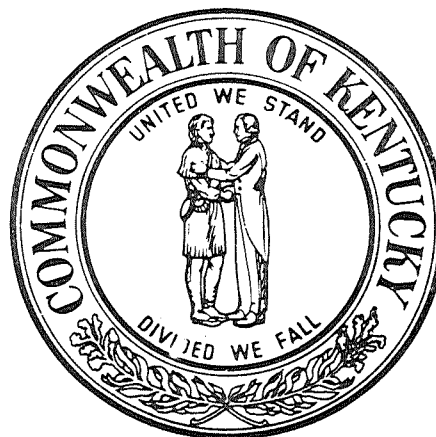


LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY



VOLUME 12, NUMBER 3  
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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: The next meeting of the Administrative Regulation  
Review Subcommittee is September 9 and 10, 1985. For information, call  
502-564-8100, ext. 535.

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

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## PUBLIC HEARINGS

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 (20) nor more than thirty (30) 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 (5) days before the scheduled hearing. If no written notice is received at least five (5) 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 or repeal.)

## STATEMENT OF EMERGENCY

Migratory bird hunting season frameworks are established annually by the U.S. Fish and Wildlife Service. Under federal law, states which wish to establish migratory bird hunting seasons must do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season. An ordinary administrative regulation will not suffice because insufficient time to accomplish the required state procedures during the short period between promulgation of federal hunting regulations and the opening of the hunting season will preclude timely effectiveness of the administrative regulation. The emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor  
DON R. McCORMICK, Commissioner

TOURISM CABINET  
Department of Fish and Wildlife Resources

301 KAR 2:044E. Taking of migratory wildlife.

RELATES TO: KRS 150.010, 150.015, 150.025,  
150.170, 150.300, 150.305, 150.320, 150.330,  
150.340, 150.360, 150.603  
PURSUANT TO: KRS 13A.350, 150.025  
EFFECTIVE: August 2, 1985

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply. This amendment is necessary to implement the requirement for waterfowl hunters to possess a Kentucky waterfowl stamp and to change season dates where appropriate.

Section 1. Seasons: (1) Doves: September 1 through October 31; November 30 [December 1] through December 8 [9].

(2) Woodcock: October 1 through December 4.

(3) Common snipe: October 1 through December 4.

(4) Experimental September duck: September 11 [12] through September 15 [16].

## Section 2. Limits:

Species	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Common snipe	8	16
Experimental September duck, wood duck, teal and other ducks	*4	*8

\*Daily bag limit is four (4) ducks, no more than one (10 of which may be a species other than teal or wood duck, and the possession limit is

double the daily bag limit.

Section 3. Bag and Possession Limits: (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes.

Section 4. Shooting Hours: (1) Doves: From eleven (11) o'clock a.m. until sunset during the period September 1 through October 31: from sunrise to sunset during the period November 30 through December 8.

(2) Common snipe and woodcock: from one-half (1/2) hour before sunrise to sunset.

(3) Experimental September duck: from one-half (1/2) hour before sunrise to sunset.

Section 5. Free Permit for Experimental September Duck Season. Persons hunting during the experimental September duck season should obtain a free permit from any conservation officer or other authorized agents before hunting. The free permit contains a request for harvest information to be furnished on a self-address, stamped post card.

Section 6. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

(1) Ballard Wildlife Management Area, located in Ballard County:

(a) Doves: September 1 through October 14 only. Areas so designated by signs are closed. No firearms permitted on this area except during shooting hours.

(b) Woodcock and snipe: Seasons closed.

(2) West Kentucky Wildlife Management Area, located in McCracken County:

(a) Doves: September 1 through October 16 only.

(b) Woodcock and snipe: Hunting permitted on tracts 2, 3, 6, and 7 only.

(3) Central Kentucky Wildlife Management Area, located in Madison County:

(a) Doves: September 1 through October 16 only.

(b) Woodcock and snipe: Seasons closed.

(4) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:

(a) Doves: September 1 through September 30 and November 30 [December 1] through December 8 [9] only.

(b) Woodcock and snipe: November 30 [December 1] through December 4 only.

(5) Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:

(a) Doves: September 1 through September 27 [21], September 28 [22] through October 31 as announced by Fort Campbell Hunting and Fishing Unit, and November 30 [December 1] through December 8 [9] only. Hunting permitted during these periods in designated areas only.

(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset during the period

September 1 through October 31: sunrise to sunset during the period November 30 through December 8.

(c) Woodcock and snipe: November 27 [22] through December 4 [November 30 and December 1 through December 2 on selected areas only].

(6) Closed Areas: The hunting of doves, woodcock, common snipe, and ducks is prohibited on the following wildlife management areas: that portion of Grayson Lake Wildlife Management Area east of the Little Sandy River and Bruin Creek portions of Grayson Lake; Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties; Robinson Forest Wildlife Management Area, located in Breathitt, Perry, and Knott Counties; Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties; Dewey Lake Wildlife Management Area, located in Floyd County; Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County; Mill Creek Wildlife Management Area, located in Jackson County.

Section 8. Kentucky Waterfowl Stamp Requirements. (1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).

(2) To be valid for hunting, said stamp shall be signed across the face by the bearer and fixed adhesively to the back of the bearer's hunting license. This stamp shall not be transferrable.

DON R. McCORMICK, Commissioner

ROBERT C. WEBB, Chairman

G. WENDALL COMBS, Secretary

APPROVED BY AGENCY: June 3, 1984

FILED WITH LRC: August 2, 1984 at 4 p.m.

#### STATEMENT OF EMERGENCY

This administrative regulation is designed to replace 600 KAR 1:040 as the Transportation Cabinet's procedural guideline in all matters of discipline of the Cabinet's employees. The Transportation Cabinet's disciplinary procedures are required by KRS 13A.100 to be promulgated into regulation form in order to be valid procedures for discipline. Prior to the appointment of Secretary Dawson, the Transportation Cabinet followed the disciplinary procedures as stated in 600 KAR 1:040. With Secretary Dawson's appointment, new policies and procedures for disciplining Transportation Cabinet employees were adopted. This emergency regulation is needed in order to assure that the new policies are implemented in accordance with KRS Chapter 13A. An ordinary administrative regulation will be promulgated to replace this emergency regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor

C. LESLIE DAWSON, Secretary



**TRANSPORTATION CABINET  
Office of Personnel Management**

**600 KAR 1:045E. Disciplinary and separation procedures.**

RELATES TO: KRS Chapters 13A and 18A, 174.080  
PURSUANT TO: KRS 12.080, 13A.100, 174.080  
EFFECTIVE: July 26, 1985

NECESSITY AND FUNCTION: KRS 174.080 allows the Secretary of the Transportation Cabinet to promulgate administrative regulations. KRS 13A.100 requires any administrative body which is empowered to promulgate administrative regulations to prescribe the disciplinary procedures within the jurisdiction of the administrative body. This regulation is necessary to define and prescribe such disciplinary procedures within the Transportation Cabinet.

Section 1. Signatory Authority for Suspensions, Fines, and Dismissals. In the case of a proposed suspension, fine, or dismissal of a Transportation Cabinet employee, the employee's division, office or district will prepare the required letter of notification advising the employee of his suspension, fine, or dismissal for the signature of the Executive Director of the Office of Personnel Management. After the signature of the executive director has been obtained, notification letters to central office employees will be returned to the division, or office for delivery to the employee. For district office employees, notification letters will be delivered or mailed to the employee by the Office of Personnel Management.

Section 2. Signatory Authority for Written Reprimand. (1) Central office. In the case of a proposed written reprimand for an employee of the central office, the employee's division or office will prepare the written reprimand for the signature of the Executive Director of the Office of Personnel Management. After the signature of the executive director has been obtained, the letter will be returned to the division or office for delivery to the employee.

(2) District office. The approval of the Executive Director of the Office of Personnel Management must be obtained prior to the delivery of the written reprimand to the employee. The chief district engineer of the employee's district shall sign the letter of reprimand of a district office employee.

Section 3. Responsibility of the Immediate Supervisor. The immediate supervisor will report employee delinquency, misconduct or incompetency in accordance with procedures established in this regulation. The supervisor who fails to report employees who violate the policies and procedures of the Transportation Cabinet or the provisions of the personnel laws and regulations because of friendship or other personal reasons, or because he does not agree with the regulations or the disposition of certain similar cases, is evading his responsibility and may be disciplined.

Section 4. Disciplinary Procedures. (1) Employee incident reports. If an employee commits an act which involves delinquency, misconduct, incompetency or other unacceptable

behavior, or violates the policies and procedures of the Transportation Cabinet or the provisions of the personnel laws and regulations, the employee's supervisor shall complete an employee incident report. The supervisor shall, if possible, obtain the employee's signature on the employee incident report indicating that the employee has seen the report and has received a copy. The supervisor shall then give copies of the report to the employee, to the Office of Personnel Management and to the chief district engineer, division director or office head.

(2) Investigations. The chief district engineer, office head or division director may, upon receipt of an employee incident report, investigate the allegations contained therein or appoint another individual or committee to investigate the allegations. If an investigation is undertaken, a copy of any report which may be made as a result of the investigation shall be sent to the Office of Personnel Management.

(3) Recommendations. After receipt of an employee incident report, the chief district engineer, division director or office head may recommend to the Executive Director of the Office of Personnel Management that disciplinary action be taken against the employee in accordance with the procedures outlined in this regulation. In the event that no disciplinary action is taken as a result of the employee incident report, the report will be equivalent to an oral warning to the employee.

Section 5. Layoffs. The Transportation Cabinet must prepare and submit a layoff plan to the Commissioner of Personnel for approval prior to separation by layoff. The Office of Personnel Management is responsible for coordinating the preparation of the layoff plan and will submit the plan to the Department of Personnel for approval. The Executive Director of the Office of Personnel Management shall notify the employee of his layoff in accordance with 101 KAR 1:120, Section 2.

Section 6. Dismissals. (1) Dismissals shall be governed by 101 KAR 1:120, Section 3. The notification of dismissal shall either be hand-delivered to the employee at least ten (10) working days prior to the effective date of dismissal, or sent to him by certified mail at least thirteen (13) working days prior to the effective date of dismissal.

(2) Notifications of dismissal shall inform the employee that he has ten (10) working days, not including the date the notice is received, to reply thereto in writing or upon request to appear personally with counsel and reply to the Secretary of Transportation or his deputy. An employee who desires to respond to the charges in writing or requests to appear personally will be advised to submit his written response or request to appear to the Executive Director of the Office of Personnel Management. All written responses to the charges or requests to appear personally will be responded to by the Executive Director of the Office of Personnel Management on behalf of the Secretary, Transportation Cabinet.

Section 7. Resignation. An employee who desires to terminate his service with the state by resignation shall be governed by 101 KAR 1:120, Section 5. A Transportation Cabinet

employee's written resignation shall be submitted to the employee's chief district engineer, office head or division director. A written notice of resignation signed by the employee or the party accepting his resignation is required. If no written notice of resignation is submitted, but resignation is indicated by the employee through absenteeism or other such acts, disciplinary action will be taken against the employee.

Section 8. Transfers. All transfers shall be governed by 101 KAR 1:110, Section 2.

(1) In-county transfers. The Executive Director of the Office of Personnel Management may permanently transfer employees within the same county in accordance with 101 KAR 1:110, Section 2.

(2) Involuntary, out-of-county transfers. The Executive Director of the Office of Personnel Management shall notify Transportation Cabinet employees of involuntary, out-of-county transfers in accordance with 101 KAR 1:110, Section 2.

(3) Temporary transfers. In the district offices, the chief district engineer may make temporary transfers (assignments) in accordance with 101 KAR 1:110, Section 2. For all other Transportation Cabinet employees, the Executive Director of the Office of Personnel Management shall notify employees of their temporary transfers (assignments) in accordance with 101 KAR 1:110, Section 2.

Section 9. Demotion. The Executive Director of the Office of Personnel Management shall notify Transportation Cabinet employees of demotions in accordance with 101 KAR 1:110, Section 3.

Section 10. Non-Merit Employees. The signatory authority for disciplinary and personnel actions concerning non-merit Transportation Cabinet employees shall be the same as for the corresponding disciplinary and personnel actions concerning merit Transportation Cabinet employees outlined in this regulation. Disciplinary and personnel actions concerning non-merit Transportation Cabinet employees shall be undertaken in accordance with personnel laws and regulations.

Section 11. 600 KAR 1:040 is hereby repealed.

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: July 25, 1985

FILED WITH LRC: July 26, 1985 at 8 a.m.

#### STATEMENT OF EMERGENCY

Under KRS 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

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

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 194.050

EFFECTIVE: August 2, 1985

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

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

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

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

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1981 [1974], the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1980 [1973].

(2) Effective October 1, 1981 [1974], the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.

(3) Effective October 1, 1981 [1974], the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program [to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341].

(4) Effective October 1, 1981 [1974], the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program [to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341].

(5) Percentile:

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

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

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

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

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

(2) In no case may payment exceed the prevailing charge established under Part B, Title XVIII for similar service on a statewide basis.

(3) In instances where a prevailing charge has not been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(4) The upper limit for new physicians shall not exceed the 50th percentile.

(5) The amount otherwise payable for outpatient services, as determined in accordance with Sections 1 through 3 of this regulation and subsections (1) through (4) of this section, shall be reduced by five (5) percent to arrive at the final payment amount.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first twenty (20) dollars of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of twenty (20) dollars per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of twenty (20) dollars per procedure is established at thirty-five (35) percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is made in accordance with Sections 1 through 4 of this regulation and subsection (1) of this section within the individual's deductible and coinsurance liability.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 2, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

Under KRS 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

904 KAR 1:013E. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: August 2, 1985

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 acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) 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 August 3 [January 1], 1985, 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 20 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 447.280.

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. For universal rate years prior to January 1, 1985 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. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal

intermediary. 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. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. 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.]

(4) [(5)] Peer grouping. Acute care 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 (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 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. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(5) [(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.

(6) [(7)] Use of upper limits. For acute care hospitals, 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 most recent medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits

may be changed as a result of changes of agency policy. [In addition,] The upper limit is established at 120 percent for those acute care 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) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(7) [(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.

(8) [(9)] Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(9) [(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, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, 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 (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. 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.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 2, 1985 at 4 p.m.

STATEMENT OF EMERGENCY

Under KRS 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development

**904 KAR 1:015E. Payments for hospital outpatient services.**

RELATES TO: KRS 205.520  
PURSUANT TO: KRS 194.050  
EFFECTIVE: August 2, 1985

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(3) 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 outpatient services.

Section 1. Outpatient Hospital Services: In accordance with the provisions of 42 CFR 447.321, the cabinet shall reimburse participating hospitals for outpatient services at the rate of seventy (70) [eighty (80)] percent of usual and customary charges billed to the Medical Assistance Program. There is no settlement to the lower of cost or charges, nor may charges or costs be transferred between the inpatient and outpatient service units.

Section 2. The payment provisions shown in Section 1 of this regulation shall be effective for services provided on or after August 3, 1985 [not affect cost settlements or payment adjustments for services provided prior to July 1, 1983].

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

APPROVED BY AGENCY: August 2, 1985  
FILED WITH LRC: August 2, 1985 at 4 p.m.

STATEMENT OF EMERGENCY

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agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development

**904 KAR 1:031E. Payments for home health services.**

RELATES TO: KRS 205.520  
PURSUANT TO: KRS 194.050  
EFFECTIVE: August 2, 1985

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 home health agency services.

Section 1. Payments to Home Health Agencies: The cabinet shall reimburse participating home health agencies on the basis of interim rates set by the cabinet using available Medicare data and methodology as applied to Medicaid covered services, taking into consideration the upper limit shown in Section 2 of this regulation. Payments made at the interim rate will be settled back to actual allowable cost at the end of the facilities' fiscal year, with actual allowable costs not to exceed the amounts that would be allowable taking into consideration the upper limit specified in Section 2 of this regulation. The Medicaid final rates may not exceed federally established upper limits for Medicare.

Section 2. Payments may not exceed a prospective upper limit which will be set at 105 percent of the weighted median of the array of allowable per visit costs for the following cost centers or disciplines: skilled nursing, speech pathology, physical therapy, occupational therapy, medical social services, and home health aid services. The array shall be based on latest available annual cost report data with costs trended through June 30; the rate year shall begin on July 1 and end on June 30; and the upper limit shall be subject to an annual adjustment to be effective on July 1 of each rate year. For the July 1, 1985 through June 30, 1986 rate year, the upper limit shall be effective for services provided after August 2, 1985. For rate years beginning July 1, 1986 and thereafter, the array shall be based on the latest available cost report as of April 30 preceding the rate year.

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

APPROVED BY AGENCY: August 2, 1985  
FILED WITH LRC: August 2, 1985 at 4 p.m.

## STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management and Development**

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

RELATES TO: KRS 205.520  
PURSUANT TO: KRS 194.050  
EFFECTIVE: August 2, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

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

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised August 3, 1985 [October 1, 1984], which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

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

areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

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

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) Freestanding (non-hospital based) facilities will be arrayed and [Allowable costs will then be indexed for inflation for the rate year, and] the maximum set at 102 [105] percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 [165] percent of 102 [105] percent of the median of allowable trended [and indexed] costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985 [1982], so that the maximum payment amount for the prospective uniform rate year will be at 102 [105] percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations

normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the [no] maximum (upper limit) shall be set at 110 percent of the median of the array [imposed].

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

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

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

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

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets

will not be considered an allowable cost.

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

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

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

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

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

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in



the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

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

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

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

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

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

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

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

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

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

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth in the Social Security Act (as amended by the Deficit Reduction Act of 1984) and shown herein for the revaluation of assets of skilled nursing and intermediate care facilities.

(a) The Social Security Act, Section 1861(v)(1)(O) (as published in the Commerce Clearing House Medicare/Medicaid Guide) specifies the following:

"(i) In establishing an appropriate allowance for depreciation and for interest on capital indebtedness and (if applicable) a return on equity capital with respect to an asset of a hospital or skilled nursing facility which has undergone a change of ownership, such regulations shall provide that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of the date of the enactment of this subparagraph, (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner."

"(ii) Such regulations shall provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984."

"(iii) Such regulations shall not recognize, as reasonable in the provision of health care services, costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title."

(b) The Social Security Act, Section 1902(a)(13) (as published in the Commerce Clearing House Medicare/Medicaid Guide) further specifies the following:

"(B) That the state shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities, and



intermediate care facilities can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O)."

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

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

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

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

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

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

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

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

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

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

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

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

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of \$7.50 for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) Each ICF which admits a recipient from an SNF on or after February 1, 1986 as a result of a change of patient status (from SNF to ICF) shall receive an incentive payment of \$7.50 for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

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

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

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year [and increased by a percentage] so as to reasonably take into account economic conditions and trends. [Such percentage increase shall be known as an inflation factor].

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

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

(defined as the adjusted allowable cost per patient per day for routine services).

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

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
[\$26.99 & below*]	[-]	[-]
\$27.00 & below [- 27.99]	<u>\$ .92</u> [1.38]	<u>\$ .58</u> [.87]
28.00 - 28.99	<u>\$ .86</u> [1.29]	<u>\$ .50</u> [.75]
29.00 - 29.99	<u>\$ .78</u> [1.18]	<u>\$ .41</u> [.62]
30.00 - 30.99	<u>\$ .70</u> [1.06]	<u>\$ .32</u> [.47]
31.00 - 31.99	<u>\$ .61</u> [.92]	<u>\$ .21</u> [.31]
32.00 - 32.99	<u>\$ .51</u> [.76]	<u>\$ .09</u> [.13]
33.00 - <u>33.95</u> [35.05]	<u>\$ .35</u> [.53]	-

Maximum Payment \$33.95 [35.05]

[\*For a basic per diem of \$26.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.]

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$56.99 & below*	-	-
57.00 - 62.99	\$1.38	\$.87
63.00 - 68.99	\$1.29	\$.75
69.00 - 74.99	\$1.18	\$.62
75.00 - 80.99	\$1.06	\$.47
81.00 - 86.99	\$.92	\$.31
87.00 - 92.99	\$.76	\$.13
93.00 - <u>99.06</u> [98.99]	\$.53	-

Maximum Payment \$99.06

\*For a basic per diem of \$56.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$36.99 & below	<u>\$ .92</u>	<u>\$ .58</u>
37.00 - 38.99	<u>.86</u>	<u>.50</u>
39.00 - 40.99	<u>.78</u>	<u>.41</u>
41.00 - 42.99	<u>.70</u>	<u>.32</u>
43.00 - 44.99	<u>.61</u>	<u>.21</u>
45.00 - 46.99	<u>.51</u>	<u>.09</u>
47.00 - 48.72	<u>.35</u>	-
[\$36.99 & below*]	-	-
37.00 - 38.99	\$1.38	\$.87
39.00 - 40.99	\$1.29	\$.75
41.00 - 42.99	\$1.18	\$.62
43.00 - 44.99	\$1.06	\$.47
45.00 - 46.99	\$.92	\$.31
47.00 - 48.99	\$.76	\$.13
49.00 - 52.39	\$.53	-

Maximum Payment \$48.72\* [52.39\*\*]

[\*For a basic per diem of \$36.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.]

[\*\*The maximum payment for hospital based skilled nursing facilities is set at \$65.77 [84.14].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 [105] percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 [105] percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 [1982] and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 [105] percent of the median is a lower dollar amount than has been currently set.

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

(1) First recourse shall be for the facility to request in writing to the Director, Division of Medical Assistance, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within

twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division of Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Division of Management and Development, Department for Social Insurance. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

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

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

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

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

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

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

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

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

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs

are trended and adjusted in accordance with [the inflation factor,] the occupancy factor and the median cost center per diem upper limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Other items or services generally

available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

Section 7. Implementation Date. The provisions of this regulation, as amended, shall be effective with regard to services provided on or after August 3, 1985 [October 1, 1984].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 2, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: August 2, 1985

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 mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to Kentucky based (in-state) providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractual arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:

(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (utilizing the latest audited annual cost report or unaudited report if an audited report is not available) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year [and indexed for the rate year,] so as to more accurately approximate

actual costs which will be incurred during the year. (If an unaudited report is used, cost will not be adjusted based on audit.)

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised August 3, 1985 [July 1, 1984]) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs.

(4) The prospective rate shall not exceed 105 [110] percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities.

#### Section 2. Implementation of Payment System.

(1) Payments may be based on units of service such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.

(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet. Notwithstanding this general requirement, the provider need not make available (for purposes of determining Medicaid payment amounts) staff notes or treatment records which show treatment details for non-Medicaid covered services; for such services, the information required shall be limited to a case summary sheet or listing which shows, at a minimum, the type of service provided, the staff member who provided the service, the date of the service, and appropriate identifying information relating to the patient.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the

provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. Reimbursement of Out-of-State Providers. The cabinet shall make payment to out-of-state mental health center providers who are appropriately licensed, participate with their state's Title XIX Medicaid Program, and have met the Kentucky Medical Assistance Program conditions of participation. The payment rate will be the lower of charges, or the facility's rate as set by the state Medicaid Program in the other state, or the upper limit for that type of service in effect for Kentucky providers.

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

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 2, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

904 KAR 1:310E. Repeal of 904 KAR 1:018.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: August 2, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the program of Medical Assistance in accordance with Title XIX of the Social Security Act. 904 KAR 1:018, Payments for tuberculosis and psychiatric services, is no longer needed since there are no participating tuberculosis hospitals and the payment methodology for mental hospitals (including psychiatric facilities) is being shown in a different regulation. Repeal of 904 KAR 1:018 is required to avoid unnecessary confusion in this area.

Section 1. 904 KAR 1:018, Payments for tuberculosis and psychiatric services, is hereby repealed.

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

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 2, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation 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 this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor  
E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Services Division for 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: July 17, 1985

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 18, 1985 [August 15, 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.

Section 2. Summary of Amendment. Chapter IV. Family and Children's Services. Section A. Child Protective Services. strike pages 24-37 and DSS-150 and insert pages 24-37 and DSS-150 dated 7/85. which transmits a new form to permit inclusion of perpetrators in the Central

Registry if the report is substantiated and instructions for completing the form. [(1) Strike Manual Index dated 5/84 and substitute in lieu thereof Manual Index dated 8/84 which updates the Manual Index.]

[(2) Chapter I, Management Procedures, Section B, Intake, Assessment and Registration, strike pages 11, 12, 13 and 14 dated 8/84 which update procedural instructions for the DSS-1A, client registration, to reflect changes in income eligibility.]

[(3) Chapter II, Adult Services, Section B, Alternate Care, strike pages 11 and 12 dated 5/84 and substitute in lieu thereof pages 11 and 12 dated 8/84 which change from two (2) days to ten (10) days from the date of decertification for a resident of a long-term care facility to request reconsideration and deletes the definition of hardship recommendations.]

[(4) Chapter IV, Family and Children's Services, Section A, Child Protective Services, strike pages 14 and 15 dated 6/81 and substitute in lieu thereof pages 14 and 15 dated 8/84 which set forth the criteria for handling reports of suspected abuse/neglect in CHR facilities.]

[(5) Chapter IV, Family and Children's Services, Section B, Commitment and Termination, strike page 13 dated 3/82, page 14 dated 5/84 and page 15 dated 3/82 and substitute in lieu

thereof pages 13, 14, 15 and 15a dated 8/84 which clarify age of majority; requires consideration of a guardian or conservator for physically/mentally handicapped youth six (6) months prior to age of majority; establishes priorities for recruiting guardians; prohibits administrators of long-term care facilities in which the youth reside from being guardian or conservator; provides a model letter to be used to notify the court that the department intends to release a child from commitment; and provides a model letter to be used to notify the court that a child has been released from commitment.]

[(6) Chapter V, Youth Services, add Section D, Residential Tracking System, pages 1 through 9 dated 8/84 and for DSS-203 dated 9/82 which contain procedural instructions for the completion of DSS-203 which is designed to identify all youth participating in residential services programs.]

[(7) These changes update the DSS Policy and Procedural Manual used by staff of the Department for Social Services to provide services for clients.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 10, 1985

FILED WITH LRC: July 17, 1985 at 11 a.m.

## AS AMENDED

### GENERAL GOVERNMENT CABINET Kentucky Board of Nursing (As Amended)

201 KAR 20:162. Procedures for disciplinary hearings.

RELATES TO: KRS 314.011, 314.031, 314.071(4), 314.091, 314.161, 314.991

PURSUANT TO: KRS Chapter 314

EFFECTIVE: August 13, 1985

NECESSITY AND FUNCTION: To provide for the orderly conduct of hearings and to protect the due process rights of nurses and applicants.

Section 1. Purpose and Rule of Construction. The purpose of this regulation is to enable the board to conduct an orderly and reasonably expeditious search for the truth while ensuring that due process is afforded to the licensee or applicant. Accordingly, this regulation shall be liberally construed so as to aid that process.

Section 2. Composition of the Hearing Panel. (1) Disciplinary actions will be heard by a hearing panel consisting of two (2) members of the board and an assistant attorney general who will serve as the hearing officer.

(2) A hearing officer and one (1) member of the board may conduct a hearing for consideration of reinstatement of a revoked or suspended license and/or consideration of removal of a license from probationary status.

(3) A board member who has participated in the investigation of a disciplinary action or who has discussed the merits of an action with the agency staff or who has personal knowledge of the facts giving rise to a disciplinary action

will not sit on a panel hearing that particular action.

(4) Staff members of the board, legal counsel for the board and a court stenographer will also be present for the hearing.

Section 3. Rights of the Licensee or Applicant. The licensee or applicant shall have the right to be present and to be heard by the hearing panel, to be represented by legal counsel, to present evidence, to cross examine witnesses presented by the board, and to make both opening and closing statements. The licensee or applicant shall also have the right to have subpoenas issued in accordance with 201 KAR 20:161.

Section 4. Prehearing Disclosure of Evidence.

(1) By the board. The licensee or applicant shall have the right to inspect the investigative file relating to a disciplinary action either in person or by legal counsel. The names, addresses and phone numbers of witnesses expected to be called by the board will be made available. Copies of documentary evidence may be obtained upon the payment of a reasonable charge therefore, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving the licensee or applicant the right to examine or copy the personal notes, observations, or conclusions of the board's investigators nor shall it be construed as allowing access to the work product of legal counsel for the board. Further, appointment for the examination of an investigative file must be made upon reasonable notice, during regular office hours, and at a time acceptable to the staff members involved in

the investigation. The licensee or applicant shall also be permitted to examine any items of tangible evidence in the possession of the board.

(2) By the licensee or applicant. At least ten (10) days prior to the scheduled hearing date the licensee or applicant shall furnish to the investigator or legal counsel for the board copies of any documents which the licensee or applicant intends to introduce at the hearing, and a list of the names, addresses, and home and work telephone numbers of any witnesses to be presented to the hearing panel by the licensee or applicant. The licensee or applicant shall also produce for inspection any items of tangible evidence within its possession or control which it intends to introduce at the hearing.

(3) At least ten (10) days prior to the scheduled hearing date the licensee or applicant shall also file with the board a sworn (under oath) written response to the specific allegations contained in the notice of charges. Allegations not properly answered will be deemed admitted. The panel may for good cause permit the late filing of an answer.

(4) Sanctions for failure to comply with prehearing disclosure. Should a party fail to comply with this section the panel hearing the disciplinary action may refuse to allow into evidence such items or testimony as have not been disclosed, may continue the action to allow the opposing party a fair opportunity to meet the new evidence, or may make such other order as it deems appropriate. Sanctions will be applied by the hearing officer but may be overridden by the unanimous vote of the board member(s) of the panel.

(5) Continuing duty to disclose. After disclosure has been completed each party shall remain under an obligation to disclose any new or additional items of evidence or witnesses which may come to its attention. Such additional disclosure shall take place as soon as practicable. Failure to disclose may result in the exclusion of the new evidence or testimony from the hearing.

Section 5. Order of Proceeding. (1) The hearing officer will call the meeting to order and will identify the parties to the action and the persons present and will read the letter of notice and charges. The hearing officer [panel] will [then determine whether the session is to be open or closed and will] ask the parties to state for the record any objections or motions. The hearing officer will rule upon any objections or motions, subject to be overridden by the unanimous vote of the board members of the panel. Opening statements will then be made, with the attorney for the board proceeding first. Either side may waive its opening statement, but opening statements may not be reserved.

(2) The taking of proof will commence with the calling of witnesses on behalf of the board. Such witnesses will be examined first by the attorney for the board, then by the licensee or applicant or that person's attorney, and finally by members of the hearing panel. Rebuttal examination of witnesses will proceed in the same order. Documents or other items may be introduced into evidence as appropriate.

(3) Upon conclusion of the case for the board the licensee or applicant will call its witnesses. Such witnesses will be examined first

by the licensee or applicant or that person's attorney, then by the attorney for the board, and finally by the members of the hearing panel. Rebuttal examination of those witnesses will proceed in the same order. Again, documents or other evidence may be introduced as appropriate.

(4) At the conclusion of the proof the parties will be afforded the opportunity to make a closing statement, with the attorney for the board always proceeding last. The hearing officer may impose reasonable limitations upon the time allowed for opening and closing statements.

(5) The hearing officer will also be responsible for enforcing the general rules of conduct and decorum and expediting the hearing by keeping the testimony and exhibits relevant to the case.

Section 6. Rules of Evidence. (1) The hearing panel shall not be bound by the technical rules of evidence. The hearing panel may receive any evidence which it considers to be reliable, including testimony which would be hearsay if presented in a court of law. Documentary evidence may be admitted in the form of copies or excerpts, and need be authenticated only to the extent that the panel is satisfied of its genuineness and accuracy. Tangible items may be received into evidence without the necessity of establishing a technical legal chain of custody so long as the board is satisfied that the item is what it is represented to be and that it is in substantially the same condition as it was at the time of the events under consideration.

(2) The panel retains the discretion to exclude any evidence which it considers to be unreliable, incompetent, irrelevant, immaterial or unduly repetitious. Rulings on objections to evidence will be made by the hearing officer but may be overridden by the unanimous vote of the board member(s) of the panel.

Section 7. Recommendation by the Hearing Panel. (1) Upon the conclusion of the hearing the panel will retire into closed session for purpose of deliberations. Each board member of the panel will have one (1) vote. In case of a tie vote, the tie will be broken by the hearing officer.

(2) At the conclusion of the panel's deliberations it will propose an order based upon the evidence presented. The hearing officer shall draft a proposed decision including findings of fact and conclusions of law consistent with the panel's deliberations as well as a recommended order to be submitted to the full board. A copy of the proposed decision will be sent to the licensee or applicant by certified mail and to all members of the board as well as the attorney for the board.

Section 8. Written Arguments or Exceptions to a Proposed Decision. The licensee or applicant will have twenty (20) days from the date the proposed decision is mailed to file with the board written arguments or exceptions to any portion of the proposed decision. The twenty (20) day period may be extended at the discretion of the board president in unusual circumstances. The attorney for the board shall have ten (10) days from the expiration of the period allowed to the licensee or applicant to file responses on behalf of the board.



Section 9. Decision by the Board. The board, at the next scheduled regular meeting or as soon thereafter as may be arranged, will review the proposed decision and consider the evidence presented, and, after consideration of any written arguments or exceptions which have been presented, will make a final determination as follows:

(1) Adopt the proposed decision as submitted, or

(2) Modify the proposed decision as deemed necessary, or

(3) Remand the case to the hearing panel for further evidence. The hearing panel will then schedule another hearing to obtain additional evidence. The board will then consider the findings of fact and recommendations from the original hearing and any additional hearing as well as additional written arguments or exceptions as the parties have presented and shall render its final decision in the case.

Section 10. Record to be Maintained. A transcript of the testimony taken during the hearing shall be kept by the board. A copy of that transcript will be available to the licensee or applicant from the court stenographer or, if the stenographer is unable to furnish a copy, from the board upon request and payment of the appropriate fee. A copy of the transcript of the hearing will be available to all board members. Any documents or exhibits introduced into evidence will be kept with the transcript.

Section 11. Continuances; Proceedings in Absentia. It is the policy of the board not to postpone cases which have been scheduled for hearings absent good cause. A request by a licensee or applicant for a continuance may be considered if communicated to the staff reasonably in advance of the scheduled hearing date and based upon good cause. The decision whether to grant a continuance will be made by the staff of the board. However, the burden is upon the licensee or applicant to be present at a scheduled hearing. Failure to appear at a scheduled hearing for which a continuance has not been granted in advance will be deemed a waiver of the right to appear and the hearing will be held as scheduled.

Section 12. Hearing Fee. If the order of the board is adverse to a licensee or applicant a hearing fee in an amount equal to the cost of stenographic services may be assessed against the licensee or applicant. The board in its discretion may waive all or part of the fee.

Section 13. Copy to be Provided to Licensee or Applicant. A copy of this regulation will be provided to the licensee or applicant prior to the hearing.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: April 13, 1985

FILED WITH LRC: June 12, 1985 at 10 a.m.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
Department for Surface Mining Reclamation  
and Enforcement  
(As Amended)

405 KAR 8:040. Underground coal mining permits.

RELATES TO: KRS 350.060, 350.151

PURSUANT TO: KRS Chapter 13A [13.082], 350.020, 350.028, 350.060, 350.151, 350.465

EFFECTIVE: August 13, 1985

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for underground mining activities. This regulation recognizes the distinct differences between surface mining activities and underground mining activities. This regulation specifies certain information to be shown by the applicant related to legal and compliance status, environmental resources, and his mining and reclamation plan. This regulation further specifies certain showings to be made by the applicant to obtain a permit.

Section 1. General. (1) Applicability.

(a) This regulation applies to any person who applies for a permit to conduct underground mining activities.

(b) The requirements set forth in this regulation specifically for applications for permits to conduct underground mining activities, are in addition to the requirements applicable to all applications for permits to conduct surface coal mining and reclamation operations as set forth in 405 KAR 8:010.

(c) This regulation sets forth information required to be contained in applications for permits to conduct underground mining activities, including:

1. Legal, financial, compliance, and related information;
2. Environmental resources information; and
3. Mining and reclamation plan information.

(2) The permit applicant shall provide to the cabinet in the application all the information required by this regulation.

Section 2. Identification of Interests. (1) Each application shall contain the names and addresses of:

(a) The permit applicant, including his or her telephone number;

(b) Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and every legal or equitable owner of record of the coal to be mined;

(c) The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined;

(d) Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined;

(e) The operator, if different from the applicant, who will conduct underground coal mining activities on behalf of the applicant, including his or her telephone number; and

(f) The resident agent of the applicant who



will accept service of process, including his or her telephone number.

(2) If any owner, holder, purchaser, or operator, identified under subsection (1) of this section, is a business entity other than a single proprietor, the application shall contain the names and addresses of their respective principals, officers, and resident agents.

(3) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity. For businesses other than single proprietorships, the application shall contain the following information where applicable:

(a) Names and addresses of every officer, partner, director, or other person performing a function similar to a director of the applicant;

(b) Name and address of any person who is a principal shareholder of the applicant;

(c) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the five (5) years preceding the date of application;

(d) If a partnership, a certified copy of the partnership agreement; and

(e) If a domestic corporation, a certified copy of the certificate of incorporation from the Secretary of State, and if a foreign corporation, a certified copy of the Certificate of Authority to conduct business within the Commonwealth of Kentucky.

(4) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant during the five (5) years preceding the application, and by any person identified in subsection (3)(c) of this section and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of those coal mining operations.

(5) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(6) Each application shall contain the name of the proposed mine and all MSHA identification numbers that have been assigned for the mine and all sections.

(7) Each application shall contain proof, such as a power of attorney or resolution of the board of directors, that the individual signing the application has the power to represent the applicant in the permit matter.

(8) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.

Section 3. Compliance Information. (1) Each application shall contain: a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(a) Had a coal mining permit of the United States or any state suspended or revoked in the last five (5) years; or

(b) Forfeited a coal mining performance bond or similar security deposited in lieu of bond.

(2) If any such suspension, revocation, or forfeiture, as described in subsection (1) of this section, has occurred, the application shall contain a statement of the facts involved, including:

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

(b) Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

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

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

(e) The current status of these proceedings.

(3) Each application shall contain a list of each violation notice pertaining to SMCRA (PL 95-87) or KRS Chapter 350 and regulations promulgated pursuant thereto, received by the applicant in connection with any surface coal mining operation during the three (3) year period before the application date. Each application shall also contain a list of each violation notice pertaining to air or water environmental protection received by the applicant in connection with any surface coal mining operation during the three (3) year period before the application date, for violations of any law, rule, or regulation of the United States, or of any state law, rule, or regulation enacted pursuant to federal law, rule, or regulation. The application shall also contain a statement regarding each violation notice, including:

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

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

(c) The final resolution of each violation notice, if any;

(d) For each violation notice that has not been finally resolved:

1. The date, location, and type of any administrative or judicial proceedings initiated concerning the fact of the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the fact of the violation and the current status of the proceedings; and

2. The actions, if any, taken or being taken by the applicant to abate the violation.

(4) Upon request by a small operator as defined in KRS 350.450(4)(d), the cabinet will provide to the small operator, with regard to persons under subsection (1) of this section which are identified by the small operator, the compliance information required by this section regarding suspension and revocation of permits and forfeiture of bonds under KRS Chapter 350, and information pertaining to violations of KRS Chapter 350 and regulations promulgated thereunder.

Section 4. Right of Entry and Right to Mine.

(1) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution,

identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) For underground mining activities where the associated surface operations involve the surface mining of coal and the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide, for lands to be affected by those operations within the permit area, a copy of the document of conveyance that grants or reserves the right to extract the coal by surface mining methods.

(3) Nothing in this section shall be construed to afford the cabinet the authority to adjudicate property title disputes.

Section 5. Relationship to Areas Designated Unsuitable for Mining. (1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for underground mining activities under Title 405, Chapter 24, or designated unsuitable for surface mining activities if the proposed underground mining activities also involve surface mining of coal, or under study for designation in an administrative proceeding initiated under that chapter.

(2) If an applicant claims the exemption in 405 KAR 8:010, Section 14(4)(b), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed underground mining activities.

(3) If an applicant proposes to conduct or locate surface operations or facilities within 300 feet of an occupied dwelling, the application shall include the waiver of the owner of the dwelling as required in 405 KAR 24:040, Section 2(5).

Section 6. Permit Term Information. (1) Each application shall state the anticipated or actual starting and termination date of each phase of the underground mining activities and the anticipated number of acres of surface lands to be affected, and the horizontal and vertical extent of proposed underground mine workings including the surface acreage overlying such underground workings, for each phase of mining and over the total life of the permit.

(2) If the applicant proposes to conduct the underground mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 405 KAR 8:010, Section 17(1).

Section 7. Personal Injury and Property Damage Insurance Information. Each application shall contain a certificate of liability insurance according to 405 KAR 10:030, Section 4.

Section 8. Identification of Other Licenses and Permits. Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities. This list shall identify each license and permit by:

- (1) Type of permit or license;
- (2) Name and address of issuing authority;
- (3) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or

licenses; and

(4) If a decision has been made, the date of approval or disapproval by each issuing authority.

Section 9. Identification of Location of Public Office for Filing of Application. Each application shall identify, by name and address, the appropriate regional office of the cabinet where the applicant will file a copy of the complete application for public inspection under 405 KAR 8:010, Section 8(8).

Section 10. Newspaper Advertisement and Proof of Publication. A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the cabinet and made a part of the complete application not later than fifteen (15) days after the last date of publication required under 405 KAR 8:010, Section 8(2).

Section 11. Environmental Resource Information. (1) Each permit application shall include a description of the existing[, premining] environmental resources either within the areas affected by proposed surface operations and facilities, or within the proposed permit area and adjacent areas, as required by Sections 11 through 23 of this regulation. The descriptions required by this regulation may, where appropriate, be based upon published texts or other public documents together with reasonable extrapolations from specific data available from existing permit areas or other appropriate areas.

(2) Each application shall describe and identify the nature of cultural and historic resources listed in or eligible for listing in the National Register of Historic Places and known archaeological sites within the proposed permit and adjacent areas. The description shall be based on all available information, including, but not limited to, data of state and local archaeological, historic, and cultural preservation agencies.

Section 12. General Requirements for Baseline [Premining] Geologic and Hydrologic Information [Geology and Hydrology]. (1) The application shall contain baseline [premining] geologic and hydrologic information which has been collected, analyzed, and submitted in the detail and manner acceptable to the cabinet, and which shall be sufficient to:

(a) Identify and describe protective measures pursuant to Section 32(1) of this regulation which will be implemented during the mining and reclamation process to assure protection of the hydrologic balance, or to demonstrate that protection of the hydrologic balance can be assured without the design and installation of protective measures; and to design necessary protective measures pursuant to Section 32(2) of this regulation.

(b) Determine the probable hydrologic consequences of the mining and reclamation operations upon the hydrologic balance in the permit area and adjacent area pursuant to Section 32(3) of this regulation so that an assessment can be made by the cabinet pursuant to 405 KAR 8:010, Section 14(3) of the probable cumulative impacts of all anticipated mining on the hydrologic balance in the cumulative impact area;

(c) Determine pursuant to 405 KAR 8:010, Section 14(2) and (3) whether reclamation as required by KAR Title 405 can be accomplished and whether the proposed operation has been designed to prevent material damage to the hydrologic balance; and

(d) Design surface and ground water monitoring systems pursuant to Section 32(4) of this regulation for the during-mining and postmining time period which, together with the baseline [premining] data collected under Sections 14(1) and 15(1) of this regulation, will demonstrate whether the mining operation is meeting applicable effluent limitations and stream standards and protecting the hydrologic balance.

(2)(a) Geologic and hydrologic information pertaining to the area outside the permit and adjacent area but within the cumulative impact assessment area shall be provided to the applicant by the cabinet:

1. If this information is needed in preparing the cumulative impact assessment; and

2. If this information is available from an appropriate federal or state agency.

(b) If this information is needed by the cabinet for conducting the cumulative impact assessment and is not available from a federal or state agency, the applicant may gather and submit this information to the cabinet as part of the permit application.

(3) Interpolation, modeling, correlation or other statistical methods, and other data extrapolation techniques may be used if the applicant can demonstrate to the satisfaction of the cabinet that such data extrapolation techniques are valid and that information obtained through such techniques meets the requirements of subsection (1) of this section.

(4) All water quality analyses performed to meet the requirements of this chapter shall be conducted according to the methodology in the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," or the methodology in 40 CFR Parts 136 [146] and 434. All water quality sampling shall be conducted according to either methodology listed above when feasible.

[(1) Each application shall contain a description of the geology and hydrology of lands within the proposed permit area, adjacent area, and general area. The description shall include information on the characteristics of surface and ground waters within the general area, and any water which will flow into or receive discharges of water from the general area. The description shall be prepared according to Sections 12 through 16 of this regulation.]

[(2) (a) Information on hydrology including water quality and quantity, and geology related to hydrology of areas outside the proposed permit area and within the general area shall be provided by the cabinet, to the extent that this data is available from an appropriate federal or state agency.]

[(b) If this information is not available from such agencies, the applicant may gather and submit this information to the cabinet as part of the permit application.]

[(3) The use of modeling techniques may be included as part of the permit application, but the same surface and ground water information may be required for each site as when models are not used.]

Section 13. Baseline [Premining] Geologic [Geology] Information. (1) The application shall contain baseline [premining] geologic information collected from the permit area which shall meet the requirements of Section 12(1) of this regulation and shall include at a minimum:

(a) The results of samples obtained from continuous cores; drill cuttings; channel cuttings from fresh, unweathered, rock outcrops; or other rock or soil material which has been collected using acceptable sampling techniques.

1. For those areas where overburden will be removed, the vertical extent of sampling shall include those strata from the surface down to and including the stratum immediately below the lowest coal seam to be mined; and

2. For those areas overlying underground workings where overburden will not be removed, the vertical extent of sampling shall include those strata above and below the coal seam to be mined which may be impacted [fracture, incur subsidence, or otherwise be disturbed] by the mining operation.

3. Where aquifers within the permit area are located above or below the coal seam to be mined and such aquifers may be adversely affected by the mining operation, the vertical extent of sampling shall also include the aquifer and those strata which lie between the coal seam and the aquifer.

4. The areal and vertical density of sampling shall, at a minimum, be sufficient to determine the distribution of strata which have a potential to produce acid drainage and to determine the areal and vertical extent of aquifers which may be adversely affected.

5. If the vertical extent, and the areal and vertical density of sampling specified in subparagraphs 1 through 4 of this paragraph are not sufficient to locate suitable strata for use as a topsoil substitute, to determine the potential for subsidence, or for other required design or analysis, additional sampling shall be conducted as necessary to furnish adequate geologic information.

(b) 1. To identify strata which have a potential to produce acid or toxic drainage for areas where overburden will be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of each overburden stratum and the stratum immediately below the lowest coal seam to be mined; and

2. To identify strata which have a potential to produce acid or toxic drainage for areas overlying underground workings where overburden will not be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of the strata immediately above and below the coal seam to be mined. [(b) Chemical analyses of each overburden stratum and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed, and chemical analysis of each stratum which may be fractured or otherwise disturbed by the mining operation for those areas overlying underground workings where overburden will not be removed, to identify those strata which have a potential to produce acid or toxic drainage.]

(c) Chemical analyses of the coal seam to be mined to determine the potential to produce acid or toxic drainage, including the parameters of total sulfur and pyritic sulfur; except that the cabinet will not require an analysis for pyritic

sulfur if the applicant can demonstrate to the satisfaction of the cabinet that an analysis for total sulfur provides adequate information to assure protection of the hydrologic balance.

(d) For standard room and pillar mining operations, the engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(e) Collection of geologic information from the permit area as required in this subsection may be waived in whole or in part if:

1. The applicant can demonstrate to the satisfaction of the cabinet through geologic correlation or other procedures that information collected from outside the permit area is representative of the permit area and is sufficient to meet the requirements of Section 12(1) of this regulation; or

2. Other information equivalent to that required by this subsection is available to the cabinet in a satisfactory form and is made a part of the permit application; and

3. The cabinet provides a written statement granting a waiver.

(2) The application shall contain a description of the geology of the proposed permit area and adjacent area which shall meet the requirements of Section 12(1) of this regulation and be based on the information required in subsection (1) of this section or other appropriate geologic information. The description shall include, at a minimum, geologic logs, cross-sections, fence diagrams, or other appropriate illustrations and written descriptions depicting:

(a) Within the permit area:

1. The structural geology and lithology of overburden strata and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; and the structural geology and lithology of strata which may be impacted [fracture, incur subsidence, or otherwise be disturbed] by the mining operation for those areas overlying underground workings where overburden will not be removed.

2. The thickness and chemical characteristics of each overburden stratum and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; or the thickness and chemical characteristics of each stratum which may be impacted [fracture, or otherwise be disturbed] by the mining operation for those areas overlying underground workings where overburden will not be removed.

3. Where aquifers may be adversely affected by the mining operation, the structural geology, lithology, thickness, and areal extent of such aquifers; and structural geology and lithology of strata, and thickness of each stratum, whether located above or below the coal seam to be mined, which lie between the coal seam and such aquifers.

4. For standard room and pillar mining operations, the thickness and engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(b) Within the adjacent area, the approximate areal extent and approximate thickness of aquifers which may be adversely affected by the mining operation.

(3) If determined by the cabinet to be necessary to assure adequate reclamation and

protection of the hydrologic balance, the cabinet may require geologic information and description in addition to that required by subsections (1) and (2) of this section including, but not limited to, leaching tests of material from strata which may be disturbed by the operation to determine the potential for the operation to produce drainage with elevated levels of acidity, sulfate, and total dissolved solids, and the collection of information to greater depths within the proposed permit area or the collection of information for areas outside the proposed permit area.

[(1) The geology description shall include a general statement of the geology within the proposed permit area and adjacent areas, down to and including the first aquifer to be affected below the lowest coal seam to be mined. The geology for areas proposed to be affected by surface operations and facilities, those surface lands overlying coal to be mined, and the coal to be mined shall be separately described, as follows:]

[(a) Areas affected by surface operations or facilities. Geology of all strata to be affected by surface operations or facilities shall be described; and where any coal seam is to be extracted by surface operations, geology of all strata down to and including the stratum immediately below the coal seam shall be described, including the following data resulting from analyses of test borings, core samplings, or outcrop samples:]

[1. The location of areas where subsurface water will be exposed at the face-up area;]

[2. The logs of drill holes showing the lithologic characteristics of the strata to be affected;]

[3. The physical properties of each stratum within the overburden; and]

[4. Chemical analyses of each stratum to be affected, including the stratum immediately below the lowest coal seam to be mined, to identify, at a minimum, those horizons which contain potential acid-forming, toxic-forming, or alkalinity-producing materials.]

[(b) Areas underlain by coal seams to be mined. The geology for all surface lands within the proposed permit area which are underlain by the coal seam to be extracted and the geology of the coal seam itself shall be described, including:]

[1. Location of subsurface water, if encountered;]

[2. The depth, classification, and geologic structure of the overburden;]

[3. Pyritic content and potential acidity or alkalinity of the stratum immediately above and below the coal seam to be mined and the clay content of the stratum immediately below the coal seam to be mined; and]

[4. Total sulfur and pyritic sulfur content of the coal seam.]

[(2) An applicant may request that the requirements of subsection (1)(a) of this section be waived by the cabinet. The waiver may be granted only if the cabinet makes a written determination that the information is unnecessary because other equivalent information is accessible to the cabinet in a satisfactory form.]

Section 14. Baseline [Premining] Ground Water Information. (1) The application shall contain baseline [premining] ground water information

for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Ground water information shall include an inventory of wells, springs, underground mines, or other similar ground water supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and where possible, other relevant information such as the depth and diameter of wells and approximate rate of usage, pumpage or discharge from wells, springs, and other ground water supply facilities.

(3) Ground water information shall include seasonal ground water quantity and quality data collected from monitoring wells, springs, underground mines, or other appropriate ground water monitoring facilities, at a sufficient number of monitoring locations with adequate areal distribution to meet the requirements of Section 12(1) of this regulation. Seasonal ground water quantity and quality data shall be provided for each water transmitting zone above, and potentially impacted water transmitting zone below, the lowest coal seam to be mined including at a minimum:

(a) Ground water levels; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; pH; dissolved iron; dissolved manganese; acidity; alkalinity; and sulfate. For data collected prior to the effective date of these amendments, total iron and total manganese may be substituted for dissolved iron and dissolved manganese.

(4) The ground water information described in subsection (3) of this section will be required in whole or in part for coal seams in those cases where coal seams to be mined are serving as water supply sources or are otherwise significant in protecting the hydrologic balance.

[(5) Monitoring wells constructed by the applicant shall be constructed according to the May, 1985 edition of the department's manual entitled "Monitoring Well Construction Specifications." Wells which are currently being used for domestic or other purposes may be used for the collection of seasonal ground water quantity and quality data provided that:]

[(a) The wells are located such that they meet the requirements of subsection (3) of this section; and]

[(b) The wells can reasonably be expected to provide monitoring data equivalent to wells meeting the "Monitoring Well Construction Specifications."]

(5) [(6)] If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require ground water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to aquifer storage, yield, discharge, recharge capacity, and additional water quality parameters.

[(1) The application shall contain a description of the ground water hydrology for the proposed permit and adjacent area,

including, at a minimum:]

[(a) The depth below the surface and the probable horizontal extent of the water table and aquifers;]

[(b) The lithology and thickness of the aquifers;]

[(c) The uses of the water in the aquifers and water table; and]

[(d) The quality of ground water, if encountered.]

[(2) The application shall contain additional information which describes the recharge, storage, and discharge characteristics of aquifers and the quality and quantity of ground water, according to the parameters and in the detail required by the cabinet.]

Section 15. Baseline [Premining] Surface Water Information. (1) The application shall contain baseline [premining] surface water information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Surface water information shall include an inventory of all streams, lakes, impoundments or other surface water bodies in the permit and adjacent area which are currently being used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the name of the surface water body which is being used as a water supply source; the location, drainage area, ownership, and type of usage for the withdrawal; and where possible other relevant information such as the rate of withdrawal and seasonal variation.

[(1) Surface water information shall be described, including the name of the stream or watershed which will receive water discharges, the locations of any water discharge into any surface body of water, and descriptions of surface drainage systems sufficient to identify, in detail, the seasonal variations in water quantity and quality within areas affected by surface operations and facilities and adjacent areas. The description shall also include the location of all surface water bodies such as streams, lakes, ponds, and springs, within the proposed permit area and adjacent area.]

(3) [(2)] Surface water information [for areas affected by surface operations and facilities and adjacent areas] shall include:

(a) The name, location, and ownership where appropriate, of all streams, lakes, impoundments, and other surface water bodies which receive runoff from watersheds which will be disturbed by the operation; and

(b) The location and description of any existing facilities located in watersheds which will be disturbed by the mining operation which may contribute to surface water pollution, such as existing or abandoned mining operations, oil wells, logging operations, or other similar facilities, including the location of any discharges which may be flowing from such facilities.

(4) Surface water information shall include seasonal quantity and quality data collected from a sufficient number of watersheds which will be disturbed by the operation with adequate areal distribution to meet the requirements of Section 12(1) of this regulation and include at a minimum:

(a) Flow rates; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; and sulfate.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require surface water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to flood flows and additional water quality parameters.

[(a) Minimum, maximum, and average discharge conditions, which identify critical low flows and peak discharge rates of streams sufficient to identify seasonal variations; and]

[(b) Water quality data to identify the characteristics of surface waters in, discharging into, or which will receive flows of surface or ground water from the affected area sufficient to identify seasonal variations. These data shall include, but not be limited to, the parameters listed in this paragraph. The cabinet may add parameters as appropriate to ensure collection of information which the cabinet determines is relevant.]

[1. Total dissolved solids in milligrams per liter or specific conductance in micromhos per centimeter;]

[2. Total suspended solids in milligrams per liter;]

[3. Acidity;]

[4. Alkalinity;]

[5. pH in standards units;]

[6. Total iron in milligrams per liter;]

[7. Total manganese in milligrams per liter; and]

[8. Sulfate in milligrams per liter.]

Section 16. Alternative Water Supply Information. [(1) The application shall identify the extent to which the proposed underground mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or adjacent area for domestic, agricultural, industrial, or other legitimate use.]

[(2)] If contamination, diminution, or interruption of an underground or surface source of water (for domestic, agricultural, industrial, or other legitimate use) within the proposed permit area or adjacent area may result from underground mining activities, then the applicant may [description shall] identify, in the permit application, the alternative sources of water supply that could be developed to replace the existing sources.

Section 17. Climatological Information. (1) When requested by the cabinet, the application shall contain a statement of the climatological factors that are representative of the proposed permit area, including:

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds; and

(c) Seasonal temperature ranges.

(2) The cabinet may request such additional data as deemed necessary to ensure compliance with the requirements of this chapter.

Section 18. Soil Resources Information. (1) If soil survey information for the proposed permit area is available from SCS, the application shall include such information as a part of the description of premining land use capability and productivity required by Section 22(1)(b) of this regulation.

(2) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of the analyses, trials and tests required under 405 KAR 18:050, Section 2.

Section 19. Vegetation Information. (1) The permit application shall, as required by the cabinet, contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(2) When a map or aerial photograph is required, sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife.

Section 20. Fish and Wildlife Resources Information. Permit applications shall not be required under this section to contain a study of fish and wildlife unless and until federal regulations requiring such study have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 21. Prime Farmland Investigation. (1) The applicant shall conduct a pre-application investigation of the area proposed to be affected by surface operations or facilities to determine whether lands within the area may be prime farmland.

(2) Land shall not be considered prime farmland where the applicant can demonstrate one (1) or more of the following:

(a) The land has not been historically used as cropland;

(b) The slope of the land is ten (10) percent or greater;

(c) Other relevant factors exist which would preclude the soils from being defined as prime farmland according to 7 CFR 657, such as a very rocky surface, or the land is frequently flooded during the growing season more often than once in two (2) years and the flooding has reduced crop yields; or

(d) On the basis of a soil survey of the lands within the permit area there are no soil map units that have been designated prime farmland by the U.S. SCS.

(3) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination and results of the investigation which show that the land for which the negative determination is sought meets one (1) or more of the criteria in subsection (2) of this section.

(4) If the investigation indicates that lands within the proposed area to be affected by surface operations and facilities may be prime farmlands, the applicant shall contact the U.S. SCS to determine if these lands have a soil survey and whether the applicable soil map units have been designated prime farmlands. If no such



soil survey has been made for these lands, the applicant shall cause such a survey to be made.

(a) When a soil survey as required by this section contains soil map units which have been designated as prime farmlands, the applicant shall submit an application, in accordance with 405 KAR 8:050, Section 3 for such designated land.

(b) When a soil survey as required by this section contains soil map units which have not been designated as prime farmland, after review by the U.S. SCS, the applicant shall submit with the permit application a request for negative determination under subsection (2)(d) of this section for such non-designated land.

Section 22. Land-use Information. (1) The application shall contain a statement of the condition, capability and productivity of the land which will be affected by surface operations and facilities within the proposed permit area, including:

(a) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within five (5) years before the date of application, the historic use of the land shall also be described.

(b) A narrative of land capability and productivity, which analyzes the land-use description in conjunction with other environmental resources information required under this regulation. The narrative shall provide analyses of:

1. The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover, and the hydrology of the area proposed to be affected by surface operations or facilities; and

2. The productivity of the area proposed to be affected by surface operations and facilities before mining, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities or appropriate state natural resources or agricultural agencies.

(2) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available:

(a) The type of mining method used;

(b) The coal seams or other mineral strata mined;

(c) The extent of coal or other minerals removed;

(d) The approximate dates of past mining; and

(e) The uses of the land preceding mining.

(3) The application shall contain a description of the existing land uses and local government land use classifications, if any, of the proposed permit area and adjacent areas.

(4) The application shall contain a description identifying the extent to which cities, towns, and municipalities, or parts thereof, are located within the proposed permit area.

Section 23. Maps and Drawings. (1) The permit application shall include maps showing:

(a) The boundaries of all subareas which are

proposed to be affected over the estimated total life of the underground mining activities, with a description of size, sequence and timing of the underground mining activities for which it is anticipated that additional permits will be sought;

(b) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)), or which is within the boundaries of a wild river established pursuant to KRS Chapter 146;

(c) The boundaries of any public park and locations of any cultural or historical resources listed in or eligible for listing in the National Register of Historic Places and known archaeological sites within the permit area and adjacent areas;

(d) The locations of water supply intakes for current users of surface waters within a hydrologic area defined by the cabinet, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(e) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(f) The boundaries of land within the proposed permit area upon which, or under which, the applicant has the legal right to conduct underground mining activities. In addition, the map shall indicate the boundaries of that portion of the permit area which the applicant has the legal right to enter upon the surface to conduct surface operations.

(g) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(h) The location and boundaries of any proposed reference areas for determining the success of revegetation for the permit area;

(i) The location of all buildings in and within 1000 feet of the proposed permit area, with identification of the current use of the buildings;

(j) Each public road located in or within 100 feet of the proposed permit area;

(k) Each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area;

(l) Other relevant information required by the cabinet.

(2) The application shall include drawings, cross-sections, and maps showing:

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations or other sampling points in the permit area and adjacent areas used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application or which will be used for such data gathering during the term of the permit;

(c) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(d) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface

within the proposed permit area and adjacent areas;

(e) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent areas;

(f) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drainage patterns, and irrigation ditches within the proposed permit area and adjacent areas;

(g) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;

(h) Location and dimensions of existing coal refuse disposal areas and dams, or other impoundments within the proposed permit area;

(i) Sufficient slope measurements to adequately represent the existing land surface configuration of the area to be affected by surface operations and facilities, measured and recorded according to the following:

1. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations and in a manner as specified by the cabinet.

2. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the cabinet to be representative of the premining configuration of the land.

3. Slope measurements shall take into account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(3) The permit application shall include the map information specified in Sections 22(1)(a), 24(3), 24(4)(c), 24(4)(h), 27(1), 28, 31, 32, 33, 34, 38 of this regulation and 405 KAR 8:010, Section 5(6).

(4) Maps, drawings and cross-sections included in a permit application and required by this section shall be prepared by, or under the direction of and certified by a qualified registered professional engineer, and shall be updated as required by the cabinet. The qualified registered professional engineer shall not be required to certify the true ownership of property.

Section 24. Mining and Reclamation Plan; General Requirements. (1) Each application shall contain a detailed mining and reclamation plan (MRP) for the proposed permit area as set forth in this section through Section 38 of this regulation, showing how the applicant will comply with KRS Chapter 350 and Title 405, Chapters 16 through 20.

(2) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of

the following facilities (unless retention of such facility is approved as necessary for postmining land use as specified in 405 KAR 18:220):

1. Dams, embankments, and other impoundments;
2. Overburden and topsoil handling and storage areas and structures;
3. Coal removal, handling, storage, cleaning, and transportation areas and structures;
4. Spoil, coal processing waste, mine development waste, and non-coal waste removal, handling, storage, transportation, and disposal areas and structures;
5. Mine facilities; and
6. Water pollution control facilities.

(3) Each application shall contain plans and maps of the proposed permit area and adjacent areas as follows:

(a) The plans, maps and drawings shall show the underground mining activities to be conducted, the lands to be affected throughout the operation, and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under Section 23 of this regulation.

(b) The following shall be shown for the proposed permit area:

1. Buildings, utility corridors, and facilities to be used;

2. The area of land to be affected within the proposed permit area, according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond or other equivalent guarantee will be posted under Title 405, Chapter 10;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal preparation waste, underground development waste, and non-coal waste storage area;

6. Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;

7. Each source of waste and each waste disposal facility relating to coal processing or pollution control;

8. Each facility to be used to protect and enhance fish and wildlife related environmental values;

9. Each explosive storage and handling facility;

10. Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with Section 34 of this regulation, and each disposal area for underground development waste and excess spoil, in accordance with Section 28 of this regulation;

11. Cross-sections, at locations as required by the cabinet, of the anticipated final surface configuration to be achieved for the affected areas;

12. Location of each water and any subsidence monitoring point;

13. Location of each facility that will remain on the proposed permit area as a permanent feature, after the completion of underground mining activities.

(c) Plans, maps and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer.

(4) Each plan shall contain the following information for the proposed permit area:

(a) A projected timetable for the completion



of each major step in the mining and reclamation plan;

(b) A detailed estimate of the cost of the reclamation of the proposed operations required to be covered by a performance bond under Title 405, Chapter 10, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting and grading, with contour maps or cross-sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 405 KAR 18:190;

(d) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 405 KAR 18:050 including a demonstration of suitability of any proposed topsoil substitutes or supplements;

(e) A plan for revegetation as required in 405 KAR 18:200, including, but not limited to, descriptions of the: schedule of revegetation; species and amounts per acre of seeds and seedlings to be used; methods to be used in planting and seeding; mulching techniques; irrigation, if appropriate, and pest and disease control measures, if any; measures proposed to be used to determine the success of revegetation as required in 405 KAR 18:200, Section 6; and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(f) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 405 KAR 18:010, Section 2;

(g) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 405 KAR 18:150 and 405 KAR 18:190, Section 3 and a description of the contingency plans which have been developed to preclude sustained combustion of such materials;

(h) A description, including appropriate drawings and maps, of the measures to be used to seal or manage mine openings, and to plug, case or manage exploration holes, other bore holes, wells and other openings within the proposed permit area, in accordance with 405 KAR 18:040; and

(i) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 USC Sec. 7401 et seq.), the Clean Water Act (33 USC Sec. 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards. This description shall, at a minimum, consist of identification of the permits or approvals required by these laws and regulations which the applicant has obtained, has applied for, or intends to apply for.

Section 25. MRP; Existing Structures. (1) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include:

(a) Location;

(b) Plans of the structure which describe its current condition;

(c) Approximate dates on which construction of the existing structure was begun and completed; and

(d) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of Title 405, Chapters 16 through 20, or if the structure does not meet those performance standards, a showing whether the structure meets the interim performance standards of Title 405, Chapter 3.

(2) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include:

(a) Design specifications for the modification or reconstruction of the structure to meet the performance standards of Title 405, Chapters 16 through 20;

(b) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(c) Provisions for monitoring the structure as required by the cabinet to ensure that the performance standards of Title 405, Chapters 16 through 20 are met; and

(d) A showing that the risk of harm to the environment or to public health or safety is not significant during the period of modification or reconstruction.

Section 26. MRP; Subsidence Control. (1) The application shall include a survey which shall show whether structures or renewable resource lands exist within the proposed permit area and adjacent areas and whether subsidence, if it occurred could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands.

(2) If the survey shows that no such structures or renewable resource lands exist, or no such material damage or diminution could be caused in the event of mine subsidence, and if the cabinet agrees with such conclusion, no further information need be provided in the application under this section.

(3) In the event the survey shows such structures or renewable resource lands exist, or that subsidence could cause material damage or diminution of value or foreseeable use of the land, or if the cabinet determines that such damage or diminution could occur, the application shall include a subsidence control plan which shall contain the following information:

(a) A detailed description of the mining method and other measures to be taken which may affect subsidence, including:

1. The technique of coal removal, such as longwall mining, room and pillar with pillar removal, hydraulic mining or other methods; and

2. The extent, if any, to which planned and controlled subsidence is intended.

(b) A detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value of reasonably foreseeable use of the surface, including:

1. The anticipated effects of planned subsidence, if any;

2. Measures, if any, to be taken in the mine to reduce the likelihood of subsidence, including such measures as backstowing or backfilling of voids; leaving support pillars of coal; and areas in which no coal removal is planned, including a description of the overlying area to be protected by leaving coal

in place.

3. Measures to be taken on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface including such measures as reinforcement of sensitive structures or features; installation of footers designed to reduce damage caused by movement; change of location of pipelines, utility lines or other features; relocation of movable improvements to sites outside the angle-of-draw; and monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

(c) A detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands which may occur, including one (1) or more of the following as required by 405 KAR 18:210, Section 3:

1. Restoration or rehabilitation of structures and features, including approximate land-surface contours, to premining condition;

2. Replacement of structures destroyed by subsidence;

3. Purchase of structures prior to mining and restoration of the land after subsidence to condition capable of supporting and suitable for the structures and foreseeable land uses;

4. Purchase of non-cancellable insurance policies payable to the surface owner in the full amount of the possible material damage or other comparable measures.

(d) A detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface, including such measures as:

1. The results of pre-subsidence surveys of all structures and surface features which might be materially damaged by subsidence;

2. Monitoring, if any, proposed to measure deformations near specified structures or features or otherwise as appropriate for the operation.

Section 27. MRP; Return of Coal Processing Waste to Abandoned Underground Workings. (1) Each plan shall describe the design, operation and maintenance of any proposed use of abandoned underground workings for coal processing waste disposal, including flow diagrams and any other necessary drawings and maps, for the approval of the cabinet and MSHA under 405 KAR 18:140, Section 7.

(2) Each plan shall describe the source and quality of waste to be stowed, area to be backfilled, percent of the mine void to be filled, method of constructing underground retaining walls, influence of the backfilling operation on active underground mine operations, surface area to be supported by the backfill, and the anticipated occurrence of surface effects following backfilling.

(3) The applicant shall describe the source of the hydraulic transport mediums, method of dewatering the placed backfill, retainment of water underground, treatment of water if released to surface streams, and the effect on the hydrologic regime.

(4) The plan shall describe each permanent monitoring well to be located in the backfilled area, the stratum underlying the mined coal, and gradient from the backfilled area.

(5) The requirements of this section shall

also apply to pneumatic backfilling operations, except where the operations are exempted by the cabinet from requirements specifying hydrologic monitoring.

Section 28. MRP; Underground Development Waste and Excess Spoil. Each plan shall contain descriptions, including appropriate maps and cross-section drawings, of the proposed disposal methods and sites for placing underground development waste and excess spoil [generated at surface areas affected by surface operations and facilities,] according to 405 KAR 18:130, 405 KAR 18:140, and 405 KAR 18:160 as applicable. Each plan shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate, of the structures and be prepared according to 405 KAR 8:030, Section 27 and the applicable requirements of this regulation.

Section 29. MRP; Transportation Facilities. (1) Each application shall contain a description of each road, conveyor, and rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross-sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval of the cabinet is required for alternative specifications or for steep cut slopes under 405 KAR 18:230.

(c) A description of each measure to be taken to obtain approval of the cabinet for alteration or relocation of a natural drainageway under 405 KAR 18:230.

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval by the cabinet under 405 KAR 18:230.

(2) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

Section 30. MRP; Protection of Public Parks and Historic Places. For any public parks or historic places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the cabinet and other agencies as required in 405 KAR 24:040, Section 2(4).

Section 31. MRP; Relocation or Use of Public Roads. Each application shall describe, with appropriate maps and drawings the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 405 KAR 24:040, Section 2(6), the applicant seeks to have the cabinet approve:

(1) Conducting the proposed underground mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(2) Relocating a public road.

Section 32. MRP; Protection of Hydrologic Balance. (1) Each application shall contain a description, as set forth in this subsection, of

the measures to be taken to minimize disturbances to the hydrologic balance within the permit area and adjacent area and to prevent material damage to the hydrologic balance outside the permit area.

(a) The description shall be based upon the baseline [premining] geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, shall be specific to local hydrologic conditions, and shall be prepared in a manner and detail acceptable to the cabinet.

(b) The description shall identify the protective measures to be taken to enable the operation to meet, at a minimum, each of the hydrologic requirements referenced in this paragraph, or shall demonstrate to the satisfaction of the cabinet that protective measures are not necessary in order to enable the operation to meet such requirements:

1. Meet applicable water quality statutes, regulations, standards, and effluent limitations as required by 405 KAR 18:060, Section 1(3);

2. Avoid acid or toxic drainage as required by 405 KAR 18:060, Section 4;

3. Control the discharge of sediment to streams located outside the permit area as required by 405 KAR 18:060, Section 2; and

4. Control the drainage and discharge of water within the permit area as required by 405 KAR 18:060, Sections 1(4), 3, 5, and 7, and 405 KAR 18:080.

(c) The cabinet may require that the description include protective measures in addition to those identified under paragraph (b) of this subsection, if the cabinet determines that additional measures are needed to protect the hydrologic balance in accordance with 405 KAR 18:060.

(2) Each application shall include the design of any necessary protective measures identified under subsection (1) of this section. The design shall be prepared in a manner and detail acceptable to the cabinet including, as appropriate, calculations, maps, drawings, and written explanations as necessary to document the design.

(3) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations for the permit area and adjacent area.

(a) The determination shall be based upon the baseline [premining] geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, and may include information statistically representative of the site.

(b) The determination shall be completed according to the parameters and in the detail required by the cabinet to enable the cabinet to prepare a cumulative impact assessment, and shall take into account the anticipated effects of protective measures required by this chapter.

(c) For surface water systems, the determination shall, at a minimum, include probable impacts on:

1. Peak discharge rates, emphasizing the potential for flooding;

2. Settleable solids at peak discharge;

3. Low-flow discharge rates, emphasizing the potential for water supply diminution;

4. Suspended solids at low flow;

5. pH, at low flow, emphasizing the potential

for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(d) For ground water systems, the determination shall, at a minimum, include probable impacts on:

1. Water quantity, emphasizing water levels and the potential for water supply diminution for existing users, and dewatering of aquifers which are not currently being used for water supply but have the potential to be developed as a water supply source.

2. pH, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(e) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated determination of the probable hydrologic consequences shall be required.

(4)(a) The application shall include a plan for the collection, recording, and reporting of ground water and surface water quantity and quality data to monitor the effects of the mining and reclamation operations on the hydrologic balance, according to 405 KAR 18:110.

(b) The monitoring plan shall be based on the geologic and hydrologic baseline [premining] information, the mining and reclamation plan, and the determination of probable hydrologic consequences; and shall:

1. Identify the quantity and quality parameters to be monitored, sampling frequency, and monitoring site locations; and

2. Describe how the data may be used to determine the impacts of the operation on the hydrologic balance.

(5) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated cumulative hydrologic impact assessment shall be made.

[(1) Each plan shall contain a description, with appropriate maps and drawings, of the measures to be taken during and after the proposed underground mining activities, in accordance with Title 405, Chapter 18, to ensure the protection of:]

[(a) The quality of surface and ground water, both within the proposed permit area and adjacent areas, from adverse effects of the proposed underground mining activities;]

[(b) The rights of present users to surface and ground water;]

[(c) The quantity of surface and ground water both within the proposed permit area and adjacent area from adverse effects of the proposed underground mining activities;]

[(d) Water quality by locating openings for mines in accordance with 405 KAR 18:060, Section 5.]

[(2) The description shall include:]

[(a) A plan for the control, in accordance with Title 405, Chapter 18, of surface and ground water drainage into, through, and out of the proposed permit area;]

[(b) A plan for the treatment, where required under Title 405, Chapters 16 through 20, and surface and ground water drainage from the area

to be affected by the proposed activities, and proposed quantitative limits on pollutants in discharges subject to 405 KAR 18:070, according to the more stringent of the following:]

[1. