist of a \$20,000 base for each district, with the remaining amount of funds distributed in proportion to the district's 60+ population in the state.

ANNA GRACE DAY, Commissioner  
 E. AUSTIN, JR., Secretary

**APPROVED BY AGENCY:** May 15, 1984

**FILED WITH LRC:** May 15, 1984 at 12 noon

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**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

**Minutes of the April 24, 1984 Meeting**

(Subject to subcommittee approval at the May 31, 1984 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Tuesday, April 24, 1984 at 10 a.m. in Room 103 of the Capitol Annex Building.

Present were:

**Members:** Representative William T. Brinkley, Chairman; Senators Joe Lane Travis and Pat McCuiston; Representatives Albert Robinson and Jim Bruce.

**Guests:** Clifford Jennings and Sharon Rodriguez, Cabinet for Human Resources; Ron Howard and Bill Wilhoite, Division of Driver Licensing, Transportation Cabinet; Joanne Brooks, Audrey T. Carr, Sharon Darling, Bill Ramsey, William C. Sanders, Jr., and Robert E. Spillman, Department of Education; Richard Shogren, Natural Resources and Environmental Protection Cabinet; Edwin F. "Ted" Crowell, Department of Fish and Wildlife Resources; and Lloyd R. Cress, Kentucky Oil and Gas Association.

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

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Robinson, seconded by Senator Travis, the minutes of the March 26, 1984 meeting were approved.

Chairman Brinkley called on Joe Hood to give a brief explanation of changes in subcommittee's duties required in House Bill 334, which was passed by the 1984 General Assembly.

The subcommittee discussed several Natural Resources regulations, submitted after public hearing, which will be reviewed at the May meeting. Representative Bruce requested that these regulations be reviewed again under the new procedure as adopted in House Bill 334.

The subcommittee had no objections to the following regulations:

**CABINET FOR HUMAN RESOURCES**  
 Department for Social Insurance

**Public Assistance**

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

904 KAR 2:110. Refugee assistance.

**TRANSPORTATION CABINET**  
 Department of Vehicle Regulation

**Driver's License**

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

**EDUCATION AND HUMANITIES CABINET**  
 Department of Education

**Bureau of Administration and Finance**

**School District Finance**

702 KAR 3:170. Educational television equipment purchases.

**Bureau of Instruction**

**Instructional Services**

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

**Teacher Certification**

704 KAR 20:030. Proficiency evaluation.

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

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

**Bureau of Vocational Education**

**Adult Education**

705 KAR 7:020. Testing program.

705 KAR 7:030. High school equivalency certificate.

705 KAR 7:060. Standard for academic progress for postsecondary and adult students.

**NATURAL RESOURCES AND  
 ENVIRONMENTAL PROTECTION CABINET**

**Department for Environmental Protection**

**Division of Water Quality**

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

**TOURISM CABINET**

**Department of Fish and Wildlife Resources**

**Fish**

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

The meeting was adjourned at 11 a.m. on April 24, 1984 until May 31, 1984.



# *Administrative Register* <sup>of</sup> *kentucky*

## Cumulative Supplement

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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			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

