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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 to all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13A.

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Copies of support material, such as regulatory impact analyses, fiscal impact statements, and tiering statements, may be obtained from the office of the regulations compiler at a cost of fifteen cents per page.

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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.

## Emergency Regulations Now In Effect

(NOTE: Emergency regulations expire 90 days  
from publication or upon replacement.)

### STATEMENT OF EMERGENCY

Kentucky's 1984 General Assembly enacted amendments to KRS Chapter 42.350—42.355 affecting administration of the Area Development Fund program. These amendments, which change the administrative agency, eliminate one type of grant and add new provisions concerning project completion reports, take effect July 15, 1984. Existing regulations will be in conflict with statutory provisions on that date. There is not sufficient time to complete "ordinary" procedures by July 15. Regulations adopted by ordinary procedures will replace emergency regulations.

MARTHA LAYNE COLLINS  
Governor

RICHARD D. COLE  
Commissioner

OFFICE OF THE GOVERNOR  
Department of Local Government  
Division of Development Finance

109 KAR 9:010E. Area development fund.

RELATES TO: KRS Chapter 42

PURSUANT TO: KRS 42.360

EFFECTIVE: June 15, 1984

NECESSITY AND FUNCTION: Pursuant to the authority vested in the Commissioner of the Department of Local Government by KRS 42.360, this regulation establishes procedures relating to implementation of KRS 42.350 to 42.360, including submission and approval of proposed capital projects, expenditure of moneys from the Area Development Fund and completion of capital projects.

Section 1. (1) The board of directors of each area development district shall select from among capital projects proposed by eligible beneficiary agencies, projects consistent with goals, objectives and priorities of adopted state, local or regional development plans and shall submit recommended projects to the Department of Local Government for approval.

(2) The board of directors shall give priority consideration to proposed projects which have funds allocated in addition to area development funds and shall consider need and long-term benefits in selection of projects.

(3) Boards of directors of two (2) or more area development districts may propose joint capital projects to be financed by funds allocated to each participating area development district.

Section 2. All project proposals shall be submitted on forms prescribed by the Department of Local Government, and no proposal shall be considered officially submitted until complete information and documentation required has been received by the Department of Local Government.

Section 3. Each proposal submitted by an area development district shall be accompanied by the following documentation:

(1) Minutes of area development district board meeting specifying project approval and amount of area development funds allocated to the project.

(2) Except cities and counties:

(a) A court order contained a reference to the authorizing statute by which the special district was established; or

(b) An executive agreement approved by the Attorney General as an agency created under the Interlocal Cooperation Act; or

(c) Articles of incorporation of a non-profit corporation organized for a public purpose and performing governmental functions and services.

(3) If funds from other sources are to be used for the project, the availability of such funds shall be verified by:

(a) Resolution, minutes of legislative body or adopted budget of a local government; and/or

(b) Copy of grant or loan award notice from a federal or state agency which states the amount of funds and date such grant or loan funds will be available; and/or

(c) Affidavit by the authorized agent of a private funding source.

(4) Itemized cost estimates prepared within thirty (30) days prior to the date of submission by a licensed architect or engineer; or a price quote on each item from one (1) or more vendors or contractors obtained within thirty (30) days prior to submission.

(5) Statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and regulations have been or will be met with attestation of the county clerk that such written assurances required by KRS 42.355 are recorded in the office of the clerk of the county in which the project is located.

(6) Any proposal to acquire real property or acquire interest in real property shall be accompanied by a licensed attorney's statement which sets forth the present holder of title, book and page number of the deed by which the holder received title and sets forth any liens, mortgages and claims against the property.

(7) When the beneficiary agency owns property rights by lease, the proposal shall be accompanied by a copy of the executed lease which must be for a term longer than the life expectancy of the project, generally not less than a twenty-five (25) year period.

(8) Proposals to extend new water, sewer or other utilities shall be accompanied by easements, right-of-ways or attorney determination and certification of existence of same.

(9) Proposals for purchase of real property shall be accompanied by an appraisal.

Section 4. A project may be given conditional approval pending submission of any documentation or other information required by these regulations, but final payment shall not be made on any project until all documentation has been submitted.

Section 5. A beneficiary agency shall maintain and furnish as appropriate the following documentation:

(1) A project completion report on a form prescribed by the Department of Local Government.

(2) Copy of advertisement for bids, indicating the date(s) and source of publication.

(3) Tabulation of all bids received with certification by the chief executive officer that all bids were opened at the time and place stated in the advertisement, the tabulation is true and accurate and all laws applicable to advertisement and award have been met.

(4) Copy of official records documenting award of the bid.

(5) Copy of each executed contract (or purchase order) and any change order(s) to the contract.

(6) Specifications upon which the bid and award were based.

(7) Copy of the fully executed deed.

(8) Copy of all statements/invoices.

(9) Copy of note or other document marked paid.

(10) Other such documents or information which may be necessary to verify appropriate use of grant funds.

Section 6. Beneficiary agencies receiving grants in aid as authorized by KRS 42.350 through 42.355 shall expend granted funds only for the payment of the costs of the capital project for which such grant was made. Grantee beneficiary agencies shall be liable to repay to the area development fund any granted funds expended by the agency in violation of this section or the provisions of KRS 42.350 through 42.355.

Section 7. 200 KAR 9:010, Approval of projects; expenditure of funds; title, is hereby repealed.

RICHARD D. COLE, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 9:30 a.m.

#### STATEMENT OF EMERGENCY

The disease viral equine arteritis is of great concern to the horse industry and the people of the Commonwealth of Kentucky. This disease has been diagnosed on several farms in this state. It is imperative that immediate steps be taken to control the spread of this disease in horses.

Pursuant to KRS 257.020 and 257.030 the State Board of Agriculture may promulgate regulations for the eradication, prevention and control of communicable diseases in livestock. The time needed to promulgate ordinary administrative regulations will be too long to prevent the spread of this disease to horse farms not presently infected. Immediate action is needed via emergency regulations.



This emergency regulation will be replaced by an ordinary administrative regulation.

Martha Layne Collins, Governor  
Commonwealth of Kentucky

David E. Boswell, Commissioner  
Department of Agriculture

#### DEPARTMENT OF AGRICULTURE

##### **302 KAR 20:150E. Restriction of transportation of livestock infected with a communicable disease.**

RELATES TO: KRS 257.020

PURSUANT TO: KRS 257.030

EFFECTIVE: June 5, 1984

NECESSITY AND FUNCTION: To prevent and control the spread of communicable disease in livestock by restricting movement of animals.

Section 1. The movement or transportation of livestock known to be infected with or exposed to a communicable disease or exhibiting clinical symptoms of a communicable disease may be restricted or limited until such time as the chief livestock sanitary official shall authorize such livestock's movement or transportation.

Section 2. No livestock restricted or limited under Section 1 of this regulation shall be moved or transported interstate until prior authorization for such movement or transportation is obtained from the chief livestock sanitary official.

DAVID E. BOSWELL, COMMISSIONER

APPROVED BY AGENCY: June 2, 1984

FILED WITH LRC: June 5, 1984 at 4 p.m.

#### STATEMENT OF EMERGENCY

The disease viral equine arteritis is of great concern to the horse industry and the people of the Commonwealth of Kentucky. This disease has been diagnosed on several farms in this state. It is imperative that immediate steps be taken to control the spread of this disease in horses.

Pursuant to KRS 257.020 and 257.030 the State Board of Agriculture may promulgate regulations for the eradication, prevention and control of communicable diseases in livestock. The time needed to promulgate ordinary administrative regulations will be too long to prevent the spread of this disease to horse farms not presently infected. Immediate action is needed via emergency regulations.

This emergency regulation will be replaced by an ordinary administrative regulation.

Martha Layne Collins, Governor  
Commonwealth of Kentucky

David E. Boswell, Commissioner  
Department of Agriculture

#### DEPARTMENT OF AGRICULTURE

##### **302 KAR 20:160E. Control of viral equine arteritis.**

RELATES TO: KRS 257.020

PURSUANT TO: KRS 257.030

EFFECTIVE: June 5, 1984

NECESSITY AND FUNCTION: To establish guidelines for

the prevention and control of viral equine arteritis and for the movement of horses from the Commonwealth of Kentucky.

Section 1. No breeding stallion on premises where horses infected with viral equine arteritis are present shall be moved or transported from such premises until authorized by the chief livestock sanitary official.

Section 2. No mare bred on premises where stallions infected with viral equine arteritis are present shall be moved or transported interstate until authorized by the chief livestock sanitary official.

Section 3. No horse exposed to an infected horse or vaccinated against viral equine arteritis shall be moved or transported interstate after such exposure or vaccination until authorized by the chief livestock sanitary official.

Section 4. No horse shall be moved interstate unless the temperature of that horse is within the normal limits for the age and condition of said horse. The temperature of all horses authorized to be moved interstate shall be recorded on said animals health certificate.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 2, 1984

FILED WITH LRC: June 5, 1984 at 4 p.m.

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department of Environmental Protection Division of Water

##### **401 KAR 4:200E. 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

EFFECTIVE: May 16, 1984

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.

## ADMINISTRATIVE REGISTER

(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 appurtenance 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 effects 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.

Section 4. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984 states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation, 401 KAR 4:200.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**401 KAR 5:200E. 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

EFFECTIVE: May 16, 1984

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 Five 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).

Section 5. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation, 401 KAR 5:200.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**401 KAR 6:200E. 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

EFFECTIVE: May 16, 1984

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 re-

quired 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.

Section 4. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an admin-

istrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation, 401 KAR 6:200.

CHARLOTTE E. BALDWIN, Secretary

MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

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

#### 401 KAR 30:070E. Reference documents.

RELATES TO: KRS 13A.130, 13A.190, 224.005, 224.033, 224.830 through 224.889, 224.994

PURSUANT TO: KRS 13A.210, 224.033

EFFECTIVE: May 16, 1985

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 as provided under 1 KAR 1:010 essential documents used in connection with the waste management regulations.

Section 1. 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.e., "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 on 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).

Section 2. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an amendment ordinary administrative regulation, 401 KAR 30:070.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984  
FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**401 KAR 50:016E. Policies incorporated by reference.**

RELATES TO: KRS 13A.130, 224.320, 224.330, 224.340  
PURSUANT TO: KRS 13A.190, 224.033  
EFFECTIVE: May 16, 1984

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.

Section 3. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984  
FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**405 KAR 1:015E. Documents incorporated by reference.**

RELATES TO: KRS Chapter 350  
PURSUANT TO: KRS 350.028  
EFFECTIVE: May 16, 1984

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 405, Chapter 1. Copies may be obtained from the department.

(1) RAM No. 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 No. 14, "Reporting Results of Water Quality Monitoring," August 3, 1979.

(3) RAM No. 18, "Incremental Bonding," March 6, 1980.

(4) RAM No. 22, "Approval of Permanent Water Impoundments," May 8, 1980.

(5) RAM No. 23, "Retention of Roads," May 23, 1980.

(6) RAM No. 24, also identified as No. 81-01, "AOC Variances on Steep Slopes," March 19, 1981.

(7) RAM No. 27, also identified as No. 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 No. 33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(9) RAM No. 56, "Overlapping Permits," December 1, 1982.

(10) RAM No. 75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(11) RAM No. 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.

Section 3. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an admin-

istrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

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

**405 KAR 3:015E. Documents incorporated by reference.**

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 350.028

EFFECTIVE: May 16, 1984

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 405, Chapter 3. Copies may be obtained from the department.

(1) RAM No. 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 No. 14, "Reporting Results of Water Quality Monitoring," August 3, 1979.

(3) RAM No. 22, "Approval of Permanent Water Impoundments," May 8, 1980.

(4) RAM No. 23, "Retention of Roads," May 23, 1980.

(5) RAM No. 24, also identified as No. 81-01, "AOC Variances on Steep Slopes," March 19, 1981.

(6) RAM No. 33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(7) RAM No. 56, "Overlapping Permits," December 1, 1982.

(8) RAM No. 75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(9) RAM No. 78, "Departmental Policies: Withdrawal and Maintenance of Mining Permit Applications," April 23, 1984.

Section 2. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may

be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**405 KAR 7:015E. Documents incorporated by reference.**

RELATES TO: KRS Chapter 350

PURSUANT TO: KRS 350.028, 350.465

EFFECTIVE: May 16, 1984

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 No. 33, "Coal Processing Operations and Crushing and Loading Facilities," April 27, 1982.

(2) RAM No. 35, "Permanent Program Transition Application," May 14, 1982.

(3) RAM No. 46, "Status Report on Transition Application Review," August 25, 1982.

(4) RAM No. 48, "Lands Unsuitable for Mining Program Information Resource Center," September 14, 1982.

(5) RAM No. 53, "Procedures and Priorities for Review of Transition Comprehensive Applications," November 17, 1982.

(6) RAM No. 55, "Initial Completeness Requirements for Transition Comprehensive Applications," December 1, 1982.

(7) RAM No. 56, "Overlapping Permits," December 1, 1982.

(8) RAM No. 57, "Applicant Changes to Transition Applications," December 1, 1982.

(9) RAM No. 58, "Priority I Deadline for Sediment Structure Compliance Demonstrations," February 14, 1983.

(10) RAM No. 62, "Extension of Priority II Technical Submission Date," April 12, 1983.

(11) RAM No. 63, "Submission of Sediment Structure Compliance Demonstration Data and Other Technical Data," April 22, 1983.

(12) RAM No. 64, "Certificates of Liability Insurance Update," June 10, 1983.

(13) RAM No. 65, "Submission of Transitioned Application, Priority II, III, and IV Applications," June 10, 1983.

(14) RAM No. 66, "Submission of Sediment Pond Compliance Demonstrations for Priority I Transitioning Permits," August 5, 1983.

(15) RAM No. 68, "Submission of Priority II Data," September 23, 1983.

(16) RAM No. 72, "Submission of Technically Complete Applications, Priority III and IV," November 29, 1983.

(17) RAM No. 73, "Delayed Filing of Performance Bonds on Technically Acceptable Applications for Transitioning Permanent Program Permits," February 6, 1984.

(18) RAM No. 75, "Permanent Program Performance Standards Take Effect March 16, 1984 on Transitioning Operations," March 12, 1984.

(19) RAM No. 76, "Revision to RAM No. 73: Maximum Period of Bond Deferral Reduced from 5 Years to 3 Years," April 2, 1984.

(20) RAM No. 77, "Reinstatement of Small Operator Assistance," April 2, 1984.

(21) RAM No. 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 No. 1, "Existing Structures," October 22, 1982.

(2) TRM No. 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 Federation. 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 No. 2, "Lands within 100 feet, measured horizontally, of a cemetery," April 18, 1983.

(2) PARP No. 6, "Advertising Schedule Variance," July 29, 1983.

(3) PARP No. 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 No. 81-003, "Conflict of Interest," June 19, 1981.

Section 7. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984 states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

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

**405 KAR 30:015E. Documents incorporated by reference.**

RELATES TO: KRS 350.600

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

EFFECTIVE: May 16, 1984

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.

Section 2. Statement of Emergency. (1) KRS 13A.130 which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents that may be prohibited by the statute in order to ensure that the ongoing regulatory program will not be adversely affected by a challenge to their validity.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary  
MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 11 a.m.

**STATEMENT OF EMERGENCY**

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Corrections Cabinet in accordance with KRS Chapters 196, 197 and 439 and Chapter 18, the Corrections Cabinet needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

GEORGE W. WILSON, Secretary  
Corrections Cabinet

**CORRECTIONS CABINET**

**501 KAR 6:010E. Corrections policies and procedures.**

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: May 16, 1984

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	27.10	Preliminary Revocation Procedures
6.1	Open Records Law	27.11	Apprehension and Transportation of Violators of Probation, Parole and Conditional Release
8.4	Emergency Preparedness	27.12	Fugitive Section/Probation and Parole
9.1	Use of Force	27.13	Supervision Fee
9.3	Transportation of Convicted Offenders	28.2	Investigations: General
9.4	Transportation of Inmates to Funerals or for Reasons of Illness to Immediate Family	28.3	Pre-Sentence Investigations (To the Court)
9.5	Return of Escapees by Automobile	28.4	Pre-Parole (Pre-Sentence) Investigation (To the Institution and State Parole Board)
9.6	Contraband	28.5	Special Report to the Parole Board
9.7	Storage, Issue and Use of Weapons Including Chemical Agents	28.7	Out-of-State Investigations
9.8	Search Policy		
9.9	Transportation of Inmates		
9.15	Institutional Entry and Exit Policy and Procedures	(2) The Kentucky State Reformatory Procedures Memorandum:	
10.1	Inmates Serving a Sentence of Death	KSR 01-005	Public Information and News Media Relations
10.2	Special Management Inmates	KSR 02-002	Special Management Inmates—Operations, Rules and Regulations for Unit D
10.3	Safekeepers	KSR 02-003	Inmate Summer Dress Regulations
10.4	Special Needs Inmates	KSR 02-004	Special Management Inmates—Unit D Classification
11.2	Nutritional Adequacy of the Diet for Inmates	KSR 02-006	Operational Procedures and Rules and Regulations for Unit A, B, C
11.3	Special Diet Procedures	KSR 02-007	Sanitation and General Living Conditions
12.1	Resident Clothing	KSR 02-008	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
13.1	Pharmacy Policy and Formulary	KSR 02-009	Housing Unit Assignment
13.2	Health Maintenance Services	KSR 02-011	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
14.2	Personal Hygiene Items	KSR 02-012	Inmate Rights
14.3	Marriage of Inmates	KSR 02-014	Assessment/Classification Center Operations Rules and Regulations
14.4	Legal Services Program	KSR 02-016	Dormitory 10 Operations
15.1	Hair and Grooming Standards	KSR 02-017	Special Needs Unit
15.2	Offenses and Penalties	KSR 03-004	Horizontal Gates/Box 1 Enter and Exit Procedure
15.3	Meritorious Good Time	KSR 03-005	Gate I Entrance and Exit Procedure
15.4	Governor's Meritorious Good Time Award	KSR 03-012	Shift Assignment/Reassignment
15.5	Restoration of Forfeited Good Time	KSR 03-016	Use of Force
15.6	Adjustment Procedures and Programs	KSR 03-022	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
16.1	General Inmate Visiting Procedure	KSR 04-009	Inmate Family Emergency—Life Threatening Illness or Death in Inmate's Immediate Family
16.2	Inmate Correspondence	KSR 04-010	Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery, or Death of an Inmate
16.3	Telephone Calls	KSR 04-011	Emergency Preparedness Training
17.1	Inmate Personal Property	KSR 05-001	Governor's Meritorious Good Time Award
17.2	Assessment Center Operations	KSR 05-002	Restoration of Forfeited Good Time
17.3	Controlled Intake of Inmates	KSR 05-003	Differential Status for SU (QUIT) Inmates
18.4	Classification of the Inmate	KSR 05-004	Returns from Other Institutions
18.5	Custody/Security Guidelines	KSR 05-005	Discharge of Residents to Hospital or Nursing Home
18.6	Classification Document	KSR 05-006	Inmate I.D. Cards
18.7	Transfers	KSR 05-007	Violations of Law or Code of Conduct by Inmates on Parole Furlough
18.8	Guidelines for Transfers Between Institutions	KSR 05-008	Identification of Mentally Retarded Inmates
18.9	Out-of-State Transfers	KSR 05-009	Identification Department Admissions and Discharges
18.10	Pre-Parole Progress Reports	KSR 05-010	Inmate Work Incentives
18.11	Kentucky Correctional Psychiatric Center Transfer Procedures	KSR 05-011	Pre-Parole Progress Report
18.12	Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill	KSR 05-012	Inmate Rules and Discipline
18.13	Population Categories	KSR 05-013	On-the-Job Training
19.1	Government Services Projects	KSR 06-001	Visiting Regulations
19.2	Community Services Projects		
20.1	Study Release		
20.6	Vocational Study Release		
22.1	Privilege Trips		
25.1	Gratuities		
25.2	Public Official Notification of Release of an Inmate		
25.3	Pre-Release		
25.4	Inmate Furloughs		
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		

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KSP 060000-04	Operational Procedures for Special Management Inmates Assigned to Protective Custody	KSP 110000-13	Classification Document
KSP 060000-09	Protective Custody Unit—Attorney Telephone Calls	KSP 110000-14	Vocational School Placement
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center
KSP 060000-12	Administrative Control Protective Custody Sick Call	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 070000-02	Health Evaluations	KSP 110000-17	Detention Cells
KSP 070000-03	Consultations	KSP 120000-04	Academic Education
KSP 070000-04	Medical and Dental Services for Western Kentucky Farm Center	KSP 120000-07	Community Center Program
KSP 070000-11	Pharmacy Procedures	KSP 120000-08	Inmate Furloughs
KSP 070000-13	Medical Records	KSP 120000-11	Religious Services—Staffing
KSP 070000-14	Psychiatric and Psychological Services	KSP 120000-18	Religious Services—Religious Programming
KSP 070000-16	Dental Services for Special Management Units	KSP 120000-20	Marriage of Inmates
KSP 070000-17	Optometric Services	KSP 120000-24	Muslim Services
KSP 070000-19	Menu Preparation and Planning	KSP 120000-31	Extended Furloughs
KSP 070000-20	General Sanitation and Safety, and Protection Standards and Requirements		
KSP 070000-24	Food Service Inspections	(4) The Luther Luckett Correctional Complex Policies and Procedures:	
KSP 070000-25	Therapeutic Diets	LLCC 01-08-01	Institutional Legal Assistance
KSP 070000-30	Inmate Work Programs	LLCC 01-09-01	Public Information and News Media Access
KSP 090000-01	Utilization of Legal Postage and Copy Privileges by Indigents	LLCC 02-01-02	Fiscal Management: Accounting Procedures
KSP 090000-06	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
KSP 110000-11	Classification Committee—Transfer Requests	LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets
KSP 110000-12	Classification Committee—Inmate Work Assignments	LLCC 13-05-02	Medical Screening of Food Handlers
		LLCC 13-06-01	Food Service: Inspections and Sanitation
		LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products
		LLCC 14-01-01	Procedures for Providing Clothing, Linens and Other Personal Items

LLCC 14-05-01	Institutional Inspections	NTC 06-01-01	Offender Records
LLCC 15-01-01	Sick Call and Pill Call	NTC 06-01-02	Records—Release of Information
LLCC 15-02-01	Psychological Services	NTC 10-01-01	Special Management Inmates
LLCC 15-03-01	Pharmacy	NTC 11-03-01	Food Service: General Guidelines
LLCC 15-04-01	Dental Services	NTC 11-04-01	Food Service: Meals
LLCC 15-05-02	Licensure and Training Standards	NTC 11-04-02	Menu, Nutrition and Special Diets
LLCC 15-06-02	Emergency and Specialized Health Services	NTC 11-05-02	Medical Screening of Food Handlers
LLCC 15-06-03	Emergency Medical Care Plan	NTC 11-06-01	Inspections and Sanitation
LLCC 15-07-01	Medical and Dental Records	NTC 11-07-01	Purchasing, Storage and Farm Products
LLCC 15-08-01	Special Diets	NTC 12-01-01	Institutional Inspections
LLCC 15-11-01	Provision of Psychiatric Services from the KCPC/Responsibilities of the Department of Corrections	NTC 12-02-01	Personal Hygiene for Inmates (Clothing and Linens)
LLCC 15-12-01	Disabled and Infirm Inmates	NTC 12-02-02	Personal Hygiene Items
LLCC 16-01-01	Inmate Rights and Responsibilities	NTC 13-01-01	Emergency Medical Care Plan
LLCC 16-02-01	Inmate Grievance Procedure	NTC 13-01-02	Emergency and Specialized Health Services
LLCC 16-03-01	Inmate Law Library	NTC 13-02-01	Outside Hospital Security
LLCC 17-01-01	Due Process/Disciplinary Procedure	NTC 13-03-01	Sick Call and Pill Call
LLCC 18-01-01	Inmate Correspondence	NTC 13-04-01	Pharmacy
LLCC 18-02-01	Inmate Visiting	NTC 13-05-01	Dental Services
LLCC 20-01-01	Personal Property Control	NTC 13-06-01	Licensure and Training Standards
LLCC 20-02-01	Authorized Inmate Personal Property	NTC 13-08-01	Medical and Dental Records
LLCC 20-03-01	Unauthorized Items	NTC 13-09-01	Special Diets
LLCC 20-04-02	Inmate Canteen	NTC 13-11-01	Inmate Health Evaluation
LLCC 20-05-01	Inmate Control of Personal Funds	NTC 13-12-01	Disabled and Infirm Inmates
LLCC 21-02-01	Classification/Security Levels	NTC 14-01-01	Legal Services Program
LLCC 21-03-01	Classification Process	NTC 14-03-01	Inmate Rights and Responsibilities
LLCC 22-01-01	OJT/Job Assignments	NTC 15-01-01	Restoration of Forfeited Good Time
LLCC 23-01-01	Academic School	NTC 15-02-01	Due Process/Disciplinary Procedures
LLCC 26-01-01	Religious Services	NTC 15-02-02	Extra Duty Assignments
LLCC 28-01-01	Privilege Trips	NTC 15-03-01	Rules for Inmates Assigned to Minimum Security Living Area
LLCC 28-03-01	Temporary Release/Community Center Release	NTC 15-03-02	Rules and Regulations for Dormitories
LLCC 28-04-01	Pre-Parole Progress Report	NTC 16-01-01	Mail Regulations
LLCC 28-04-02	Parole Eligibility Dates	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
(5) The Northpoint Training Center Policies and Procedures:		NTC 16-03-01	Inmate Furloughs
NTC 01-05-01	Extraordinary Occurrence Reports	NTC 17-01-01	Personal Property Control
NTC 01-10-01	Institutional Legal Assistance	NTC 17-01-02	Authorized Inmate Personal Property
NTC 01-11-01	Political Activities of Merit Employees	NTC 17-01-03	Unauthorized Inmate Property
NTC 01-15-01	Establishment of Warden as Chief Executive Officer	NTC 17-03-01	Assessment/Orientation
NTC 01-17-01	Relationships with Public, Media and Other Agencies	NTC 18-01-01	Pre-Parole Progress Report
NTC 02-01-02	Fiscal Management: Accounting Procedures	NTC 18-01-02	Parole Eligibility Dates
NTC 02-01-03	Fiscal Management: Checks	NTC 18-02-01	Instructions for Scheduling 6 Month Classification Reviews
NTC 02-01-04	Fiscal Management: Insurance	NTC 18-03-01	Classification Process
NTC 02-03-01	Fiscal Management: Audits	NTC 18-04-01	Classification Committee
NTC 02-08-01	Inmate Canteen	NTC 18-05-01	Transfers to Other Institutions
NTC 03-01-01	Employee Dress Code	NTC 18-06-01	Meritorious Housing Dormitory
NTC 03-02-01	General Guidelines for NTC Employees	NTC 20-01-01	Academic School Program
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants	NTC 22-01-01	Privilege Trips
NTC 03-04-01	Shift Transfers	NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 03-06-01	Workers' Compensation	NTC 23-01-01	Religious Services
NTC 03-07-01	Merit System Registers and Placement of Advertisements	NTC 23-03-01	Marriage in Inmates
NTC 03-09-01	Maintenance Confidentiality and Challenge of Information Contained in Employee Personnel File	NTC 25-01-01	Release Preparation Program
NTC 03-10-01	Employment of Ex-Offenders	NTC 25-01-02	Temporary Release/Community Center Release
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings	NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 04-01-01	Training and Staff Development		
		(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

MARTHA LAYNE COLLINS, Governor

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 14, 1984 at 4:10 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
 Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
 Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of Administrative Services

**900 KAR 1:011E. Post-audit appeal procedures of programs and vendors of services with whom the Cabinet for Human Resources has contracted.**

RELATES TO: KRS 194.025(2),(3), 194.030(10), 194.040, 194.050(1)

PURSUANT TO: KRS 194.050(1)

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 194.025(3) to enter into such contracts and agreements as may be necessary to carry out the general intent and purposes of the cabinet. The Office of the Inspector General is directed by KRS 194.030(10) to conduct audits and investigations of programs and vendors of services with whom the cabinet has contracted. It is the function of this regulation to provide for a post-audit process and an audit appeal process for programs and vendors of services with whom the cabinet contracts.

Section 1. Post-Audit Process. Except as otherwise provided in Section 3 of this regulation, the following procedures are established in the Cabinet for Human Resources:

(1) An exit conference shall be scheduled by the auditor upon the completion of an audit. Representatives at this meeting shall include at a minimum: an auditor who participated in the audit and an authorized representative of the audited entity who may have an attorney and/or accountant present.

(2) Following the exit conference, the Division of Audits or the private audit firm will provide a draft copy of the preliminary findings to the audited entity and the program department or office representative.

(3) The audited entity shall have thirty (30) days from the

date of receipt of the draft report to request a formal exit conference or to submit a written response to the Division of Audits or private audit firm. The written response shall identify all issues in dispute and shall include supporting documentation or reference to such documentation.

(4) Upon receipt of the audited entity's response, a copy thereof shall be submitted by the Division of Audits (or the private audit firm) to the appropriate program department or office for review, comment and resolution of such issues as may be possible. The audited entity, Division of Audits (or the private audit firm) and the program department or office shall communicate or meet as necessary to clarify the issues, review documentation and resolve such issues as may be possible. Upon completion of the resolution process the Division of Audits (or the private audit firm) shall issue a final audit report.

(5) The Division of Audits or the private audit firm shall submit the final audit report to the audited entity, the program department or office, and the Office of Policy and Budget. In situations where the private audit firm performed the audit, such firm shall also send a copy of the final report to the Division of Audits.

**Section 2. Audit Appeal Process.** (1) Upon issuance of the final audit report by the Division of Audits or the private audit firm, the audited entity desiring an appeal shall have thirty (30) days from date of issuance to submit a written statement of appeal and request for hearing to the Office of the Secretary of the Cabinet for Human Resources. The statement of appeal by the audited entity shall set forth the specific issues which remain in dispute and the basis upon which the audited entity relies to support its position.

(2) Upon receipt of the statement of appeal and request for hearing, an attorney from the Office of the General Counsel, who will serve as chairperson of the audit appeal panel, shall schedule a hearing which shall be held within 120 days of receipt of the statement of appeal and request for hearing unless waived by the audited entity. Notice of the hearing shall be sent to the audited entity by certified mail at least fifteen (15) days prior to the hearing date. In addition to the chairperson, the audit appeal panel shall be composed of two (2) representatives within the Cabinet for Human Resources appointed by the secretary. The chairperson shall be a non-voting member except in case of a tie vote. The panel members shall not have participated in the administration of the program involved in the audit or in the performance of the audit in dispute.

(3) The chairperson shall conduct the proceedings in an orderly fashion consistent with the rules of conduct of an administrative hearing and due process of law.

(4) The decision of the panel shall be issued within sixty (60) days after the hearing except that if briefs are submitted by the parties the decision will be issued within thirty (30) days after their submission. The decision shall reflect the basis upon which it is given.

(5) Written notice of the final decision will be sent to the secretary, the audited entity, the program department or office, the Director of the Division of Fiscal Services, the Director of the Division of Audits, the Executive Director of the Office of Policy and Budget, and, if appropriate, the private audit firm. The decision of the panel shall constitute the final decision of the cabinet.

(6) Subsequent to the appeal or acceptance of the audit findings by the audited entity, without appeal, the appropriate department commissioner or office director will take action to effect formal closure of the audit.

**Section 3. Audits Conducted for the Purpose of Determin-**

ing Allowable Costs and Reimbursement for Certain Services. Audits conducted for the purpose of determining allowable costs and reimbursement relative to:

- (1) Skilled nursing facility services;
- (2) Intermediate care facility services;
- (3) Primary care center services;
- (4) Hospitals; and

(5) Audits conducted for the purpose of determining allowable costs and reimbursement relative to the community mental health-mental retardation boards shall follow the audit procedures established in each respective program's reimbursement manual on file with the Department for Social Insurance, Division of Management and Development, except that such audits conducted for fiscal periods ended prior to July 1, 1982, for the purpose of determining allowable costs for the Title XX program shall follow the appeal process set forth in Section 2 of this regulation for appellate resolution.

RICHARD GREENWELL, Executive Director

E AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

Commonwealth of Kentucky

E. AUSTIN, JR., Secretary

Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of the Ombudsman

**900 KAR 1:030E. Ombudsman complaint review responsibilities.**

RELATES TO: KRS 194.030(4)

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

**NECESSITY AND FUNCTION:** As prescribed by KRS 194.030(4), the Office of the Ombudsman shall provide a review of citizen complaints of services of the Cabinet for Human Resources when complaints cannot be resolved through normal administrative remedies. KRS 194.050 provides that the Secretary of the Cabinet for Human Resources shall, by regulation, develop policies and operate programs concerned with the welfare of citizens of the Commonwealth. This proposed regulation sets forth the policies and procedures which will be employed by the Office of the Ombudsman when receiving and acting on citizens' complaints.

**Section 1. Ombudsman Complaint Review Process.** The Office of the Ombudsman shall: (1) Process complaints and inquiries received from citizens pertaining to human service programs;

- (2) Investigate complaints regarding programs adminis-

tered by the Cabinet for Human Resources and recommend corrective action where appropriate;

(3) Advise clients as to their rights, duties, and responsibilities;

(4) Assist clients and cabinet personnel in negotiating resolutions to problems which clients may have with any Cabinet for Human Resources agency or program; and

(5) Advise the secretary relative to service delivery problems which have been identified by the ombudsman staff.

Section 2. Access to Records of Cabinet. The Office of the Ombudsman shall have access to any pertinent cabinet records relating to any client's case which is under investigation by the ombudsman, except as otherwise provided by law.

JOHN CLAYTON, OMBUDSMAN  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 19, 1984

FILED WITH LRC: May 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of the Ombudsman

**900 KAR 1:040E. Ombudsman guardianship responsibilities.**

RELATES TO: KRS 210.290

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

NECESSITY AND FUNCTION: As prescribed by KRS 210.290, the Cabinet for Human Resources may be appointed by the court to act as executor, administrator, guardian, limited guardian, conservator, or limited conservator for persons who have been determined to be mentally, partially disabled, or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator. KRS 194.050 provides that the Secretary of the Cabinet for Human Resources shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This proposed regulation sets forth the policies and procedures which will be employed by the Cabinet for Human Resources when administering the guardianship program.

Section 1. Ombudsman Guardianship Responsibilities. (1) The responsibility to act as guardian, limited guardian, conservator, or limited conservator shall be administered by the Office of the Ombudsman.

(2) The Office of the Ombudsman shall assume responsibility to act as executor, administrator, guardian, limited guardian, conservator, or limited conservator for a Kentucky resident only after an application has been filed by the Office of the Ombudsman through its designated officer in the district court of the county in which the determination is made for appointment.

(3) Requests for guardianship services may be made on behalf of mentally disabled or partially disabled persons to the Office of the Ombudsman.

(4) The ombudsman shall designate an agent who will act on behalf of a person for whom the Cabinet for Human Resources has been appointed guardian, limited guardian, conservator, or limited conservator.

JOHN CLAYTON, Ombudsman  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of the Secretary

**900 KAR 3:010E. Cabinet for Human Resources personnel policies.**

RELATES TO: KRS Chapter 194

PURSUANT TO: KRS 194.020, 194.025, 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 1:340E. State health plan.

RELATES TO: KRS Chapters 194 and 216B

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 Certificate 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) Long term care policies, p. 32-35.

(2) Health personnel policies, p. 36-41.

(3) Planning criteria and review standards, p. 42-62 with the exception of acute care services, p. 42-51.

(4) Glossary.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 9:30 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 4:050E. Kentucky family planning program.

RELATES TO: KRS 211.180, 214.185

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: P.L. 91-571, the "Family Planning Services and Population Research Act of 1970" and 42 CFR, 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 15, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 4:060E. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC).**

RELATES TO: KRS 194.050, 211.180

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). 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 Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) — Fiscal Year 1983-1984 by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and

Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) — Fiscal Year 1983-1984 (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. 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, Kentucky 40621.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR. Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 4:070E. Crippled children's services.**

RELATES TO: KRS 200.460 to 200.490

PURSUANT TO: KRS 194.050(1), 211.090

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: Title V of the Social Security Act, as amended by P.L. 97-35, authorizes grants to states to provide services to children who are crippled or who are suffering from conditions leading to crippling. KRS 200.460 to 200.490 authorize the Cabinet for Human Resources to provide services for handicapped children. The terms "crippled" and "handicapped" as used in applicable federal and state laws are deemed to be synonymous as used in this regulation. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such regulations as are necessary to implement programs authorized by federal law so as 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 Crippled Children's Program in accordance with applicable federal and state laws and regulations.