## Volume 10

Emergency Regulation	10 Ky.R. Page No.	Effective Date	Emergency Regulation	10 Ky.R. Page No.	Effective Date	Emergency Regulation	10 Ky.R. Page No.	Effective Date
101 KAR 1:051E	957	12-29-83	405 KAR 7:090E	719	10-31-83	902 KAR 20:006E	519	10-5-83
Replaced	849	1-4-84	Replaced	1157	6-1-84	Withdrawn		5-15-84
Resubmitted	975	1-20-84	405 KAR 8:030E	726	10-31-83	904 KAR 1:010E	270	6-30-83
Replaced	991	3-31-84	Replaced	796	4-23-84	Replaced	314	3-1-84
101 KAR 1:055E			405 KAR 8:040E	735	10-31-83	904 KAR 1:012E	398	9-1-83
Repealed	957	12-29-83	Replaced	804	4-23-84	Replaced	499	3-1-84
101 KAR 1:140E	978	1-20-84	405 KAR 16:060E	744	10-31-83	904 KAR 1:013E	270	6-30-83
Replaced	994	3-31-84	Replaced	813	4-23-84	Replaced	315	9-7-83
101 KAR 1:200E	983	1-20-84	405 KAR 16:090E	746	10-31-83	904 KAR 1:015E	271	6-30-83
Replaced	998	3-31-84	Replaced	815	4-23-84	Replaced	316	9-7-83
101 KAR 1:220E	987	1-20-84	405 KAR 16:140E	747	10-31-83	904 KAR 1:027E	272	6-30-83
Replaced	1002	3-31-84	Replaced	817	4-23-84	Replaced	316	9-7-83
105 KAR 1:010E	391	9-1-83	405 KAR 16:190E	748	10-31-83	904 KAR 1:036E	273	6-30-83
Replaced	426	11-2-83	Replaced	818	4-23-84	Replaced	317	12-2-83
200 KAR 14:040E	267	6-21-83	405 KAR 18:090E	751	10-31-83	904 KAR 1:045E	277	6-30-83
Replaced		9-7-83	Replaced	821	4-23-84	Replaced	322	3-26-84
200 KAR 14:060E	870	11-21-83	405 KAR 18:140E	753	10-31-83	904 KAR 1:055E	278	6-30-83
Replaced	852	1-4-84	Replaced	823	4-23-84	Replaced	323	9-7-83
301 KAR 2:044E	335	8-8-83	405 KAR 18:190E	754	10-31-83	904 KAR 1:095E	279	6-30-83
Replaced	344	10-5-83	Replaced	824	4-23-84	Replaced	324	9-7-83
301 KAR 2:088E	394	9-15-83	405 KAR 20:060E	516	9-19-83	904 KAR 1:200E	280	6-30-83
Replaced	504	11-2-83	Replaced	635	12-2-83	Replaced	332	9-7-83
301 KAR 2:160E	960	12-29-83	803 KAR 2:020E	871	11-29-83	904 KAR 1:210E	280	6-30-83
Replaced	971	3-2-84	Replaced	906	2-1-84	Replaced	332	9-7-83
400 KAR 1:030E	703	10-31-83	804 KAR 9:040E	397	9-1-83	904 KAR 2:115E	400	8-22-83
Replaced	853	4-23-84	Replaced	510	11-2-83	Replaced	358	10-5-83
400 KAR 1:040E	706	10-31-83	807 KAR 5:002E	268	6-27-83	Resubmitted	875	11-21-83
Replaced	1151	6-1-84	Replaced	313	9-7-83	Replaced	844	1-4-84
400 KAR 1:050E	711	10-31-83	807 KAR 5:008E			Resubmitted	987	1-16-84
Replaced	1157	6-1-84	Replaced	291	9-7-83	Replaced	967	3-2-84
405 KAR 7:020E	711	10-31-83	900 KAR 1:020E	518	10-5-83	904 KAR 2:125E	3	5-31-83
Replaced	781	4-23-84	Withdrawn		5-11-84	Replaced	264	8-3-83
405 KAR 7:030E	718	10-31-83	902 KAR 4:040E	1	6-7-83	904 KAR 3:035E	961	1-10-84
Replaced	788	4-23-84	Replaced	402	9-7-83	Replaced	969	3-2-84



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1 KAR 1:010 Amended	1167		201 KAR 2:145 Amended	890	2-1-84	201 KAR 22:106 Amended	779	1-4-84
11 KAR 3:020 Amended	774	1-4-84	201 KAR 2:170 Amended	4	6-1-83	201 KAR 22:110 Amended	780	1-4-84
11 KAR 3:030	1134		201 KAR 2:175 Amended	5	6-1-83	201 KAR 23:060 Amended	341	10-5-83
11 KAR 3:040	1205		201 KAR 2:180	951	2-1-84	201 KAR 23:070 Amended	342	10-5-83
11 KAR 5:010 Amended	43	8-3-83	201 KAR 2:185	951	2-1-84	Amended	1005	3-31-84
Amended	1168		201 KAR 2:190	952	2-1-84	201 KAR 25:031 Amended	780	1-4-84
11 KAR 5:080 Amended	774	1-4-84	201 KAR 6:010 Amended	1081		301 KAR 1:015 Amended	902	2-1-84
15 KAR 1:020 Amended	340	10-5-83	201 KAR 9:016	691	12-2-83	301 KAR 1:016 Amended	963	3-2-84
Amended	775	1-4-84	201 KAR 9:020 Amended	5	6-1-83	301 KAR 1:055 Amended	291	
15 KAR 1:030	1205		Amended	891	2-1-84	Amended	887	2-1-84
40 KAR 2:010	949		201 KAR 9:030 Amended	44	9-7-83	301 KAR 1:075 Amended	903	2-1-84
101 KAR 1:010 Amended	1168		201 KAR 9:040 Amended	623	12-2-83	Amended	1083	5-1-84
101 KAR 1:020 Amended	404	11-2-83	201 KAR 12:125 Amended	776	1-4-84	301 KAR 1:130 Amended	623	12-2-83
101 KAR 1:030 Amended	404	12-2-83	201 KAR 13:010 Amended	45	8-3-83	301 KAR 2:044 Amended	344	
101 KAR 1:040 Amended	405	11-2-83	201 KAR 13:040 Amended	45	8-3-83	301 KAR 2:045 Amended	1120	
101 KAR 1:051 Amended	849	1-4-84	201 KAR 14:015 Amended	892	2-1-84	301 KAR 2:047 Amended	1121	
Amended	991	3-31-84	Reprint	1067		301 KAR 2:080 Amended	624	12-2-83
101 KAR 1:060 Amended	406	11-2-83	201 KAR 14:020 Repealed	1067	2-1-84	301 KAR 2:087 Repealed	504	11-2-83
101 KAR 1:070 Amended	408	11-2-83	201 KAR 14:025 Repealed	1067	2-1-84	301 KAR 2:088	504	11-2-83
101 KAR 1:080 Amended	409	12-2-83	201 KAR 14:030 Amended	893	2-1-84	301 KAR 2:111 Amended	1169	
101 KAR 1:090 Amended	411	12-2-83	201 KAR 14:040 Amended	893	2-1-84	301 KAR 2:140 Amended	625	12-2-83
101 KAR 1:100 Amended	412	11-2-83	201 KAR 14:050 Amended	893	2-1-84	301 KAR 2:160	971	3-2-84
101 KAR 1:110 Amended	413	12-3-83	201 KAR 14:060 Amended	893	2-1-84	301 KAR 2:170	1106	
101 KAR 1:120 Amended	414		201 KAR 14:065 Amended	894	2-1-84	301 KAR 3:070 Amended	1123	
Amended	761	1-4-84	201 KAR 14:067 Amended	894	2-1-84	306 KAR 1:020 Amended	429	
101 KAR 1:130 Amended	415		201 KAR 14:070 Amended	894	2-1-84	Amended	879	12-2-83
Amended	762	1-4-84	201 KAR 14:080 Amended	895	2-1-84	306 KAR 1:030 Amended	429	
101 KAR 1:140 Amended	417	12-2-83	201 KAR 14:085 Amended	895	2-1-84	Amended	879	12-2-83
Amended	994	3-31-84	201 KAR 14:090 Amended	895	2-1-84	400 KAR 1:030	853	4-23-84
101 KAR 1:200 Amended	422	11-2-83	201 KAR 14:095 Amended	896	2-1-84	400 KAR 1:040 Amended	855	
Amended	998	3-31-84	201 KAR 14:105 Amended	899	2-1-84	400 KAR 1:050 Amended	1151	6-1-84
101 KAR 1:220 Amended	500	11-2-83	Amended	899	2-1-84	400 KAR 2:010	1206	
Amended	1002	3-31-84	201 KAR 14:110 Amended	899	2-1-84	400 KAR 2:020	1206	
101 KAR 1:230	501	12-2-83	201 KAR 14:115 Amended	900	2-1-84	400 KAR 2:030	1207	
103 KAR 17:010 Amended	43	8-3-83	201 KAR 14:120 Repealed	900	2-1-84	400 KAR 2:040	1208	
105 KAR 1:010 Amended	426	11-2-83	201 KAR 14:125 Amended	900	2-1-84	400 KAR 2:050	1211	
Amended	1118		201 KAR 14:130 Amended	901	2-1-84	401 KAR 4:200	1212	
105 KAR 1:080	1134		201 KAR 14:140 Amended	901	2-1-84	401 KAR 5:026 Amended	627	
105 KAR 1:090	1134		201 KAR 14:150 Amended	901	2-1-84	Withdrawn		4-4-84
105 KAR 1:100	1135		201 KAR 14:155 Repealed	902	2-1-84	401 KAR 5:045 Amended	430	
107 KAR 1:010 Amended	621	12-2-83	201 KAR 18:040 Amended	902	2-1-84	Amended	888	2-1-84
200 KAR 5:308 Amended	621	12-2-83	201 KAR 20:200 Amended	1003	3-31-84	401 KAR 5:050 Amended	6	6-1-83
200 KAR 5:317 Amended	622	12-2-83	201 KAR 20:240 Amended	1003	3-31-84	401 KAR 5:055 Amended	9	6-1-83
200 KAR 13:010 Amended	623	12-2-83	201 KAR 22:031 Amended	778	1-4-84	401 KAR 5:060 Amended	25	6-1-83
200 KAR 14:010 Amended	3	6-1-83	201 KAR 22:040 Amended	779	1-4-84	401 KAR 5:085 Amended	33	6-1-83
200 KAR 14:050 Withdrawn	365	11-10-83				401 KAR 5:090 Amended	35	
200 KAR 14:060	852	1-4-84				Amended	336	8-3-83
200 KAR 14:070 Withdrawn	950	4-19-84				Amended	345	
201 KAR 1:100 Amended	502	12-2-83				Amended	764	1-4-84
201 KAR 2:090 Amended	877					Amended	1084	5-1-84
	890	4-13-84				401 KAR 5:110 Withdrawn	184	9-2-83



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401 KAR 5:120	185		401 KAR 34:168	194	12-2-83	401 KAR 38:170	249	12-2-83
Withdrawn		9-2-83	401 KAR 34:172			401 KAR 38:180	250	12-2-83
401 KAR 5:200	1213		Amended	120		401 KAR 38:190	251	12-2-83
401 KAR 6:200	1214		Amended	570	12-2-83	401 KAR 38:200	252	12-2-83
401 KAR 30:010			401 KAR 34:176			401 KAR 38:210	253	12-2-83
Amended	46		Amended	121		401 KAR 38:500	254	12-2-83
Amended	524	12-2-83	Amended	571	12-2-83	401 KAR 39:010		
401 KAR 30:020			401 KAR 34:200			Amended	161	12-2-83
Amended	54	12-2-83	Amended	122	12-2-83	401 KAR 39:020	255	
401 KAR 30:030			401 KAR 34:210			Amended	614	12-2-83
Amended	56		Amended	126	12-2-83	401 KAR 39:030	255	
Amended	532	12-2-83	401 KAR 34:220	196	12-2-83	Amended	615	12-2-83
401 KAR 30:070	1215		401 KAR 34:230	200	12-2-83	401 KAR 39:040	255	
401 KAR 31:010			401 KAR 34:240			Amended	615	12-2-83
Amended	58		Amended	130		401 KAR 39:050	256	
Amended	535	12-2-83	Amended	572	12-2-83	Amended	616	12-2-83
401 KAR 31:020	185	12-2-83	401 KAR 34:320	203	12-2-83	401 KAR 39:060	256	
401 KAR 31:030			401 KAR 35:010			Amended	616	12-2-83
Amended	62	12-2-83	Amended	132	12-2-83	401 KAR 39:070	256	
401 KAR 31:040			Amended	1089	5-14-84	Amended	616	12-2-83
Amended	64	12-2-83	401 KAR 35:020	204	12-2-83	Amended	1090	5-14-84
401 KAR 31:060	186		401 KAR 35:030	206	12-2-83	401 KAR 40:010		
Amended	539	12-2-83	401 KAR 35:040	207	12-2-83	Amended	162	12-2-83
401 KAR 31:070	188	12-2-83	401 KAR 35:050	209		401 KAR 40:020		
Amended	1088	5-14-84	Amended	575	12-2-83	Amended	162	12-2-83
401 KAR 31:100			401 KAR 35:060	210	12-2-83	401 KAR 40:030		
Amended	72	12-2-83	401 KAR 35:070	213	12-2-83	Amended	164	12-2-83
401 KAR 31:110			401 KAR 35:080	216	12-2-83	401 KAR 40:040		
Amended	73	12-2-83	401 KAR 35:090	217		Amended	165	12-2-83
401 KAR 31:120			Amended	577	12-2-83	401 KAR 40:050		
Amended	75	12-2-83	401 KAR 35:100	223		Amended	166	12-2-83
401 KAR 31:160			Amended	582	12-2-83	401 KAR 47:020		
Amended	77	12-2-83	401 KAR 35:110	228	12-2-83	Amended	166	
401 KAR 31:170			401 KAR 35:120	228		Amended	617	
Amended	78	12-2-83	Amended	588	12-2-83	Amended	885	12-2-83
401 KAR 33:010			401 KAR 35:130	231	12-2-83	401 KAR 47:040		
Amended	82	12-2-83	401 KAR 35:180	231	12-2-83	Amended	168	12-2-83
401 KAR 33:020			401 KAR 35:190	232	12-2-83	401 KAR 47:070		
Amended	83	12-2-83	401 KAR 35:200	233		Amended	172	12-2-83
401 KAR 34:020			Amended	590	12-2-83	401 KAR 49:010		
Amended	84		401 KAR 35:210	234	12-2-83	Recodified	1141	3-1-84
Amended	541	12-2-83	401 KAR 35:220	234	12-2-83	401 KAR 49:020		
401 KAR 34:050			401 KAR 35:230	237	12-2-83	Recodified	1143	3-1-84
Amended	87	12-2-83	401 KAR 35:240	238	12-2-83	401 KAR 49:030		
401 KAR 34:060	188		Amended	1089	5-14-84	Recodified	1145	3-1-84
Amended	544	12-2-83	401 KAR 35:250	239	12-2-83	401 KAR 50:015		
401 KAR 34:070			401 KAR 35:260	240	12-2-83	Amended	628	3-1-84
Amended	89	12-2-83	401 KAR 35:270	241		401 KAR 50:016	1215	
401 KAR 34:080			Amended	880	12-2-83	401 KAR 50:040		
Amended	91	12-2-83	401 KAR 35:290	241	12-2-83	Amended	631	3-1-84
401 KAR 34:090			401 KAR 35:310	242	12-2-83	401 KAR 50:041	691	
Amended	92		401 KAR 35:320	242	12-2-83	Withdrawn		2-27-84
Amended	551	12-2-83	401 KAR 35:330	243	12-2-83	401 KAR 53:005		
401 KAR 34:100			401 KAR 38:010			Amended	431	3-1-84
Amended	99		Amended	134		401 KAR 53:010		
Amended	558	12-2-83	Amended	591	12-2-83	Amended	432	3-1-84
401 KAR 34:110			401 KAR 38:020			401 KAR 59:042	692	3-1-84
Amended	105	12-2-83	Amended	137	12-2-83	401 KAR 59:050		
401 KAR 34:120			401 KAR 38:030			Amended	632	3-1-84
Amended	106		Amended	138		401 KAR 59:260		
Amended	564	12-2-83	Amended	595	12-2-83	Amended	434	
401 KAR 34:130			401 KAR 38:040			Amended	1071	4-1-84
Amended	108	12-2-83	Amended	141		401 KAR 59:265	695	3-1-84
401 KAR 34:140			Amended	598	12-2-83	401 KAR 59:270	696	3-1-84
Amended	109	12-2-83	401 KAR 38:050			401 KAR 61:015		
401 KAR 34:144			Amended	145		Amended	434	
Amended	111	12-2-83	Amended	601	12-2-83	Amended	1072	4-1-84
401 KAR 34:148			401 KAR 38:060			401 KAR 61:080		
Amended	113	12-2-83	Amended	148	12-2-83	Amended	440	
401 KAR 34:152			401 KAR 38:070			Amended	1078	4-1-84
Amended	114	12-2-83	Amended	152		401 KAR 61:165		
401 KAR 34:156			Amended	605		Amended	1125	
Amended	115	12-2-83	Amended	880	12-2-83	401 KAR 61:170		
401 KAR 34:159			401 KAR 38:080			Amended	441	
Amended	116		Amended	157	12-2-83	Amended	1079	4-1-84
Amended	567	12-2-83	401 KAR 38:090	244		401 KAR 63:005		
401 KAR 34:162			Amended	610	12-2-83	Amended	634	3-1-84
Amended	117		401 KAR 38:100	247		405 KAR 1:015	1215	
Amended	568	12-2-83	Amended	613	12-2-83	405 KAR 3:015	1216	
401 KAR 34:165			401 KAR 38:150	248	12-2-83	405 KAR 7:015	1216	
Amended	119	12-2-83	401 KAR 38:160	249	12-2-83	405 KAR 7:020		
						Amended	781	4-23-84



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405 KAR 7:030			602 KAR 50:020			704 KAR 20:185		
Amended	788	4-23-84	Amended	444	1-4-84	Amended	294	9-7-83
405 KAR 7:090			602 KAR 50:030			704 KAR 20:198		
Amended	789		Amended	445	1-4-84	Amended	295	9-7-83
Amended	1157	6-1-84	602 KAR 50:040			704 KAR 20:203		
405 KAR 8:030			Amended	445	1-4-84	Repealed	295	9-7-83
Amended	796	4-23-84	602 KAR 50:050			704 KAR 20:207		
405 KAR 8:040			Amended	446	1-4-84	Repealed	330	9-7-83
Amended	804	4-23-84	602 KAR 50:060			704 KAR 20:208	330	9-7-83
405 KAR 16:060			Amended	447		704 KAR 20:222		
Amended	813	4-23-84	Amended	770	1-4-84	Amended	645	
405 KAR 16:090			602 KAR 50:070			Withdrawn		12-2-83
Amended	815	4-23-84	Amended	447		Amended	905	
405 KAR 16:140			Amended	770	1-4-84	Withdrawn		3-19-84
Amended	817	4-23-84	602 KAR 50:080			704 KAR 20:235		
405 KAR 16:190			Amended	448	1-4-84	Amended	646	12-2-83
Amended	818	4-23-84	602 KAR 50:090			Amended	1098	5-1-84
405 KAR 18:090			Amended	448		704 KAR 20:245		
Amended	821	4-23-84	Amended	771	1-4-84	Amended	1099	5-1-84
405 KAR 18:140			602 KAR 50:100			704 KAR 20:280	698	12-2-83
Amended	823	4-23-84	Amended	449		704 KAR 20:285	699	
405 KAR 18:190			Amended	772	1-4-84	Amended	990	3-1-84
Amended	824	4-23-84	602 KAR 50:110			705 KAR 1:010		
405 KAR 20:060			Amended	450	1-4-84	Amended	1181	
Amended	635	12-2-83	602 KAR 50:115			705 KAR 2:030		
405 KAR 30:010			Amended	450	1-4-84	Amended	647	12-2-83
Amended	280	10-5-83	602 KAR 50:120			Amended	1181	
405 KAR 30:015	1218		Amended	451		705 KAR 4:010		
405 KAR 30:025			Amended	772	1-4-84	Amended	1182	
Amended	285	10-5-83	603 KAR 3:010			705 KAR 5:040		
405 KAR 30:160			Amended	636		Amended	295	9-7-83
Amended	286		Withdrawn		1-23-84	705 KAR 5:050		
Amended	756	11-2-83	603 KAR 4:035			Amended	296	9-7-83
405 KAR 30:250			Amended	826		705 KAR 7:020		
Amended	288	10-5-83	Withdrawn		1-23-84	Amended	1100	5-1-84
501 KAR 4:010	365	10-5-83	603 KAR 5:070			705 KAR 7:030		
501 KAR 4:020	366	10-5-83	Amended	828	1-4-84	Amended	1100	5-1-84
501 KAR 4:030	367	10-5-83	603 KAR 5:110			705 KAR 7:060	1108	5-1-84
501 KAR 4:040	367	10-5-83	Amended	452		706 KAR 1:010		
501 KAR 4:050	368	10-5-83	Amended	757	11-2-83	Amended	297	9-20-83
501 KAR 4:060	371	10-5-83	701 KAR 5:050	329	9-7-83	706 KAR 2:010	952	2-1-84
501 KAR 4:070	372	10-5-83	702 KAR 1:005			707 KAR 1:051		
501 KAR 4:080	373	10-5-83	Amended	640	12-2-83	Amended	1185	
501 KAR 4:090	373	10-5-83	Amended	1091		707 KAR 1:055		
501 KAR 4:100	374	10-5-83	Withdrawn		5-10-84	Amended	1192	
501 KAR 4:110	374	10-5-83	Amended	1171		707 KAR 1:060		
501 KAR 4:120	375	10-5-83	702 KAR 1:025			Amended	298	9-7-83
501 KAR 4:130	376	10-5-83	Amended	1095	5-14-84	707 KAR 1:080		
501 KAR 4:140	376	10-5-83	702 KAR 2:110	952	2-1-84	Amended	298	9-7-83
501 KAR 5:010	377	10-5-83	702 KAR 3:070			801 KAR 1:005		
501 KAR 5:020	378	10-5-83	Amended	644	12-2-83	Amended	1008	
501 KAR 5:030	379	10-5-83	702 KAR 3:170			Amended	1115	3-31-84
501 KAR 5:040	379	10-5-83	Amended	1096	5-1-84	801 KAR 1:010		
501 KAR 5:050	380	10-5-83	702 KAR 5:020			Amended	1008	
501 KAR 5:060	383	10-5-83	Amended	1176		Amended	1115	3-31-84
501 KAR 5:070	384	10-5-83	703 KAR 2:020			801 KAR 1:020		
501 KAR 5:080	384	10-5-83	Amended	1178		Amended	1008	
501 KAR 5:090	385	10-5-83	703 KAR 2:050			Amended	1116	3-31-84
501 KAR 5:100	385	10-5-83	Amended	1179		801 KAR 1:030		
501 KAR 5:110	386	10-5-83	704 KAR 3:285			Amended	1008	
501 KAR 5:120	386	10-5-83	Amended	1180		Amended	1116	3-31-84
501 KAR 5:130	387	10-5-83	704 KAR 3:292			801 KAR 1:040		
501 KAR 6:010	1218		Amended	1097	5-1-84	Amended	1009	
601 KAR 9:073	506		704 KAR 10:022			Amended	1116	3-31-84
Withdrawn		12-16-83	Amended	904		801 KAR 1:050	1028	
601 KAR 9:074	1026	3-31-84	Withdrawn		5-10-84	Amended	1116	3-31-84
601 KAR 9:080	327	1-4-84	704 KAR 20:005			801 KAR 1:060	1028	
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205.231	904 KAR 2:150		401 KAR 59:050		401 KAR 35:320
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205.460	904 KAR 2:160		401 KAR 61:015		401 KAR 38:030
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205.550	904 KAR 1:010		401 KAR 30:010		401 KAR 39:070
205.560	904 KAR 1:010		401 KAR 30:020		401 KAR 40:010
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205.650 to 205.690	904 KAR 6:030		401 KAR 30:070		401 KAR 40:030
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211.180	902 KAR 2:090		401 KAR 34:144		401 KAR 38:080
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211.990	902 KAR 10:080		401 KAR 34:162		401 KAR 38:170
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224.887	401 KAR 49:010		400 KAR 1:050		201 KAR 9:030
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317.440	201 KAR 14:040		405 KAR 7:090	353.520	805 KAR 1:110
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322.040	201 KAR 18:040		405 KAR 18:090		
322.090	201 KAR 18:040		405 KAR 18:140		
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