Section 1. Crippled Children's Services Program Standards. The Cabinet for Human Resources hereby adopts the "Crippled Children's Services Program Standards" dated May, 1984 by reference as covering all phases of program operation including but not limited to program eligibility for services, fee collections, consent requirements, medical standards, and other relevant components of the program. A copy of the "Crippled Children's Services Program Standards"

shall be on file and available for public inspection in the Office of the Commissioner of Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 4:080E. Disabled Children's Program.

RELATES TO: KRS 211.180

PURSUANT TO: KRS 194.050(1), 211.090

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: Title V of the Social Security Act, as amended by P.L. 97-35, authorizes grants to states to provide rehabilitation services for certain blind and disabled children receiving benefits under Title XVI of the Social Security Act. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such regulations as are necessary to implement programs authorized by federal law so as 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 Disabled Children's Program in accordance with applicable federal laws and regulations.

Section 1. As used in this regulation: (1) "Supplemental Security Income" means the federal income supplement program authorized by Title VI of the Social Security Act that includes a provision for financial payments to families with disabled children.

(2) "Individual Service Plan" means a written plan designed to organize and coordinate the goal-oriented care of each eligible child.

Section 2. Eligibility for Services. Only children receiving Supplemental Security Income who are under seven (7) years of age, or who are under sixteen (16) years of age and have never attended school, shall be eligible for services under this program.

Section 3. Disabled Children's Program Services. Services under the Disabled Children's Program shall include location,

identification, development of Individual Service Plans, case management and early intervention. If not available through other sources, the Department for Health Services' Disabled Children's Program may within budgetary limitations provide for physical therapy, occupational therapy, speech therapy, infant stimulation, purchase of medications, medical supplies and devices, respite care, developmental day care, adaptive equipment, educational toys and other such services specified in the approved Individual Service Plan.

Section 4. Referral to Service Providers. The Cabinet for Human Resources shall contract with qualified service providers to deliver services under the Disabled Children's Program. Referrals to such service providers may be made by the cabinet's program staff to Community Mental Health/Mental Retardation Boards for locating and identifying clients and for developing the Individual Service Plan. Additional services may be secured by referring clients to other organizations which have qualified personnel that may meet the special needs of clients.

C. HERNANDEZ, M.C., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 8:020E. 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

EFFECTIVE: May 21, 1984

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 oper-

ation 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 15, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

Commonwealth of Kentucky

E. AUSTIN, JR., Secretary

Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 8:030E. Merit system for local health departments.**

RELATES TO: KRS 211.170, 212.170, 212.870

PURSUANT TO: KRS 194.050, 211.090

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: KRS 211.170, 212.170, and 212.870 require the Cabinet for Human Resources to supervise the personnel functions and prescribe merit system standards for local health departments. In addition, 5 CFR,

Part 900, Intergovernmental Act Programs contains requirements for establishing and maintaining a system of personnel administration on a merit basis as a condition precedent to the receipt of federal funds for the conduct of certain federally funded health 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 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 merit system council for local health departments in accordance with applicable federal and state laws and regulations.

Section 1. Definitions. As used in this regulation: (1) "Council" means the merit system council for local health departments created by this regulation; and

(2) "Local health department" means a county, city-county, or district health department created pursuant to KRS Chapter 212 but does not include health departments located in cities of the first class or urban-county health departments.

Section 2. Council Membership, Terms, and Meetings. (1) A merit system council is hereby created to serve local health departments. The council shall be composed of five (5) members who shall be appointed by the Secretary for Human Resources upon the recommendation of the Commissioner of the Department for Health Services. The members shall be public-spirited persons of recognized experience in the improvement of public administration, and in the impartial selection of efficient governmental personnel. No member of the council shall be an employee of a local health department or of the Department for Health Services.

(2) Members of the council shall serve for a term of three (3) years or until successors have been appointed, except that for members first appointed two (2) members shall be appointed for one (1) year, one (1) member for two (2) years, and two (2) members for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of such term.

(3) The council shall elect a chairman from its membership. Regular meetings of the council shall be held at least semi-annually. Special meetings of the council may be held upon call of the chairman or the Commissioner of the Department for Health Services.

(4) The council shall be attached to the Department for Health Services for administrative and budgetary purposes.

(5) A simple majority of the members of the council shall constitute a quorum for the purpose of conducting official business. The council shall adopt procedures for the conduct of its activities.

Section 3. Merit System Rules and Regulations. The Cabinet for Human Resources hereby adopts the publication entitled "Rules and Regulations for the Local Health Departments of Kentucky" as amended to May 1, 1984, by reference, as the merit system requirements for local health departments in Kentucky governing all phases of personnel management, including but not limited to appointments, promotions, examinations, separations, and disciplinary actions.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

## CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 12:060E. Per diem rate pursuant to the "Patient Liability Act of 1978."

RELATES TO: KRS 210.700 to 210.760

PURSUANT TO: KRS 13A.210, 210.720 to 210.760

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: KRS 210.720(2) directs the Secretary for Human Resources to fix the patient cost per day for board, maintenance and treatment for each facility operated by the cabinet at frequent intervals which shall be the uniform charge for all persons receiving such services. The function of this regulation is to fix the patient cost per day at the facilities designated in this regulation in accordance with the Patient Liability Act of 1978, KRS 210.700 to KRS 210.760.

Section 1. Facilities with an All-Inclusive Per Diem Rate. The following facility shall be on an all-inclusive per diem rate:

Facility	Per Diem Rate
Eastern State Hospital	\$140

Section 2. Facilities with a Routine Service Charge Per Diem with Separate Charges for Ancillary Services on an Individual Basis.

Facility	Routine Services Per Diem
Central State Hospital	\$165
Central State Hospital—ICF/MR	140
Western State Hospital	85
Western State ICF	55
Outwood ICF/MR	135
Oakwood ICF/MR	95
Hazelwood ICF/MR	125
Glasgow ICF	75

The ancillary services furnished and/or available at Department for Health Series Facilities shall be: physicians services, EEG, EKG, occupational therapy, physical therapy, oxygen therapy, X-ray, laboratory, speech and hearing therapy, psychology, pharmacy and electroshock therapy. Ancillary charge rates are based on latest audited cost report plus the health portion of the Consumer Price Index for each past

audited cost report, and will be available in the Department for Health Services, Budget and Fiscal Planning Branch.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984  
FILED WITH LRC: May 21, 1984 at 3:45 p.m.

### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 12:070E. "Means Test" pursuant to the "Patient Liability Act of 1978."**

RELATES TO: KRS 210.700 to 210.760  
PURSUANT TO: KRS 13A.210, 210.710, 210.750  
EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: KRS 210.710 authorizes the Secretary for Human Resources to adopt a "Means Test" for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet for the mentally ill or mentally retarded. The function of this regulation is to adopt a "Means Test" in compliance with KRS 210.710 to KRS 210.760.

Section 1. Means Test. The Cabinet for Human Resources hereby adopts the following uniform method for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at facilities operated or utilized by the Cabinet for Human Resources for the mentally ill or mentally retarded.

(1) Ascertain the entire financial resources available to the patient or the person responsible for the patient as follows:

(a) Insurance and third party payors, including, but not limited to Medicare, Medicaid and all other governmental and private programs or payors;

(b) Income received, or expected to be received during the period of hospitalization, including:

1. Self-employed gross revenues, less operating expenses;
  2. Salaried and waged hourly employees gross income;
  3. Interest and dividend income;
  4. Rental income;
  5. Royalties;
  6. Alimony; and
  7. Any other similar sources of income.
- (c) Assets including, but not limited to:

1. Cash, checking accounts, savings accounts, certificates of deposit;
  2. Stocks and bonds at market value; and
  3. All other property except as otherwise exempted by law.
- (d) Benefit and support payments received or expected to be received during the period of hospitalization, including, but not limited to:

1. Social Security;
2. Veterans Pension;
3. Railroad Retirement;
4. United Mine Workers Pension;
5. Supplemental Security Income;
6. Retirement; and
7. Any other similar sources of benefits or support payments.

(2) After ascertaining the entire financial resources of the patient, apply Table I, II, or III, as appropriate. The ability to pay, of the patient or person responsible for the patient, shall not exceed the total daily charges, less available Medicare, Medicaid, CHAMPUS, insurance and other benefits. Any overpayments resulting from application of the ability to pay "Means Test" by the patient or person responsible for the patient shall be refunded.

Table I  
Ability to Pay Income Table

Size of Family	*Gross Income Protected For Basic Maintenance
1	\$ 7,183
2	11,656
3	15,861
4	19,155
5	21,982
6	24,844

\*Bureau of Labor Statistics Standards, South non-metropolitan area (February, 1984) used as basis.

For each additional family member, add \$3,100.

Subtract from excess:

- (a) Applicable taxes, social security, retirement.
- (b) Any unpaid medical/dental bills.
- (c) Any extraordinary or involuntary expenses.

Table II  
Ability to Pay Assets Table

Size of Family	*Assets Protected
1	\$1,500
2	3,000
3	3,050
4	3,100

\*Per Title XIX Federal Guidelines.

For each additional family member add fifty (50) dollars.

Prorate excess by number of family members.

Excess asset payments may be spread over one (1) to twelve (12) months if patient or person responsible for the patient's financial situation warrants special consideration or if the patient is discharged before paying all excess assets.



**TABLE III**  
**Ability to Pay Benefit**  
**And Support Payment Table**

<b>*Normal Disregards:</b>	
Personal Spending	\$ 25.00 per month
Ineligible Spouse	\$183.00 per month
Monthly Medicare Part B Insurance Premium	

\*Title XIX Federal Guidelines.

If benefit and support payments are the sole sources of income or the principal sources of income to sustain the livelihood of the patient's immediate family (living in household) then an amount in addition to the normal disregards shall be excluded so as to meet the basic needs of food, clothing, and shelter including continuing ownership of a homestead if sufficient funds are available.

The patient or person responsible for the patient who receives benefits (Social Security, etc.) or support payments (child support, etc.) intended for the board, maintenance, and treatment of a patient shall assign or pay such amount, less the above mentioned disregards and exclusions to the respective health services facility.

(3) In the event the ability to pay payment as determined from Table III creates an undue hardship, the patient or person responsible for the patient may request an administrative review by the departmental collections officer.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

**902 KAR 12:080E. Policies and procedures for mental health/mental retardation facilities.**

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

EFFECTIVE: May 21, 1984

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 15, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**

**902 KAR 45:130E. Inspector's manual for state food and drug officials.**

RELATES TO: KRS 217.005 to 217.215, 217.992  
PURSUANT TO: KRS 194.050, 211.090, 217.125  
EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: The Kentucky Food, Drug, and Cosmetic Act, KRS 217.005 to 217.215 and 217.992, authorizes the Cabinet for Human Resources to regulate the misbranding and adulteration of foods, drugs, and cosmetics in Kentucky. The purpose of this regulation is to establish uniform requirements and procedures to assist inspectors in determining compliance with KRS 217.005 to 217.215 and 217.992.

Section 1. Inspector's Manual for State Food and Drug Officials. The requirements and procedures as set forth in the "Inspector's Manual for State Food and Drug Officials" as of May 1, 1984, are hereby adopted by reference for the Commonwealth of Kentucky. This manual is published by the Food and Drug Administration in cooperation with the Association of Food and Drug Officials. A copy of this manual shall be on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and is open for public inspection.

C.. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984  
FILED WITH LRC: May 21, 1984 at 3:15 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These

emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**

**902 KAR 45:140E. Retail food programs evaluation and standardization procedures.**

RELATES TO: KRS 217.005 to 217.215, 217.808 to 217.812, 217.992, 219.011 to 219.081

EFFECTIVE: May 21, 1984

PURSUANT TO: KRS 194.050, 211.090

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 211.090 and 211.180 to adopt rules and regulations necessary to regulate and control the safe handling of food and food products and to formulate, promote, establish, and execute policies, plans, and programs relating to the safe handling of food and food products. The function of this regulation is to establish uniform procedures for the periodic evaluation of the retail food protection programs carried out by local health departments to determine their strengths and weaknesses for the purpose of protecting the public health.

Section 1. Methods of Conducting Evaluations of Retail Food Programs. The evaluation and standardization procedures for retail food programs as set forth in the publication entitled "Retail Food Programs Evaluation and Standardization Procedures," June, 1983, is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Commissioner's Office at the above address.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984  
FILED BY LRC: May 21, 1984 at 3:15 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES  
Department for Health Services**

**902 KAR 50:090E. Milk adulteration.**

RELATES TO: KRS 217.005 to 217.215, 217.992, 217C.010 to 217C.990

PURSUANT TO: KRS 194.050, 211.090

EFFECTIVE: May 21, 1984

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, sale, and such other matters relating to Grade A and manufacturing milk and milk products as may be necessary to protect the public health. This regulation establishes enforcement procedures to prevent the sale of milk and milk products adulterated with antibiotics and other inhibitory substances, chemicals, and excessive water.

**Section 1. Antibiotics and Other Inhibitory Substances Enforcement Procedure. (1) Sampling procedure.**

(a) Antibiotic tests shall be performed a minimum of four (4) times during any consecutive six (6) months on each milk producer or on raw commingled loads and all Grade A processed milk (except cultured products). When commingled milk is tested, all producers shall be represented in the sample.

(b) Any loads showing any level of antibiotics shall require individual producer's milk on the load to be tested.

(c) Utilization of milk on a load showing levels of antibiotics shall be as follows:

1. Loads showing levels of antibiotics below the acceptable standard of sixteen (16) mm zone size by the Bacillus stearothermophilus disk assay method may be accepted by the plant; however, each individual producer's milk on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this regulation are complied with.

2. Loads testing positive (sixteen (16) mm zone size or greater) shall not be utilized by the company and shall be reported to the Milk Control Branch. Also, all producers' milk represented on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this regulation are complied with.

3. Should a load be commingled into a plant storage tank with other loads and later found to be positive, the storage tank shall be tested and found to be negative prior to processing.

4. Intentional blending of loads found to be positive for antibiotics shall be prohibited.

5. Raw milk inadvertently processed and later found to be positive for antibiotics or other inhibitory substances shall be reported to the Milk Control Branch prior to shipment for sale. Each case will be handled individually and may require testing to determine if antibiotics are present which would prohibit sale.

(d) It is recommended that all loads of raw milk be screened for antibiotics and other inhibitory substances prior to receipt by the plant.

**(2) Enforcement procedures.**

(a) All loads found to be positive for antibiotics or other inhibitory substances prior to receipt by the plant shall not be

received. All producer samples included in the load shall be tested, and the results of the load and producer samples reported to the Milk Control Branch by telephone as soon as possible and confirmed later in writing (laboratory report).

(b) No milk shall be collected from producers with a positive antibiotic test until the following conditions are met:

1. Producers with first antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall require a negative sample to be obtained from the producer supply by a certified sample collector prior to the milk being collected by the hauler. The negative results shall be reported to the Milk Control Branch as soon as possible.

2. Producers with the second antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall:

a. Be notified by the Milk Control Branch of the suspension by telephone and confirmed by letter. The letter confirming the suspension shall include an application for reinstatement of the permit.

b. Prior to an official sample being collected for reinstatement purposes, the producer shall request permit reinstatement in writing and indicate he believes the problem to have been corrected.

c. Require a representative of the Milk Control Branch to visit the producer dairy after the request for reinstatement is received and prior to the first official sample being taken. During this farm visit the producer shall demonstrate a method of marking cows treated which will assure milk from treated cows is not offered for sale. Upon acceptance of the exclusion procedure for treated cows, an official sample shall be collected and found to be negative for antibiotics prior to shipment. The first shipment shall not exceed limits listed in this regulation.

d. After receipt of the written request for reinstatement and a farm visit by the Milk Control Branch, a sample of the producer's milk shall be collected by a certified sample collector and found to be free of antibiotics prior to the first shipment.

e. Milk collected on the first shipment shall not exceed four (4) milkings for Grade A purposes or six (6) milkings for manufacturing purposes.

3. Producers with more than two (2) antibiotic or other inhibitory substances violations during the past twenty-four (24) months shall:

a. Have their permits suspended in accordance with the provisions of paragraphs 2a and b of this subsection; and

b. May be required to attend a hearing with the Milk Control Branch and/or other representatives of the Department for Health Services to show cause why their permit should not be revoked.

(3) Company or producer association policy. Companies or producer associations having policies requiring producer penalties for offering milk for sale containing antibiotics or other inhibitory substances may have precedence over the enforcement policy outlined in this regulation provided that:

(a) Policy is filed in writing with the Milk Control Branch.

(b) Policy is approved by the Milk Control Branch as being as or more stringent than the enforcement procedures listed in this regulation.

(c) Evidence is forwarded in writing that company policy was carried out on each positive producer sample found.

(d) The procedures outlined in this regulation apply to both Grade A milk and milk for manufacturing whose permits are suspended because of a positive antibiotic test shall not be allowed to ship milk to a manufacturing or Grade A plant until the procedures outlined in this regulation have been complied with.

Section 2. Sale of Adulterated Milk (Excessive Water). (1) Milk producers whose supplies are found to contain over ten (10) percent excessive water shall be issued a notice requiring the supply to be withheld from sale immediately. Milk from this supply shall not be sold until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(2) Milk producers whose supplies are found to contain over two (2) percent to ten (10) percent excessive water shall be issued a notice of adulteration and resampled after the lapse of three (3) days. Should the resample continue to show over two (2) percent excessive water, the producer shall be issued a notice requiring the supply to be withheld from sale immediately. Milk shall not be sold from this supply until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(3) Milk producers whose supplies are found to contain between five-tenths (.5) percent to two (2) percent excessive water shall be notified; and should the following sample show five-tenths (.5) percent to two (2) percent excessive water, a supervised sample shall be collected by an inspector or other authorized person. The supervised sample shall be used as a future reference point for the accurate freezing point for the supply.

(4) Repeated violation of any of these procedures listed in this regulation may require permit suspension, a written request for reinstatement, and the resample to be collected by the inspector. Also, the sample shall be negative for excessive water prior to reinstatement of the permit.

Section 3. Procedures for Testing Milk Samples for Chemical Contaminants. (1) Samples will be collected and analyzed a minimum of annually from all bulk tank truck loads of raw milk representing Kentucky dairy producers and imported supplies from other states. Semi-annual samples will be collected from loads having a previous history of chemical contaminants. Finished milk and milk products manufactured and sold within Kentucky will also be screened.

(2) Whenever a Kentucky inspected bulk tank load of raw milk is found to contain any level of a chemical contaminant, the individual milk producers represented on the load will be immediately notified by telephone, confirmed by letter, and individually sampled on a screening basis after notification. If out-of-state bulk tank loads are found to be contaminated, the shipping state regulatory agency will be immediately notified by telephone and confirmed in writing.

(3) Whenever laboratory results of an individual producer sample shows a violation of an established tolerance level for a particular chemical contaminant, the supply will be withheld from the market channels. Notice shall be by telephone and confirmed in writing. An additional follow-up confirming sample shall be collected within ten (10) working days after notification of exclusion.

(4) Continued sampling of an excluded milk producer's supply will be maintained until an acceptable level of the contaminant is attained. The frequency of additional sampling may be at seven (7), fifteen (15), thirty (30), or sixty (60) day intervals, depending on laboratory workload capabilities and levels found in the confirming sample and as experienced from previous test indicators. Higher levels will be sampled at lesser frequencies.

(5) Whenever levels based on an official sample fall below acceptable tolerance levels, the producer will be notified by telephone and confirmed in writing that the supply is again acceptable for sale.

(6) Producer assistance in testing individual cows, feeds, and water supplies may be obtained on an unofficial basis from the Kentucky Diagnostic Laboratories and/or commercial laboratories.

(7) The following procedure will be followed whenever any level of PCB's are found in a producer's supply:

(a) Whenever levels of PCB's are found in a producer's milk supply, a farm inspection shall be made to determine the type of silo(s) being used.

(b) All producers (showing levels of PCB's in their milk supply) having concrete silos coated with "cumar" or other sealers containing PCB's will be condemned for use with the dairy herd.

(c) The following options may be used by a producer with a condemned silo:

1. Abandon the silo (do not store feed).

2. Recoat the silo. If a silo is recoated, the producer shall notify the Milk Control Branch for approval prior to the silo being filled.

(d) Once a producer is notified that a silo(s) has been condemned, continued use of the silo may require immediate suspension of the milk supply whenever any level of PCB's are found by the regulatory agency.

(8) The producer's supply will be placed on a continuous surveillance program until a negative sample is obtained.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Health Services

##### 902 KAR 50:100E. Grade A milk sanitation ratings.

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

PURSUANT TO: KRS 194.050, 211.090

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, sale, and such other matters relating to Grade A and manufacturing milk and milk products as may be necessary to protect the public health. This regulation establishes sanitation rating procedures for Grade A milk producers, processors, and handlers and enforcement procedures in accordance with federal requirements to determine approval for interstate shipment under the agreements of the National Conference on Interstate Milk Shipments.

Section 1. Methods of Making Sanitation Ratings of Milk Supplies. The sanitation rating methods of Grade A milk producers, processors, and handlers as set forth in the publi-

cation entitled "Methods of Making Sanitation Ratings of Milk Supplies," 1978 edition of the United States Public Health Service/Food and Drug Administration, is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 1:250E. Incorporation by reference of materials relating to the Medical Assistance Program.**

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

**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 16, 1984 at 3:45 p.m.



## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**

**904 KAR 2:140E. Supplementary policies for programs administered by the Department for Social Insurance.**

RELATES TO: KRS 194.030(6) and Chapter 205

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**

**904 KAR 2:150E. 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

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

##### 904 KAR 2:160E. Disability determinations program.

RELATES TO: KRS 194.030(6), 205.200, 205.245, 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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

FILED WITH LRC: May 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

##### 904 KAR 2:170E. Incorporation by reference of materials relating to the Child Support Program.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 2:180E. Incorporation by reference of materials relating to the home energy assistance program.**

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

**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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

**904 KAR 2:190E. Incorporation by reference of materials relating to the Refugee Assistance Program.**

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

**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 Ad-

ministrators 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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

##### 904 KAR 2:200E. Collections program.

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194,

the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance

##### 904 KAR 3:090E. Incorporation by reference of materials relating to the Food Stamp Program.

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance**

#### **904 KAR 5:100E. Claimant's reporting requirements.**

RELATES TO: KRS 341.350, 341.380

PURSUANT TO: KRS 13A.100 [.082], 194.050, 341.115

EFFECTIVE: May 21, 1984

**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 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 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 expendi-



ture 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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance

#### 904 KAR 5:130E. Appeals.

RELATES TO: KRS 341.440

PURSUANT TO: KRS 13A.100 [.082], 194.050, 341.115

EFFECTIVE: May 21, 1984

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, then 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 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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance**

#### **904 KAR 5:260E. Unemployment insurance procedures.**

RELATES TO: KRS 341.005 through 341.990

PURSUANT TO: KRS 13A.100, 194.050(1), 341.115

EFFECTIVE: May 21, 1984

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 Chapter 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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Program Administration and Technical Services**

#### **904 KAR 6:010E. Work Incentive Program.**

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

EFFECTIVE: May 21, 1984

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 21, 1984 at 3:15 p.m.

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Program Administration and Technical Services

#### 904 KAR 6:020E. Weatherization assistance for low income persons.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

EFFECTIVE: May 21, 1984

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 440, 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 21, 1984 at 3:15 p.m.

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Program Administration and Technical Services

#### 904 KAR 6:030E. Occupational training and experience project.

RELATES TO: KRS 194.030(9), 205.650 through 205.690

PURSUANT TO: KRS 13A.100, 194.050(1)

EFFECTIVE: May 21, 1984

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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Research and Planning

##### 904 KAR 6:040E. Job training partnership act.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: P.L. 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 Commis-

sioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Veteran's Employment Services

##### 904 KAR 6:050E. Veterans' benefits.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: Title 38, USC authorizes 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 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 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 CFRs, 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 Commis-



sioner 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 21, 1984 at 3:15 p.m.

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 17, 1984 at 9 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Field Services

##### 905 KAR 1:150E. "Baby Doe" regulation.

RELATES TO: KRS 199.011(6), 199.335

PURSUANT TO: KRS 194.050, 199.420

EFFECTIVE: May 17, 1984

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

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Field Services

##### 905 KAR 1:180E. DSS policy and procedures manual.

RELATES TO: KRS 194.030(8), 194.060, 199.011 to 199.375, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208 and 209

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

EFFECTIVE: May 17, 1984

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services-Title XX," authorizes grants to states for 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 manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through May 11, 1984, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office

of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Program Management**

#### **905 KAR 6:020E. State plan for CSBG Program.**

RELATES TO: KRS 273.410 to 273.468

PURSUANT TO: KRS 194.050, 273.448

EFFECTIVE: May 17, 1984

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 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 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

APPROVED BY AGENCY: May 15, 1984

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Program Management**

#### **905 KAR 6:030E. CSBG audit guide.**

RELATES TO: KRS 273.410 to 273.468

PURSUANT TO: KRS 194.050, 273.448

EFFECTIVE: May 17, 1984

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle B—"Community Services Block Grant Program" (CSBG), enacted August 13, 1981, authorizes block 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 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 establish the criteria and methodology that will be used to measure compliance with applicable state and federal laws and regulations.

Section 1. CSBG Audit Guild. The Cabinet for Human Resources hereby adopts, by reference, the Community Services Block Grant Audit Guide dated August, 1982, as revised through May 11, 1984, as the document to be used in auditing state agency expenditures of CSBG funds as well as CSBG funds expended through contract services. The guide makes provision for the performance of an audit in three (three) basic areas of interest—compliance audit; federal financial participation audit; and statement of compliance and fraud, abuse or illegal acts. The CSBG Audit Guide is available for review 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 17, 1984 at 9 a.m.

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Children's Residential Services**

**905 KAR 7:010E. Children's residential services policy manual.**

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 194.050

EFFECTIVE: May 21, 1984

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle C, "Block Grants 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  
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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Children's Residential Services**

**905 KAR 7:020E. Procedural manual for day treatment programs.**

RELATES TO: KRS 208.400, 208.410, 208.530

PURSUANT TO: KRS 194.050

EFFECTIVE: May 17, 1984

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services Title XX," authorizes grants to states for 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 the day treatment program in accordance with applicable federal and state laws.

Section 1. Procedural Manual for Day Treatment Programs. For the purpose of implementing and enforcing KRS 208.400, 208.410, and 208.530 the Cabinet for Human Resources hereby adopts the "Department for Social Services' Procedural Manual for Day Treatment Programs" as revised through May 11, 1984 by reference. "The Procedural Manual for Day Treatment Programs" sets forth the procedures for implementation of policies related to day treatment programs operated by the Division of Children's Residential Services, Department for Social Services, either directly or by contract. "The Procedural Manual for Day Treatment Programs" is available for review at the day treatment programs located in Ashland, Bowling Green, Cromwell, Sudith, Hopkinsville, Lexington, and Owensboro and at the Office of the

Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Children's Residential Services**

#### **905 KAR 7:030E. Children's residential services facilities manuals.**

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 13A.210, 194.050

EFFECTIVE: May 17, 1984

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

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 17, 1984 at 12 noon

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** **Department for Social Services** **Division of Children's Residential Services**

#### **905 KAR 7:040E. Continuum of care for children in residential facilities.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

EFFECTIVE: May 21, 1984

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 conti-

nity 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 ongoing 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 ongoing 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' Camp. 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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** Department for Social Services Division of Children's Residential Services

#### **905 KAR 7:060E. Children's residential facilities capacities.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

EFFECTIVE: May 21, 1984

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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### **CABINET FOR HUMAN RESOURCES** Department for Social Services Division of Children's Residential Services

#### **905 KAR 7:070E. Children's residential staff training requirements.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 194.050

EFFECTIVE: May 21, 1984

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 posed 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 regu-

lations 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 21, 1984 at 3:15 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Children's Residential Services

**905 KAR 7:080E. Children's treatment services facility manual.**

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 194.050

EFFECTIVE: May 17, 1984

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle C, "Block Grants for Social Services Title XX" authorizes grants to states for 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 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 programs for the care and treatment of mentally ill and/or emotionally disturbed children by the Children's Treatment Service facility operated by the Department for Social Services.

Section 1. Children's Treatment Service Facility Manuals. The Cabinet for Human Resources hereby adopts, by reference, as operating policies and procedures of the Children's Treatment Service, Lakeland Road, Louisville, Kentucky, operated by the Department for Social Services, the following manuals: Policy Manual dated June 16, 1983;

Therapeutic Milieu Manual revised through May 11, 1984; Psychology Procedural Manual dated February 10, 1983; Nursing Manual dated February 10, 1983; Staff Development Manual revised through May 11, 1984; Emergency Services Manual revised through May 11, 1984; Safety Rules and Practices revised through May 11, 1984; Pharmacy Manual revised through May 11, 1984; Medical Procedures Manual dated February 10, 1983; The Living Unit dated February 10, 1983; and Social Services Manual dated February 10, 1983. These manuals set forth the policies and procedures used in the Children's Treatment Services program to provide care and treatment for juveniles residing in this facility. These manuals may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky; and Children's Treatment Service, Lakeland Road, Louisville, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 17, 1984 at 9 a.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

##### 905 KAR 8:010E. Older Americans Act audit guide.

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

##### 905 KAR 8:030E. Meal standards for the Older Americans Act.

RELATES TO: KRS 205.204

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 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 stan-

dards 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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

##### 905 KAR 8:040E. Allocation formula for Older Americans Act.

RELATES TO: KRS 205.201, 205.204  
PURSUANT TO: KRS 194.050  
EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

##### 905 KAR 8:050E. Older Americans Act procedural instructions for contractors.

RELATES TO: KRS 205.204  
PURSUANT TO: KRS 194.050  
EFFECTIVE: May 16, 1984

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 16, 1984 at 3:45 p.m.

## STATEMENT OF EMERGENCY

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Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of Aging Services**

**905 KAR 8:060E. Older Americans Act state plan.**

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

NECESSITY AND FUNCTION: P.L. 89-73, "Older Americans Act," as amended, authorizes grants to states for community planning and services and for training through research, development, or training project grants, to provide assistance in the development of new or improved programs to help 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 Kentucky State Plan on Aging under Title III of the Older Americans Act in accordance with applicable federal laws and regulations.

Section 1. State Plan on Aging Under Title III. The Cabinet for Human Resources hereby adopts the "State Plan on Aging Under Title III of the Older Americans Act—Fiscal Year 1983-84" and the "State Plan on Aging Under Title III of the Older Americans Act—Fiscal Year 1984-85," by reference, as the Kentucky regulation for aging services under Title III covering all phases of the program included but are not limited to state agency organization, state agency responsibilities, planning and service area agencies on aging, needs and priorities for service, training, assessment, nutrition contracts, advocacy, ombudsman, special projects, allocation of funds, and other relevant components of the program. A copy of the State Plans on Aging under Title III of the Older Americans Act have been filed with the Department of Health and Human Services, Administration on Aging, 101 Marietta Tower, Atlanta, Georgia 30323. A copy shall be on file and available for public review 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 16, 1984 at 3:45 p.m.

## STATEMENT OF EMERGENCY

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MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of Aging Services**

**905 KAR 8:080E. Older Americans Act financial management and nutrition guides.**

RELATES TO: KRS 205.204

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 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 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 16, 1984 at 3:45 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of Aging Services**

**905 KAR 8:110E. Homecare fee schedule for the elderly.**

RELATES TO: KRS 205.460  
PURSUANT TO: KRS 194.050  
EFFECTIVE: May 16, 1984

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 of this regulation, 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  
FILED WITH LRC: May 16, 1984 at 3:45 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of Aging Services**

**905 KAR 8:120E. Homecare policy manual for the elderly.**

RELATES TO: KRS 205.455 to 205.465  
PURSUANT TO: KRS 194.050  
EFFECTIVE: May 16, 1984

NECESSITY AND FUNCTION: KRS 205.460 authorizes the Cabinet for Human Resources to provide, *within budgetary limitations, in-home services for the aging to include*, but not necessarily limited to, homemaker services, home-help therapy services, day care services, home delivered meal services, transportation services, foster care services, and health services. The function of this regulation is to establish policies and procedures for carrying out this mandate.

Section 1. The Cabinet for Human Resources hereby adopts, by reference, the "Homecare Policy Manual for the Elderly," completed as of May 11, 1984, as the operating policies and procedures to be followed by contractors participating in the Department for Social Services Homecare Program. This manual includes instructions regarding extraordinary medical expenses, assessments and reassessments, assessment and case management services, units of service, service definitions, reporting and format procedures, and Title III program income and other relevant components of the program. The Homecare Policy manual may be reviewed in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, or any

of the department's field offices located in each of the 120 counties.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

##### 905 KAR 8:130E. Allocation formula for Homecare.

RELATES TO: KRS 205.201, 205.460

PURSUANT TO: KRS 194.050

EFFECTIVE: May 16, 1984

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 16, 1984 at 3:46 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of Inspector General

##### 906 KAR 1:010E. Policies and procedures pertaining to audits.

RELATES TO: KRS 194.030(10)

PURSUANT TO: KRS 194.050(1)

EFFECTIVE: May 16, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 194.050(1) to establish regulations relating to operations of programs within the cabinet. KRS 194.030(10) provides that the Office of the Inspector General shall be responsible for the conduct of audits. The function of this regulation is to adopt applicable policies and procedures for audits and examinations of programs within the Cabinet for Human Resources, its grantees and contractors.

Section 1. Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. The 1981 revision of the U.S. General Accounting Office (GAO) "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" is hereby adopted by reference.

Section 2. Accounting Standards. The June 1, 1983 edition of the "Accounting Standards" published by the Financial Accounting Standards Board, High Ridge Park, P.O. Box 3821, Stamford, Connecticut 06905-0821 is hereby adopted by reference.

Section 3. Federal Regulations, Circulars, and Principles of Reimbursement Manual for Governmental Programs. The "Federal Regulations, Circulars, and Principles of Reimbursement Manual for Governmental Programs, Office of the Inspector General," (two (2) volumes) dated May 14, 1984 is hereby adopted by reference. This manual includes: Federal Regulations, Title 45 Part 74 and 96; Federal Regulations, Title 42 Part 447; Federal Regulations, Title 7 Part 246; Federal Management Circular (FMC) 74-4 and 74-7; Federal Office of Management and Budget (OMB) Circular A-21, A-87, A-102, A-110, and A-122; Federal Health Insurance Manual (HIM) 16; Health, Education and Welfare (HEW)—Cost Principles OASC 1, 3, 5 and 10; Title XIX, Title XX and Department of Health Services Funding Manual for Community Mental Health-Mental Retardation (FY 1983).

Section 4. Location of Manuals Referenced in this



Regulation. A copy of each manual referenced in this regulation is on file in the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621 and is open to public inspection.

JAMES L. HARDEE  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984  
FILED WITH LRC: May 16, 1984 at 3:45 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement these regulations or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement these emergency regulations. Ordinary administrative regulations cannot suffice since no administrative regulations have been filed with respect to these subject matters previously. These emergency regulations will be replaced by ordinary administrative regulations in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary  
Cabinet for Human Resources

#### CABINET FOR HUMAN RESOURCES Office of Inspector General

**906 KAR 1:020E. Inspection policies and procedures pertaining to licensing and regulation.**

RELATES TO: KRS 194.030(10)  
PURSUANT TO: KRS 194.050(1)  
EFFECTIVE: May 16, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 194.050(1) to establish regulations relating to operations of programs within the cabinet. KRS 194.030(10) provides that the Office of Inspector General shall be responsible for such licensing and regulatory functions as the secretary may delegate. The function of this regulation is to adopt applicable policies and procedures for regulation of health and social services facilities.

Section 1. State Operations Manual. The "State Operations Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 2. Federal Participation Requirements Manual. The "Federal Participation Requirements Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference. This manual includes: 42 CFR 416.40—42 CFR 416.49; 42 CFR Parts 405, 488 and 489; 405.2100—405.2171; 41 CFR 22511, 6/3/76; 42 CFR Parts 400, 405, 408, 409, 418, 420, 421, and 489; 405.1220—405.1229; 38 CFR 18278, 7/16/73; 405.1020—405.1034; 39 CFR 2251, 1/17/74; 405.1037—405.1038; 42 CFR 442.250—442.405; 42 CFR 442.400—442.516; 42 CFR 442.320—442.342; 42 CFR 405.1310—405.1317; 405.1702—405.1726; 42 CFR 405.1731—405.1737; 42 CFR 405.1411—405.1416; 43 CFR 8261—3/1/78—405.2401—405.2430; 42 CFR 52826—7/30/77—405.1101—405.1137; 42 CFR Parts 405, 409 and 489; 42 CFR parts 405, 435, 440, 442 and 447; 42 CFR 405.1121, 442.311, and 442.404; 405.1501—405.1595; 405.1901—405.1913; 39 CFR 2251—1/17/74.

Section 3. Health Care Financing Administration Transmittals Manual. The "Health Care Financing Administration Transmittal Manual, Office of Inspector General," (two (2) volumes), dated May 14, 1984, is hereby adopted by reference.

Section 4. Manual of Survey Techniques and Practices. The "Manual of Survey Techniques and Practices, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 5. Intermediate Care Facilities and Intermediate Care Facility for the Mentally Retarded Interpretive Guidelines and Bedfast Policy Manual. The "Intermediate Care Facilities and Intermediate Care Facilities for the Mentally Retarded Interpretive Guidelines and Bedfast Policy Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 6. Location of Manuals Referenced in this Regulation. A copy of each manual referenced in this regulation is on file in the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, and is open to public inspection.

JAMES L. HARDEE, Inspector General  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984  
FILED WITH LRC: May 16, 1984 at 3:45 p.m.

# Amended After Hearing

## DEPARTMENT OF LAW Division of Consumer Protection (Amended After Hearing)

### 40 KAR 2:010. Recreational and retirement use land, disclosure costs.

RELATES TO: KRS 367.472, 367.480

PURSUANT TO: KRS [13.082.] 367.480

**NECESSITY AND FUNCTION:** This regulation is necessitated by KRS 367.480, which requires the Attorney General to promulgate rules and regulations which will ensure an adequate disclosure to the purchaser of recreational and retirement use land the probable costs of any necessary maintenance or improvements of such land which may accrue in the future.

Section 1. Disclosures. Any subdivider of recreation and retirement use land as defined by KRS 367.472 shall give a full and complete disclosure to the purchaser of a lot, parcel, unit or other interest thereof of any probable costs of any necessary maintenance or improvements of said land which may accrue in the future. Said disclosure must be made both orally and in writing [at least ten (10) days] prior to the signing of a contract or agreement to purchase. [Any purchaser receiving such disclosure shall, at least two (20) days prior to the signing of a contract or agreement to purchase, be made aware of any material changes in the disclosure which could reasonably affect their decision to purchase. Notice of such changes in the probable cost of any necessary maintenance or improvements shall be made through an amended written and oral disclosure. In the event an amended written disclosure has not yet been prepared, an oral disclosure will be deemed sufficient.] Said disclosure shall include but is not limited to:

(1) The probable costs for each of the following:

(a) Maintenance of improvements;

(b) The cost of taxes for the property as of the date the contract or agreement to purchase is signed, as well as any tax increases that will occur or which there is reasonable cause to believe could occur within the next five (5) years;

(c) The cost of any assessments to the property at the time the contract or agreement to purchase is signed, as well as a reasonable projection of increases in such assessments which could occur within the next five (5) years;

(d) Cost of repairs and other improvements;

(2) Whether any maintenance or improvements costs, taxes, assessments, repair or other improvement costs are being assumed or borne by the subdivider at the time the solicitation for sale is made and, if so, the amount assumed by the subdivider for each such item, the date the subdivider will no longer assume or bear said costs, and those who will assume or bear such costs once the subdivider is no longer liable;

(3) Whether any person or persons, as defined by KRS 367.472(3), other than the subdivider, assumes or bears any maintenance costs, taxes, assessments, repair or improvement costs at the time the solicitation for sale is made and, if so, the amount assumed by this person or persons for each such item, the date this person or persons will no longer assume or bear such costs, and those who will assume or bear such costs once this person or persons is no longer liable;

(4) Whether membership in an organization or association of property owners is required and whether the cost of said

association is borne in whole or in part by the subdivider or the purchaser. If such costs are borne in whole or in part by the subdivider, the subdivider must disclose:

(a) The amount of costs being borne by the subdivider and the amount being borne by the purchasers;

(b) The amount of cost to the purchaser when the subdivider stops bearing the costs;

(c) The date on which the subdivider will stop bearing the costs;

(d) The number of property owners and/or association members upon which this cost figure is based.

(5) Any projection of cost that has been made or can reasonably be made for future repairs or improvements to the property within the next five (5) years which will be paid directly or indirectly by the purchaser;

(6) Whether future development and/or construction is anticipated by the subdivider and whether said development and/or construction can reasonably be expected to result directly or indirectly in added costs for maintenance of improvements, taxes, assessments, repairs or other improvements to a property owner. If additional costs are anticipated, the subdivider must disclose:

(a) Whether these costs will be borne in whole or in part by the subdivider;

(b) The amount of costs being borne by the subdivider;

(c) The date on which the subdivider will stop bearing the cost;

(d) The amount of the costs to the purchaser for the next five (5) years;

(e) The number of property owners upon which this cost figure is based;

(7) Any other costs or fees assessed directly or indirectly to the purchaser for maintaining the property that can be reasonably anticipated by the subdivider for the next five (5) years.

Section 2. The subdivider shall file with the Office of the Attorney General, Division of Consumer Protection, a copy of the written disclosures required by Section 1 of this regulation. The subdivider is required to keep current the information on which the disclosures required by Section 1 of this regulation are based and shall immediately notify the division of any material changes in the information contained in the disclosure and shall make appropriate amendment of the written and oral disclosure statements.

Section 3. Penalties. Any person who fails to make the oral and written disclosures required by Section 1 of this regulation shall be subject to prosecution pursuant to KRS 367.484.

STEVEN L. BESHEAR, Attorney General

APPROVED BY AGENCY: May 22, 1984

FILED WITH LRC: May 22, 1984 at 4:20 p.m.

# Proposed Amendments

## FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems (Proposed Amendment)

### 105 KAR 1:010. Contributions and interest rates.

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

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

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

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

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

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

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

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

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

Section 4. Reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to Normal Retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, *unless the provisions of subsections (1) through (5) of this section are applicable and result in a higher percentage payable [below, except]:*

(1) A SPRS, CERS Hazardous or KERS Hazardous duty member who is age fifty (50) or older and would attain twenty (20) [thirty (30)] years of service (fifteen (15) years of which

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

TABLE A

Years Required to Complete 20 [30] Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

[(2) A SPRS or CERS hazardous duty member who is age fifty (50) or older and would attain twenty-five (25) years of service (for SPRS, fifteen (15) of which would be current service) prior to age fifty-five (55), if his employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:]

[TABLE B

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

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

TABLE B [C]

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

(3) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) with twenty-five (25) or more years of service (at least fifteen (15) of which are current service) shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%

(4) A KERS or CERS non-hazardous member *with less than twenty-five (25) years of service* who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on TRS, SPRS, CERS Hazardous or KERS Hazardous Early retirement eligibility, and would have attained thirty (30) or more years of service (fifteen (15) of which would be current service) on or before reaching his 65th birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table B [(C)] based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE D

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

(5) A SPRS, CERS Hazardous or KERS Hazardous member who dies prior to age fifty (50) and would have attained *twenty (20) [thirty (30)]* or more years of service (fifteen (15) of which would be current service) on or before reaching his 55th birthday, if employment were continued, shall have benefits payable as determined from Table E [C] based on the number of years required to complete *twenty (20) [thirty (30)]* years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time of death.

TABLE E

Years Required to Complete 20 [25] Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

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

TABLE F

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

TABLE G

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

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

(6) [(7)] Benefits paid in the event of death prior to retirement pursuant to subsection (1) through (5) [(6)] of this section, shall be reduced as required by KRS 61.640 and as determined in "Contingent Annuity Factors," "Integrated Survivor Factors" and "Ten Year Certain Factors" incorporated herein by reference in this regulation.

(7) *The provisions of this section shall become effective for members retiring on August 1, 1984 and thereafter.*

CHARLES L. BRATTON, General Manager  
JOHN D. ROBEY, Chairman

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 15, 1984 at 10 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation is scheduled for 3 p.m. on Monday, July 23, 1984, at the Kentucky Retirement Systems office at 226 West Second Street in Frankfort, Kentucky. Anyone interested in attending this hearing shall contact in writing the following office by July 18, 1984: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

**FINANCE AND ADMINISTRATION CABINET  
Division of Occupations and Professions  
Kentucky Board of Ophthalmic Dispensers  
(Proposed Amendment)**

**201 KAR 13:040. Licensing; application, examination; temporary permit.**

RELATES TO: KRS 326.020

PURSUANT TO: KRS [13.082,] 326.020(3)

**NECESSITY AND FUNCTION:** To provide for the licensure of ophthalmic dispensers, apprentice ophthalmic dispensers, and temporary permits; specification of requirements for licensure and applications for licenses.

**Section 1. Application for License.** (1) Any person wishing to obtain the right to practice the vocation of dispensing optician, under KRS Chapter 326, shall make application to the Kentucky Board of Ophthalmic Dispensers upon Form O.D. No. 3-1, adopted by the board May 17, 1966, herein filed by reference; and shall obtain a license from the board permitting him to do so. Unless such person shall have obtained a license as above stated, it shall be unlawful for him to engage in the vocation of dispensing optician within the state of Kentucky, and he shall be subject to the penalties prescribed under the statute. The board shall admit to examination any candidate who pays the required fee of twenty-five (25) dollars and who submits satisfactory evidence to the board, under oath, that he qualifies under the rules and regulations adopted by the board.

(2) The applicant must be eighteen (18) years of age, of good moral character, a citizen of the United States, and must have completed at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of a licensed ophthalmic dispenser; licensed physician, osteopath or optometrist, or be a graduate of an accepted school of ophthalmic dispensing. Such two (2) years of train-

ing and experience must be as a licensed apprentice as hereinafter mentioned unless it is clearly shown to the satisfaction of the board, in its sole discretion, that the training and experience of the applicant is otherwise satisfactory, provided, however, that any time spent in a recognized school for ophthalmic dispensing or in an optical laboratory as an ophthalmic technician may, at the discretion of the board, be considered as a part of the two (2) years of satisfactory training and experience.

(3) Applicants for examination may be examined by the board upon matters pertaining to mathematics and physics, ophthalmic materials and laboratory techniques, ophthalmic optics, ophthalmic dispensing and practical subjects. When any applicant passes the necessary examination and meets the qualifications as set forth, the board shall issue a license to such person to engage in the vocation of dispensing optician within the state of Kentucky. Such license shall be subject to renewal on December 31 of each year, upon renewal application Form No. 2, herein filed by reference, and upon the payment of the required fee of ten (10) dollars, wherein a renewal certificate will be issued.

(4) An applicant training as an apprentice must pass the examination within five (5) years of expiration of his apprenticeship term. *Those having fully served an apprenticeship prior to August 3, 1983 shall be deemed to begin the five (5) year period as of that date.*

**Section 2. Apprentice License Application.** For the encouragement and protection of those desiring to enter the vocation of ophthalmic dispensing as defined by KRS Chapter 326, the board has provided an apprentice training program. Applicants for apprentice licenses shall use the same form provided for other applicants in Section 1 of this regulation, and shall answer all questions except Sections (3) and (7)a, b, c, and d. All other questions must be filled out and the applicant must show good faith of his intention to learn the vocation of ophthalmic dispensing; that he intends to apply himself to the subject; and that at the earliest date after the expiration of two (2) years apprenticeship training, he intends to apply to the board for examination to be licensed as an ophthalmic dispenser. Since this program is designed to encourage apprenticeship training and the development of highly skilled and well qualified ophthalmic dispensers, the board will limit the number of apprentices to not more than one (1) apprentice to each active registered ophthalmic dispenser in each establishment.

**Section 3. Temporary Permit Application.** The board may issue a temporary permit to qualified ophthalmic dispensers, who otherwise would qualify for a license but are in the state on a temporary basis or who have not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board. Applicants for temporary permits shall use the same form provided for other applicants in Section 1 of this regulation, and shall answer only Sections (7) and (8). The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance. The fee for a temporary permit shall be ten (10) dollars, which amount shall accompany the application.

**Section 4. Board Action, Notification.** (1) The board will act only upon those applications which are completely and properly filled out by the applicant. Each applicant must enclose the prescribed license fee in the form of a check or money order made payable to the Commonwealth of Kentucky State Treasurer.

(2) Applicants will be notified of the action of the board; and, if favorable, when and where the examination will be held.

FRANK B. SANNING, Chairman

APPROVED BY AGENCY: May 17, 1984

FILED BY LRC: May 29, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on the 23rd day of July, 1984, at 2 p.m., at the Office of the Chairman, 640 Fourth Avenue, Louisville, Kentucky 40202. Those interested in attending this hearing shall contact in writing: Frank B. Sanning, Chairman, Kentucky Board of Ophthalmic Dispensers, 640 Fourth Avenue, Louisville, Kentucky 40202.

**FINANCE AND ADMINISTRATION CABINET**  
**Division of Occupations and Professions**  
**Kentucky Board of Ophthalmic Dispensers**  
**(Proposed Amendment)**

**201 KAR 13:050. Apprentices.**

RELATES TO: KRS 326.020

PURSUANT TO: KRS [13.082,] 326.020(3)

NECESSITY AND FUNCTION: To define the terms "Ophthalmic Dispenser" and "Apprentice Ophthalmic Dispenser" and to specify the rights, powers and duties of the board with regard to Apprentice Ophthalmic Dispensers.

Section 1. Definition. The term "ophthalmic dispenser" whenever used herein includes licensed physician, osteopath, optometrist and opticians licensed under KRS Chapter 326.

Section 2. Apprentices. (1) An apprentice ophthalmic dispenser is one who is in training for the vocation of ophthalmic dispenser and as such dispenses ophthalmic lenses, frames and appurtenances thereto to the intended wearer only under the supervision of a licensed ophthalmic dispenser.

(2) An apprentice license shall be required of any person who is not a licensed ophthalmic dispenser, but who is in training as such and while in training works under the direct supervision of a licensed ophthalmic dispenser, and whose duties require that he perform such services as would be normally performed by a licensed ophthalmic dispenser. The board may revoke the apprentice license at any time should either the employer or the apprentice fail to carry out the provisions of this regulation.

(3) A licensed apprentice ophthalmic dispenser shall at all times work under the direct supervision and in the same establishment with a licensed ophthalmic dispenser, and the licensed ophthalmic dispenser shall be responsible for his acts.

(4) The board will issue a license for a period ending December 31 of the current year, at which time an application for renewal may be presented. *The chairman is authorized to issue a temporary apprentice permit which becomes effective as a permanent apprentice license pending approval by the board at its next regular meeting. The permanent apprentice license [Such license] may be renewed for a period of one (1) year upon application to the board, accompanied by the required fee of ten (10) dollars and a progress report on the progress of the apprentice, signed by the sponsor giving evidence satisfactory to the board that the applicant is diligently and conscientiously applying himself to the subject. In the event the apprentice's employment under the sponsoring ophthalmic dispenser is terminated for any reason, the board shall be notified immediately [and the existing apprentice license cancelled].*

(5) In the interest of adequate training for the apprentice, the sponsor shall file an outline of the training schedule he proposes to follow in training the apprentice, and also shall satisfy the board that the facilities of his establishment are sufficient to provide such training. The board will limit the number of apprentices to not more than one (1) apprentice to each licensed ophthalmic dispenser in each establishment.

(6) The applicant must give evidence of good faith in his intention to learn the vocation of ophthalmic dispensing; that he intends to apply himself to the subject and at the earliest date possible, after the expiration of two (2) years apprenticeship training, he intends to apply to the board for examination and to qualify as a licensed ophthalmic dispenser. The board may at its discretion refuse to further renew the license should he fail to carry out the provisions of this regulation.

(7) The board will supply, upon request, a list of approved textbooks covering the subjects on which the examination will be based. For those who are interested in attending a college or university where courses of ophthalmic dispensing are offered, the board will cooperate and offer every assistance possible.

(8) The board reserves the right to reject the application for an apprentice license or to rescind a license already issued if, upon inspection, it is found that any of the requirements for an apprentice license, as outlined in the rules and regulations are being violated. All rules of conduct, paying of fees, suspensions or revocations and all other rules and regulations not specifically excluding apprentice licenses shall apply to the licensed apprentice ophthalmic dispenser.

FRANK B. SANNING, Chairman

APPROVED BY AGENCY: May 17, 1984

FILED WITH LRC: May 29, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on July 23, 1984, at 2:00 p.m., at the Office of the Chairman, 640 Fourth Avenue, Louisville, Kentucky 40202. Those interested in attending this hearing shall contact in writing: Frank B. Sanning, Chairman, Kentucky Board of Ophthalmic Dispensers, 640 Fourth Avenue, Louisville, Kentucky 40202.

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

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

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

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

NECESSITY AND FUNCTION: KRS 224.033(24), 224.886, and 224.887 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for counties, combinations of counties, *cities*, and waste management districts in creating solid waste management areas for the purpose of planning for solid waste management and recovery activities. This chapter establishes the requirements for solid waste planning. This regulation defines essential terms and sets forth general provisions which apply to all counties, combinations of counties and waste management districts seeking designation as solid waste management areas. This regulation neither prohibits nor discourages the partici-



pation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

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

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

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

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

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

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

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

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

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

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

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

(8) [(9)] "Planning period" means the interval of time designated for the accomplishment of area solid waste management planning goals:

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

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

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

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

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

(11) [(12)] "Resource conservation" means reduction of the amount of solid waste that is [are] generated, reduction of overall resource consumption, or, [and] utilization of recovered resources.

(13) "Revision" means an amendment to any part of an application for area designation, including the approved area plan, required by the cabinet. The cabinet may require a revision upon determining that the application for area designation or the area plan are not in compliance with the requirements contained in this chapter, or upon a determination by the cabinet that the approved area plan is not being implemented.]

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

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

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

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

(15) [(18)] "Transfer" means *the placement of solid waste from smaller collection vehicles into larger vehicles for transportation to other intermediate or final disposal facilities* [any on-site movement of solid waste by any mode and any loading, unloading or storage incidental thereto, or any movement of solid waste to a larger receptacle].

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

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

Section 3. Notification of Intent to Apply for Area Designation. (1) Identification of lead agency. [Application for designation as a solid waste management area must conform to the requirements in 401 KAR 49:030, Designation as solid waste management area.] After a county decides to join with another county or counties *or to assume joint responsibility with a city*, or to independently submit an area plan, the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which [chief] legislative power is vested, or such other office or agency responsible for area

plan submittal shall notify the cabinet in writing *by January 1, 1985*, [within forty-five (45) days of the effective date of this regulation] of the intent to apply for area designation. *One (1) or more cities may be delegated the responsibility for developing an area solid waste management plan or providing solid waste management services where both the city and county agree to such delegation. Regardless of any such delegation, the county shall retain primary responsibility for solid waste management. Upon receipt of a Notification of Intent to Apply*, the cabinet will transmit copies of the notification of all counties in Kentucky contiguous to the proposed solid waste management area. The notification shall state:

(a) Whether the *applicant* is [county or counties are] acting independently, jointly or as a waste management ne (1) or more cities may be delegated the responsibility for developing an area solid waste management district;

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

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

[(d)] The name and title of each person who is on the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative for plan development.]

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

#### Section 4. Establishment of Waste Management Districts.

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

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

(a) The agreement which establishes the district;

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

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

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

Section 5. Request for Information. [(1) Documents provided by the cabinet. A county, group of counties or waste management district may request copies of documents prepared by the cabinet to assist local governments in preparing the area plan.] The cabinet will provide at no cost [charge] one (1) copy of each document listed in subsections (1) through (6) of this section [subsection (2) of this section] to

the fiscal court of each county, board of directors or other duly authorized office or agency. Additional copies will be provided upon request, at cost.

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

(1) [(a)] Kentucky Solid Waste Management Regulations.

(2) [(b)] Kentucky Solid Waste Management Planning Regulations.

(3) [(c)] Guidelines for Landspreading.

(4) [(d)] Kentucky Waste Management Plan. [and]

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

(6) *Guidelines for the Development and Formulation of Area Solid Waste Management Plans.*

[(3) Additional information available.]

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

[(b) The cabinet will provide upon request by any person, agency or office copies of the documents listed in subsection (2) of this section at cost. A request for documents shall be submitted in writing to the cabinet.]

Section 6. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 15, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on July 26, 1984, at 1 p.m., EDT, in the Capital Plaza Tower Auditorium, Frankfort, Kentucky. Persons interested in attending this public hearing shall contact in writing by 4:30 p.m. EDT on July 21, 1984: J. Alex Barber, Director, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

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

#### 401 KAR 49:020. Submission of area plan.

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

PURSUANT TO: KRS [13.082,] 224.033, 224.887

NECESSITY AND FUNCTION: KRS 224.887 authorizes the cabinet to promulgate regulations consistent with the statewide plan and KRS 109.011(11) requires waste management districts and solid waste management areas to comply with standards set by regulations promulgated by the cabinet. This chapter established the requirements for solid waste

planning. This regulation identifies the criteria for area plans and establishes submission requirements. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

**Section 1. Applicability.** Each county is responsible for preparing, adopting, maintaining, updating and implementing a comprehensive, coordinated area solid waste management plan. *A county may delegate responsibility for preparing an area-wide plan to a city if the city agrees to assume such responsibility. Cities operating solid waste facilities or services, or contracting with a person to provide such facilities or services on or before July 15, 1984, and paying a pro rata share of the cost of plan development, may assume joint responsibility with a county for plan development.* A county, counties, city, urban-county government or waste management district shall prepare the area plan in accordance with the requirements of this regulation.

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

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

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

(4) The area plan shall establish an orderly procedure for achieving the objectives of KRS Chapters 109 and 224, meeting the requirements of the solid waste management regulations, and demonstrating conformance with the Kentucky Waste Management Plan. This procedure shall specifically describe the activities to be undertaken, including detailed schedules and milestones in accordance with Section 4(5) and (6) of this regulation.

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

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

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

(a) In meeting the requirement for resource conservation

and recovery, storage, treatment and disposal activities and facilities, the area plan shall provide for an assessment of the adequacy of existing activities and facilities and the need for new, improved or expanded activities and facilities.

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

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

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

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

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

(2) Area strategies for facility development.

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

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

(c) The area plan shall provide for procedures to determine which facilities and activities shall be given priority for implementation by the proposed area. Highest priority shall be given to facilities developed to replace or upgrade open dumps.

**Section 4. Contents of Area Plan.** The area plan shall document *those* [these] policy decisions *adopted* [made] by the solid waste management area in addressing its solid waste management needs. The development of the plan shall follow the general outline provided in the "Guidelines for the Development and Formulation of Area Solid Waste Management Plans" referenced in 401 KAR 49:010, Section 5(2)(e), which is hereby incorporated by reference, and any revision or update should address itself to the following information elements:

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

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

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

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

demolition debris, and other [problem] wastes, and describe their effect on the proposed area plan.

(3) An inventory and description of all existing solid waste management activities and facilities. Descriptions should be in sufficient detail to assess the adequacy of facilities and activities. Nothing in this section shall be construed to require any information which is not publicly available or that is not voluntarily provided by the private sector involved in the waste management industry. The inventory and description shall, where applicable:

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

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

(b) The description shall include the identity, location, life expectancies, ownership, cost to users, and the level of compliance with state and federal laws.

(c) [(b)] Include an inventory of the major deficiencies, if any, of the existing solid waste management activities and facilities to meet the short-term, mid-term and long-term needs of the area. Deficiencies may include lack of adequate personnel or equipment, inadequate collection or storage facilities, inadequate enforcement of littering laws, anticipated need for additional disposal capacity and other deficiencies within the area which are identified as major deficiencies within the county(ies). Identify major problems to be addressed by the plan and opportunity for improvement.

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

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

(6) A detailed schedule and description of public activities to be undertaken shall be provided based upon an analyses of alternative waste management options.

(a) Description of public activities.

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

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

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

- a. Designation of service areas served through franchises, permits, contracts and/or governmental services.
- b. Level of service.
- c. Means of collection and transportation.
- d. Ultimate destination of collected wastes.

c. Description of proposed transfer stations.

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

4. [5.] Disposal. The plan shall describe the site and facility ar [the method by] which solid wastes are to be disposed.

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

b. Where the existing disposal facility is assessed as having a life expectancy less than five (5) years or where no permitted facility is currently available to the area, the plan shall describe the public strategy that will be undertaken to obtain access to [develop] a disposal [new] facility. This strategy shall demonstrate how residents within the planning area will within the short-term planning period have a reasonable ability to dispose of their waste in an environmentally and legally sound manner. A general description of disposal needs shall be provided based on projected waste volumes, sources and types. The plans shall outline a siting procedure and development program, or the means by which the private sector will be encouraged or supported to provide for the orderly location, development and financing of new or expanded solid waste disposal facilities.

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

d. The plan shall identify planned programs to be implemented for the control and cleanup of open dumps and prevention of littering. Programs may include public education, enforcement of ordinances, and cleanup activities.

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

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

1. Initiation of new administrative programs;
2. Purchase of equipment or land;
3. Obtaining required state and federal permits;
4. Modifications or additions to local laws and regulations;
5. Commencement of new or expanded activities; and
6. Selection of sites for facilities; and
7. Coordination with or support for private sector waste management activities.

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

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

(a) An analysis of the feasibility for new, improved or expanded materials or energy recovery activities or facilities. Es-

timated per ton costs associated with collection and disposal activities shall be compared to per ton costs of alternative resource recovery activities; and

(b) Where resource recovery and source separation activities are not adopted, the plan shall state the reasons for the decision.

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

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

(10) *Designation of a person, public agency, committee, commission, district or other institutional organization responsible for implementing the area plan. A description of their general responsibilities, authority and enforcement procedures shall be included.*

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

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

(2) Request for revisions to the draft area plan. Upon finding that the draft area plan is not in compliance with the Kentucky Waste Management Plan and all applicable laws and regulations, the cabinet will notify the fiscal court, board of directors or, in the case of an urban-county government, the body in which [chief] legislative power is vested, or the assigned office or agency, of the plan deficiencies. If the deficiencies in the draft area plan are substantial or significant, the cabinet may, in lieu of a list of deficiencies, present a course of action to the fiscal court, board of directors or, in the case of an urban-county government, the body in which [chief] legislative power is vested or the office or agency which could expedite the submission of an acceptable area plan. The cabinet will provide notification [notify the fiscal court] of necessary revisions or establish a schedule for notification within sixty (60) days of submittal of the draft area plan.

*Section 6. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or uncon-*

*stitutional for any reason, the remainder of this chapter shall not be affected thereby.*

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 15, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on July 26, 1984, at 1 p.m. EDT, in the Capital Plaza Tower Auditorium, Frankfort, Kentucky. Persons interested in attending this public hearing shall contact: J. Alex Barber, Director, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. EDT on July 26, 1984.

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

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

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

PURSUANT TO: KRS [13.082,] 224.033, 224.887

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

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

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

(8) A map of the proposed area drawn to scale, of at least 1:125,000;

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

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

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

(12) A resolution approving the plan from those city legislative bodies in the proposed area that have participated in and provided financial assistance in plan development.

## Section 2. Designation as a Solid Waste Management Area.

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

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

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

Section 4. Area Plan Adoption and Revision. Prior to applying for designation as a solid waste management area, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which [chief] legislative power is vested, shall issue a public notice indicating their intent to apply for designation as a solid waste management area and that a solid waste management plan is available

for public review [hold a public hearing or meeting to approve the application for designation as a solid waste management area and the proposed area plan].

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

(2) Each fiscal court in the proposed area prior to adopting the area solid waste management plan shall:

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

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

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

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

(b) The schedule for implementation of the program;

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

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

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

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

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

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

Section 5. City Government and Private Sector Roles in



Solid Waste Management. (1) No city shall be authorized to prepare an area plan or apply for designation as a solid waste management area unless the county [fiscal court(s)] or [board of directors of the ] waste management district delegates responsibility for area plan development to the city. Area plans prepared by a city *shall* [must] address solid waste management problems and activities at both the city and county levels.

(2) If a county fails to submit an area plan by *June 30, 1985* [January 1, 1984], a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.056, 109.059, and 109.062.

(3) As provided in KRS 109.011(8), it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109. An area as authorized by KRS 109.041(7) may provide for the delivery of solid waste activities through use of a public agency, or a franchise, contract, or lease. In areas where it can be demonstrated that the private sector can adequately deliver [desired] solid waste management services without public agency involvement, the area plan shall address itself to what steps the proposed area could take, if any, to assure that such services will be provided.

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

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

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

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

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

Section 7. Area Submission. (1) Submission date. The application for designation as a solid waste management area and area plan shall be submitted to the cabinet by *December 30, 1985* [July 1, 1983]. *One (1)* [A] six (6) month extension may [shall] be granted by the cabinet, if the county, city [counties], or waste management district has demonstrated, in the cabinet's judgment, a good faith effort to develop an area plan. Should a county, counties or waste management district find a six (6) month extension necessary, the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which [chief] legislative authority is vested, or other duly delegated office or agency shall submit a request in writing to the cabinet which details the extent of plan development accomplished and cites the need for an extension of the deadline date.

(2) Copies required. The county, counties or waste management district shall submit one (1) copy of the applica-

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

Section 8. Enforcement. (1) *Failure to prepare an area solid waste management plan by December 30, 1985, or if an extension is granted by June 30, 1986, is subject to the penalty provisions contained within KRS 224.994.*

(2) Citizen petition. If a fiscal court or, in the case of an urban-county government, the body in which [chief] legislative authority is vested, fails to establish a solid waste management plan by *December 30, 1985* [January 1, 1984], the citizens of the county may petition the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, to request preparation of an area plan. The petition shall be signed by a number of citizens equal to ten (10) percent of the votes cast in the county for the office receiving the greatest total votes in the last general election. The petition shall be filed with the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, asking that the proposition whether to develop a plan be placed on the ballot of the next general election. [The cabinet will develop and maintain a list of counties which have received designation as solid waste management areas and the status of those counties which have not received area designation. This list will be made available to the public. Upon determination by the cabinet that no substantial progress is being made by a county in area plan preparation by January 1, 1984, the cabinet may hold a public meeting in those counties to discuss the need for an alternative approach to plan preparation.]

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

(4) [(3)] Permit application and compliance with area plan. Where facilities are proposed in areas with approved plans, the cabinet will review the area plan to insure that the proposed facility complies and is consistent with the area plan before a permit is issued. In reviewing the application for a new facility, the cabinet will consult with the solid waste management area to determine if the proposed facility is consistent with the approved area solid waste management plan. If the proposed facility is not consistent or in compliance with the approved area plan, the cabinet may deny the permit for the new facility unless a revision to the plan is requested by

the solid waste management area. If the proposed facility is consistent and in compliance with the area plan and other applicable laws and regulations, cabinet review will follow [be accomplished in accordance with the provisions of] KRS 224.855.

*Section 9. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.*

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH AGENCY: June 15, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on July 26, 1984, at 1 p.m. EDT in the Capital Plaza Tower Auditorium, Frankfort, Kentucky. Persons interested in attending this public hearing shall contact in writing by 4:30 p.m. EDT on July 21, 1984: J. Alex Barber, Director, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. EDT on July 26, 1984.

**LABOR CABINET**  
**Department of Workplace Standards**  
**Occupational Safety and Health**  
**(Proposed Amendment)**

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

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS Chapter 338 [13.082]

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

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

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

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

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

(a) "Act" means KRS Chapter 338.

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

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

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

(e) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

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

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

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

(3) 29 CFR 1910.20 "Access to employee exposure and medical records" is amended as follows:

(a) 29 CFR 1910.20(e)(1)(i) is amended to read "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but no longer than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

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

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

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

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

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

(5) 29 CFR 1910.95 "Hearing Conservation Program" paragraphs (c) through (p) and appendices A, B, C, D, E, F, G, H, and I as published in the Federal Register, Volume 48, Number 46, March 8, 1983 and Volume 48, Number 125, June 28, 1983 are adopted by reference and amended as follows:

(a) 29 CFR 1910.95(h)(1) shall read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz must be included in the audiometric tests for employers using audi-

ometers with that capacity and all audiometric tests must include 8,000 Hz after January 15, 1985.

(b) 29 CFR 1910.95(h)(4) shall read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(c) 29 CFR 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this check. Deviations of fifteen (15) decibels or greater require an exhaustive calibration.

(d) 29 CFR 1910.95(h)(5)(iii) shall read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this calibration.

(e) 29 CFR 1910.95(L)(1) shall read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(f) 29 CFR 1910.95(o) shall read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(g) 29 CFR 1910.95 Appendix E shall read: Acoustic Calibration of Audiometers.

This Appendix is Mandatory.

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

#### 1. Sound Pressure Output Check.

a. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

b. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

c. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) for each earphone.

d. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

#### 2. Linearity check.

a. With the earphone in place, set the frequency to 1,000 Hz and the HTL dial on the audiometer to seventy (70) dB.

b. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

c. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

d. This measurement may be made electrically with a voltmeter connected to the earphone terminals.

#### 3. Tolerances.

When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

Table E-1—Reference Threshold Levels for Telephonics—TDH-39 Earphones

Frequency, Hz	Reference threshold level for TDH-39 earphones, dB	Sound level meter reading, dB
500	11.5	81.5
1,000	7	77
2,000	9	79
3,000	10	80
4,000	9.5	79.5
6,000	15.5	85.5
8,000	13.0	83.0

Table E-2—Reference Threshold Levels for Telephonics—TDH-49 Earphones

Frequency, Hz	Reference threshold level for TDH-49 earphones, dB	Sound level meter reading, dB
500	13.5	83.5
1,000	7.5	77.5
2,000	11	81.0
3,000	9.5	79.5
4,000	10.5	80.5
6,000	13.5	83.5
8,000	13.0	83.0

(6) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(7) 29 CFR 1910.106 "Flammable and combustible liquids" is amended as follows:

(a) 29 CFR 1910.106(a)(3) shall read: "The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(b) Revisions to 29 CFR 1910.106(g)(2) and 1910.106(g)(3)(vi)(a) and (b) as published in the Federal Register, Volume 47, Number 173, Tuesday, September 7, 1982 are adopted by reference.

(8) 29 CFR 1910.134 is amended as follows:

(a) 29 CFR 1910.134(c) shall read: "Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2—1980."

(b) 29 CFR 1910.134(d) the third sentence shall read:

"Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1—1973."

(c) 29 CFR 1910.134(g) shall read: Identification of Air-Purifying Respirator Canisters and Cartridges.

1. The primary means of identifying an air-purifying respirator canister or cartridge shall be by means of properly worded labels. The secondary means of identifying an air-purifying respirator canister or cartridge shall be by an identifying color or colors.

2. All who issue or use air-purifying respirators falling within the scope of this standard shall ensure that all canisters and cartridges purchased or used by them are properly labeled and colored in accordance with this standard before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters and cartridges have completely served their purpose. The user shall refer to the label wording to determine the type and degree of protection the canister or cartridge will afford.

3. On each air-purifying respirator canister and cartridge, the following shall appear in bold letters:

CANISTER FOR \_\_\_\_\_  
(Name of atmospheric contaminant)

or

CARTRIDGE FOR \_\_\_\_\_  
(Name of atmospheric contaminant)

In addition, either or both of subparagraphs a and b of this paragraph, and subparagraph (c) of this paragraph, shall appear beneath the appropriate phrase on the canister or cartridge label.

(a) For respiratory protection in atmospheres containing not more than \_\_\_\_\_ by volume of  
(Concentration)

\_\_\_\_\_  
(Name of atmospheric contaminant)

(b) For respiratory protection in atmospheres containing \_\_\_\_\_  
(Type of particulate contaminant)

(c) Do not use in atmospheres containing less than 19.5% oxygen by volume at sea level.

4. Each respirator canister or cartridge, or canister or cartridge label, shall be a distinctive color as indicated in Table I-1. The color coating used shall offer a high degree of resistance to changes such as chipping, scaling, peeling, blistering, and fading, and to the effects of ordinary atmospheres to which they may be exposed under normal conditions of storage and use.

(d) 29 CFR 1910.134 Table I-1 shall read:

TABLE I-1  
Color Assigned to Canister or Cartridge

Atmospheric Contaminant(s) to be Protected Against	Color Assigned	ISCC-NBS Centroid Color Number	ISCC-NBS Centroid Color Name
Acid gases	White	263	White
Organic vapors	Black	267	Black
Ammonia gas	Green	139	Vivid green
Carbon monoxide gas	Blue	178	Strong blue
Acid gases and organic vapors	Yellow	82	Vivid yellow
Acid gases, ammonia, and organic vapors	Brown	75	Deep yellow brown
Acid gases, ammonia, carbon monoxide, and organic vapors	Red	11	Vivid red
Other vapors and gases not listed above	Olive	106	Light olive
Radioactive materials (except tritium and noble gases)	Purple	218	Strong purple
Dusts, fumes, and mists (other than radioactive materials)	Orange	48	Vivid orange

NOTES:

(1) A purple (ISCC-NBS Centroid Number 218) stripe shall be used to identify radioactive materials in combination with any vapor or gas.

(2) An orange (ISCC-NBS Centroid Number 48) stripe shall be used to identify dusts, fumes, and mists in combination with any vapor or gas.

(3) Where labels only are colored to conform with this table, the canister or cartridge body shall be gray (ISCC-NBS Centroid Number 265), or a metal canister or cartridge body may be left in its natural metallic color.

(4) The user shall refer to the wording of the label to determine the type and degree of protection the canister or cartridge will afford.

(9) 29 CFR 1910.141(c)(2)(i) shall read as follows: "(1) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(10) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

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

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

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

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

(11) 29 CFR 1910.156(a)(2) "Application" is amended to read: "The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this sec-

tion do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

(12) 29 CFR 1910.177 "Servicing Single Piece and Multi-Piece Rim Wheels" as published in the Federal Register, Volume 49, Number 29, February 10, 1984 is adopted by reference.

(13) [(12)] 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

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

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

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

(15) [(14)] Corrections to 29 CFR 1910 Subpart S "Electrical" as published in the Federal Register, Volume 46, Number 152, August 7, 1981 are adopted by reference.

(16) [(15)] Amendments to 29 CFR 1910.401(a)(2)(iv) and 29 CFR 1910.402 "Commercial Diving Operations" as published in the Federal Register, Volume 47, Number 228, November 26, 1982 are adopted by reference.

(17) [(16)] 29 CFR 1910.1001 "Asbestos" is amended as follows:

(a) 29 CFR 1910.1001(d)(2)(iv)(a) is amended to read:

"The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2—1980, which is incorporated by reference herein."

(b) 29 CFR 1910.1001 (k) as published in the Federal Register, Volume 48, Number 215, November 4, 1983 is adopted by reference.

(18) [(17)] Amendments to 29 CFR 1910.1002 "Coal Tar Pitch Volatiles" as published in the Federal Register, Volume 48, Number 15, January 21, 1983 are adopted by reference.

(19) [(18)] 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

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

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

(21) [(20)] 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Revisions as published in the Federal Register, Volume 46, Number 238, Friday, December 11, 1981 are adopted by reference.

(b) Revisions published in the Federal Register, Volume 47, Number 219, November 12, 1982, and Volume 48, Number 46, March 8, 1983 are adopted by reference.

(c) "Table 1—Implementation Schedule" is amended to read:

(22) 29 CFR 1910.1200 "Hazard Communication" as published in the Federal Register, Volume 48, Number 228, November 25, 1983 is adopted by reference.

(23) 29 CFR Part 1910, "Revocation of Advisory and Repetitive Standards" as published in the Federal Register, Volume 49, February 10, 1984 is adopted by reference.

TABLE 1—Implementation Schedule

INDUSTRY <sup>1</sup>	COMPLIANCE DATES		
	200 μg/m <sup>3</sup>	100 μg/m <sup>3</sup>	50 μg/m <sup>3</sup>
Primary lead production	(2)	6-29-84	6-29-91
Secondary lead production	(2)	6-29-84	6-29-86
Lead acid battery manufacture	(2)	6-29-83	6-29-86
Automobile manufacture/ solder grinding	(2)	N/A	6-29-88
Electronics, gray iron foundries, ink manufacture, paints and coatings manufacture, wallpaper manufacture, can manufacture, and printing	(2)	N/A	6-29-82
Lead pigment manufacture, non-ferrous foundries, leaded steel manufacture, lead chemical manufacture, ship building and ship repair, battery breaking in the collection and processing of scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), secondary smelting of copper, and lead casting	(2)	N/A	N/A
All other industries	(2)	N/A	6-11-84

<sup>1</sup>Includes ancillary activities located on the same worksite.

(2)On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

JOHN CALHOUN WELLS, Secretary

APPROVED BY AGENCY: May 17, 1984

FILED WITH LRC: June 14, 1984 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for July 25, 1984, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium, Mero Street, Frankfort, Kentucky. Those interested in attending should provide written notice to Mr. Robert A. Easton, Labor Cabinet, Division of Education and Training, Highway 127 Building, South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Alcoholic Beverage Control**  
**(Proposed Amendment)**

**804 KAR 2:005. Outside signs [; first and second class cities].**

RELATES TO: KRS 244.130, 244.590, [244.140, 244.530]

PURSUANT TO: KRS [13.082,] 241.060

NECESSITY AND FUNCTION: KRS 244.130 permits the ABC Board to establish regulations for advertising of alcoholic beverages. KRS 244.590 permits the ABC Board to regulate gifts or services provided by brewers and distributors to retail

*licensees. The 1984 Session of the General Assembly repealed KRS 244.140 and 244.530, thereby permitting brand name advertising of alcoholic beverages visible outside licensed premises. This regulation governs outside signs provided by malt beverage brewers and distributors to retail licensees. [This regulation establishes the conditions under which retail malt beverage licensees in cities of the first and second class may use signs, etc. in advertising brand names. The licensees covered by this regulation are limited in their advertising to the type and size sign set out in the regulation. The regulation further contains a grandfather clause relative to freestanding signs in existence at the effective date of the regulation which was April 1, 1967. The primary intent of the regulation is to prohibit the erection of new freestanding signs and restrict such advertising to signs attached to a wall of the licensed premises. Section 5 has been deleted since there is a list of said signs on file in the office of the ABC Board.]*

Section 1. (1) Illuminated and like signs, posters, placards, decorations, or graphic displays, which bear [only] a trademark, trade name, trade slogan or facsimile of a product, container, or display, associated with a particular brand, are permitted upon the outside [wall, or to overhang the outside] of the licensed premises [, if such overhanging signs are affixed to the outside wall of the licensed premises. In addition to the foregoing, the sign may also contain only the trade name of the licensed premises, provided the letter size designating such trade name shall not exceed twelve (12) inches in height].

(2) Such outside signs as described in subsection (1) of this section may be given, rented, loaned, or sold to a retailer by an industry member engaged in the business as a brewer or distributor of malt beverages if they have no value to the retailer except as advertising. Provided, that the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for the expense incidental to their operation.

[(3) Any signs erected hereunder shall contain no more than 5,000 square inches.]

[(4) Any freestanding sign or sign not attached to a licensed premises advertising malt beverages in existence on April 1, 1967 may be maintained at its present location for the duration of its useful existence but shall not be relocated, replaced, or renovated. The brand name now being used shall not be changed to the brand name of any other company. Not more than \$100 shall be expended by the owner of the sign at any one time in repairing or maintaining these signs when they are damaged or broken by storms, accidents, acts of vandalism or become depreciated to the extent that they may need painting. Such expenditures will be made only when one of the above described conditions exists. As provided in KRS 244.150, the owner of the freestanding sign that is repaired or renovated must keep a record for inspection by any member of the Alcoholic Beverage Control Board or any agent of the department, showing the details of such transaction including the location of the sign and a description of the work performed.]

[(5) This regulation applies to outside signs on retail premises in cities of the first and second class only.]

EDWARD A. FARRIS, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 12, 1984 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed amendment will be held on Wednesday, July 25, 1984, at 10 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut,

Frankfort, Kentucky. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Alcoholic Beverage Control**  
**(Proposed Amendment)**

**804 KAR 7:045. Convention center [caterer's] license.**

RELATES TO: KRS 243.030(7), (18)

PURSUANT TO: KRS [13.082,] 241.060

NECESSITY AND FUNCTION: In order to facilitate tourism and convention business in the state of Kentucky, it is necessary that special licenses be authorized for convention centers. This regulation will permit the retail sale of malt beverages and distilled spirits by the drink to patrons attending a function at the convention center. The regulation does not permit the retail sale of alcoholic beverages to the general public.

Section 1. A special license may be issued for convention centers having a seating capacity of 1,000 or more persons.

Section 2. The distilled spirits administrator and the malt beverage administrator are hereby authorized to issue a license to the operating or managing corporation of premises commonly known as a convention center. The license shall authorize the service of malt beverages and distilled spirits *and wine* by the drink for consumption on the premises of the convention center by patrons, at any function, occasion, or event, upon the licensed premises.

Section 3. The license fee for the convention center license shall be \$1,000 per annum and the fee shall be prorated as set forth in KRS 243.090(2). All such licenses shall expire at midnight June 30 of each year.

Section 4. These licenses shall be issued by the distilled spirits administrator and the malt beverage administrator only upon a showing of good cause and need for such licenses, and the issuance of such licenses shall be at the discretion of the distilled spirits administrator and the malt beverage administrator.

Section 5. The licenses issued hereunder shall be non-quota licenses and shall not be transferable to other premises.

Section 6. Proceedings relative to application, renewal, suspension, or revocation of these licenses shall be conducted in the same manner and extent as regular retail drink and retail malt beverage licenses.

EDWARD A. FARRIS, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 12, 1984 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation amendment will be held on Wednesday, July 25, 1984, at 10 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, KY 40601.



**PUBLIC SERVICE COMMISSION**  
**(Proposed Amendment)**

**807 KAR 5:011. Tariffs.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS [13.082.] 278.160(1)

NECESSITY AND FUNCTION: KRS 278.160(1) provides that the commission shall prescribe rules under which each utility shall file schedules showing all rates and conditions established by it and collected or enforced.

Section 1. Definitions. For purpose of this regulation: "Commission" means the Public Service Commission.

Section 2. General. All utilities under the jurisdiction of the commission shall file with the secretary two (2) cover letters and four (4) complete copies of a tariff containing schedules of all its rates, charges, tolls and maps or plats of the area in which it offers service and all its rules and regulations and shall keep a copy of said tariff open to public inspection in its offices and places of business, as required by KRS 278.160, in substantially the form and manner hereinafter set out. If a utility furnishes more than one (1) kind of service (water and electricity for example), a separate tariff must be filed for each kind of service. For the purpose of the commission's rules and regulations, the utilities office or place of business shall be deemed a location at which the utility regularly employs and stations one (1) or more employees and is open to the public.

Section 3. Form and Size of Tariffs. (1) All tariffs must be printed from type not smaller than six (6) point or typewritten, mimeographed or produced by similar process, on hard calendared paper of good quality.

(2) The pages of a tariff shall be eight and one-half by eleven (8 1/2 by 11) inches in size.

(3) Utilities shall publish tariffs in loose-leaf form using one (1) side of the paper only, with not more than one (1) schedule to the page.

(4) The front cover page of a tariff shall contain the following:

- (a) Name of the utility and location of principal office.
- (b) Statement of kind of service offered.
- (c) General statement of territory served.
- (d) Date of issue and date tariff is to become effective.
- (e) Signature of the officer of the utility authorized to issue tariffs.

(f) Identifying designation in the upper right-hand corner as required by Section 5 of this regulation.

(5) The second and succeeding pages shall contain:

- (a) All the rules and regulations of the utility.
- (b) Rate schedules showing all rates and charges for the several classes of service.
- (c) Signature of the officer of the utility authorized to issue tariffs.

(d) Date of issue and date tariff is to become effective.

(e) Identifying designation in upper right-hand corner as required by Section 5 of this regulation.

(6) In that portion of the tariff dealing with rates, the desired information shall be shown under the following captions in the order listed:

- (a) Applicable: Show territory covered by tariff.
- (b) Availability of service: Show classes of customers affected, such as domestic, commercial, etc.
- (c) Rates: List all rates covered by tariff.
- (d) Minimum charge: State amount of charge and quantity allowed.

(e) Delayed payment charge: State if penalty or discount.

(f) Term: If contracts are made for certain periods, give length of term.

(g) Special rules: If any special rules and regulations are in effect covering this tariff, list same hereunder.

(7) The secretary of the commission will furnish standard forms of tariffs on request.

Section 4. Contents of Schedules. (1) Each rate schedule in addition to a clear statement of all rates thereunder must state the city, town, village or district in which rates are applicable; provided, however, that schedules applicable in a large number of communities must be accompanied by an accurate index by which each community in which the rates are applicable may be readily ascertained, in which case the applicability of a schedule may be indicated by reference to the index sheet. (Example: Applicable within the corporate limits of the City of \_\_\_\_\_, or see Tariff Sheet No. 2B for applicability.)

(2) Each rate schedule must state that class of service available under the rates stated therein. (Example: Available for domestic lighting, or available for all purposes, etc.)

(3) For a tariff in which a number of schedules are shown available for various uses, each schedule shall be identified by a number or by a group of letters, and if by a group of letters, the designation shall be indicative of the class of service for which the schedule is available. (Example: Schedule No. 1 or Tariff D.U.R. indicating that the schedule states domestic utility rates.)

(4) (a) Each page of the tariff shall bear the Commission Number of the tariff, the date issued and effective, the signature of the issuing officer, and in the upper right-hand corner, a further designation, such as "Original Sheet No. 1," "Original Sheet No. 2," etc.

(b) In the case of a change in the text of any page as hereinafter provided the further designation shall be "First Revised Sheet No. 1, cancelling Original Sheet No. 1," etc.

(c) Tariffs may be further divided into sections, and so designated if required by their size and contents.

(5) All schedules shall state whether a minimum charge is made, and if so, they shall set out all such charges, and further state whether such minimum charge is subject to prompt payment discount or delayed payment penalty.

Section 5. Designation of Tariffs. All tariffs must bear in the upper right-hand corner of the front cover page the commission number thereof. Subsequent tariffs filed as provided by Sections 6 and 9 of this regulation, must continue such designation in consecutive numerical order. Any subsequent tariff must also show the commission number of the tariff cancelled, changed or modified by it.

Section 6. Change or Withdrawal of Rate Schedules Regulations. (1) No tariff, or any provision thereof, may be changed, cancelled or withdrawn except upon such terms and conditions as the commission may impose and in compliance with KRS 278.180 and Sections 6 and 9 of this regulation.

(2) (a) All revisions in tariff sheets shall contain a symbol in the margin indicating the change made. These symbols are as follows:

- (C) To signify changed regulation.
- (D) To signify discontinued rate, regulation or test.
- (I) To signify increase.
- (N) To signify new rate and/or new test.
- (R) To signify reduction.
- (T) To signify a change in text.

(b) In the case of a change in the text of any tariff sheet where the rate remains the same, the effective date shall remain the same as that on the amended sheet. The issued

date of the change shall be the date the filing is made with the commission.

(c) All tariff filings which involve the furnishing of equipment or services to the customer by the utility shall be accompanied by a description of the equipment or service involved in the filing and a cost of service study justifying the proposed charges.

(3) New tariffs stating changes in any provision of any effective tariff may be issued and put into effect by either of the two (2) following methods:

(a) By order of the commission upon formal application by the utility, and after hearing, as provided by Section 7 of this regulation.

(b) By issuing and filing on at least twenty (20) days notice to the commission and the public a complete new tariff (or revised sheet of an existing tariff) stating all the provisions and schedules proposed to become effective as provided by Sections 7 and 9 of this regulation.

(4) The provisions or rates stated on any sheet or page of a tariff may be modified or changed by the filing of a revision of such sheet or page in accordance with the provisions of this regulation. Such revisions must be identified as required herein.

**Section 7. Adjustment of Rates on Application.** Upon the granting of authority for a change in rates, the utility shall file a tariff setting out the rate, classification, charge, or rule and regulation authorized by the commission to become effective the order may direct, and each page of the tariff so filed shall state that it is "Issued by authority of an order of the Public Service Commission in Case No. \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_."

**Section 8. Notices.** Notices shall be given by the utility in the following manner:

(1) Advance notice, abbreviated newspaper notice. Utilities with gross revenues greater than \$1,000,000 shall notify the commission in writing of Intent to File Rate Application at least four (4) weeks prior to filing. At or about this time application may be made to the commission for permission to use an abbreviated form of newspaper notice of proposed rate increases provided the notice includes a coupon which may be used to obtain a copy from applicant of the full schedule of increases or rate changes.

(2) Notice to customers of proposed rate changes. If the applicant has twenty (20) or fewer customers, typewritten notice of the proposed rate changes and the estimated amount of increase per customer class shall be placed in the mail to each customer no later than the date on which the application is filed with the commission and, in addition, a sheet shall be posted at its place of business containing such information. Except for sewer utilities which must give a notice by mail to all of its customers pursuant to KRS 278.185, all applicants with more than twenty (20) customers shall post a sheet stating the proposed rates and the estimated amount of increase per customer class at its place of business and, in addition, notice thereof:

(a) Shall be included with customer billings made on or before the application is filed with the commission; or

(b) Shall be published by such date in a trade publication or newsletter going to all customers; or

(c) Shall be published once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in its service area, the first publication to be made prior to the filing of the application with the commission. Each such notice shall contain the following language:

The rates contained in this notice are the rates proposed by (name of utility). However, the Public Service Commission

may order rates to be charged that differ from these proposed rates. Such action may result in rates for consumers other than the rates in this notice.

(3) Notice as to intervention. The notice made in compliance with subsection (2) of this section shall include a statement to the effect:

(a) That any corporation, association, body politic or person may by motion within thirty (30) days after publication or mailing of notice of the proposed rate changes request leave to intervene;

(b) That the motion shall be submitted to the Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602, and shall set forth the grounds for the request including the status and interest of the party; and

(c) That intervenors may obtain copies of the application and testimony by contacting the applicant at a name and address to be stated in the notice. A copy of the application and testimony shall be available for public inspection at the utility's offices.

(4) Compliance by electric utilities with rate schedule information required by 807 KAR 5:051. If notice is given by subsection (2)(a) or (b) of this section and if the notice contains a clear and concise explanation of the proposed change in the rate schedule applicable to each customer, no notice under Section 2 of 807 KAR 5:051 shall be required. Otherwise, such notice shall be given.

(5) Notice of hearing. Where notice pursuant to KRS 424.300 is published by the applicant in a newspaper, it shall be published in a newspaper of general circulation in the areas that will be affected one (1) time not less than seven (7) nor more than twenty-one (21) days prior to the hearing giving the purpose, time, place and date of hearing.

(6) Extensions of time. Applications for extensions of time shall be made to the commission in writing and will be granted only upon a showing of compelling reason.

**Section 9. Statutory Notice to the commission.** (1) When a new tariff has been so issued and notice thereof given to the commission and the public in all respects as hereinbefore provided, such tariff will become effective on the date stated therein unless the operation thereof be suspended and the rates and regulations therein be deferred by an order of the commission pending a hearing concerning the propriety of the proposed rates and regulations under KRS 278.190.

(2) All information and notice required by these rules shall be furnished to the commission at the time of the filing of any proposed revisions in rates or regulations, and the twenty (20) days statutory notice to the commission will not commence to run and will not be computed until such information and notice is filed if the commission determines that there was a substantial omission, which was prejudicial to full consideration by the commission or to an intervenor.

**Section 10. Non-recurring Charges.** *Non-recurring charges are charges to customers due to a specific request for certain types of service activity for which, when the activity is completed, no additional charges may be incurred. Such charges are intended to be limited in nature and to recover the specific cost of the activity. Non-recurring charges include reconnection charges, late payment fees, service order changes and hook-on or tap fees. This section allows a utility to seek a rate revision for a non-recurring charge outside a general rate proceeding. In addition to the specific information required pursuant to the above sections, the following information must be submitted to the commission when a utility makes a filing to increase miscellaneous or non-recurring service charges outside a general rate case:*

(1) Each requested rate revision must be accompanied by:

(a) A specific cost justification for the proposed rates and a full description of the equipment or service provided under tariff (807 KAR 5:001, Section 6(2)(c)). The proposed rates should at least cover incremental costs, and a reasonable contribution to overhead. Incremental costs are defined as those costs which would be specifically incurred in the provision of this service.

(b) A copy of the public notice of each requested rate revision and verification that it has been made pursuant to Section 8 of this regulation. In addition to the notice requirements contained in Section 8 of this regulation, the utility shall also mail a copy of its filing to the Attorney General's Consumer Protection Division. The Attorney General will then have ten (10) days to notify the commission in writing if it requests a hearing in a particular case.

(c) A detailed statement explaining why the proposed changes could not have been included in the most previous general rate case, and why current conditions prevent deferring the proposed changes until the next general rate request.

(d) An impact statement identifying the group of customers affected by the proposed tariff. The impact statement shall identify potential as well as existing customers.

(e) A copy of the utility's income statement and balance sheet for a recent twelve (12) month period.

(2) If the additional revenue to be generated from the proposed tariff revisions exceeds by five (5) percent the total revenues provided by all miscellaneous and non-recurring charges for a recent twelve (12) month period, the utility must file, in addition to the information set out in subsection (1)(a) of this section, the following: An absorption test showing that the additional net income generated by the tariff filing will not result in an increase in the rate of return (or other applicable valuation methods) to a level greater than that which was allowed in the most recent rate case. Any general rate increases received during the twelve (12) month period must be annualized. Any significant cost changes may be included but must be documented as part of the filing.

(3) No more than two (2) such tariff filings under this procedure shall be made between general rate cases. Additional tariff filings for non-recurring charges will be processed according to general rate case procedures.

When these requirements are met, such a filing may be made by letter with supporting documentation and will not require the information normally required pursuant to the commission's general rate case regulation, 807 KAR 5:001, Section 9.

Section 11 [10]. Change of Ownership; Adoption Notice.

(1) In case of change of ownership or control of a utility, or when a utility or a part of its business is transferred from the operating control of one company to that of another, or when its name is changed, the company which will thereafter operate the utility business must use the rates, classifications and regulations of the former operating company (unless authorized to change by the commission), and shall issue, file and post an adoption notice, on a form furnished by the commission, adopting, ratifying and making its own all rates, rules, classifications and regulations of the former operating utility, on file with the commission and effective at the time of such change of ownership or control.

(2) Adoption notices must likewise be filed by receivers and trustees assuming possession and operation of utilities. Adoption notices may be filed and made effective without previous notice.

(3) Adoption notices filed with the commission by each utility shall be in consecutive numerical order, beginning with Public Service Commission Adoption Notice No. 1.

(4) Within ten (10) days after the filing of an adoption notice as aforesaid by a public utility which then had no tariffs on file with the commission, said utility shall issue and file in its own name the tariff of the predecessor utility then in effect and adopted by it, or such other tariff as it proposes to put into effect in lieu thereof, in the form prescribed in Sections 2 through 5 of this regulation with proper identifying designation. (Example: Public Service Commission No. 1 cancels Public Service Commission Adoption Notice No. 1.)

(5) Within ten (10) days after the filing of an adoption notice, as required by subsection (2) of this section, by a public utility which then had other tariffs on file with the commission said utility shall issue and file in its own name rate schedules and regulations (on additional or revised sheets to its existing tariff, or by a complete reissue of its existing tariff, or otherwise), which shall set out the rates and regulations of the predecessor utility then in effect and adopted by it, or such other rates and regulations as it proposes to put into effect in lieu thereof, in accordance with the provisions of these rules with proper identifying designation. (Example: First Revision of Original Sheet No. 2A, Public Service Commission, No. 11, cancels Original Sheet No. 2A, also cancels Public Service Commission Adoption Notice No. 6; or Public Service Commission No. 12 cancels Public Service Commission No. 11, also cancels Public Service Commission Adoption Notice No. 6.)

(6) When a tariff or revision is issued by a utility in compliance with these rules which states the rates, rules and regulations of the predecessor utility without change in any of the provisions thereof, the same may be filed without notice; but when such tariff or revision states any change in the effect of the rates, rules and regulations of the predecessor utility, such tariff or revision shall be subject to Sections 9 and 10 of this regulation.

Section 12 [11]. Posting Tariffs, Regulations and Statutes. Every utility shall provide a suitable table or desk in its office and place of business, on which shall be available to the public at all times the following:

(1) A copy of all effective tariffs and supplements setting out its rates, classifications, charges, rules and regulations, together with forms of contracts and applications applicable to the territory served from that office or place of business.

(2) Copies of the Kentucky Revised Statutes applicable to the utility.

(3) A copy of the regulations governing such utility adopted by the commission.

(4) A suitable placard, in large type, giving information to the public that said tariffs, rules and regulations and statutes are kept there for public inspection.

Section 13 [12]. Special Contracts. Every utility shall file true copies of all special contracts entered into governing utility service which set out rates, charges or conditions of service not included in its general tariff. The provisions of this regulation applicable to tariffs containing rates, rules and regulations, and general agreements, shall also apply to the rates and schedules set out in said special contracts, so far as practicable.

Section 14 [13]. Deviations from Rules. In special cases for good cause shown upon application to and approval by, the commission may permit deviations from these rules.

Section 15 [14]. Forms. In submitting to the commission information required by these rules the following forms shall be followed where applicable:

## ADMINISTRATIVE REGISTER

- (1) Form of cover sheet for tariffs.
- (2) Form for filing rules and regulations.
- (3) Form for filing rate schedules.
- (4) Form of certificate of notice to the public of change in tariff where no increase of charges results.
- (5) Form of certificate of notice to the public of change in tariff which results in increased charges.
- (6) Form of adoption notice.

## FORM OF COVER SHEET FOR TARIFFS

\_\_\_\_\_

P.S.C. NO. \_\_\_\_\_

CANCELS P.S.C. NO. \_\_\_\_\_

\_\_\_\_\_  
(NAME OF COMPANY)

\_\_\_\_\_ of \_\_\_\_\_  
(LOCATION OF COMPANY)

Rates, Rules and Regulations for Furnishing  
(SERVICE RENDERED)

at \_\_\_\_\_  
(LOCATION SERVED)

\_\_\_\_\_

FILED WITH PUBLIC SERVICE COMMISSION  
OF KENTUCKY

Issued \_\_\_\_\_, 19 \_\_\_\_ Effective \_\_\_\_\_, 19 \_\_\_\_

Issued by \_\_\_\_\_  
(Name of Utility)

By \_\_\_\_\_

## FORM FOR FILING RULES &amp; REGULATIONS

(Page 2 of Tariff)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Utility \_\_\_\_\_

RULES & REGULATIONS

\_\_\_\_\_

Date of Issue \_\_\_\_\_ Effective Date \_\_\_\_\_

\_\_\_\_\_

Issued by \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

## FORM FOR FILING RATE SCHEDULES

(Page 3 of Tariff)

For \_\_\_\_\_  
Community, Town or City

P.S.C. NO. \_\_\_\_\_

\_\_\_\_\_  
(Original) Sheet No. \_\_\_\_\_  
(Revised)

Name of Issuing Corporation \_\_\_\_\_

Cancelling P.S.C. No. \_\_\_\_\_

\_\_\_\_\_  
(Original) Sheet No. \_\_\_\_\_  
(Revised)

CLASSIFICATION OF SERVICE

APPLICABLE: (Show territory covered by tariff.)

AVAILABILITY OF SERVICE: (Show classes of customers affected, such as domestic, commercial, etc.)

RATES: (List all rates covered by tariff.)

MINIMUM CHARGE: (State if penalty or discount.)

DATE OF ISSUE \_\_\_\_\_  
Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

DATE EFFECTIVE \_\_\_\_\_  
Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

ISSUED BY \_\_\_\_\_  
Name of Officer \_\_\_\_\_ Title \_\_\_\_\_ Address \_\_\_\_\_

ISSUED BY AUTHORITY OF P.S.C. \_\_\_\_\_

ORDER NO. \_\_\_\_\_

FORM OF CERTIFICATE OF NOTICE TO THE  
PUBLIC OF CHANGE IN TARIFF WHERE NO  
INCREASE OF CHARGES RESULTS

(2 Copies Required)

To the Public Service Commission, Frankfort, Ky.

Pursuant to the Rules Governing Tariffs (effective \_\_\_\_\_), I hereby certify that I am (Title of Officer) \_\_\_\_\_ of the (Name of Utility) \_\_\_\_\_ a utility furnishing (Kind of Service) \_\_\_\_\_ service within the Commonwealth of Kentucky, which on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, issued \*Tariff P.S.C. No. \_\_\_\_\_, cancelling Tariff P.S.C. No. \_\_\_\_\_, to become effective \_\_\_\_\_, 19\_\_\_\_, and that notice to the public of the issuing of the same is being given in all respects as required by Section 8 of said Regulation, as follows:

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the same was exhibited for public inspection at the offices and places of business of the Company in the territory affected thereby, to wit, at the following places: (Give location of offices where rates are posted) \_\_\_\_\_ and that the same will be kept open to public inspection at said offices and places of business in conformity with the requirements of Section 8 of said Regulation.

I further certify that the proposed changes in tariff of said utility will not result in an increase in the rates or charges to any customer.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Address \_\_\_\_\_

\*If a revised sheet, or additional sheet of a loose-leaf tariff is used to state changes in rates or regulations, the filing should be described as \_\_\_\_\_ Revision of Original Sheet No. \_\_\_\_\_ P.S.C. No. \_\_\_\_\_, cancelling \_\_\_\_\_ Original Sheet No. \_\_\_\_\_ P.S.C. No. \_\_\_\_\_ cancelling P.S.C. Adoption Notice No. \_\_\_\_\_.

**FORM OF CERTIFICATE OF NOTICE TO THE  
PUBLIC OF CHANGE IN TARIFF WHICH  
RESULTS IN INCREASED RATES**

(2 Copies Required)

To the Public Service Commission, Frankfort, Ky.

Pursuant to the Rules Governing Tariffs (effective \_\_\_\_\_), I hereby certify that I am (Title of Officer) \_\_\_\_\_ of the (Name of Utility) \_\_\_\_\_ a utility furnishing \_\_\_\_\_ service within the Commonwealth of Kentucky, which on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, issued its \*Tariff P.S.C. No. \_\_\_\_\_ cancelling Tariff P.S.C. No. \_\_\_\_\_ to become effective \_\_\_\_\_, 19\_\_\_\_, and that notice to the public of the issuing of the same is being given in all respects as required by Section 8 of said Regulation, as follows:

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the same was exhibited for public inspection at the offices and places of business of the Company in the territory affected thereby, to wit, at the following places: (Give location of offices where rates are posted.) \_\_\_\_\_ and that the same will be kept open to public inspection at said offices and places of business in conformity with the requirements of Section 8 of said Regulation.

\*\*On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, typewritten or printed notice of the proposed rates or regulations was mailed to each of the \_\_\_\_\_ customers of the company whose rates or charges will be increased thereby, a copy of said notice being attached thereto.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Address \_\_\_\_\_

\*If a revised sheet or additional sheet of a loose-leaf tariff is used to state changes in rates or regulations, the filing should be described as Revision of Original Sheet No. \_\_\_\_\_ P.S.C. No. \_\_\_\_\_, or Original Sheet No. \_\_\_\_\_ P.S.C. No. \_\_\_\_\_ cancelling P.S.C. Adoption Notice No. \_\_\_\_\_.

\*\*If Notice is given by publication as provided in Section 8, use the following:

That more than 20 customers will be affected by said change by way of an increase in their rates or charges, and on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, there was delivered to the \_\_\_\_\_, a newspaper of general circulation in the community in which the customers affected reside, for publication therein once a week for three consecutive weeks prior the effective date of said change, a notice of the proposed rates or regulations, a copy of said notice being attached hereto. A certificate of the publication of said notice will be furnished the Public Service Commission upon the completion of the same in accordance with Section 9(2), of said Regulation.

**FORM OF ADOPTION NOTICE  
P.S.C. Adoption Notice No. \_\_\_\_\_  
ADOPTION NOTICE**

The undersigned (Name of Utility) \_\_\_\_\_ of \_\_\_\_\_ hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all

tariffs and supplements containing rates, rules and regulations for furnishing (Nature of Service) \_\_\_\_\_ service at \_\_\_\_\_ in the Commonwealth of Kentucky, filed with the Public Service Commission by (Name of Predecessor) \_\_\_\_\_ of \_\_\_\_\_, and in effect on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the date on which the public service business of the said (Name of Predecessor) \_\_\_\_\_ was taken over by it.

This notice is issued on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in conformity with Section 10 of P.S.C. Tariff Regulations adopted by the Public Service Commission.

By \_\_\_\_\_

LAURA MURRELL, Commissioner  
M. H. WILSON, Secretary

APPROVED BY AGENCY: June 13, 1984

FILED WITH LRC: June 13, 1984 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled at 10 a.m., EDT, on July 23, 1984, at the Public Service Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky. Persons desiring to testify at this hearing regarding this proposed regulation shall notify the Secretary of the Public Service Commission in writing by July 18, 1984. The address of the secretary is: Mr. Richard D. Heman, Jr., Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602.

**PUBLIC PROTECTION AND REGULATION CABINET  
Department of Housing, Buildings  
and Construction  
(Proposed Amendment)**

**815 KAR 20:070. Plumbing fixtures.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS [13.082.] 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the kind, type and quality of plumbing fixtures that are to be used in the construction of plumbing systems.

Section 1. Materials. All receptacles used as water closets, urinals, or otherwise for the disposal of human excreta, shall be of vitrified earthenware, hard natural stone, or cast-iron with a light color porcelain enameled on the inside, except as indicated in Section 4.

Section 2. Installation. All plumbing fixtures shall be installed free and open in a manner to afford access for cleaning. Where practical, all pipes from fixtures shall be run to the wall and no trap or pipe shall extend nearer to the floor than twelve (12) inches except laundry trays or similar fixtures.

Section 3. Water Closet Bowls. Water closet bowls shall be made of one (1) piece and of such form as to hold a sufficient quantity of water when filled to the trap overflow to prevent fouling of its interior surfaces, and it shall be provided with an integral flushing rim so constructed as to flush the entire interior of the bowl.

Section 4. Plastic Water Closet Bowl and Tank. Plastic water closet bowl and tank shall be made with a polypropylene

lining inside the one (1) piece bowl and tank. The outer surface of the bowl shall be constructed of PVC material and the filler material between the two (2) surfaces shall be made of polyurethane foam. The bowl shall have a three (3) inch water seal and shall have a two and one-eighth (2 1/8) inch waste opening passage.

Section 5. Frost-Proof Closet. A frost-proof water closet may be installed only in a building that has at least a twelve (12) inch air break between it and any building used for habitation or occupancy. The room shall be tightly enclosed and accessible from the outside only. The soil pipe between the trap and hopper shall be of extra heavy cast-iron, four (4) inches in diameter and shall be light colored porcelain enamel on the inside. The building must have a non-absorbent floor. Each frost-proof water closet shall have a four (4) inch vent.

Section 6. (1) Floor drains and shower drains. A floor drain or a shower drain is considered a plumbing fixture and shall be provided with a strainer.

(2) Shower drain pan construction. Shower drain pans shall be constructed of sheet lead weighing not less than four (4) pounds per square foot, non-plasticized chlorinated polyethylene conforming to ASTM D-412-66, D-12-4-54 and D-568-61 not less than 0.040 inches, non-plasticized polyvinyl chloride (PVC) sheet material conforming to ASTM D-1004, D-2240, D-412 and D-1790 not less than 0.040 inches thick or other approved material. Shower pans shall be constructed without seams and shall extend to a minimum height of six (6) inches on all vertical walls. Shower pans shall not be required on a concrete floor below the outside grade level.

(3) Fiberglass bathtubs, showers, tub enclosures and shower stalls. Fiberglass bathtubs and tub enclosures shall conform to Commercial Standards CS 221-59. Acrylic-faced bathtubs shall conform to ASTM E-84B or E-162. Fiberglass shower stalls and shower receptors shall conform to Commercial Standards CS 222-59.

(4) Metamorphosed carbonate aggregate polyester resinous matrix-marbleoid bathtubs, lavatories and shower stalls. Metamorphosed carbonate aggregate polyester resinous matrix-marbleoid bathtubs, lavatories and shower stalls shall conform to ANSI Z-124-3.

Section 7. Floor Drains, Shower Drains or Urinal Drains in Inaccessible Places. Floor drains, shower drains or urinal drains shall have a cast-iron P trap when installed under concrete floors or in inaccessible places. They shall be either caulk or screw type.

Section 8. Fixture Strainers. All fixtures other than water closets and pedestal urinals shall be provided with a fixed strong, metallic or porcelain strainer. The total outlet area shall not be less than that of the interior area of the trap.

Section 9. Fixture Overflow. The overflow from a fixture shall be optional, but if used, shall be connected to the inlet side of a trap and be so arranged that it may be readily and effectively cleaned.

Section 10. Ventilation of Rooms Containing Fixtures. Refer to BOCA Basic Mechanical Code M-1009.3 and BOCA One and Two Family Dwelling Codes, R-204.

Section 11. Fixture Additions. Any fixture or fixtures added to a plumbing system shall be installed to comply with the other sections of this code, and the discharge from the additional fixture or fixtures shall enter the soil pipe below the lowest vented opening.

Section 12. Defective Fixtures. Any newly installed fixtures found defective or old fixtures found to be in any unsanitary condition, shall be repaired, replaced, or removed within thirty (30) days upon written notice from the department.

Section 13. Water Heaters. *A water heater is an appliance for supplying potable hot water for domestic or commercial purposes. It may be used for space heating if the water temperature does not exceed 150 degrees Fahrenheit.* Water heaters shall be properly connected to the hot and cold water supply and shall be connected to an adequate size flue or chimney, but in no case shall this be connected to a flue serving a coal burning apparatus. The flue or chimney shall extend two (2) feet above the roof and be properly flashed and shall not terminate within six (6) feet of a door or window. No fuel fired water heater shall be placed in any bathroom, toilet room or a room used for sleeping. If a water heater is placed in a closed room or closet the door must be a louver door or provided with proper ventilation to provide combustion air and circulation.

CHARLES A. COTTON, Commissioner  
MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: April 19, 1984

FILED WITH LRC: June 15, 1984 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 26, 1984 at 10 a.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 the following by July 21, 1984: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings**  
**and Construction**  
**(Proposed Amendment)**

**815 KAR 20:120. Water supply and distribution.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS [13.082,] 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the regulations of the department and other governing authorities.

(2) Potable water only shall be accessible to plumbing fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

Section 2. Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3. Water Service. (1) The water service piping to any building shall be not less than three-fourths (¾) inch nominal pipe size but shall be of sufficient size to permit a



continuous and ample flow of water to all fixtures on all floors at all times.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they can be placed in the same trench provided:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

**Section 4. Distribution.** (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Non-potable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system.

(a) When a dual water distribution system is used, the non-potable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the non-potable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER—UNSAFE WATER. Each branch, fitting or valve shall be identified by the word—"NON-POTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventor.

(6) No private water supply shall be interconnected with any public water supply.

**Section 5. Water Supply to Fixtures.** Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

**Section 6. Water Supply to Drinking Fountains.** The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

**Section 7. Sizing of Water Supply Piping.** (1) The minimum size water service from the property line to the water heater shall be three-fourths ( $\frac{3}{4}$ ) inch. The hot and cold water piping shall extend three-fourths ( $\frac{3}{4}$ ) inch in size to the first fixture branch. No two (2) one-half ( $\frac{1}{2}$ ) inch fixture branches are supplied from any one-half ( $\frac{1}{2}$ ) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half ( $\frac{1}{2}$ ) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bathtubs	$\frac{1}{2}$
Combination sink and tray	$\frac{1}{2}$
Cuspidor	$\frac{1}{2}$
Drinking fountain	$\frac{1}{2}$
Dishwasher (domestic)	$\frac{1}{2}$
Kitchen sink (res.)	$\frac{1}{2}$
Kitchen sink (com.)	$\frac{1}{2}$ or $\frac{3}{4}$ as required
Lavatory	$\frac{1}{2}$
Laundry tray	$\frac{1}{2}$
Sinks (service, slop)	$\frac{1}{2}$
Sinks flushing rim	$\frac{3}{4}$
Urinal (flush tank)	$\frac{1}{2}$
Urinal (direct flush valve)	$\frac{1}{2}$ or $\frac{3}{4}$ as required
Water closet (tank type)	$\frac{1}{2}$
Water closet (flush valve type)	1
Hot water boilers	$\frac{3}{4}$
Hose bibs	$\frac{1}{2}$
Wall hydrant	$\frac{1}{2}$
Domestic clothes washer	$\frac{1}{2}$
Shower (single head)	$\frac{1}{2}$

(3) **Water Hammer.** In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufacturers specifications shall be followed as to location and method of installation.

(4) **Inadequate Water Pressure.** Whenever water pressure from the source of supply is insufficient, 15 lb. or less to provide adequate flow at the fixture outlets, a booster pump and pressure tank or other approved means shall be installed in the building water supply system.

(5) **Variable Street Pressures.** When the source of water supply has a fluctuation, the water distribution system shall be designed for the minimum pressure.

**Section 8. Water Supply Pipes and Fittings, Materials.** Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing,

Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, Quicktite connection using a celcon aetal copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building.

Section 9. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 10. Water Supply Control. (1) A main shut-off valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shut-off valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two-family or multi-family dwelling shall have each family unit controlled by an arrangement of shut-off valves which will permit each unit to be shut-off without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shut-off valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or in lieu each group of fixtures shall be valved.

(6) A group of fixtures or fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back to back on a common wall.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shut-off valve located near the equipment and only serving this equipment.

Section 11. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks

subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 12. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section 13. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 14. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a non-toxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 15. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air-conditioner or heat pump water heater. These heat exchangers that transfer heat to potable water shall be double wall. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump must be utilized.

*Section 16. Water Distribution for Fan Coil Units. When a domestic water heater is used for heating purposes through a fan coil medium, its temperature must not exceed 150 degrees Fahrenheit. It must utilize not less than three-fourth (¾) inch Type M copper in its piping and its run shall not exceed 140 feet between the water heater and the heating unit. (Relates to 815 KAR 20:070.)*

Section 17 [16]. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths (¾) inch valve

outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

CHARLES A. COTTON, Commissioner  
MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: April 19, 1984

FILED WITH LRC: June 15, 1984 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 26, 1984 at 10 a.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. If no requests to appear at the public hearing are received by July 21, 1984, the hearing may be cancelled.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings**  
**and Construction**  
**(Proposed Amendment)**

**815 KAR 20:150. Inspection and tests.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS [13.082,] 211.090, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to tests and inspections that are necessary in order to cause compliance with other regulations of this code.

Section 1. Inspections and Tests. The water distribution system, the soil, waste and vent system, the fixtures and fixture traps, appurtenances and all connections thereto in a plumbing system shall be inspected and tested by the department to insure compliance with all the sections of this code. In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, the alterations shall be considered as a new plumbing system.

Section 2. Material and Labor for Tests. All equipment, material and labor necessary for inspections and tests shall be furnished by the persons procuring the plumbing construction permits.

Section 3. Systems of Tests. (1) Test for the potable water supply system. The potable water supply system shall be tested and found without leaks under the normal working pressure under which the system will function.

(2) Tests for the soil and/or waste and vent system. The soil and/or waste and vent system of the plumbing system shall be tested with water or other tests approved by the department, before it is concealed or covered within the floors or walls of a building. After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the entire system, other than the house sewer, shall

be subjected to a final air pressure test. It shall be the responsibility of the person who secured the plumbing construction permit to notify the department representative and request a final inspection and air test upon completion of the installation. In the event only a portion of the plumbing fixtures are set, an air test shall be requested and given prior to the time a building is occupied. After the plumbing system is finally completed another inspection and test must be requested and given. The department may require the removal of any cleanouts to ascertain whether or not the pressure has reached all parts of the system.

(3) Tests of the house sewer. The house sewer shall be tested with either a water or a smoke test.

Section 4. Methods of Testing. (1) The potable water supply system as well as the water service shall be tested under a pressure of not less than the maximum working pressure under which it is to be used and be free from leaks.

(2) The entire soil and/or waste and vent system shall be subjected to a water test or it may be tested in sections. When it is applied to the entire system, all openings shall be closed, except the highest opening and the system shall be filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged, except the highest opening and it shall be tested with not less than a ten (10) foot head of water [or with five (5) pounds of air pressure]. In testing successive sections, at least the upper ten (10) feet of the preceding section shall be retested.

(3) In lieu of a water test an air pressure test may be used [when the outside temperature is twenty (20) degrees Fahrenheit or less,] by attaching an air compressor or test apparatus to any suitable opening. All other inlets and outlets to the system shall be closed, forcing air into the system until there is a uniform pressure of *ten (10) pounds per square inch (PSI)* [sufficient to balance a column of mercury ten (10) inches in height]. The pressure shall be maintained for fifteen (15) minutes.

(4) The final air test shall test the entire soil and/or waste and vent system including the fixture and appurtenances by connecting an air machine to any suitable opening or outlet and applying air pressure equivalent to a one (1) inch water column. It shall be maintained for at least a fifteen (15) minute period. If there are no leaks or forcing of trap seals as may be indicated by the functioning of a drum, float, or water column, the system shall be deemed air-tight.

(5) A garage drainage system shall be tested in the same manner as the soil, waste and vent system.

(6) The house sewer shall be tested by either a water or a smoke test. After the sewer trench has been filled with at least two (2) feet of earth cover, it shall be retested. A four (4) inch test tee or Y connection shall be provided at the property line for testing.

Section 5. Order of Tests. Tests may be made separately or as follows: (1) The house sewer and its branches from the property line to the house drain.

(2) The house drain including its branches.

(3) The soil, waste, and vent system as well as inside rain water conductors.

(4) The final inspection and air test which shall include the complete plumbing system as required by Section 4(2), exclusive of the house sewer.

Section 6. Tests of Alterations, Extensions or Repairs. Any alterations, repairs, or extensions that require more than ten (10) feet of soil, waste and/or vent piping, shall be inspected and tested as required by Section 3(2).

Section 7. Covering of Work. No part of a plumbing system shall be covered until it has been inspected, tested, and approved as herein provided.

Section 8. Uncovering of Work. If any part of a plumbing system is covered or concealed before being inspected, tested, and approved, it shall be uncovered, or unconcealed and tested as required herein.

Section 9. Defective Work. If an inspection or a test indicates defective work or material it shall be replaced and the inspection and the test repeated.

Section 10. Testing Defective Plumbing. An air test shall be used in testing the condition of a plumbing system where there is reason to believe it has become defective.

Section 11. Inspections and Tests Not Required for Exhibition Purposes. Tests and inspections shall not be required where a plumbing system or a part thereof is to be used for exhibition purposes and is not directly connected to a sewerage system.

Section 12. Inspections and Tests for the Replacement of Old Plumbing Fixtures. Inspections and tests shall not be required when old plumbing fixtures are replaced with new ones or where faucets or valves are replaced or where leaks are repaired.

Section 13. Certificate of Approval. Upon the satisfactory completion and final test of the plumbing system, a certificate of approval may be issued by the department.

CHARLES A. COTTON, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: April 19, 1984

FILED WITH LRC: June 15, 1984 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 26, 1984 at 10 a.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 Health Services**  
**(Proposed Amendment)**

**901 KAR 5:050. Certified copies of certificates; fee.**

RELATES TO: KRS Chapter 213

PURSUANT TO: KRS [13.082,] 194.050, 211.090

NECESSITY AND FUNCTION: KRS 213.190 directs the Cabinet [Department] for Human Resources to set a reasonable fee by regulation not to exceed four (4) dollars for each certified copy of records of death or other records registered with the cabinet, except records of birth, issued or search of the files if no certificate is found.

Section 1. Fees for Certified Copies of Certificates. An applicant for a certified copy of the record of any [birth,] death, marriage, divorce or other record *except birth* registered with

the Director of Vital Statistics, Cabinet [department] for Human Resources, shall pay a fee of four dollars (\$4) for a copy thereof or search of the files if no copy is found.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

FIELD WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 by July 18, 1984: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
**Certificate of Need and Licensure Board**  
**(Proposed Amendment)**

**902 KAR 20:132. Certificate of need expenditure minimums.**

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(2)

PURSUANT TO: KRS [13.082] 216B.040, 216B.130

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to promulgate administrative regulations. KRS 216B.130 requires the Certificate of Need and Licensure Board to annually adjust expenditure minimums provided in KRS Chapter 216B. This regulation provides for the adjustment of expenditure minimums for capital expenditures and operating costs for the period beginning July 15, 1984 [1983] and ending July 14, 1985 [1984].

Section 1. (1) Expenditure minimums or limits provided in KRS Chapter 216B and regulations promulgated pursuant thereto shall be adjusted for the twelve (12) month period beginning July 15, 1984 [1983] and ending July 14, 1985 [1984] to reflect the changes in the preceding twelve (12) month period in an index designated by Federal regulation pursuant to the Health Planning and Resources Development Amendments of 1979, P.L. 96-79, as amended.

(2) Federal regulations designated the Department of Commerce Composite Construction Cost Index to be used in making these adjustments (42 CFR 123.401).

(a) Notice published in the Federal Register on April 11, 1983, indicated that on October 1, 1981 the index was fixed at 154.9 and that on October 1, 1982, the index was fixed at 155.8, an increase of nine-tenths (0.9) points or six-tenths (0.6) percent. Accordingly, the expenditure minimums provided for in the 1982 amendments to KRS Chapter 216B were increased six-tenths (0.6) percent through this regulation for the twelve (12) month period from July 15, 1983, to July 15, 1984 [states authorized to adjust the capital expenditure minimums may increase them up to six-tenths (0.6) percent].

(b) Notice published in the Federal Register on May 3, 1984, indicated that on October 1, 1983, the index was fixed at 158.8. The three and nine-tenths (3.9) point change in the index from October 1, 1981, to October 1, 1983, represents a two and five-tenths (2.5) percent increase.

Section 2. The expenditure minimums provided in KRS Chapter 216B shall be increased for the twelve (12) month period from July 15, 1984 [1983] to July 14, 1985 [1984] as follows:

(1) The expenditure minimum of \$600,000 for capital expenditures shall be increased by *two and five-tenths (2.5) [six-tenths (0.6)]* percent, [from \$600,000] to \$615,000 [4603,600]; and

(2) The expenditure minimum of \$250,000 for operating costs shall be increased by *two and five-tenths (2.5) [six-tenths (0.6)]* percent, [from \$250,000] to \$256,250 [\$251,500].

(3) The expenditure minimum of \$400,000 for major medical equipment shall be increased by *two and five-tenths (2.5) [six-tenths (0.6)]* percent, [from \$400,000] to \$410,000 [\$402,400].

C. HERNANDEZ, M.D., Commissioner  
E. Austin, Jr., Secretary

APPROVED BY AGENCY: May 25, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 25, 1984, at 9 a.m., in the auditorium on the first floor of the Department for Health Services Building, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify the following office in writing by July 20, 1984: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

### **CABINET FOR HUMAN RESOURCES** **Department for Health Services** **(Proposed Amendment)**

**902 KAR 50:010.** *Definitions for milk and milk products [Milk definition].*

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

PURSUANT TO: KRS 194.050, 211.090

**NECESSITY AND FUNCTION:** The *Cabinet* [Department] for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, labeling, standards of identity, sale and such other matters relating to milk and milk products as may be necessary to protect the public health. This regulation defines terms applicable to all milk and milk product regulations adopted by the *Cabinet* [Department] for Human Resources under KRS Chapter 217C.

Section 1. Definitions for Milk and Milk Products Regulations. As used in all regulations of the *Cabinet* [Department] for Human Resources relating to milk and milk products the following definitions shall apply unless specifically indicated otherwise:

(1) "Adulterated milk and milk products" means any milk or milk product adulterated as provided by KRS 217.025.

(2) "Aseptic processing" means a milk product that has been subjected to sufficient heat processing, and packaged in a hermetically sealed container, to conform to the applicable requirements of 21 Code of Federal Regulations, Subpart B, Food for Human Consumption, Part 113 and the provisions of 902 KAR 50:020, and maintain the commercial sterility of the product under normal nonrefrigerated conditions.

(3) [(2)] "Butter" means the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than eighty (80) percent by weight of milk fat, all tolerances having been

allowed for; provided the labeling of butter shall not be deemed misbranded if it does not bear a statement relating to artificial coloring.

[(3)] "Buttermilk" means a fluid product resulting from the churning of butter from milk or cream. It contains not less than eight and one-fourth (8 1/4) of milk solids-not-fat.]

(4) "Cabinet" means the Cabinet for Human Resources.

(5) "Certified sample collector" means an employee of the department, fieldman or milk hauler who has been approved to collect milk samples for regulatory purposes.

(6) [(4)] "C-I-P" or "cleaned-in-place" means the procedure by which sanitary pipeline or pieces of dairy equipment are mechanically cleaned-in-place by circulation.

(7) "Culinary steam" means steam used in contact with milk or milk products which is produced according to "Recommended Practices for Producing Culinary Steam for Processing Milk and Milk Products", National Association of Dairy Equipment Manufacturers, 1012 14th Street, N.W., Washington, D.C. 20036.

[(6)] "Cultured buttermilk" means a fluid product resulting from the souring of lactic acid producing bacteria or similar culture of pasteurized skim milk, lowfat milk or milk.]

[(7)] "Cultured milk and cultured milk products" means cultured milk products including yogurt resulting from the souring by lactic acid producing bacteria or similar culture of pasteurized milk or milk products and conforms to fat requirements form milk, lowfat milk and skim milk.]

(8) "Dairy farm" means a place where one (1) or more milking cows or goats are kept, a part or all of the milk produced thereon being delivered, sold, or offered for sale to a dairy, plant, receiving station or transfer station.

(9) "Milk or dairy plant, receiving station or company" means any place, premises or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, packaged [dairy products are received, collected, handled for processing or manufacturing] or prepared for distribution.

(10) "Department" means the Department for Health Services [Human Resources].

[(11)] "eggnog" means a milk product consisting of a mixture of milk or milk product of at least six (6) percent milkfat, at least one (1) egg yolk solids, sweetener and flavoring. Emulsifier and not over five tenths (.5) percent stabilizer may be added.]

(11) [(12)] "Fieldman" means a person employed by a milk company who is qualified and trained in sanitary methods of production and handling of milk and who performs dairy farm quality control work. (A "fieldman" is not considered an agent of the department.)

(12) [(13)] "Goat milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats.

(13) [(14)] "Grade A milk and milk products" means milk and milk products produced, processed, transported and distributed in accordance with the department's Grade A milk regulations. It includes but is not limited to the following:

- (a) Acidified sour cream;
- (b) Acidified sour half and half;
- (c) Buttermilk;
- (d) Chocolate milk;
- (e) Chocolate lowfat milk;
- (f) Chocolate skim milk;
- (g) Concentrated milk;
- (h) Cottage cheese, lowfat cottage cheese, cottage cheese dry curd;
- (i) Cultured buttermilk;
- (j) Cultured milk and cultured milk products;
- (k) Cream;

- (l) Eggnog;
- (m) Half and half;
- (n) Heavy cream;
- (o) Light cream;
- (p) Light whipping cream;
- (q) Lowfat milk;
- (r) Milk;
- (s) Skim milk;
- (t) Sour cream;
- (u) Sour half and half and any other Grade A milk or milk product as may be designated by the department; and
- (v) Yogurt, lowfat yogurt and nonfat yogurt.

(14) [(15)] "Grade A dry milk products" means milk products which have been produced for use in Grade A pasteurized milk products and which have been manufactured under the provisions of the "Grade A Condensed and Dry Milk Products—*and Condensed and Dry Whey, Supplement to the Grade A Pasteurized Milk Ordinance recommended by the United States Public Health Service, Food and Drug Administration* [Recommended Sanitation Ordinance and Code for Dry Milk Products used in Grade A Pasteurized Milk Products]."

(15) [(16)] "Handler," "distributor" or "retailer" means any association, organization, person or other group that offers for sale, sells or otherwise handles milk or milk products.

(16) [(17)] "Inspector" means an employee of the department who is qualified, trained, and authorized to perform dairy farm or plant inspections, or both, to grade raw milk, to evaluate quality control programs of milk, plants and carry out the enforcement procedures of the department's regulations relating to milk and milk products.

(17) [(18)] "Manufacturing milk and milk products" means milk and milk products produced, processed, transported and distributed in accordance with the department's manufacturing milk regulations. It includes but is not limited to the following:

- (a) Butter;
- (b) Cheeses, processed cheeses, cheese foods, cheese spreads and related foods;
- (c) Evaporated milk;
- (d) Frozen desserts;
- (e) Sweetened condensed milk and any other manufactured milk or milk product as may be designated by the department.

(18) [(19)] "Mechanical cleaning" or "mechanically cleaned" means cleaning, solely by circulation or flowing chemical detergent solutions and water rinses onto and over the surface to be cleaned by mechanical means.

(19) [(20)] "Milk grader" means a person who is qualified for the grading of raw milk in accordance with quality standards and procedures. (For the purpose of grading and sampling milk, a "milk grader" may be considered a duly authorized agent of the department.)

(20) [(21)] "Milk hauler" means any person who transports milk or raw milk products to or from a milk plant, receiving station or transfer station. For the purpose of collecting official samples of raw milk, a "milk hauler" may become a *certified sample collector* and [considered] a duly authorized agent of the department.

(21) [(22)] "Milk producer" means any person who operates a dairy farm and provides, offers for sale or sells raw milk to a milk plant, receiving station, transfer station or handler.

(22) [(23)] "Misbranded milk and milk products" means any milk or milk product misbranded as provided by KRS 217.035.

(23) [(24)] "Official laboratory" means the biological, chemical, or physical laboratory which is under the direct supervision of the department.

(24) [(25)] "Official methods" means the current edition of

the "Official Methods of Analysis of the Association of Official Analytical Chemists," a publication of the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(25) [(26)] "Officially designated laboratory" means a designated milk industry laboratory authorized by the department to do official work on producer samples, *commingled milk tank truck samples or on milk containers* for tests required by the department's regulations or a commercial laboratory officially designated by the department for the examination of producer samples, *milk containers* or finished products.

(26) [(27)] "Open date" means the date which shall be affixed on a consumer package or container of Grade A pasteurized milk or milk products subsequent to the date of manufacturing, processing or packaging and which represents the period of time that the product will remain unspoiled and acceptable for consumption when transported, handled and stored under approved conditions.

(27) [(28)] "Pasteurization or pasteurized" means that every particle of such product shall have been heated in properly operated equipment, approved by the department, to one (1) of the temperatures specified in the table of this subsection, and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be equivalent thereto in microbial destruction).

(a) Milk and milk products (including cheese whey):

Temperature	Time
145°F*	30 minutes
161°F*	15 seconds
191°F	1 second
194°F	0.5 seconds
201°F	0.1 seconds
204°F	0.05 second
212°F	0.01 second

\*If the dairy ingredient has a fat content of ten (10) percent or more, or if it contains added sweeteners, the specified temperature shall be increased by five (5) degrees Fahrenheit.

(b) Cream for buttermaking:

Temperature	Time
165°F*	30 minutes
180°F*	15 seconds

\*If plastic or frozen cream is used for buttermaking, the specified temperature shall be increased by five (5) degrees Fahrenheit.

(c) Frozen desserts and eggnog:

Temperature	Time
155°F	30 minutes
175°F	25 seconds
180°F	15 seconds

(28) [(29)] "Permit" means permission given by the department to produce, buy, transport, process, store, distribute or sell any milk or milk products or to collect official samples thereof.

(29) [(30)] "Person" means any individual, plant, operator, partnership, corporation, company, firm, trustee, or association.

(30) [(31)] "Reconstituted or recombined milk and milk pro-



ducts" means milk or milk products which results from the recombining of milk constituents with potable water.

(31) [(32)] "Sanitizing or bactericidal treatment" means the application of an effective sanitizing agent to a clean surface for the destruction of pathogens and other organisms as far as is practicable. The sanitizing agents used shall comply with the Federal Food, Drug and Cosmetic Act and the regulations of the department.

(32) [(33)] "Standard methods" means the current edition of the "Standard Methods for the Examination of Dairy Products," a publication of the American Public Health Association, 1015 Eighteenth Street, N.W., Washington, D.C. 20036.

(33) [(34)] "Sterilization or sterilized" means the complete in-container method of heating the container and contents at a minimum of 212 degrees Fahrenheit for sufficient time and vacuum to give complete destruction to all living organisms.

(34) [(35)] "3-A sanitary standards and accepted practices" means the standards and practices for dairy equipment formulated by the 3-A sanitary standards committees representing the International Association of Milk, Food and Environmental Sanitarians, the U.S. Public Health Service and the Dairy Industry Committee, published by the International Association of Milk, Food and Environmental Sanitarians, 413 Kellogg Avenue, Ames, Iowa 50010.

(35) [(36)] "Transfer station" means any place, premises or establishment where milk or milk products are transferred directly from one (1) transport tank to another.

(36) [(37)] "Ultra-pasteurized" means that such product shall have been thermally processed at or above 280 degrees Fahrenheit for at least two (2) seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

(37) [(38)] "Unsafe food additives" means any food additive prohibited by KRS 217.045.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office of the Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
**(Proposed Amendment)**

**902 KAR 50:070. Standards of identity for milk and milk products.**

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

PURSUANT TO: KRS 194.050, 211.090

NECESSITY AND FUNCTION: The Cabinet [Department] for Human Resources is directed by KRS Chapter 217C to set standards of identity and labeling requirements for milk and milk products. This regulation adopts, by reference, the applicable rules and regulations of the U.S. Food and Drug Administration relating to definitions, product standards of identity and labeling requirements for milk and cream; sour

cream and related products; cheeses, processed cheeses, cheese foods, cheese spreads, and related foods; and frozen desserts for the state of Kentucky.

Section 1. Milk and Milk Products Standards of Identity and Labeling Requirements. The standards of identity and labeling requirements as set forth in the *April 1, 1983* [March 15, 1977] edition of the Federal Register, Title 21, Food and Drugs, Chapter 1, Subchapter B, Foods for Human Consumption: (i) Part 131, milk and cream, pages 142-175 [14360-14366]; (ii) Part 133, cheese and related cheese products, pages 175-245 [14366-14393]; and (iii) Part 135, frozen desserts, pages 245-254 [14393-14400]; are hereby adopted by reference for the Commonwealth of Kentucky. These publications are published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. Copies of these publications shall be on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and are open for public inspection. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 2. 902 KAR 50:060, *Frozen desserts*, is hereby repealed.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 10, 1984

RECEIVED BY LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office of the Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

**904 KAR 1:013. Payments for hospital inpatient services.**

RELATES TO: KRS 205.520

PURSUANT TO: KRS [13.082,] 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for hospital inpatient services.

Section 1. Hospital Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to

provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised July 1, 1983, which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 42 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.272.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. The prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc.

(5) Peer grouping. Hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up. No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. Capital costs are interest and depreciation related to plant and equipment.

(7) Use of upper limits. An upper limit will be established on all costs (except Medicaid capital cost) at 105 percent of the weighted median per diem cost for hospitals in each peer group, using the latest available cost data; upon being set, the

arrays and upper limits will not be altered due to revisions or corrections of data. In addition, the upper limit is established at 120 percent for those hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served).

(8) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended and indexed separately.

(9) Hospitals whose general characteristics are not those of an acute care hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(10) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

*Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size, except that payments shall not exceed charges. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.*

*Section 6. Date of Implementation. The provisions of this regulation as amended shall be effective on September 1, 1984.*

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

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 no later than five (5) days before the hearing date: 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**  
**Division of Management and Development**  
**(Proposed Amendment)**

**904 KAR 2:016. Standards for need and amount; AFDC.**

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

PURSUANT TO: KRS [13.082,] 205.200(2)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with

federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

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

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

(3) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

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

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

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

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

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

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

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

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

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

Section 2. Resource Limitations. [The amount of] Real and personal property *owned in whole or in part by an applicant or recipient including his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered.* The amount that can be reserved by each assistance unit shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) as follows:

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

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

(b) Home furnishings, including all appliances;

(c) Clothing;

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

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

(f) Items valued at less than fifty (50) dollars each; and

(g) Other items/benefits mandated by federal regulation.

(2) Disposition of resources. An applicant/recipient [or the spouse living with any applicant or recipient] must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total

resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

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

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of natural parent(s), and/or *amount deemed available from a stepparent(s) living in the home, and/or amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard.* Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

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

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

(4) A period of ineligibility shall be established in accordance with 45 CFR 233.20(a)(3)(ii)(D), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

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

(1) Gross income test. All incomes listed below shall be excluded/disregarded:

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

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

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

(d) Work Incentive Program (WIN) incentive payments;

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

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

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

(h) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(i) Non-emergency medical transportation payments;

(j) Principal of loans;

(k) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

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

(q) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(r) Funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

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

(t) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Public Law 93-113;

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

(v) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

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

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

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

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

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

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

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

(3) Benefit calculation. After eligibility is established,

exclude/disregard all incomes listed in subsections (1) and (2), as well as:

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

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. This disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his/her earned income unless he/she has not been a recipient for twelve (12) consecutive months in accordance with 45 CFR 233.20(a)(11)(ii)(B).

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

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

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

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

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

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

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

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

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

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

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

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

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

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

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

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

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

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

(2) Resources. Resources which belong solely [are

available] to the stepparent are *not* [deemed available to the natural parent and] considered in determining eligibility of the natural parent *or* [for inclusion in] the assistance group. [Resources of a stepparent receiving SSI under Title XVI shall not be considered.]

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

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

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

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

(c) Amounts paid by the sponsor to non-household members who are or could be claimed as dependents in determining his/her federal personal tax liability;

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

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

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

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

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

Number of Eligible Persons	Monthly Standard
1 Child	\$140 [133]
2 Persons	\$170 [162]
3 Persons	\$197 [188]
4 Persons	\$246 [235]
5 Persons	\$288 [275]
6 Persons	\$325 [310]
7 or more Persons	\$362 [345]

Section 9. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said

month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

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

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

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

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

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

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

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

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

(a) High school level.

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

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

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

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

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

Section 10. Recoupment. The following provisions are ef-

fective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

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

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The overpaid assistance unit;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

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

(3) Overpayments shall be recovered through:

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

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

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

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

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

*Section 11. Provisions contained in this regulation shall become effective July 1, 1984.*

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

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

**904 KAR 2:050. Time and manner of payments.**

RELATES TO: KRS 205.220(1)

PURSUANT TO: KRS [13.082,] 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer money payment programs under Title IV-A of the Social Security Act and a state funded program of money payments to those aged, blind and disabled individuals disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. In addition KRS 205.245 provides for money payments to certain other aged, blind or disabled individuals. This regulation sets forth the time and the manner in which payments are made and the persons to whom payments may be made as required by KRS 205.220(1).

Section 1. Manner and Time of Payment. (1) All assistance payments are made by check issued monthly.

(2) The effective date of initial payment for Aid to Families with Dependent Children (AFDC) approvals shall be the date an application is filed if all eligibility factors were met as of that date. The effective date for State Supplementation Payments (SSP) approvals shall be the first day of the month in which an application is filed if all eligibility factors were met as of that month (i.e., on or after the date of application).

(3) Payment for both AFDC and SSP is made for an entire month during any part of which eligibility factors are met, except for the initial month's benefits for AFDC approvals which shall not be made for any period prior to the date of application.

(4) For AFDC, payments shall not be made to an individual for any month in which the amount of the benefit payment, prior to any recoupment, would be less than ten (10) dollars. Any individual who is denied a payment for this reason shall be deemed a recipient of AFDC for all other purposes.

(5) For SSP, supplemental payments shall be made if, due to administrative deadlines, changes in circumstances cannot be recognized in the month such change is reported; or, for AFDC, cannot be recognized in the time frames required in retrospective budgeting.

(6) For SSP, supplemental payments to correct underpayments due to administrative errors shall be made for a period of up to twelve (12) months preceding the month of error correction if the error existed in the preceding months.

Section 2. Inalienability of Payment. Money payments are unconditional and are exempt from any remedy for the collection of debts, liens and encumbrances; however, the cabinet may initiate recoupment to recover overpayment of AFDC benefits.

Section 3. Eligible Payees. Money payments are issued in the name of the eligible applicant, except that:

(1) In the Aid to Families with Dependent Children Program, a protective payment may be made to a third party payee when:

(a) A determination has been made that poor money management is contributing to the unsuitability of the home for a needy child; or

(b) The payee has refused, without good cause, to participate in the Work Incentive Program or the Child Support Program [or, effective January 1, 1984, comply with the photo-identification requirement].

(2) In the State Supplementation Payments Program, the payee may in appropriate circumstances be:

(a) The legally appointed committee or guardian; or

(b) For individuals receiving other statutory benefits (such as SSI), the same as the representative payee for that benefit program.

(3) Payment for the month of death may be made to the parent or other specified relative of the deceased child, or the duly appointed administrator of the estate or other qualified executor of the will of the deceased.

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

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 no later than five (5) days prior to the hearing date: 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  
Division of Management & Development  
(Proposed Amendment)**

**904 KAR 3:020. Eligibility requirements.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS [13.082,] 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 Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and non-financial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this regulation, including but not limited to:

(1) Wages earned by a household member, including all wages received by a striker the month prior to the month of the strike, or the month of application, in accordance with 7 CFR Part 273.1(g).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Payments under Title I (Volunteers in Service to America, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 shall be considered earned income unless specifically excluded in 7 CFR Part 273.9(c)(10)(iii).

(5) The earned or unearned income of excluded household members as set forth in 904 KAR 3:035, Section 5(3).

(6) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(7) Annuities; pensions; retirement; veteran's or disability

benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(8) Wages earned by a household member which are garnished or diverted by an employer and paid to a third party for a household expense.

(9) Support or alimony payments made directly to the household from nonhousehold members.

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

(11) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(12) Monies withdrawn or dividends which are or could be received from a trust fund considered to be excludable under 7 CFR Part 273.8(e)(8) by a household, unless otherwise exempt under the provisions set forth in 7 CFR Part 273.9(c).

(13) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien in accordance with 7 CFR Part 273.11(h).

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided the overpayment was not excludable in accordance with 7 CFR Part 273.9(c).

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment.

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty (30) dollars in a quarter.

(6) Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household.

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not attained their eighteenth birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program.

(14) Any energy assistance payments made under federal laws or certified as excludable energy payments by FNS.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below:

(1) Households which contain a member who is elderly or disabled as defined in 904 KAR 3:010, Section 1(10) shall have their net income compared to 100 percent of the federal income poverty guidelines.

(2) All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be periodically adjusted by FNS to reflect changes in the cost of living for a prior period of time as determined by FNS.

(2) Eighteen (18) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment. This deduction shall not exceed the excess shelter/child care maximum established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction alone or in combination with the dependent care deduction in subsection (3) of this section shall not exceed the excess shelter/child care maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter/child care maximum shall be adjusted periodically by FNS to reflect changes in the cost of living for a prior period of time. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (*by air conditioning units only*) costs separate and apart from their rent or mortgage payments in accordance with 7 CFR Part 273.9(d)(6). If the household is not entitled to the utility standard or does not choose to use the utility standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of elderly or disabled, as set forth in 7 CFR Part 271.2, are those meeting the criteria set forth in 7 CFR Part 273.9(d)(3) including, but not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. Resources. Uniform national resource standards of eligibility shall be utilized. Eligibility shall be denied or terminated if the total value of a household's liquid and non-liquid resources, not exempt under Section 7 of this regulation and in accordance with 7 CFR Part 273.8, exceed:

(1) \$3000: for all households with two (2) or more members, when at least one (1) member is sixty (60) years or older; or

(2) \$1500: for all other households.

(3) Households in which all members receive AFDC benefits and whose gross income does not exceed 130 percent of the federal income poverty guidelines shall be considered as having met the food stamp resource requirement.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods, personal effects including one (1) burial plot per household member, the cash value of life insurance policies and pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt), and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.

(3) Licensed/unlicensed vehicles as specified in 7 CFR Part 273.8.

(4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(5) Property which is essential to the employment or self-employment of a household member, in accordance with 7 CFR Part 273.8(e)(5).

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

Section 8. Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

Section 9. Non-financial Criteria. Non-financial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose

status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households [in counties in which MMR is being implemented] shall be required to file monthly [or periodic] reports *in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS* as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. [(a)] All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.

[(b)] Household members participating in a county operating a Work Registration and Job Search Demonstration Project shall be subject to requirements and sanctions as specified in 7 CFR Part 282.13(c). Household members required to register shall be assigned to either a treatment group or a control group based on their social security number. Individuals in the treatment group shall be subject to the ongoing job search requirements, in accordance with 7 CFR 282.13(f). Individuals assigned to the control group shall not be subject to work registration and job search requirements or sanctions during the operation of this demonstration project.

(9) *Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.*

[Section 10. Provisions contained in this regulation shall become effective April 1, 1983, unless otherwise specified in this regulation.]

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

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 no later than five (5) days before the hearing date: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40601.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**  
**(Proposed Amendment)**

**904 KAR 3:035. Certification process.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS [13.082,] 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 Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the certification process used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility and Benefit Levels. Eligibility and benefit levels shall be determined by the cabinet by considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Parts 273.3, 273.10(a), 273.10(b), 273.10(c), 273.10(d), 273.10(e) and, as appropriate, 273.21(e) and 273.21(g), and any waivers thereto approved by the federal Food and Nutrition Service (FNS) shall be used [ , unless specifically waived by the federal Food and Nutrition Service (FNS), ] to determine eligibility and calculate net income and benefit levels. The criteria set forth in this section shall be applicable to all households. In addition, certain households require special/additional certification procedures as specified in Section 5 of this regulation.

Section 2. Certification Periods. The cabinet shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Part 273.10(f)(3)(4)(5)(6) and 273.21(a)(3). Households in which all members are included in a PA grant shall be certified for a period of time which ensures, to the extent possible, that the recertification date and the PA reinvestigation date coincide.

Section 3. Certification Notices to Households. The cabinet shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility.
- (2) Notice of denial.
- (3) Notice of pending status.

Section 4. Application for Recertification. The cabinet shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2), Part 273.14 and Part 273.21 (q) [(p)], unless specifically waived by FNS.

Section 5. Certification Process for Specific Households. The following households have circumstances that are substantially different from other households and therefore require special/additional certification procedures:

- (1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).

(2) Households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with excluded household members which have been disqualified from program participation due to intentional program violation, failure to provide a Social Security number, because they are ineligible aliens, or because they have not verified their citizenship or alien status prior to certification, shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with non-household members shall be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled who receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273.11(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) Residents of shelters for battered women and children shall have their case processed in accordance with 7 CFR 273.11(g).

(8) Households consisting only of Supplemental Security Income (SSI) applicants or recipients shall have their case processed in accordance with 7 CFR 273.2(k).

(9) Households with a member who is on strike shall have their case processed in accordance with 7 CFR 273.1(g).

(10) Households requesting replacement allotments shall be processed in accordance with 7 CFR 273.11(h), 274.2(h) and 274.3(c).

(11) Student households or households containing a member(s) who is a student shall have their case processed in accordance with 7 CFR Part 273.5.

(12) Households containing a sponsored alien(s) shall have their case processed in accordance with 7 CFR Part 273.11(h).

(13) Households which are required to comply with mandatory monthly reporting criteria shall have their case processed *and shall comply with reporting requirements* in accordance with 7 CFR Part 273.21 and waivers thereto approved by FNS, with selected options as follows:

(a) A two (2) month system shall be used whereby the issuance month is the second month following its corresponding budget month. This system includes two (2) or three (3) beginning months, the month of application and/or month of approval and the following month. *Eligibility and benefit calculation shall be determined prospectively for the beginning months.*

(b) *For households reporting monthly, ongoing eligibility [and benefits] shall be determined by considering all factors of eligibility prospectively [retrospectively]. However, any factor which causes ineligibility prospectively, for a period longer than one (1) month, shall be acted upon immediately benefits shall be determined retrospectively. However, any factor which causes ineligibility prospectively, for a period longer than one (1) month, shall be acted upon immediately.* [Initial eligibility and benefit calculation shall be determined prospectively for the beginning months.] *For households reporting less frequently than monthly, ongoing eligibility and benefits shall be determined prospectively.*

[(c) Circumstances and income received in the appropriate budget month shall be considered for the corresponding issuance month.]

(c) [(d) Consider] The amount of the PA grant which was issued in the base month shall be considered in the corresponding budget month.

(d) [(e)] Counties shall [will] terminate or suspend cases in accordance with 7 CFR Part 273.21(m) and 273.21(n).

(e) [(f) Households shall be recertified using] The recertification form [which] shall serve as the [monthly] report required for that month in which a household must be recertified.

(f) [(g)] All households specified in 7 CFR Part 273.21(b)(2), as well as any others exempted by the appropriate federal agency, shall be excluded from mandatory monthly reporting.

Section 6. Reporting Changes. Certified households are required to report those changes in household circumstances specified in 7 CFR Part 273.12(a) within ten (10) days of the date the change becomes known to the household. An applying household shall report all changes related to its food stamp eligibility and benefits at the certification interview, or for changes occurring after the interview but prior to receipt of the notice of eligibility, within ten (10) days of the date of the notice. The cabinet shall act on reported changes in accordance with 7 CFR Part 273.12(c). The cabinet shall comply with other change reporting provisions outlined in 7 CFR Part 273.12. Households which are required to report monthly, shall not be required to submit any reports of changes other than the reports required under Section 5(13) of this regulation.

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

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 no later than five (5) days before the hearing date: 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  
(Proposed Amendment)**

**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 Chapter 341, the following operating manuals are adopted by reference:

(1) Local Office Manual as issued February 1984 and last revised June 4, [May] 1984.

(2) Benefit Branch Procedures Manual issued May 1982 and last revised June 1, 1984 [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 May 30, [March] 1984.

(5) Unemployment Insurance Field Audit Manual issued February 1984 and last revised June 8, [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 20621.

JAMES P. DANIELS, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Employment Services**  
**Division of Research and Planning**  
**(Proposed Amendment)**

**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. *In order to coordinate the Job Training Program and provide for uniform service to the public, the following plan and instructions are adopted by reference:*

- (1) *Governor's Coordination and Special Services Plan, dated May 15, 1984.*
- (2) *Information and Instructions for a Request for Proposal (RFP).*

Section 3. [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: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office of the General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of Program Management**  
**(Proposed Amendment)**

**905 KAR 5:010. Standards.**

RELATES TO: KRS 209.030(7) [(1)], 209.160 [, House Bill 295, Section 52d of the 1982 General Assembly]

PURSUANT TO: KRS [13.082,] 194.050, 209.030(1)

NECESSITY AND FUNCTION: KRS 209.030(1) *authorizes the Cabinet for Human Resources to adopt rules, regulations, procedures, guidelines and policies to provide for the protection of adults.* [House Bill 295, §52d of the 1982 General Assembly authorizes the Cabinet for Human Resources to establish, by administrative regulations, reasonable performance standards for qualifying applicants for state appropriated funds related to spouse abuse shelters and crisis centers, and] KRS 209.160 *authorizes additional funds from marriage licenses to be used for spouse abuse shelters. Since there are no licensing requirements for spouse abuse shelters or crisis centers, this regulation establishes reasonable performance standards for qualifying applicants for state funds related to spouse abuse shelters and crisis centers.*

Section 1. Definitions. [(1) "Challenging grant formula" means the formula authorized to allocate state funds appropriated under House Bill 295, §52d to spouse abuse shelters and crisis centers. Beginning in fiscal year 1982-83 for new applicants (agencies which have not received state funding support prior to July 1, 1982), and in fiscal year 1983-84 for all applicants the formula shall allocate, to the extent appropriated funds permit, one dollar (\$1) for each dollar raised by qualifying applicants from non-state resources up to a maximum of fifty percent (50%) of the proposed annual budget, such percentage to decline in each subsequent year of application following fiscal year 1983 by five percent (5%) to a minimum floor of twenty-five percent (25%) state funding support.]

(1) [m(2)] "Cabinet" means Cabinet for Human Resources.

(2) [(3)] "Crisis center" means counseling and domestic violence crisis intervention services for abused spouses and their children.

(3) [(4)] "Department" means Department for Social Services.

(4) [(5)] "Non-state resources" means cash, certified expenditures or in-kind contributions used in the programs that are derived from other than state funds.

(5) [(6)] "Qualified applicant" means any public or non-profit incorporated agency.

(6) [(7)] "Spouse abuse shelter" means a home-like facility which provides temporary or emergency shelter, food, counseling, and information and referral for abused spouses and their children.

Section 2. Staff. (1) In all spouse abuse shelters or crisis centers one (1) staff person shall be designated as director.

(2) The facility shall maintain and/or assure the provision of such competent staff to provide services at the center or shelter. Staff and volunteers are to be at least eighteen (18) years of age unless under the direct supervision of an adult, have education, training or experience to perform their particular job, and a willingness to work with others, including people under stress, and to share responsibilities.

(3) The facility shall have written personnel policies.

(4) The facility shall maintain written job descriptions for each job category for all staff.

(5) The facility shall submit to the department a staffing pattern and indicate areas of responsibility, as well as lines of authority and supervision.

(6) The facility shall provide and/or secure orientation and in-service training for staff and volunteers responsible for services under this contract.

Section 3. Physical Facilities. (1) The facility shall comply with applicable local, state and federal building, fire and health codes.

(2) Bedrooms shall be equipped with a bed or, when necessary as a result of overcrowding, a mat of reasonable comfort.

(3) Each facility shall maintain a security system to provide for the physical safety of the client.

(4) The facility shall comply with the grievance and complaint procedures established by the cabinet and the department.

Section 4. Medical and Dental. The facility shall assure emergency medical and dental services are available by referral.

Section 5. Meals. The facility shall provide all clients with three (3) meals per day, each including foods from the four (4) basic food groups.

Section 6. Services. (1) The spouse abuse shelter or crisis center shall maintain and provide services on a continuing basis and for such hours as are necessary to meet the needs of eligible persons.

(2) Staff of the facility are to apprise clients of resources available through the facility or by referrals which may assist them in the solution of their problems.

(3) Upon entrance into the spouse abuse shelter or crisis center, a written record shall be made which shall include identification of the reason for intake, and a summary of services available to assist the client through the facility. Each record maintained by the shelter or center shall contain, at a minimum, the information set forth in Section 7 of this regulation.

(4) The facility shall maintain records of services provided the client by the facility. In the event social services are provided by referral, a copy of the referral, together with the records of services provided by the agency or organization to the client, shall be maintained by the spouse abuse shelter or crisis center. In the event the state Department for Social Services provides assistance, copies of those records may be provided the spouse abuse shelter or crisis center only upon the affirmative showing in writing of a tangible or legitimate interest in the matter.

Section 7. Records. (1) Client records are to be maintained on each individual or family unit residing in the shelter or center during the time wherein that client or family unit is in residence at the facility.

(2) The client record is to maintain, at a minimum:

(a) The information set forth in Section 6, subsection (3) of this regulation.

(b) Name, age, sex, address and marital status of the individual.

(c) The names and ages of any accompanying dependents.

(d) Identification of any physical injury and any medical attention to be obtained.

(e) Identification of any physical condition or ailment which may impact upon the services to be offered the client.

(f) Referrals of the client for services outside the shelter or center, identifying the agency by name and address.

(g) Any prior contacts with spouse abuse shelters or centers by the client specifying the date and reason for the contact.

(3) Records of the spouse abuse shelter or crisis center shall be maintained as confidential and shall not be shared without the prior written authorization of the client. Any records of the Cabinet for Human Resources, Department for Social Services, in the possession of the spouse abuse shelter or crisis center are strictly confidential and shall be shared with other agencies, individuals, or organizations only as provided in KRS 209.140 and KRS 194.060 and with the prior written permission of the Department for Social Services.

(4) The Cabinet for Human Resources, Department for Social Services, shall have access to the records of the spouse abuse shelter or crisis center, including financial records for the purpose of audit, in order to determine compliance with the provisions of these regulations.

Section 8. Budget. (1) Prior to the disbursement of any funds to the shelter or center, the facility is to provide the department with a proposed budget indicating sources of income and amounts therefrom, together with the proposed use of funds received.

(2) During the fiscal year, the facility is to maintain financial records to document income and expenditures.

Section 9. (1) Daily program activities shall be offered with emphasis upon the client's physical, intellectual and social needs.

(2) No client shall maintain in his/her possession any weapon, alcohol or drug while in the facility.

(3) In no instance shall harsh, cruel or unusual punishment be used.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 13, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

# Proposed Regulations

## OFFICE OF THE GOVERNOR Department of Local Government Division of Development Finance

### 109 KAR 9:010. Area development fund.

RELATES TO: KRS Chapter 42

PURSUANT TO: KRS 42.360

**NECESSITY AND FUNCTION:** Pursuant to the authority vested in the Commissioner of the Department of Local Government by KRS 42.360, this regulation establishes procedures relating to implementation of KRS 42.350 to 42.360, including submission and approval of proposed capital projects, expenditure of moneys from the Area Development Fund and completion of capital projects.

Section 1. (1) The board of directors of each area development district shall select from among capital projects proposed by eligible beneficiary agencies, projects consistent with goals, objectives and priorities of adopted state, local or regional development plans and shall submit recommended projects to the Department of Local Government for approval.

(2) The board of directors shall give priority consideration to proposed projects which have funds allocated in addition to area development funds and shall consider need and long-term benefits in selection of projects.

(3) Boards of directors of two (2) or more area development districts may propose joint capital projects to be financed by funds allocated to each participating area development district.

Section 2. All project proposals shall be submitted on forms prescribed by the Department of Local Government, and no proposal shall be considered officially submitted until complete information and documentation required has been received by the Department of Local Government.

Section 3. Each proposal submitted by an area development district shall be accompanied by the following documentation:

(1) Minutes of area development district board meeting specifying project approval and amount of area development funds allocated to the project.

(2) Except cities and counties:

(a) A court order contained a reference to the authorizing statute by which the special district was established; or

(b) An executive agreement approved by the Attorney General as an agency created under the Interlocal Cooperation Act; or

(c) Articles of incorporation of a non-profit corporation organized for a public purpose and performing governmental functions and services.

(3) If funds from other sources are to be used for the project, the availability of such funds shall be verified by:

(a) Resolution, minutes of legislative body or adopted budget of a local government; and/or

(b) Copy of grant or loan award notice from a federal or state agency which states the amount of funds and date such grant or loan funds will be available; and/or

(c) Affidavit by the authorized agent of a private funding source.

(4) Itemized cost estimates prepared within thirty (30) days prior to the date of submission by a licensed architect or engineer; or a price quote on each item from one (1) or more vendors or contractors obtained within thirty (30) days prior to submission.

(5) Statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and regulations have been or will be met with attestation of the county clerk that such written assurances required by KRS 42.355 are recorded in the office of the clerk of the county in which the project is located.

(6) Any proposal to acquire real property or acquire interest in real property shall be accompanied by a licensed attorney's statement which sets forth the present holder of title, book and page number of the deed by which the holder received title and sets forth any liens, mortgages and claims against the property.

(7) When the beneficiary agency owns property rights by lease, the proposal shall be accompanied by a copy of the executed lease which must be for a term longer than the life expectancy of the project, generally not less than a twenty-five (25) year period.

(8) Proposals to extend new water, sewer or other utilities shall be accompanied by easements, right-of-ways or attorney determination and certification of existence of same.

(9) Proposals for purchase of real property shall be accompanied by an appraisal.

Section 4. A project may be given conditional approval pending submission of any documentation or other information required by these regulations, but final payment shall not be made on any project until all documentation has been submitted.

Section 5. A beneficiary agency shall maintain and furnish as appropriate the following documentation:

(1) A project completion report on a form prescribed by the Department of Local Government.

(2) Copy of advertisement for bids, indicating the date(s) and source of publication.

(3) Tabulation of all bids received with certification by the chief executive officer that all bids were opened at the time and place stated in the advertisement, the tabulation is true and accurate and all laws applicable to advertisement and award have been met.

(4) Copy of official records documenting award of the bid.

(5) Copy of each executed contract (or purchase order) and any change order(s) to the contract.

(6) Specifications upon which the bid and award were based.

(7) Copy of the fully executed deed.

(8) Copy of all statements/invoices.

(9) Copy of note or other document marked paid.

(10) Other such documents or information which may be necessary to verify appropriate use of grant funds.

Section 6. Beneficiary agencies receiving grants in aid as authorized by KRS 42.350 through 42.355 shall expend grant funds only for the payment of the costs of the capital project for which such grant was made. Grantee beneficiary agencies shall be liable to repay to the area development fund any



granted funds expended by the agency in violation of this section or the provisions of KRS 42.350 through 42.355.

Section 7. 200 KAR 9:010, Approval of projects; expenditure of funds; title, is hereby repealed.

RICHARD D. COLE, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 10 a.m. in Room G1, Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall submit a written notice by July 19, 1984 to: Linda L. Horton, Manager, Area Development Fund, Department of Local Government, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 16:010. Procedure for obtaining a permit for operating amusement rides or attractions.

RELATES TO: KRS 247.232

PURSUANT TO: KRS 246.040, 247.232, 247.234, 247.236, 247.990

NECESSITY AND FUNCTION: To establish the criteria for obtaining a permit to operate an amusement ride or attraction in the Commonwealth of Kentucky.

Section 1. Before operating any amusement ride or attraction in this state the owner or operator of such ride or attraction shall provide to the commissioner a written itinerary showing the location of the first set-up as well as the balance of the Kentucky itinerary as known on the date of notification. Such itinerary shall include the playing dates and location; including street and address number where the set-up is within a city or town. The itinerary shall also include the operating period at each site and shall be delivered to the commissioner at least fourteen (14) days prior to the first scheduled set-up.

Section 2. The itinerary set forth in Section 1 of this regulation shall be updated and submitted to the commissioner when cancellations or additional locations are added to the itinerary in Kentucky for the period covered by the permit.

Section 3. On or before the date of the initial inspection of the calendar year the applicant shall provide proof of liability insurance on each ride or attraction in the amount of \$1,000,000 due to all bodily injuries or deaths per occurrence. Such proof of insurance must also provide that the insurer will not cancel such policy without thirty (30) days written notice to the commissioner. Proof of insurance may be either the policy itself or a certified statement issued by the insurer attesting to the above requirements. The proof of insurance shall include a listing of the rides or attractions insured or a statement to the effect that all rides or attractions operated under the supervision of the insured are covered.

Section 4. Each owner or operator of an amusement ride or attraction shall submit to the commissioner or his designated representative an application to be provided by the commissioner. A twenty-five (25) dollar permit fee for each ride or attraction shall accompany the application for a permit. Said permit shall not be issued until each ride or at-

traction has been inspected and found to be in compliance with KRS 247.232 through 247.236 and applicable regulations. To assure continued safety of amusement rides or attractions, and in addition to the initial inspection provided for pursuant to KRS 247.234 through 247.236, periodic safety inspections may be conducted at various times throughout the term of the permit according to the playing locations as listed in the itinerary.

Section 5. Upon receipt of proper application and permit fee and upon completion of satisfactory inspection as set forth in Sections 1, 2, 3, and 4 of this regulation the commissioner shall issue a permit in the name of the applicant. Accompanying such permit shall be a seal. The owner or operator shall affix this seal to a permanent and accessible section of the ride or attraction for which such permit was issued.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 11 a.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 16:020. Operation of amusement rides or attractions.

RELATES TO: KRS 247.232, 247.234

PURSUANT TO: KRS 246.040, 247.232, 247.234, 247.236, 247.990

NECESSITY AND FUNCTION: To establish guidelines for the operation and inspection of amusement rides or attractions.

Section 1. All amusement rides or attractions must bear a seal as required by regulation. If the required seal does not appear on the ride, the ride may be stopped until proof of a valid permit is furnished.

Section 2. All amusement rides or attractions must be maintained in good electrical and mechanical condition and be under the supervision of a competent operator at all times when the ride or attraction is in operation.

Section 3. All amusement rides or attractions that are potentially hazardous to bystanders must be adequately fenced so as to provide protection to spectators and riders. In the case of aerial rides or swings, a barrier must be present providing a safe distance from the outmost arc of such swing or aerial ride. All power units must be shielded so as to afford public safety.

Section 4. No amusement ride or attraction or its power unit shall be so located as to present a fire hazard to adjacent buildings, exhibits or other structures. In the case of a riding device using gasoline engines, storage of gasoline in or adjacent to the riding device must be in an approved safety container and at a safe distance from any ride. All electrical wires leading to and from a riding device must be protected and insulated so as to present no shock hazard. All electrical equip-

ment must be properly grounded. All electrical junction boxes must be locked or sealed.

Section 5. The operator of an amusement ride or attraction must ensure that no one is permitted on such ride who appears to be in an intoxicated condition, is not wearing some foot protection such as shoes or sandals, or carrying any article which may be dropped from the ride.

Section 6. Properly charged fire extinguishers shall be present at all rides or attractions in accordance with state and local standards.

Section 7. The permit issued pursuant to KRS 247.232 through 247.236 shall be posted at all times while the ride or attraction is in operation in a conspicuous place on or near the ride or attraction.

Section 8. The Kentucky Department of Agriculture guideline handbook for inspection of amusement rides and attractions plus amendments thereto are incorporated by reference.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 11 a.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 16:030. Determination of safety violations which cannot be corrected immediately.

RELATES TO: KRS 247.232, 247.234

PUSUANT TO: KRS 246.040, 247.232, 247.234, 247.236, 247.990

NECESSITY AND FUNCTION: To determine safety violations which cannot be corrected immediately.

Section 1. The amusement safety inspector shall determine the nature and severity of safety violations and shall determine when such violations cannot be corrected immediately within the meaning of KRS 247.232 through 247.236. Such determination shall be made based upon accepted industry standards, applicable law and regulations promulgated by the commissioner.

Section 2. An amusement ride or attraction operating in this state without a valid permit shall be deemed a safety violation which cannot be corrected immediately.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 11 a.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 20:150. Restriction of transportation of livestock infected with a communicable disease.

RELATES TO: KRS 257.020

PURSUANT TO: KRS 257.030

NECESSITY AND FUNCTION: To prevent and control the spread of communicable disease in livestock by restricting movement of animals.

Section 1. The movement or transportation of livestock known to be infected with or exposed to a communicable disease or exhibiting clinical symptoms of a communicable disease may be restricted or limited until such time as the chief livestock sanitary official shall authorize such livestock's movement or transportation.

Section 2. No livestock restricted or limited under Section 1 of this regulation shall be moved or transported interstate until prior authorization for such movement or transportation is obtained from the chief livestock sanitary official.

DAVID E. BOSWELL, COMMISSIONER

APPROVED BY AGENCY: June 2, 1984

FILED WITH LRC: June 5, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 1 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 20:160. Control of viral equine arteritis.

RELATES TO: KRS 257.020

PURSUANT TO: KRS 257.030

NECESSITY AND FUNCTION: To establish guidelines for the prevention and control of viral equine arteritis and for the movement of horses from the Commonwealth of Kentucky.

Section 1. No breeding stallion on premises where horses infected with viral equine arteritis are present shall be moved or transported from such premises until authorized by the chief livestock sanitary official.

Section 2. No mare bred on premises where stallions infected with viral equine arteritis are present shall be moved or transported interstate until authorized by the chief livestock sanitary official.

Section 3. No horse exposed to an infected horse or vaccinated against viral equine arteritis shall be moved or transported interstate after such exposure or vaccination until authorized by the chief livestock sanitary official.

Section 4. No horse shall be moved interstate unless the temperature of that horse is within the normal limits for the age and condition of said horse. The temperature of all horses

authorized to be moved interstate shall be recorded on said animal's health certificate.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 2, 1984

FILED WITH LRC: June 5, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 1 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40621.

## DEPARTMENT OF AGRICULTURE

### 302 KAR 34:010. Definitions.

RELATES TO: KRS 251.610, 251.640

PURSUANT TO: KRS 251.690

NECESSITY AND FUNCTION: To further clarify the Kentucky Grain Insurance Fund Act and Dealer Law.

Section 1. Participant or participation in the Kentucky grain insurance fund shall mean:

(1) Any person who has in good faith contributed to the Kentucky grain insurance fund prior to meeting the criteria of the claimant shall be a participant in the Kentucky grain insurance fund.

(2) Persons who have marketed grain on a deferred or delayed pricing contract shall be participants in the Kentucky grain insurance fund.

(3) Any person storing grain with a dealer or warehouseman who has not previously contributed to the fund may participate therein and obtain all the protection of the fund by remitting one-half (½) cent per bushel on all grain stored at the time such grain is placed in the custody or control of the dealer or warehouseman.

Section 2. Processing shall mean the method by which grain is prepared for further marketing of the grain.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: June 15, 1984

FILED WITH LRC: June 15, 1984 at 12 noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 11 a.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

### 401 KAR 49:040. Solid Waste Planning Assistance Program.

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

PURSUANT TO: KRS 224.033, 224.887, 224.892, 224.893

NECESSITY AND FUNCTION: KRS 224.892 establishes a program to provide technical and financial assistance to coun-

ties and urban-county governments for the purposes of encouraging the development of local strategies to address solid waste management opportunities and problems. This regulation establishes the procedures and criteria by which financial assistance will be provided to counties, cities, solid waste management areas and waste management districts.

Section 1. This regulation governs the general conditions, application procedures, approval criteria, and priority systems to implement the Kentucky solid waste management financial assistance program.

Section 2. Financial Assistance Program. Financial assistance provided under this program may be used to employ staff, contract with other units of government or private consultants, and pay administrative costs involved in plan and study preparation. Financial assistance shall not be used for the acquisition of land or interest in land, equipment or any other capital improvements, or any annual recurring costs that are considered to be operation and maintenance expenses. The financial assistance program shall include four (4) subparts including:

(1) Area solid waste management plans. Financial assistance may be used to prepare area solid waste management plans.

(2) Disposal site engineering and geotechnical studies. Financial assistance may be used to prepare disposal site engineering plans and conduct geotechnical studies required by KRS 224.855 for a new landfill or a major modification to an existing landfill.

(3) Resource recovery studies. Financial assistance may be used to investigate the feasibility of developing a resource recovery facility or implementing a resource recovery activity. Studies may include technological analyses of alternative recovery systems, preliminary engineering design, legal, economic, financial, environmental, administrative and institutional analyses.

(4) Relevant solid waste management studies. Financial assistance may be used to conduct specific studies and detailed analyses necessary to implement or improve a solid waste collection, transportation, processing, public education, enforcement, or resource conservation system.

Section 3. Eligibility. (1) Eligible recipients for financial assistance to prepare area solid waste management plans are county governments, a group of county governments or urban-county governments. Where counties have delegated the responsibility for plan preparation to a waste management district, city or other entity, the county shall submit the application and retain primary responsibility for plan development. Counties that have received financial assistance from the cabinet to prepare an area solid waste management plan are ineligible to receive another grant to prepare an area solid waste plan for four (4) years from the date that a grant was awarded.

(2) Recipients eligible to receive financial assistance for other studies include counties, cities or urban-county governments, and waste management districts located within a designated solid waste management area. The proposed study shall be recommended in an approved area solid waste management plan or an approved and adopted plan update. Financial assistance will be limited to one (1) study for each designated solid waste management area per year. Eligibility to receive assistance for a disposal site engineering or geotechnical study is contingent on the applicant having the legal right to conduct the study and develop and operate a landfill at the specified site if the facility is approved by the cabinet.

Section 4. Application Process and Content. The general application procedures to be followed by all applicants and the cabinet are:

(1) Based on the availability of funds, the cabinet may administer two (2) to three (3) grant cycles each year. Applications shall be submitted on a form provided by the cabinet.

(2) Applications to prepare solid waste management plans will receive first consideration. In selecting the recipients in a grant cycle, the cabinet will consider the following factors:

- (a) The current availability of a sanitary landfill;
- (b) The adequacy of the current solid waste collection system;
- (c) The volume of waste generated in the proposed service area;
- (d) Whether the plan or proposed facility will serve a multi-county area;
- (e) The mean annual income level of the residents to be served;
- (f) The applicant's annual budget and its ability to finance the planning activity;
- (g) The projected benefits of the proposed plan or facility;
- (h) The promotion of resource conservation and recovery practices;
- (i) The existence of an organizational framework capable of implementing any subsequent plan; and
- (j) The innovative nature of the proposed facility or planning process.

(3) Selection of recipients for financial assistance grants will be made using the criteria listed in subsection (2) of this section.

(4) The cabinet will notify applicants in writing within thirty (30) days after the close of a grant cycle of award acceptance or rejection.

(5) Applicants shall prepare a work program identifying study tasks to be completed, their estimated cost, who will conduct the study tasks, and timetable for plan development.

(6) Based on the work program the cabinet and the applicant will enter into a Memorandum of Agreement (MOA) identifying the level of financial assistance to be provided, activities to be performed, a timetable for study completion, and any other necessary conditions.

(7) Memorandums of Agreement will generally be written for periods of one (1) year or less. Those written for periods longer than one (1) year will be staged in phases of one (1) year or less with interim audits at the end of each stage. Planning studies shall be initiated within ninety (90) days of notice of award acceptance or the agreement to provide financial assistance may be withdrawn.

Section 5. Financial Assistance Levels. (1) Eligible recipients may receive grants for up to fifty (50) percent of the cost of the planning or study activity. The local cost share may include in-kind services. Activities that cannot be considered as in-kind services include those associated with advertising for, selecting, or administering a contract for a consultant; costs incurred outside of the grant period; plan review activities or discussions of the plan or study conducted at normally scheduled public meetings; or any plan or study implementation activity.

(2) The maximum level of financial assistance available for:

(a) An area solid waste management plan for a single county is \$10,000; two (2) counties is \$12,500; three (3) counties is \$13,500; four (4) counties is \$14,500; and five (5) or more counties is \$15,000.

(b) A disposal site engineering study or geotechnical studies is \$15,000.

(c) Resource recovery studies is \$25,000.

(d) Relevant solid waste management studies is \$10,000.

(3) The recipient shall maintain appropriate records to document expenditures and in-kind services provided during development of the plan. These records shall be made available to the cabinet upon request.

(4) Payment will be on a reimbursable basis. Partial payments may be authorized by the cabinet during the course of plan development. Recipients will only receive total reimbursement upon final approval by the cabinet of the plan or study.

(5) Any additional expenditures by the grant recipient over the amount of the original estimated project costs shall not be considered for matching payment by the cabinet.

(6) The cabinet may terminate the grant if the cabinet determines that there has been no substantial performance on the plan or study, unless good cause is shown.

(7) The cabinet may determine that any or all of the uncompleted portions of study are not eligible for reimbursement where preliminary analyses indicate that project implementation would be infeasible for economic, environmental, technical or any other reason. When such a determination is made, the cabinet will notify the recipient and withdraw its agreement to cost share any additional portions of the study. Such a determination will not effect the reimbursement of those parts of the study completed by the recipient prior to receiving the notification of ineligibility.

Section 6. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 15, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on July 26, 1984, at 1 p.m. EDT in the Capital Plaza Tower Auditorium, Frankfort, Kentucky. Persons interested in attending this public hearing shall contact the following by July 21, 1984: J. Alex Barber, Director, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

#### **PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control**

##### **804 KAR 1:110. Wine tastings.**

RELATES TO: KRS 244.240

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: KRS 244.240 prohibits a distiller, rectifier, vintner or wholesaler from making any gift or rendering any kind of service to any licensee under KRS 243.030 which in the sound judgment of the board may tend to influence the licensee to purchase the product of the distiller, rectifier, vintner or wholesaler. This regulation is designed to regulate said educational meetings sponsored by suppliers and/or wholesalers for retail liquor licensees in a manner consistent with modern marketing practices and in conformance with relevant statutory provisions and legislative intent. Such educational affairs serve a useful purpose for the industry and the consuming public.

Section 1. Educational meetings, such as wine tastings and the introduction of new product or special packaging, sponsored by distillers, rectifiers, vintners or wholesalers for retail licensees under KRS 243.030 are permitted provided: (1) Such meetings are held on licensed premises, other than premises licensed for the sale of package liquor at retail.

(2) Guests limited to retail liquor licensees and their employees.

(3) No service of any alcoholic beverage be made to minors.

(4) Activity limited to serving distillers spirits and/or wine and hors d'oeuvres.

(5) No alcoholic beverages may be given to be carried away from licensed premises by invited guests.

(6) No gift, or favor, of any kind may be given to the guests to be taken from the premises at which the meeting is conducted.

(7) Ten (10) days prior written notification must be given to Kentucky Department of Alcoholic Beverage Control containing detailed plans of the activity including estimated cost per guest.

(8) The activity does not include distillery and wine tours.

Section 2. Distillers, vintners and wholesalers may participate in private parties or fund raisers conducted by bona fide charitable organizations, church groups, civic groups and individuals at which distilled spirits and/or wine is served provided: (1) The private party or fund raiser is held at a location licensed for sale of distilled spirits and wine by the drink or for which a special temporary drink license is issued.

(2) The distilled spirits and/or wine served is purchased through the retail license holder at the premises at which the event is held and paid for by the sponsoring organization.

(3) Industry participation is limited to furnishing pamphlets, literature, and personnel to address the assembly and serve the beverages.

EDWARD A. FARRIS, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 12, 1984 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will held on Wednesday, July 25, 1984, at 10 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

## **PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control**

### **804 KAR 4:240. Registration of brands.**

RELATES TO: KRS 241.060, 244.440

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: KRS 241.060 empowers the board to adopt reasonable regulations governing the traffic of alcoholic beverages. KRS 244.440 requires that distillers, rectifiers, blenders or vintners and non-resident wholesalers having exclusive interest in any particular brand to be sold in the state to register those brands in the name of the wholesalers distributing such brands. This registration will be facilitated by the adoption of a specific form.

Section 1. The Alcoholic Beverage Control Board prescribes the following form to be used for the registration of brands pursuant to KRS 244.440.

EDWARD A. FARRIS, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 12, 1984 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will be held on Wednesday, July 25, 1984, at 10 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

(See form on following page)

## 99

BRAND REGISTRATION  
Kentucky Department of Alcoholic Beverage Control

Supplier \_\_\_\_\_ Address \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

WHOLESALER	AUTHORIZED SIGNATURE

[illegible]

(Continue On Reverse)

Supersedes File No.	Effective Date	This File No.
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Volume 11, Number 1—July 1, 1984

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Insurance**

**806 KAR 2:100. Disclosure of KRS 136.392 surcharge.**

RELATES TO: KRS 136.392

PURSUANT TO: KRS Chapter 13A, 136.392

NECESSITY AND FUNCTION: KRS 136.392 provides that the surcharge required by that section shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the Commissioner of Insurance. This regulation prescribes the manner in which the surcharge required by KRS 136.392 is to be disclosed to policyholders.

Section 1. (1) Each policy subject to KRS 136.392 issued to an insured for the first time shall include a notice that the premium includes the surcharge required by KRS 136.392. Such notice shall be placed on the declarations page of the policy by use of a typewriter, stamp, sticker, or any other reasonable means approved by the Commissioner.

(2) At the option of the insurer, such notice may be placed on renewal certificates and billings issued subsequent to the original policy.

(3) At the option of the insurer, the amount of the surcharge may be shown on the declarations page of the policy, on renewal certificates or subsequent billings, or both.

GILL McCARTY, Commissioner  
 MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on July 23, 1984, at 9 a.m., EDT, at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Insurance**

**806 KAR 12:090. Unfair claims settlement practices.**

RELATES TO: KRS 304.2-165, 304.3-200, 304.12-010, 304.12-220, 304.12-230, 304.20-070, 304.20-150 to 304.20-180, 304.29-590, 304.32-270, 304.38-200, 304.39-070, 304.43-130

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.32-250, 304.38-150

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky insurance code. KRS 304.32-250 provides that the commissioner may promulgate reasonable regulations which he deems necessary for the proper administration of KRS Chapter 304.32. KRS 304.38-150 provides that the Commissioner of Insurance may promulgate reasonable regulations which he deems necessary for the proper administration of KRS Chapter 304.38. This regulation defines certain minimum standards which, if violated in such a manner as to indicate a general business practice, will be deemed to constitute unfair claims settlement practices.

Section 1. Scope. This regulation defines certain minimum standards which, if violated with such frequency or in any other manner as to indicate a general business practice, will be deemed to constitute unfair claims settlement practices. This regulation applies to all insurance policies and insurance contracts except workers' compensation insurance. This regulation applies to all persons, but shall not be construed as creating sanctions against an insured. This regulation is not exclusive and other acts or practices not herein specified may also be deemed to be a violation of KRS 304.12-230.

Section 2. Definitions. As used in this regulation: (1) "Agent" means any individual, corporation, association, partnership, or other legal entity authorized to represent an insurer with respect to a claim.

(2) "Claimant" means either a first party claimant, a third party claimant, or both and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.

(3) "First party claimant" means any individual, corporation, association, partnership, or other legal entity asserting a right to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract.

(4) "Insurance policy or insurance contract" has the meaning defined in KRS 304.14-020 and also includes certificates of group insurance.

(5) "Insurer" means a person licensed to issue or who issues any insurance policy or insurance contract in this state, fraternal benefit societies, non-profit hospital, medical, surgical, dental, and health service corporations, health maintenance organizations, or prepaid dental plan organizations.

(6) "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.

(7) "Notification of claim" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

(8) "Person" has the meaning defined in KRS 304.1-020.

(9) "Third party claimant" means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership, or other legal entity insured under an insurance policy or insurance contract of an insurer.

(10) "Workers' Compensation" includes, but is not limited to, Longshoremen's and Harbor Workers' Compensation.

Section 3. File and Record Documentation. The insurer's claim files shall be subject to examination by the Commissioner of Insurance or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed.

Section 4. Misrepresentation of Policy Provisions. (1) No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages, or other provisions of an insurance policy or insurance contract under which a claim is presented.

(2) No agent shall conceal from first party claimants benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages, or other provisions are pertinent to a claim.

(3) No insurer shall deny a claim for failure to exhibit the



property without proof of demand and unfounded refusal by a claimant to do so.

(4) No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices the insurer's rights.

(5) No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

(6) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which release the insurer or its insured from its total liability.

**Section 5. Failure to Acknowledge Pertinent Communications.** (1) Every insurer, upon receiving notification of a claim shall, within ten (10) working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.

(2) Every insurer, upon receipt of any inquiry from the Insurance Department respecting a claim shall, within fifteen (15) working days of receipt of such inquiry, furnish the Insurance Department with an adequate response to the inquiry. Insurers receiving Insurance Department inquiries concerning health insurance claims should send a written reply to the Insurance Department within ten (10) days of receipt if it is reasonably possible to do so.

(3) An appropriate reply shall be made within ten (10) working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

(4) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this subsection within ten (10) working days of notification of a claim shall constitute compliance with subsection (1) of this section.

**Section 6. Standards for Prompt Investigation of Claims.** Every insurer shall complete investigation of a claim within thirty (30) days after notification of claim, unless such investigation cannot reasonably be completed within such time.

**Section 7. Standards for Prompt, Fair, and Equitable Settlements Applicable to All Insurers.** (1) Within fifteen (15) working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. Where there is a reasonable basis supported by specific information available for review by the Commissioner of Insurance that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

(2) If a claim is denied for reasons other than those described in subsection (1) of this section and is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer.

(3) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen (15) working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five (45) days from the date of the initial notification and every forty-five (45) days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation. Where there is a reasonable basis supported by specific information available for review by the Commissioner of Insurance regulatory authority for suspecting that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this subsection. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

(4) Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

(5) Insurers shall not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations or a policy or contract time limit, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's rights. Such notice shall be given to first party claimants thirty (30) days and to third party claimants sixty (60) days before the date on which such time limit may expire.

(6) No insurer shall make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.

**Section 8. Standards for Prompt, Fair, and Equitable Settlements Applicable to Automobile Insurance.** (1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(a) The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees (if such fees cannot be refunded by the Transportation Cabinet), and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees (if such fees cannot be refunded by the Transportation Cabinet), and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by:

1. The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area.

2. One (1) of two (2) or more quotations obtained by the insurer from two (2) or more qualified dealers (i.e., dealers which engage in the buying and selling of comparable auto-

mobiles in the ordinary course of their business) located within the local market area when a comparable automobile is not available in the local market area.

(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in subsection (1)(a) and (b) of this section, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized, and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.

(2) Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claims under their own policies solely to avoid paying claims under such insurers' insurance policies or insurance contracts.

(3) Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

(4) Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. This subsection shall not be construed as requiring subrogation procedures prohibited by KRS 304.39-070.

(5) If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one (1) or more conveniently located repair shops.

(6) When the amount claimed is reduced because of betterment or depreciation, all information supporting such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

(7) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

Section 9. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL McCARTY, Commissioner  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 8, 1984

FILED WITH LRC: June 14, 1984 at 10 a.m.

PUBLIC HEARING: A public hearing concerning the proposed regulation will be held on July 23, 1984, at 9 a.m., EDT, at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky. Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

## CABINET FOR HUMAN RESOURCES Office of Administrative Services

**900 KAR 1:011. Post-audit appeal procedures of programs and vendors of services with whom the Cabinet for Human Resources has contracted.**

RELATES TO: KRS 194.025(2); (3), 194.030(10), 194.040, 194.050(1)

PURSUANT TO: KRS 194.050(1)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 194.025(3) to enter into such contracts and agreements as may be necessary to carry out the general intent and purposes of the cabinet. The Office of the Inspector General is directed by KRS 194.030(10) to conduct audits and investigations of programs and vendors of services with whom the cabinet has contracted. It is the function of this regulation to provide for a post-audit process and an audit appeal process for programs and vendors of services with whom the cabinet contracts.

Section 1. Post-Audit Process. Except as otherwise provided in Section 3 of this regulation, the following procedures are established in the Cabinet for Human Resources:

(1) An exit conference shall be scheduled by the auditor upon the completion of an audit. Representatives at this meeting shall include at a minimum: an auditor who participated in the audit and an authorized representative of the audited entity who may have an attorney and/or accountant present.

(2) Following the exit conference, the Division of Audits or the private audit firm will provide a draft copy of the preliminary findings to the audited entity and the program department or office representative.

(3) The audited entity shall have thirty (30) days from the date of receipt of the draft report to request a formal exit conference or to submit a written response to the Division of Audits or private audit firm. The written response shall identify all issues in dispute and shall include supporting documentation or reference to such documentation.

(4) Upon receipt of the audited entity's response, a copy thereof shall be submitted by the Division of Audits (or the private audit firm) to the appropriate program department or office for review, comment and resolution of such issues as may be possible. The audited entity, Division of Audits (or the private audit firm) and the program department or office shall communicate or meet as necessary to clarify the issues, review documentation and resolve such issues as may be possible. Upon completion of the resolution process the Division of Audits (or the private audit firm) shall issue a final audit report.

(5) The Division of Audits or the private audit firm shall submit the final audit report to the audited entity, the program department or office, and the Office of Policy and Budget. In situations where the private audit firm performed the audit, such firm shall also send a copy of the final report to the Division of Audits.

Section 2. Audit Appeal Process. (1) Upon issuance of the final audit report by the Division of Audits or the private audit firm, the audited entity desiring an appeal shall have thirty (30) days from date of issuance to submit a written statement of appeal and request for hearing to the Office of the Secretary of the Cabinet for Human Resources. The statement of appeal by the audited entity shall set forth the specific issues which remain in dispute and the basis upon which the audited entity relies to support its position.

(2) Upon receipt of the statement of appeal and request

for hearing, an attorney from the Office of the General Counsel, who will serve as chairperson of the audit appeal panel, shall schedule a hearing which shall be held within 120 days of receipt of the statement of appeal and request for hearing unless waived by the audited entity. Notice of the hearing shall be sent to the audited entity by certified mail at least fifteen (15) days prior to the hearing date. In addition to the chairperson, the audit appeal panel shall be composed of two (2) representatives within the Cabinet for Human Resources appointed by the secretary. The chairperson shall be a non-voting member except in case of a tie vote. The panel members shall not have participated in the administration of the program involved in the audit or in the performance of the audit in dispute.

(3) The chairperson shall conduct the proceedings in an orderly fashion consistent with the rules of conduct of an administrative hearing and due process of law.

(4) The decision of the panel shall be issued within sixty (60) days after the hearing except that if briefs are submitted by the parties the decision will be issued within thirty (30) days after their submission. The decision shall reflect the basis upon which it is given.

(5) Written notice of the final decision will be sent to the secretary, the audited entity, the program department or office, the Director of the Division of Fiscal Services, the Director of the Division of Audits, the Executive Director of the Office of Policy and Budget, and, if appropriate, the private audit firm. The decision of the panel shall constitute the final decision of the cabinet.

(6) Subsequent to the appeal or acceptance of the audit findings by the audited entity, without appeal, the appropriate department commissioner or office director will take action to effect formal closure of the audit.

Section 3. Audits Conducted for the Purpose of Determining Allowable Costs and Reimbursement for Certain Services. Audits conducted for the purpose of determining allowable costs and reimbursement relative to:

- (1) Skilled nursing facility services;
- (2) Intermediate care facility services;
- (3) Primary care center services;
- (4) Hospitals; and

(5) Audits conducted for the purpose of determining allowable costs and reimbursement relative to the community mental health-mental retardation boards shall follow the audit procedures established in each respective program's reimbursement manual on file with the Department for Social Insurance, Division of Management and Development, except that such audits conducted for fiscal periods ended prior to July 1, 1982, for the purpose of determining allowable costs for the Title XX program shall follow the appeal process set forth in Section 2 of this regulation for appellate resolution.

RICHARD GREENWELL, Executive Director  
E AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

## CABINET FOR HUMAN RESOURCES Office of the Ombudsman

### 900 KAR 1:030. Ombudsman complaint review responsibilities.

RELATES TO: KRS 194.030(4)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: As prescribed by KRS 194.030(4), the Office of the Ombudsman shall provide a review of citizen complaints of services of the Cabinet for Human Resources when complaints cannot be resolved through normal administrative remedies. KRS 194.050 provides that the Secretary of the Cabinet for Human Resources shall, by regulation, develop policies and operate programs concerned with the welfare of citizens of the Commonwealth. This proposed regulation sets forth the policies and procedures which will be employed by the Office of the Ombudsman when receiving and acting on citizens' complaints.

Section 1. Ombudsman Complaint Review Process. The Office of the Ombudsman shall: (1) Process complaints and inquiries received from citizens pertaining to human service programs;

(2) Investigate complaints regarding programs administered by the Cabinet for Human Resources and recommend corrective action where appropriate;

(3) Advise clients as to their rights, duties, and responsibilities;

(4) Assist clients and cabinet personnel in negotiating resolutions to problems which clients may have with any Cabinet for Human Resources agency or program; and

(5) Advise the secretary relative to service delivery problems which have been identified by the ombudsman staff.

Section 2. Access to Records of Cabinet. The Office of the Ombudsman shall have access to any pertinent cabinet records relating to any client's case which is under investigation by the ombudsman, except as otherwise provided by law.

JOHN CLAYTON, OMBUDSMAN  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 19, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 by July 18, 1984: Hughes Walker, General Counsel, Office of the Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

## CABINET FOR HUMAN RESOURCES Office of the Ombudsman

### 900 KAR 1:040. Ombudsman guardianship responsibilities.

RELATES TO: KRS 210.290

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: As prescribed by KRS 210.290, the Cabinet for Human Resources may be appointed by the court to act as executor, administrator, guardian, limited guardian, conservator, or limited conservator for persons who have been determined to be mentally, partially disabled,

or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator. KRS 194.050 provides that the Secretary of the Cabinet for Human Resources shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This proposed regulation sets forth the policies and procedures which will be employed by the Cabinet for Human Resources when administering the guardianship program.

Section 1. Ombudsman Guardianship Responsibilities. (1) The responsibility to act as guardian, limited guardian, conservator, or limited conservator shall be administered by the Office of the Ombudsman.

(2) The Office of the Ombudsman shall assume responsibility to act as executor, administrator, guardian, limited guardian, conservator, or limited conservator for a Kentucky resident only after an application has been filed by the Office of the Ombudsman through its designated officer in the district court of the county in which the determination is made for appointment.

(3) Requests for guardianship services may be made on behalf of mentally disabled or partially disabled persons to the Office of the Ombudsman.

(4) The ombudsman shall designate an agent who will act on behalf of a person for whom the Cabinet for Human Resources has been appointed guardian, limited guardian, conservator, or limited conservator.

JOHN CLAYTON, Ombudsman  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 by July 18, 1984: Hughes Walker, General Counsel, Office of the Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES** **Department for Health Services**

**902 KAR 4:060. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC).**

RELATES TO: KRS 194.050, 211.180

PURSUANT TO: KRS 194.050(1), 211.090, 211.180

NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). 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 Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) — Fiscal Year 1983-1984 by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) — Fiscal Year 1983-1984 (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. 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, Kentucky 40621.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR. Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 4:070. Crippled children's services.**

RELATES TO: KRS 200.460 to 200.490

PURSUANT TO: KRS 194.050(1), 211.090

NECESSITY AND FUNCTION: Title V of the Social Security Act, as amended by P.L. 97-35, authorizes grants to states to provide services to children who are crippled or who are suffering from conditions leading to crippling. KRS 200.460 to 200.490 authorize the Cabinet for Human Resources to provide services for handicapped children. The terms "crippled" and "handicapped" as used in applicable federal and state laws are deemed to be synonymous as used in this regulation. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such regulations as are necessary to implement programs authorized by federal law so as 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 Crippled Children's Program in accordance with applicable federal and state laws and regulations.

Section 1. Crippled Children's Services Program Standards. The Cabinet for Human Resources hereby adopts the "Crippled Children's Services Program Standards" dated May, 1984 by reference as covering all phases of program operation including but not limited to program eligibility for

services, fee collections, consent requirements, medical standards, and other relevant components of the program. A copy of the "Crippled Children's Services Program Standards" shall be on file and available for public inspection in the Office of the Commissioner of Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621

#### **CABINET FOR HUMAN RESOURCES Department for Health Services**

##### **902 KAR 4:080. Disabled Children's Program.**

RELATES TO: KRS 211.180

PURSUANT TO: KRS 194.050(1), 211.090

NECESSITY AND FUNCTION: Title V of the Social Security Act, as amended by P.L. 97-35, authorizes grants to states to provide rehabilitation services for certain blind and disabled children receiving benefits under Title XVI of the Social Security Act. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such regulations as are necessary to implement programs authorized by federal law so as 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 Disabled Children's Program in accordance with applicable federal laws and regulations.

Section 1. As used in this regulation: (1) "Supplemental Security Income" means the federal income supplement program authorized by Title VI of the Social Security Act that includes a provision for financial payments to families with disabled children.

(2) "Individual Service Plan" means a written plan designed to organize and coordinate the goal-oriented care of each eligible child.

Section 2. Eligibility for Services. Only children receiving Supplemental Security Income who are under seven (7) years of age, or who are under sixteen (16) years of age and have never attended school, shall be eligible for services under this program.

Section 3. Disabled Children's Program Services. Services under the Disabled Children's Program shall include location, identification, development of Individual Service Plans, case management and early intervention. If not available through other sources, the Department for Health Services' Disabled Children's Program may within budgetary limitations provide for physical therapy, occupational therapy, speech therapy, infant stimulation, purchase of medications, medical supplies and devices, respite care, developmental day care, adaptive equipment, educational toys and other such services specified in the approved Individual Service Plan.

Section 4. Referral to Service Providers. The Cabinet for Human Resources shall contract with qualified service providers to deliver services under the Disabled Children's Program. Referrals to such service providers may be made by the cabinet's program staff to Community Mental Health/Mental Retardation Boards for locating and identifying clients and for developing the Individual Service Plan. Additional services may be secured by referring clients to other organizations which have qualified personnel that may meet the special needs of clients.

C. HERNANDEZ, M.C., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES Department for Health Services**

##### **902 KAR 4:090. Lead poisoning prevention.**

RELATES TO: KRS 211.900, 211.905, 211.994

PURSUANT TO: KRS 194.050, 211.090, 211.901(5)

NECESSITY AND FUNCTION: KRS 211.901(6) provides that local boards of health may by the adoption of local regulations establish programs for the prevention, screening, diagnosis and treatment of lead poisoning; provided that such regulations are the same as the provisions of KRS 211.900 to 211.905 and 211.994 and the regulations promulgated by the Secretary for Human Resources pursuant to subsection (5) of KRS 211.901. The function of this regulation is to set forth the criteria that must be included in local board of health regulations relating to the prevention, screening, diagnosis and treatment of lead poisoning.

Section 1. Definitions. As used in this regulation: (1) "Board" shall mean the board of health or any county, city-county or district including the Louisville and Jefferson County Board of Health and the Lexington-Fayette Urban-County Board of Health.

(2) "Department" shall mean the department of health of any county, city-county or district health department including the Louisville and Jefferson County Health Department and the Lexington-Fayette Urban-County Health Department.

(3) "Director" shall mean the chief administrative officer of any county, city-county or district health department including the Louisville and Jefferson County Health Department and the Lexington-Fayette Urban-County Health Department.

(4) "Cabinet" shall mean the Cabinet for Human Resources.

(5) "Secretary" shall mean the Secretary for Human Resources or his authorized representative.

(6) "Lead based substance" shall mean any substance containing more than six-hundredths (0.06) percent lead by weight of nonvolatile content as provided in KRS 217.801.

(7) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation.

(8) "Dwelling unit" shall mean any room or group of

rooms or other interior areas of a dwelling designed or used for human habitation.

(9) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator or guardian of the estate of the owner.

(10) "Occupant" shall mean any person living, sleeping, cooking, eating in or having actual possession of a dwelling unit or rooming unit.

(11) "Elevated blood lead level" shall mean a confirmed concentration of lead on whole blood of twenty-five (25) micrograms (ug) per deciliter (dl) or greater.

(12) "Surface" shall mean the outermost layer or superficial area of the materials of which a dwelling unit is constructed, excluding paint, plaster or putty of the interior or exterior of a dwelling unit, including but not limited to the outermost layer of superficial area of walls, ceilings, floors, stairs, windows, windowsills, window frames, window sashes, doors, door frames, baseboard and woodwork of a dwelling or dwelling unit.

(13) "Exposed surface" shall mean all interior surfaces of a dwelling or dwelling unit and those exterior surfaces of a dwelling or dwelling unit which are readily accessible to children under six (6) years of age, such as stairs, decks, porches, railings, windows, doors and siding. All areas in the vicinity of a dwelling or dwelling unit subject to contamination from flaking or peeling lead based materials are also considered an exposed surface.

(14) "Chewable surface" shall include but not be limited to such surfaces as windowsills, window frames, door frames, handrails, toys, furniture, food utensils and other appurtenances offering a biting surface to a child or other person.

**Section 2. Lead Based Paint Health Hazard.** (1) Any lead based substance shall be considered a health hazard to children under six (6) years of age if:

(a) Said lead based substance exists in or about a dwelling, dwelling unit, household, school or day care facility in which children commonly reside or visit; and

(b) Said lead based substance is determined to be on any surface, exposed surface or chewable surface and contains more than six-hundredths (0.06) percent lead by weight of nonvolatile content or in excess of seven-tenths (0.7) milligrams per square centimeter of surface when tested by radioisotope x-ray fluorescent analyzer.

(2) Any lead based substance found to be a health hazard under subsection (1) of this section shall be corrected within the time period specified by the director in a written order. Failure to correct the health hazard within the specified time period shall result in the appropriate court action against the owner, operator or occupant for noncompliance unless an extension is granted by the director due to undue hardship.

(3) Correction procedures shall be approved by the director and shall include one (1) or more of the following:

(a) Stripping of the surface to the bare underlying materials which do not contain lead at the unsafe levels.

(b) The covering of such surfaces which contain lead at unacceptable levels with permanently affixed coverings, the surfaces of which are lead free and which with said permanently affixed coverings, are incapable of being readily chewed through, torn from the surface, pierced, or otherwise removed in such manner as to expose the hazardous surface.

**Section 3. Inspections.** (1) If there is found the presence of flaking, peeling, chipping, or loose paint, plaster, or structural material in or around any building used for housing, speci-

mens of the flaking, chipped or loose paint, plaster or structural material shall be collected to determine whether or not the materials contain lead. In lieu of taking samples, the surface may be tested with an "in situ" analyzer approved by the director.

(2) The chemical determination of the lead content in surface materials may be made by the quantitative measurements of samples of those materials.

(3) The physical determination of the lead content of surface material may be made by nondestructive measurements using radioisotope x-ray fluorescent analyzers (XRF) or other instruments approved by the director.

(4) When a dangerous level of lead is found in a dwelling, the director may cause to have examined all children under six (6) years of age, and such other children as he may find advisable to examine, residing or who have recently resided in said dwelling. The results of such examinations shall be reported to the director, the affected individual and his parent or legal guardian.

**Section 4. Hazard Abatement.** (1) When the director determines that the presence of lead based substances in any dwelling or dwelling unit or premises creates a health hazard to children under six (6) years of age, he shall issue a written order to the owner, operator or occupant to eliminate the hazard within a time period not to exceed thirty (30) days; however, in the sound discretion of the director, additional time may be granted to remove, abate or remedy such condition due to undue hardship. Methods for compliance shall be in accordance with Section 2 of this regulation.

(2) Upon completion of the correction procedure, an inspection shall be made by the department to determine if the hazard has been satisfactorily eliminated.

(3) In the event the dwelling or dwelling unit or premises in which such are located is vacated by the occupant who occupied same at the time of the issuance of corrective order such dwelling, dwelling unit or premises shall not be let or occupied by any other person until such corrective order is complied with.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 23, 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 July 18, 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 Health Services**

**902 KAR 8:030. Merit system for local health departments.**

RELATES TO: KRS 211.170, 212.170, 212.870

PURSUANT TO: KRS 194.050, 211.090

**NECESSITY AND FUNCTION:** KRS 211.170, 212.170, and 212.870 require the Cabinet for Human Resources to supervise the personnel functions and prescribe merit system standards for local health departments. In addition, 5 CFR, Part 900, Intergovernmental Act Programs contains requirements for establishing and maintaining a system of personnel

administration on a merit basis as a condition precedent to the receipt of federal funds for the conduct of certain federally funded health 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 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 merit system council for local health departments in accordance with applicable federal and state laws and regulations.

Section 1. Definitions. As used in this regulation: (1) "Council" means the merit system council for local health departments created by this regulation; and

(2) "Local health department" means a county, city-county, or district health department created pursuant to KRS Chapter 212 but does not include health departments located in cities of the first class or urban-county health departments.

Section 2. Council Membership, Terms, and Meetings. (1) A merit system council is hereby created to serve local health departments. The council shall be composed of five (5) members who shall be appointed by the Secretary for Human Resources upon the recommendation of the Commissioner of the Department for Health Services. The members shall be public-spirited persons of recognized experience in the improvement of public administration, and in the impartial selection of efficient governmental personnel. No member of the council shall be an employee of a local health department or of the Department for Health Services.

(2) Members of the council shall serve for a term of three (3) years or until successors have been appointed, except that for members first appointed two (2) members shall be appointed for one (1) year, one (1) member for two (2) years, and two (2) members for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of such term.

(3) The council shall elect a chairman from its membership. Regular meetings of the council shall be held at least semi-annually. Special meetings of the council may be held upon call of the chairman or the Commissioner of the Department for Health Services.

(4) The council shall be attached to the Department for Health Services for administrative and budgetary purposes.

(5) A simple majority of the members of the council shall constitute a quorum for the purpose of conducting official business. The council shall adopt procedures for the conduct of its activities.

Section 3. Merit System Rules and Regulations. The Cabinet for Human Resources hereby adopts the publication entitled "Rules and Regulations for the Local Health Departments of Kentucky" as amended to May 1, 1984, by reference, as the merit system requirements for local health departments in Kentucky governing all phases of personnel management, including but not limited to appointments, promotions, examinations, separations, and disciplinary actions.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 by July 18, 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 10:110. Onsite sewage disposal system installation permits.**

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

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

NECESSITY AND FUNCTION: KRS 211.350 provides that no person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered any onsite sewage disposal system subject to regulation by the cabinet without having first obtained an onsite sewage disposal permit from the cabinet. The function of this regulation is to set forth the requirements for issuance of such permits.

Section 1. Citation of Regulation. This regulation may be cited as the "Onsite Sewage Disposal System Installation Permit Regulation."

Section 2. Issuance of Permits. (1) Except as otherwise provided by subsection (2) of this section, permits to construct, install or alter onsite sewage disposal systems shall be issued only to licensed plumbers.

(2) Permits to construct, install or alter onsite sewage disposal systems may be issued to homeowners who desire to install such systems for homes actually occupied by them or for a home to be constructed by them for their own personal residential use, provided:

(a) Application is made for the permit on forms provided by the cabinet prior to the beginning of the work; and

(b) All work is performed in compliance with the onsite sewage disposal systems laws and regulations; and

(c) All the work is personally performed by the owner.

Section 3. System Construction, Installation, or Alteration. (1) All work in the construction, installation, or alteration of an onsite sewage disposal system shall be performed by a licensed plumber, except those systems for which a homeowner has secured a permit to personally perform such work.

(2) Licensed plumbers or homeowners may contract with other persons for the performance of system excavation and backfilling work only. Such work by other persons shall be performed under the direct supervision of the permit holder for that system.

C. HERNANDEZ, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Health Services

**902 KAR 12:060. Per diem rate pursuant to the "Patient Liability Act of 1978."**

RELATES TO: KRS 210.700 to 210.760

PURSUANT TO: KRS 13A.210, 210.720 to 210.760

NECESSITY AND FUNCTION: KRS 210.720(2) directs the Secretary for Human Resources to fix the patient cost per day for board, maintenance and treatment for each facility operated by the cabinet at frequent intervals which shall be the uniform charge for all persons receiving such services. The function of this regulation is to fix the patient cost per day at the facilities designated in this regulation in accordance with the Patient Liability Act of 1978, KRS 210.700 to KRS 210.760.

Section 1. Facilities with an All-Inclusive Per Diem Rate. The following facility shall be on an all-inclusive per diem rate:

Facility	Per Diem Rate
Eastern State Hospital	\$140

Section 2. Facilities with a Routine Service Charge Per Diem with Separate Charges for Ancillary Services on an Individual Basis.

Facility	Routine Services Per Diem
Central State Hospital	\$165
Central State Hospital—ICF/MR	140
Western State Hospital	85
Western State ICF	55
Outwood ICF/MR	135
Oakwood ICF/MR	95
Hazelwood ICF/MR	125
Glasgow ICF	75

The ancillary services furnished and/or available at Department for Health Series Facilities shall be: physicians services, EEG, EKG, occupational therapy, physical therapy, oxygen therapy, X-ray, laboratory, speech and hearing therapy, psychology, pharmacy and electroshock therapy. Ancillary charge rates are based on latest audited cost report plus the health portion of the Consumer Price Index for each past audited cost report, and will be available in the Department for Health Services, Budget and Fiscal Planning Branch, and shall be available for public inspection.

C. HERNANDEZ, M.D., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: 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 12:070. "Means Test" pursuant to the "Patient Liability Act of 1978."**

RELATES TO: KRS 210.700 to 210.760

PURSUANT TO: KRS 13A.210, 210.710, 210.750

NECESSITY AND FUNCTION: KRS 210.710 authorizes the Secretary for Human Resources to adopt a "Means Test" for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet for the mentally ill or mentally retarded. The function of this regulation is to adopt a "Means Test" in compliance with KRS 210.710 to KRS 210.760.

Section 1. Means Test. The Cabinet for Human Resources hereby adopts the following uniform method for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at facilities operated or utilized by the Cabinet for Human Resources for the mentally ill or mentally retarded.

(1) Ascertain the entire financial resources available to the patient or the person responsible for the patient as follows:

(a) Insurance and third party payors, including, but not limited to Medicare, Medicaid and all other governmental and private programs or payors;

(b) Income received, or expected to be received during the period of hospitalization, including:

1. Self-employed gross revenues, less operating expenses;
2. Salaried and waged hourly employees gross income;
3. Interest and dividend income;
4. Rental income;
5. Royalties;
6. Alimony; and
7. Any other similar sources of income.

(c) Assets including, but not limited to:

1. Cash, checking accounts, savings accounts, certificates of deposit;

2. Stocks and bonds at market value; and

3. All other property except as otherwise exempted by law.

(d) Benefit and support payments received or expected to be received during the period of hospitalization, including, but not limited to:

1. Social Security;
2. Veterans Pension;
3. Railroad Retirement;
4. United Mine Workers Pension;
5. Supplemental Security Income;
6. Retirement; and
7. Any other similar sources of benefits or support payments.

(2) After ascertaining the entire financial resources of the patient, apply Table I, II, or III, as appropriate. The ability to pay, of the patient or person responsible for the patient, shall not exceed the total daily charges, less available Medicare, Medicaid, CHAMPUS, insurance and other benefits. Any over-payments resulting from application of the ability to pay "Means Test" by the patient or person responsible for the patient shall be refunded.

Table I  
Ability to Pay Income Table

Size of Family	*Gross Income Protected For Basic Maintenance
1	\$ 7,183
2	11,656
3	15,861
4	19,155
5	21,982
6	24,844

\*Bureau of Labor Statistics Standards, South non-metropolitan area (February, 1984) used as basis.

For each additional family member, add \$3,100.

Subtract from excess:

- (a) Applicable taxes, social security, retirement.
- (b) Any unpaid medical/dental bills.
- (c) Any extraordinary or involuntary expenses.

Table II  
Ability to Pay Assets Table

Size of Family	*Assets Protected
1	\$1,500
2	3,000
3	3,050
4	3,100

\*Per Title XIX Federal Guidelines.

For each additional family member add fifty (50) dollars.

Prorate excess by number of family members.

Excess asset payments may be spread over one (1) to twelve (12) months if patient or person responsible for the patient's financial situation warrants special consideration or if the patient is discharged before paying all excess assets.

TABLE III  
Ability to Pay Benefit  
And Support Payment Table

\*Normal Disregards:

Personal Spending	\$ 25.00 per month
Ineligible Spouse	\$183.00 per month
Monthly Medicare Part B Insurance Premium	

\*Title XIX Federal Guidelines.

If benefit and support payments are the sole sources of income or the principal sources of income to sustain the livelihood of the patient's immediate family (living in household) then an amount in addition to the normal disregards shall be excluded so as to meet the basic needs of food, clothing, and shelter including continuing ownership of a homestead if sufficient funds are available.

The patient or person responsible for the patient who receives benefits (Social Security, etc.) or support payments (child support, etc.) intended for the board, maintenance, and treatment of a patient shall assign or pay such amount, less the above mentioned disregards and exclusions to the respective health services facility.

(3) In the event the ability to pay payment as determined from Table III creates an undue hardship, the patient or

person responsible for the patient may request an administrative review by the departmental collections officer.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: 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**  
**Certificate of Need and Licensure Board**

**902 KAR 20:190. Rehabilitation agency services.**

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(1)(2)

PURSUANT TO: KRS 216B.040(2), 216B.105

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides the minimum licensure requirements for the operation and services of rehabilitation agencies.

Section 1. Scope of Operation and Services. A rehabilitation agency is an organization with permanent facilities which provides services designed to upgrade the physical function of handicapped and disabled individuals. The agency shall provide outpatient services in the facility. Outreach services may be provided in other settings such as the patient's home, long term care facilities or schools. A rehabilitation agency must provide physical therapy or speech pathology services and also may provide audiology and occupational therapy.

Section 2. Definitions. (1) "Audiologist" means an individual licensed as an audiologist by the Kentucky Board of Examiners of Speech Pathology and Audiology.

(2) "Audiology aide" means an individual certified as an audiology aide by the Kentucky Board of Examiners of Speech Pathology and Audiology.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Long term care facility" means those health care facilities in the Commonwealth which are defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(5) "Occupational therapist" means an individual certified by the American Occupational Therapy Association as an occupational therapist, registered.

(6) "Occupational therapy assistant" means an individual certified by the American Occupational Therapy Association as an occupational therapy assistant.

(7) "Physical therapist" means an individual licensed as a physical therapist by the Kentucky Board of Physical Therapy.

(8) "Physical therapist's assistant" means an individual certified as a physical therapist's assistant by the Kentucky Board of Physical Therapy.

(9) "Speech pathologist" (Speech-language pathologist) means an individual licensed as a speech pathologist by the Kentucky Board of Examiners of Speech Pathology and Audiology.

(10) "Speech pathology aide" means an individual certified as a speech pathology aide by the Kentucky Board of Examiners of Speech Pathology and Audiology.

### Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the operation of the agency and for compliance with federal, state, and local laws pertaining to the operation of the service.

(b) The licensee shall appoint a full-time administrator whose qualifications, responsibilities, authority and accountability shall be defined in writing. The licensee shall designate a mechanism for the periodic performance review of the administrator.

#### (2) Administrator.

(a) The administrator shall be responsible for the daily management of the facility and provide liaison between the licensee and staff.

(b) The administrator shall keep the licensee fully informed of the conduct of the facility through periodic reports and by attendance at meetings with the licensee.

(3) Administrative records and reports. Administrative reports shall be established, maintained and utilized as necessary to guide the operation measure productivity and reflect the programs of the facility. Such reports shall include:

(a) Minutes of staff meetings, financial records and reports, incident investigation reports and other pertinent reports made in the regular course of business; and

(b) Licensure inspection reports and plans of correction. The facility shall make available in a conspicuous place, a complete copy of every inspection report for the facility received from the cabinet during the previous three (3) years, including the most recent inspection report.

(4) Patient care policies. The licensee shall have written patient care policies to govern the services provided which are established by a group of professionals including at least one (1) physician and at least one (1) qualified therapist (i.e., a physical therapist, occupational therapist, speech pathologist or audiologist). Patient care policies shall be reviewed annually and revised as necessary. These policies shall address:

- (a) Admission and discharge;
  - (b) Physician services;
  - (c) Patient care plans and methods of implementation;
  - (d) Care of patients in an emergency;
  - (e) Infection control;
  - (f) Clinical records;
  - (g) Administrative records; and
  - (h) Program evaluation.
- (5) Personnel.

(a) The facility shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services. There shall be written personnel policies which are made available to all employees.

(b) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(c) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and social security number;
  2. Evidence of current registration, certification or licensure of personnel;
  3. Records of training and experience; and
  4. Records of performance evaluation.
- (6) Clinical records.
- (a) The facility shall have a clinical records service with

administrative responsibility for clinical records. A clinical record shall be maintained, in accordance with accepted professional principles, for every patient treated by the facility.

(b) The clinical record shall contain sufficient information to identify the patient, justify the diagnosis(es) and treatment, and document the results accurately. All records shall contain the following information:

1. Identification data and consent forms;
2. Documented evidence of the assessment of the needs of the patient, an appropriate plan of care and the care and services provided;
3. Medical history;
4. Report of physical examinations, if any;
5. Diagnosis;
6. Observation and progress notes;
7. Reports of treatments and clinical findings; and
8. Discharge summary including final diagnosis(es) and prognosis.

(c) Current clinical records and those of discharged patients shall be completed promptly. All entries into the record shall be signed by the person making the entry.

(d) The facility shall have available a sufficient number of regularly assigned employees so that clinical records services may be provided as needed.

(e) All clinical records shall be retained for a minimum of five (5) years from the conclusion of treatment or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(f) Provision shall be made for written designation of specific location(s) for the storage of clinical records in the event the facility ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the facility to safeguard both the record and its content against loss, defacement and tampering.

(g) A system of identification and filing to insure the prompt location of a patient's clinical record shall be maintained.

#### (7) Quality assurance and program evaluation.

(a) The agency shall have procedures which provide for quality assurance and the systematic evaluation of its total program to assure appropriate utilization of services, determine whether the organization's policies are followed in providing services to patients through employees or under a contractual arrangement with others, and to assure that services are provided according to generally accepted professional principles and are designed to meet the specific needs of the patients.

(b) A sample of active and closed clinical records shall be reviewed quarterly by the appropriate health professionals to assure that established policies are followed in providing services.

(c) An evaluation shall be conducted annually of statistical data such as the number of different patients treated, number of patient visits, condition on admission and discharge, number of new patients, number of patients by diagnosis(es), source of referral and total staff days or work hours by discipline.

### Section 4. Provision of Services. (1) Physician services.

(a) Patients in need of physical therapy or occupational therapy services shall be accepted for treatment only on the order of a physician. All patients referred by a physician shall be seen by the physician at least once every thirty (30) days unless justified and documented by the physician in the patient's clinical record.

(b) For each patient there shall be a written plan of care which indicates anticipated goals and specifies the type,

amount, frequency and duration of physical therapy, occupational therapy, speech pathology or audiology services. The plan of care for physical or occupational therapy shall be developed in consultation between the physical therapist or occupational therapist and a physician. The plan of care for speech or hearing therapy shall be developed by a speech pathologist or audiologist.

(c) The plan of care for patients referred by a physician shall be reviewed by the attending physician once every thirty (30) days or more often, if required, unless justified and documented by the attending physician in the patient's clinical record. The plan of care for all patients shall also be reviewed by the appropriate professional staff once every thirty (30) days or more often, if required, and the indicated action shall be taken.

(d) The attending physician shall be promptly notified of any changes in the patient's condition. If changes are required in the plan of care, such changes shall be approved by the physician and noted in the clinical record.

(e) The facility shall provide for one (1) or more physicians to be available on call to furnish necessary medical care in case of an emergency. A schedule listing the names and telephone numbers of these physicians and the specific days each is on call shall be posted.

(2) Treatment locations. Outpatient physical therapy, occupational therapy, speech pathology, or audiology services are provided on the facility's premises. Outreach services may be provided in other settings such as in the patient's home, long term care facilities or schools.

### (3) Physical therapy services.

(a) If offered, physical therapy services shall be provided by or under the direct supervision of a physical therapist either directly or under arrangement with others under terms of a written contract. The number of licensed physical therapists and physical therapy assistants shall be adequate for the volume and diversity of services offered.

#### (b) The physical therapy program shall:

1. Provide services utilizing therapeutic exercise and the modalities of heat, cold, water, sound, electricity and traction;
2. Conduct patient evaluations and functional assessments; and
3. Administer tests and measurements of strength, balance, endurance, range of motion and activities of daily living.

(c) A physical therapist shall be present or readily available to provide required supervision to physical therapist's assistants pursuant to KRS Chapter 327 and any regulations promulgated thereunder.

(d) Patients shall be scheduled to ensure the physical therapist's presence when specific skills of a physical therapist are needed (e.g., the evaluation or re-evaluation).

(e) Physical therapy services provided off the premises of the facility by a physical therapist's assistant shall be under the supervision of a physical therapist who makes an onsite supervisory visit with the assistant at least once every thirty (30) days.

### (4) Speech pathology and audiology services.

(a) If offered, speech pathology or audiology services shall be provided directly or under arrangement with others under terms of a written contract. Speech pathology and audiology services shall be provided by a speech pathologist or audiologist. The number of speech pathologists or audiologists shall be adequate for the volume and diversity of services offered. Speech pathology aides or audiology aides shall work under the direct supervision of a speech pathologist or audiologist pursuant to the provisions of KRS Chapter 334A and any regulations promulgated thereunder.

(b) The speech pathology or audiology program shall in-

clude diagnostic and treatment services to effectively treat speech or hearing disorders.

(c) The facility shall have the equipment and facilities required to provide the range of services necessary for the treatment of the types of speech or hearing disorders accepted for service.

### (5) Occupational therapy services.

(a) If offered, occupational therapy services shall be provided by or under the direct supervision of an occupational therapist either directly or under arrangement with others under terms of a written contract. The number of registered occupational therapists and certified occupational therapy assistants shall be adequate for the volume and diversity of services offered.

#### (b) The occupational therapy program shall:

1. Conduct patient evaluations; and
2. Administer tests and measurements of strength, coordination, range of motion, activities of daily living, psychosocial adjustment, sensory-motor, cognitive and perceptual functioning and prevocational skills.

(c) A registered occupational therapist shall be present or readily available to provide required supervision to certified occupational therapy assistants.

(d) Occupational therapy services provided off the premises of the facility by the certified occupational therapy assistants shall be under the direct supervision of an occupational therapist who makes an onsite supervisory visit with the assistant at least once every thirty (30) days.

(e) The facility shall have the equipment and facilities required to provide the range of services necessary for the evaluation and treatment of the types of patients accepted for service.

(6) Contractual provision of physical therapy, occupational therapy, speech pathology or audiology services. When physical therapy, occupational therapy, speech therapy or audiology services are provided under contract, the contract shall:

(a) Assure that services are provided in accordance with the plan of care approved by the physician responsible for the patient's care which may not be altered in type, amount, frequency or duration by the physical therapist, occupational therapist, speech pathologist or audiologist (except in the case of an adverse reaction to a specific treatment);

(b) Specify the geographical areas in which services are to be furnished;

(c) Provide that personnel and services contracted for meet the same requirements as those which would be applicable if the personnel and services are furnished directly;

(d) Provide that the physical therapist, occupational therapist, speech pathologist or audiologist (as appropriate) will participate in conferences required to coordinate the care of an individual patient, as needed;

(e) Provide for the preparation of treatment records with progress notes and observations, and for the prompt incorporation of such into the clinical records of the agency;

(f) Specify the period of time the contract is to be in effect and the manner of termination or renewal.

Section 5. Physical Environment. (1) Accessibility. The facility shall meet requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder.

(2) Fire safety. The facility shall comply with all applicable fire safety codes.

(3) Maintenance. The licensee shall establish a written preventive maintenance program to ensure that:

1. Equipment is operative and properly calibrated; and

2. The exterior and interior of the building are clean and maintained free of any defect which is a potential hazard to patients, personnel and the public.

C. HERNANDEZ, M.D., Commissioner  
FRANK W. BURKE, SR., Chairman  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 24, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 24, 1984, at 9 a.m. in the board room on the second floor of the Department for Health Services Building, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify the following office in writing by July 19, 1984: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES Department for Health Services**

##### **902 KAR 45:130. Inspector's manual for state food and drug officials.**

RELATES TO: KRS 217.005 to 217.215, 217.992

PURSUANT TO: KRS 194.050, 211.090, 217.125

NECESSITY AND FUNCTION: The Kentucky Food, Drug, and Cosmetic Act, KRS 217.005 to 217.215 and 217.992, authorizes the Cabinet for Human Resources to regulate the misbranding and adulteration of foods, drugs, and cosmetics in Kentucky. The purpose of this regulation is to establish uniform requirements and procedures to assist inspectors in determining compliance with KRS 217.005 to 217.215 and 217.992.

Section 1. Inspector's Manual for State Food and Drug Officials. The requirements and procedures as set forth in the "Inspector's Manual for State Food and Drug Officials" as of May 1, 1984, are hereby adopted by reference for the Commonwealth of Kentucky. This manual is published by the Food and Drug Administration in cooperation with the Association of Food and Drug Officials. A copy of this manual shall be on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and is open for public inspection.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, 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 45:140. Retail food programs evaluation and standardization procedures.**

RELATES TO: KRS 217.005 to 217.215, 217.808 to 217.812, 217.992, 219.011 to 219.081

PURSUANT TO: KRS 194.050, 211.090

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 211.090 and 211.180 to adopt rules and regulations necessary to regulate and control the safe handling of food and food products and to formulate, promote, establish, and execute policies, plans, and programs relating to the safe handling of food and food products. The function of this regulation is to establish uniform procedures for the periodic evaluation of the retail food protection programs carried out by local health departments to determine their strengths and weaknesses for the purpose of protecting the public health.

Section 1. Methods of Conducting Evaluations of Retail Food Programs. The evaluation and standardization procedures for retail food programs as set forth in the publication entitled "Retail Food Programs Evaluation and Standardization Procedures," June, 1983, is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Commissioner's Office at the above address.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1984

FILED BY LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 1984, at 9 a.m., in the Department of Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by July 18, 1984: Hughes Walker, General Counsel, 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 50:090. Milk adulteration.**

RELATES TO: KRS 217.005 to 217.215, 217.992, 217C.010 to 217C.990

PURSUANT TO: KRS 194.050, 211.090

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, sale, and such other matters relating to Grade A and manufacturing milk and milk products as may be necessary to protect the public health. This regulation establishes enforcement procedures to prevent the sale of milk and milk products adulterated with antibiotics and other inhibitory substances, chemicals, and excessive water.

Section 1. Antibiotics and Other Inhibitory Substances Enforcement Procedure. (1) Sampling procedure.

(a) Antibiotic tests shall be performed a minimum of four (4) times during any consecutive six (6) months on each milk producer or on raw commingled loads and all Grade A processed milk (except cultured products). When commingled milk is tested, all producers shall be represented in the sample.

(b) Any loads showing any level of antibiotics shall require individual producer's milk on the load to be tested.

(c) Utilization of milk on a load showing levels of antibiotics shall be as follows:

1. Loads showing levels of antibiotics below the acceptable standard of sixteen (16) mm zone size by the Bacillus stearothermophilus disk assay method may be accepted by the plant; however, each individual producer's milk on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this regulation are complied with.

2. Loads testing positive (sixteen (16) mm zone size or greater) shall not be utilized by the company and shall be reported to the Milk Control Branch. Also, all producers' milk represented on the load shall be tested, and any producer sample found to be positive shall be reported to the Milk Control Branch and confirmed later in writing (laboratory report). No additional milk shall be collected from that producer until enforcement procedures listed in this regulation are complied with.

3. Should a load be commingled into a plant storage tank with other loads and later found to be positive, the storage tank shall be tested and found to be negative prior to processing.

4. Intentional blending of loads found to be positive for antibiotics shall be prohibited.

5. Raw milk inadvertently processed and later found to be positive for antibiotics or other inhibitory substances shall be reported to the Milk Control Branch prior to shipment for sale. Each case will be handled individually and may require testing to determine if antibiotics are present which would prohibit sale.

(d) It is recommended that all loads of raw milk be screened for antibiotics and other inhibitory substances prior to receipt by the plant.

(2) Enforcement procedures.

(a) All loads found to be positive for antibiotics or other inhibitory substances prior to receipt by the plant shall not be received. All producer samples included in the load shall be tested, and the results of the load and producer samples reported to the Milk Control Branch by telephone as soon as possible and confirmed later in writing (laboratory report).

(b) No milk shall be collected from producers with a positive antibiotic test until the following conditions are met:

1. Producers with first antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall require a negative sample to be obtained from the producer supply by a certified sample collector prior to the milk being collected by the hauler. The negative results shall be reported to the Milk Control Branch as soon as possible.

2. Producers with the second antibiotic or other inhibitory substances violation during the past twenty-four (24) months shall:

a. Be notified by the Milk Control Branch of the suspension by telephone and confirmed by letter. The letter confirming the suspension shall include an application for reinstatement of the permit.

b. Prior to an official sample being collected for reinstatement purposes, the producer shall request permit reinstatement in writing and indicate he believes the problem to have been corrected.

c. Require a representative of the Milk Control Branch to visit the producer dairy after the request for reinstatement is received and prior to the first official sample being taken. During this farm visit the producer shall demonstrate a method of marking cows treated which will assure milk from treated cows is not offered for sale. Upon acceptance of the exclusion procedure for treated cows, an official sample shall be collected and found to be negative for antibiotics prior to shipment. The first shipment shall not exceed limits listed in this regulation.

d. After receipt of the written request for reinstatement and a farm visit by the Milk Control Branch, a sample of the producer's milk shall be collected by a certified sample collector and found to be free of antibiotics prior to the first shipment.

e. Milk collected on the first shipment shall not exceed four (4) milkings for Grade A purposes or six (6) milkings for manufacturing purposes.

3. Producers with more than two (2) antibiotic or other inhibitory substances violations during the past twenty-four (24) months shall:

a. Have their permits suspended in accordance with the provisions of paragraphs 2a and b of this subsection; and

b. May be required to attend a hearing with the Milk Control Branch and/or other representatives of the Department for Health Services to show cause why their permit should not be revoked.

(3) Company or producer association policy. Companies or producer associations having policies requiring producer penalties for offering milk for sale containing antibiotics or other inhibitory substances may have precedence over the enforcement policy outlined in this regulation provided that:

(a) Policy is filed in writing with the Milk Control Branch.

(b) Policy is approved by the Milk Control Branch as being as or more stringent than the enforcement procedures listed in this regulation.

(c) Evidence is forwarded in writing that company policy was carried out on each positive producer sample found.

(d) The procedures outlined in this regulation apply to both Grade A milk and milk for manufacturing whose permits are suspended because of a positive antibiotic test shall not be allowed to ship milk to a manufacturing or Grade A plant until the procedures outlined in this regulation have been complied with.

Section 2. Sale of Adulterated Milk (Excessive Water). (1) Milk producers whose supplies are found to contain over ten (10) percent excessive water shall be issued a notice requiring the supply to be withheld from sale immediately. Milk from this supply shall not be sold until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(2) Milk producers whose supplies are found to contain over two (2) percent to ten (10) percent excessive water shall be issued a notice of adulteration and resampled after the lapse of three (3) days. Should the resample continue to show over two (2) percent excessive water, the producer shall be issued a notice requiring the supply to be withheld from sale immediately. Milk shall not be sold from this supply until a sample is collected by a certified sample collector, analyzed in a certified laboratory, and is negative for excessive water.

(3) Milk producers whose supplies are found to contain between five-tenths (.5) percent to two (2) percent excessive water shall be notified; and should the following sample show

five-tenths (.5) percent to two (2) percent excessive water, a supervised sample shall be collected by an inspector or other authorized person. The supervised sample shall be used as a future reference point for the accurate freezing point for the supply.

(4) Repeated violation of any of these procedures listed in this regulation may require permit suspension, a written request for reinstatement, and the resample to be collected by the inspector. Also, the sample shall be negative for excessive water prior to reinstatement of the permit.

Section 3. Procedures for Testing Milk Samples for Chemical Contaminants. (1) Samples will be collected and analyzed a minimum of annually from all bulk tank truck loads of raw milk representing Kentucky dairy producers and imported supplies from other states. Semi-annual samples will be collected from loads having a previous history of chemical contaminants. Finished milk and milk products manufactured and sold within Kentucky will also be screened.

(2) Whenever a Kentucky inspected bulk tank load of raw milk is found to contain any level of a chemical contaminant, the individual milk producers represented on the load will be immediately notified by telephone, confirmed by letter, and individually sampled on a screening basis after notification. If out-of-state bulk tank loads are found to be contaminated, the shipping state regulatory agency will be immediately notified by telephone and confirmed in writing.

(3) Whenever laboratory results of an individual producer sample shows a violation of an established tolerance level for a particular chemical contaminant, the supply will be withheld from the market channels. Notice shall be by telephone and confirmed in writing. An additional follow-up confirming sample shall be collected within ten (10) working days after notification of exclusion.

(4) Continued sampling of an excluded milk producer's supply will be maintained until an acceptable level of the contaminant is attained. The frequency of additional sampling may be at seven (7), fifteen (15), thirty (30), or sixty (60) day intervals, depending on laboratory workload capabilities and levels found in the confirming sample and as experienced from previous test indicators. Higher levels will be sampled at lesser frequencies.

(5) Whenever levels based on an official sample fall below acceptable tolerance levels, the producer will be notified by telephone and confirmed in writing that the supply is again acceptable for sale.

(6) Producer assistance in testing individual cows, feeds, and water supplies may be obtained on an unofficial basis from the Kentucky Diagnostic Laboratories and/or commercial laboratories.

(7) The following procedure will be followed whenever any level of PCB's are found in a producer's supply:

(a) Whenever levels of PCB's are found in a producer's milk supply, a farm inspection shall be made to determine the type of silo(s) being used.

(b) All producers (showing levels of PCB's in their milk supply) having concrete silos coated with "cumar" or other sealers containing PCB's will be condemned for use with the dairy herd.

(c) The following options may be used by a producer with a condemned silo:

1. Abandon the silo (do not store feed).

2. Recoat the silo. If a silo is recoated, the producer shall notify the Milk Control Branch for approval prior to the silo being filled.

(d) Once a producer is notified that a silo(s) has been condemned, continued use of the silo may require immediate

suspension of the milk supply whenever any level of PCB's are found by the regulatory agency.

(8) The producer's supply will be placed on a continuous surveillance program until a negative sample is obtained.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, 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 50:100. Grade A milk sanitation ratings.**

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

PURSUANT TO: KRS 194.050, 211.090

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, sale, and such other matters relating to Grade A and manufacturing milk and milk products as may be necessary to protect the public health. This regulation establishes sanitation rating procedures for Grade A milk producers, processors, and handlers and enforcement procedures in accordance with federal requirements to determine approval for interstate shipment under the agreements of the National Conference on Interstate Milk Shipments.

Section 1. Methods of Making Sanitation Ratings of Milk Supplies. The sanitation rating methods of Grade A milk producers, processors, and handlers as set forth in the publication entitled "Methods of Making Sanitation Ratings of Milk Supplies," 1978 edition of the United States Public Health Service/Food and Drug Administration, is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

C. HERNANDEZ, M.D., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 11, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office 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 50:110. Grade A milk and milk products standards.**

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

PURSUANT TO: KRS 194.050, 211.090

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources is directed by KRS Chapter 217C to regulate the production, transportation, processing, handling, sampling, examination, grading, sale and such other matters relating to Grade A milk and milk products as may be necessary to protect the public health. This regulation establishes uniform permit requirements and sanitary standards for Grade A milk producers, processors, handlers and distributors, Grade A dry and condensed milk, Grade A dry and condensed whey and the fabrication of single-service containers and closures for milk and milk products.

Section 1. Grade A Milk and Milk Products. The permit requirements, sanitary and quality requirements for the production, processing, handling and distribution of Grade A milk and milk products as set forth in the publication entitled, "Grade A Pasteurized Milk Ordinance," 1978 recommendations, Part II, of the United States Public Health Service/Food and Drug Administration (as amended 1979, 1981 and 1983) is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 2. Grade A Condensed, Dry Milk Products, Condensed and Dry Whey. The permit requirements, sanitary and quality requirements for the production, processing, handling, and distribution of Grade A condensed dry milk products, condensed and dry whey as set forth in the publication entitled "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey," 1978 recommendations, Part II, of the United States Public Health Service/Food and Drug Administration is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 3. Fabrication of Single-Service Containers and Closures for Milk and Milk Products. The sanitary and quality requirements for the fabrication of single-service containers and closures for milk and milk products as set forth in the publication entitled "Fabrication of Single-Service Containers and Closures for Milk and Milk Products," 1978 edition, of the U.S. Public Health Service, Food and Drug Administration is hereby adopted by reference. A copy of the publication is on file in the Office of the Commissioner, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be open for public inspection. Copies are available

from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 4. 902 KAR 50:020, Grade A requirements, is hereby repealed.

C. HERNANDEZ, M.D., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 10, 1984

FILED WITH LRC: May 15, 1984 at 12:15 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, General Counsel, Office of the 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 1:170. Child abuse self-help groups.**

RELATES TO: KRS 213.190

PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** KRS 213.190 requires the Cabinet for Human Resources to use funds received from the 1984 increase in the cost of birth certificates to contract for the operation of non-profit/self-help groups for abusive parents. KRS 194.050 authorizes the cabinet to adopt such rules and regulations as are necessary to operate programs vested in the Cabinet for Human Resources.

Section 1. Definitions. (1) "Private, not for profit group" means any entity incorporated as a non-stock/non-profit corporation under KRS Chapter 273 with articles of incorporation filed with the Secretary of State.

(2) "Self-help group" means a group of two (2) or more parents of children under the age of eighteen (18), under the sponsorship of a private, not for profit self-help corporation, who through group interaction voluntarily assist themselves in preventing or ceasing their physical, sexual, or mental abuse of their children.

Section 2. Application. Any corporation that meets the requirements of Section 1 of this regulation may apply to the Department for Social Services for funds available from the one (1) dollar allocated to the department from the sale of birth certificates. The application shall be in accordance with the Request for Proposal (RFP) provided by the department. The department may require proof of incorporation and purpose of the organization.

Section 3. Funding. Funds received by the Department for Social Services from the sale of birth certificates shall be deposited in the Kentucky State Treasury in a Trust and Agency account to be used exclusively for carrying out the provisions of KRS 213.190(2). Any funds available at the close of any fiscal year shall not lapse to the general fund, but

shall be carried forward to the next fiscal year for use in accordance with KRS 213.190(2).

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 1:180. DSS policy and procedures manual.**

RELATES TO: KRS 194.030(8), 194.060, 199.011 to 199.375, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208 and 209

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services—Title XX," authorizes grants to states for 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 manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through June 11, 1984, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Program Management**

**905 KAR 5:030. Matching formula for general funds.**

RELATES TO: KRS 209.030(7)

PURSUANT TO: KRS 209.030(1)

NECESSITY AND FUNCTION: KRS 209.030(7) requires the Cabinet for Human Resources to provide protective services for adults except in cases where the adult refuses such services. KRS 209.030(1) authorizes the cabinet to adopt such rules, regulations, procedures, guidelines or policies necessary to protect adults. The function of this regulation is to set forth the matching requirements necessary to receive state general fund dollars for spouse abuse shelters and services.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.

(2) "Certified expenditures" means any non-state cash expenditures incurred by the local provider of spouse abuse shelter or services when such expenditures are determined to be allowable, reasonable and necessary under applicable state laws and regulations and are not used to match any other grant or contract. Such certified expenditures may be incurred by the provider of service whether public or private non-profit, or may be certified on behalf of the provider by a third party which may also be a public or private non-profit organization.

(3) "In-kind contributions" means property or services which directly benefit the services purchased; which are contributed by the provider or a third party without expenditure by the local provider; and would have been an allowable, reasonable and necessary cost in accordance with state laws and regulations, if purchased by the provider.

(4) "Local matching funds" means any non-state cash available to the local provider for use in the spouse abuse shelter or service, and which is not used to match any other grant or contract.

Section 2. Matching Formula. All local providers of spouse abuse shelter and services under contract with the cabinet using state general fund dollars shall be required to provide matching at the rate of twenty-five (25) percent local to seventy-five (75) percent state general fund dollars. Local match shall be at least five (5) percent cash and the remainder may be in certified expenditures and/or in-kind contributions.

Section 3. Documentation. The local provider of spouse abuse shelter and services shall maintain documentation of the local match that is sufficient to determine that all requirements of this regulation are met. Records documenting local match, regardless of the type or source, shall be available to the cabinet and/or authorized entities for the purpose of audits.

Section 4. Disallowance. The local provider of spouse abuse shelter and services may be subject to disallowances and reimbursement to the Commonwealth, if such local match is not documented by the provider or third party.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Program Management**

**905 KAR 6:030. CSBG audit guide.**

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" (CSBG), enacted August 13, 1981, authorizes block 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 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 establish the criteria and methodology that will be used to measure compliance with applicable state and federal laws and regulations.

Section 1. CSBG Audit Guild. The Cabinet for Human Resources hereby adopts, by reference, the Community Services Block Grant Audit Guide dated August, 1982, as revised through May 11, 1984, as the document to be used in auditing state agency expenditures of CSBG funds as well as CSBG funds expended through contract services. The guide makes provision for the performance of an audit in three (3) basic areas of interest—compliance audit; federal financial participation audit; and statement of compliance and fraud, abuse or illegal acts. The CSBG Audit Guide is available for review 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 July 23, 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 July 18, 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 Children's Residential Services**

**905 KAR 7:020. Procedural manual for day treatment programs.**

RELATES TO: KRS 208.400, 208.410, 208.530

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants

for Social Services Title XX," authorizes grants to states for 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 the day treatment program in accordance with applicable federal and state laws.

Section 1. Procedural Manual for Day Treatment Programs. For the purpose of implementing and enforcing KRS 208.400, 208.410, and 208.530 the Cabinet for Human Resources hereby adopts the "Department for Social Services' Procedural Manual for Day Treatment Programs" as revised through May 11, 1984 by reference. "The Procedural Manual for Day Treatment Programs" sets forth the procedures for implementation of policies related to day treatment programs operated by the Division of Children's Residential Services, Department for Social Services, either directly or by contract. "The Procedural Manual for Day Treatment Programs" is available for review at the day treatment programs located in Ashland, Bowling Green, Cromwell, Sudith, Hopkinsville, Lexington, and Owensboro and at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

ANNA GRACE DAY, Commissioner  
 E. AUSTIN, JR., Secretary

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PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Children's Residential Services**

**905 KAR 7:050. Group home procedural manual.**

RELATES TO: KRS Chapter 208

PURSUANT TO: KRS 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 qualify for receipt of federal funds. The function of this regulation is to set forth procedures for the operation of group homes by the Department for Social Services.

Section 1. Incorporation by Reference. The Cabinet for Human Resources, Department for Social Services, hereby incorporates by reference the Procedural Manual for Group Homes dated June 11, 1984. The manual contains policies and procedures for the operation of group homes. The manual may be reviewed in the Office of the Commissioner, Depart-

ment for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

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FILED WITH LRC: June 14, 1984 at 4:30 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 23, 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 July 18, 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 Children's Residential Services**

**905 KAR 7:080. Children's treatment services facility manual.**

RELATES TO: KRS Chapters 202A and 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. 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 programs for the care and treatment of mentally ill and/or emotionally disturbed children by the Children's Treatment Service facility operated by the Department for Social Services.

**Section 1. Children's Treatment Service Facility Manuals.** The Cabinet for Human Resources hereby adopts, by reference, as operating policies and procedures of the Children's Treatment Service, Lakeland Road, Louisville, Kentucky, operated by the Department for Social Services, the following manuals: Policy Manual dated June 16, 1983; Therapeutic Milieu Manual revised through May 11, 1984; Psychology Procedural Manual dated February 10, 1983; Nursing Manual dated February 10, 1983; Staff Development Manual revised through May 11, 1984; Emergency Services Manual revised through May 11, 1984; Safety Rules and Practices revised through May 11, 1984; Pharmacy Manual revised through May 11, 1984; Medical Procedures Manual dated February 10, 1983; The Living Unit dated February 10, 1983; and Social Services Manual dated February 10, 1983. These manuals set forth the policies and procedures used in the Children's Treatment Services program to provide care and treatment for juveniles residing in this facility. These manuals may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky; and Children's Treatment Service, Lakeland Road, Louisville, Kentucky.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 23, 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 July 18, 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 Children's Residential Services**

**905 KAR 7:090. Patient charges at children's treatment services.**

RELATES TO: KRS 210.700 to 210.760

PURSUANT TO: KRS 210.710, 210.720, 210.750

**NECESSITY AND FUNCTION:** KRS 210.720 directs the Secretary of the Cabinet for Human Resources to fix the patient cost per day for board, maintenance and treatment for facilities operated by the cabinet. The function of this regulation is to set forth the formula for patient costs at the Children's Treatment Services in accordance with the Patient Liability Act of 1978, KRS 210.700 to 210.760.

**Section 1. Per Diem Cost.** The per diem patient cost at Children's Treatment Services for board maintenance and treatment shall be derived by dividing the total per diem cost by the daily population.

**Section 2. Ancillary Charges.** In addition to the per diem cost as set forth in Section 1 of this regulation, ancillary charges at actual cost shall be made for such services as physicians, E.E.G., E.K.G, occupational therapy, physical therapy, oxygen therapy, psychological testing, pharmacy, laboratory, x-ray, and speech and hearing therapy.

**Section 3. Billings.** Hospital billings shall occur in the following priority order: private, third party payor (insurance), medical assistance and individual or party responsible in accordance with the individual's ability to pay.

**Section 4. Collections.** The Children's Treatment Services through Central State Hospital Collections Department shall maximize reimbursement for services through third party payors and clients. Collections shall consider the patients' individual financial position in accordance with the means test adopted by the Secretary for Human Resources as set forth in 902 KAR 12:070. The Collections Department at Central State Hospital shall provide and maintain proper accounting and financial information for all patients and provide such information to each patient upon request.

ANNA GRACE DAY, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: June 14, 1984

FILED WITH LRC: June 14, 1984 at 4:30 p.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on July 23, 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 July 18, 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 Aging Services**

**905 KAR 8:060. Older Americans Act state plan.**

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: P.L. 89-73, "Older Americans Act," as amended, authorizes grants to states for community planning and services and for training through research, development, or training project grants, to provide assistance in the development of new or improved programs to help 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 Kentucky State Plan on Aging under Title III of the Older Americans Act in accordance with applicable federal laws and regulations.

Section 1. State Plan on Aging Under Title III. The Cabinet for Human Resources hereby adopts the "State Plan on Aging Under Title III of the Older Americans Act—Fiscal Year 1983-84" and the "State Plan on Aging Under Title III of the Older Americans Act—Fiscal Year 1984-85," by reference, as the Kentucky regulation for aging services under Title III covering all phases of the program included but are not limited to state agency organization, state agency responsibilities, planning and service area agencies on aging, needs and priorities for service, training, assessment, nutrition contracts, advocacy, ombudsman, special projects, allocation of funds, and other relevant components of the program. A copy of the State Plans on Aging under Title III of the Older Americans Act have been filed with the Department of Health and Human Services, Administration on Aging, 101 Marietta Tower, Atlanta, Georgia 30323. A copy shall be on file and available for public review 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 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 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 Aging Services**

**905 KAR 8:120. Homecare policy manual for the elderly.**

RELATES TO: KRS 205.455 to 205.465

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 205.460 authorizes

the Cabinet for Human Resources to provide, within budgetary limitations, in-home services for the aging to include, but not necessarily limited to, homemaker services, home-help therapy services, day care services, home delivered meal services, transportation services, foster care services, and health services. The function of this regulation is to establish policies and procedures for carrying out this mandate.

Section 1. The Cabinet for Human Resources hereby adopts, by reference, the "Homecare Policy Manual for the Elderly," completed as of May 11, 1984, as the operating policies and procedures to be followed by contractors participating in the Department for Social Services Homecare Program. This manual includes instructions regarding extraordinary medical expenses, assessments and reassessments, assessment and case management services, units of service, service definitions, reporting and format procedures, and Title III program income and other relevant components of the program. The Homecare Policy manual may be reviewed in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, or any of the department's field offices located in each of the 120 counties.

ANNA GRACE DAY, Commissioner  
 E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**CABINET FOR HUMAN RESOURCES**  
**Office of Inspector General**

**906 KAR 1:010. Policies and procedures pertaining to audits.**

RELATES TO: KRS 194.030(10)

PURSUANT TO: KRS 194.050(1)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 194.050(1) to establish regulations relating to operations of programs within the cabinet. KRS 194.030(10) provides that the Office of the Inspector General shall be responsible for the conduct of audits. The function of this regulation is to adopt applicable policies and procedures for audits and examinations of programs within the Cabinet for Human Resources, its grantees and contractors.

Section 1. Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. The 1981 revision of the U.S. General Accounting Office (GAO) "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" is hereby adopted by reference

Section 2. Accounting Standards. The June 1, 1983 edition of the "Accounting Standards" published by the Financial Accounting Standards Board, High Ridge Park, P.O. Box 3821, Stamford, Connecticut 06905-0821 is hereby adopted by reference.

Section 3. Federal Regulations, Circulars, and Principles of Reimbursement Manual for Governmental Programs. The "Federal Regulations, Circulars, and Principles of Reimbursement Manual for Governmental Programs, Office of the Inspector General," (two (2) volumes) dated May 14, 1984 is hereby adopted by reference. This manual includes: Federal Regulations, Title 45 Part 74 and 96; Federal Regulations, Title 42 Part 447; Federal Regulations, Title 7 Part 246; Federal Management Circular (FMC) 74-4 and 74-7; Federal Office of Management and Budget (OMB) Circular A-21, A-87, A-102, A-110, and A-122; Federal Health Insurance Manual (HIM) 16; Health, Education and Welfare (HEW)—Cost Principles OASC 1, 3, 5 and 10; Title XIX, Title XX and Department for Health Services Funding Manual for Community Mental Health-Mental Retardation (FY 1983).

Section 4. Location of Manuals Referenced in this Regulation. A copy of each manual referenced in this regulation is on file in the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621 and is open to public inspection.

JAMES L. HARDEE  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### **CABINET FOR HUMAN RESOURCES Office of Inspector General**

**906 KAR 1:020. Inspection policies and procedures pertaining to licensing and regulation.**

RELATES TO: KRS 194.030(10)

PURSUANT TO: KRS 194.050(1)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by KRS 194.050(1) to establish regulations relating to operations of programs within the cabinet. KRS 194.030(10) provides that the Office of Inspector General shall be responsible for such licensing and regulatory functions as the secretary may delegate. The function of this regulation is to adopt applicable policies and procedures for regulation of health and social services facilities.

Section 1. State Operations Manual. The "State Operations Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 2. Federal Participation Requirements Manual. The "Federal Participation Requirements Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference. This manual includes: 42 CFR 416.40—42 CFR 416.49; 42 CFR Parts 405, 488 and 489; 405.2100—405.2171; 41 CFR 22511, 6/3/76; 42 CFR Parts 400, 405, 408, 409, 418, 420, 421, and 489; 405.1220—405.1229; 38 CFR 18278, 7/16/73; 405.1020—405.1034; 39 CFR 2251, 1/17/74; 405.1037—405.1038; 42 CFR 442.250—442.405; 42 CFR 442.400—442.516; 42 CFR 442.320—442.342; 42 CFR 405.1310—405.1317; 405.1702—405.1726; 42 CFR 405.1731—405.1737; 42 CFR 405.1411—405.1416; 43 CFR 8261—3/1/78—405.2401—405.2430; 42 CFR 52826—7/30/77—405.1101—405.1137; 42 CFR Parts 405, 409 and 489; 42 CFR parts 405, 435, 440, 442 and 447; 42 CFR 405.1121, 442.311, and 442.404; 405.1501—405.1595; 405.1901—405.1913; 39 CFR 2251—1/17/74.

Section 3. Health Care Financing Administration Transmittals Manual. The "Health Care Financing Administration Transmittal Manual, Office of Inspector General," (two (2) volumes), dated May 14, 1984, is hereby adopted by reference.

Section 4. Manual of Survey Techniques and Practices. The "Manual of Survey Techniques and Practices, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 5. Intermediate Care Facilities and Intermediate Care Facility for the Mentally Retarded Interpretive Guidelines and Bedfast Policy Manual. The "Intermediate Care Facilities and Intermediate Care Facilities for the Mentally Retarded Interpretive Guidelines and Bedfast Policy Manual, Office of Inspector General," dated May 14, 1984, is hereby adopted by reference.

Section 6. Location of Manuals Referenced in this Regulation. A copy of each manual referenced in this regulation is on file in the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, and is open to public inspection.

JAMES L. HARDEE, Inspector General  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 15, 1984

FILED WITH LRC: May 15, 1984 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on July 23, 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 July 18, 1984: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

## Minutes of the May 31, 1984 Meeting

(Subject to subcommittee approval at the June 28, 1984 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Thursday, May 31, 1984 at 10:00 a.m. in Room 103 of the Capitol Annex Building.

Present were:

**Members:** Representative William T. Brinkley, Chairman; Senator Pat McCuiston; Representative Jim Bruce.

**Guests:** Fred A. Lawson, Kentucky Higher Education Assistance Authority; Don McCormick, Department of Fish and Wildlife Resources; Patrick Watts, Department of Insurance; Ked R. Fitzpatrick and Sharon Rodriguez, Cabinet for Human Resources; Brenda Rice, Blue Grass Community Action Agency; Hank Phillips, Federated Transportation Services of the Bluegrass; Judy R. Peterson and John Tedder, Pennyrile Allied Community Services, Inc.; Andrew Cammack, Environmental Quality Commission; Carl Breeding, Laura D. Keller, George Risk and Robert J. Yarbrough, Natural Resources and Environmental Protection Cabinet.

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

**Press:** Livingston Taylor, Courier-Journal

Chairman Brinkley called the meeting to order and the minutes of the April 24, 1984 meeting were approved.

The following regulations were deferred by the subcommittee at the request of the promulgating agency:

#### FINANCE AND ADMINISTRATION CABINET

##### Kentucky Retirement Systems

##### General Rules

105 KAR 1:010. Contributions and interest rates.

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

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

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

The subcommittee had no objections to the following regulations:

#### HIGHER EDUCATION ASSISTANCE AUTHORITY

##### Kentucky Loan Program

11 KAR 3:030. Eligible program of study.

#### TOURISM CABINET

##### Department of Fish and Wildlife Resources

##### Game

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

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

##### Hunting and Fishing

301 KAR 3:070. Goose harvest reporting.

#### PUBLIC PROTECTION AND REGULATION CABINET

##### Department of Insurance

##### Agents, Consultants, Solicitors and Adjusters

806 KAR 9:070. Examination retake limits.

#### CABINET FOR HUMAN RESOURCES

##### Department for Social Insurance

##### Medical Assistance

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

904 KAR 1:061. Payments for medical transportation.

##### Public Assistance

904 KAR 2:006. Technical requirements; AFDC.

#### NATURAL RESOURCES AND

##### ENVIRONMENTAL PROTECTION CABINET

##### Administration

400 KAR 1:030. Administrative rules of procedure, service of process.

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

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

##### Department for Surface Mining

##### Reclamation and Enforcement

##### General Provisions

405 KAR 7:020. Definitions and abbreviations.

405 KAR 7:030. Applicability.

405 KAR 7:090. Hearings.

##### Permits

405 KAR 8:030. Surface coal mining permits.

405 KAR 8:040. Underground coal mining permits.

##### Performance Standards for Surface Mining Activities

405 KAR 16:060. General hydrologic requirements.

405 KAR 16:090. Sedimentation ponds.

405 KAR 16:140. Disposal of coal processing waste.

405 KAR 16:190. Backfilling and grading.

##### Performance Standards for

##### Underground Mining Activities

405 KAR 18:090. Sedimentation ponds.

405 KAR 18:140. Disposal of coal processing waste.

405 KAR 18:190. Backfilling and grading.

The meeting was adjourned at 11:00 a.m. on May 31, 1984 until June 28, 1984.





# *Administrative Register* <sup>of</sup> *kentucky*

## Cumulative Supplement

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# Locator Index—Effective Dates

NOTE: Emergency regulations expire 90 days from publication or upon replacement.

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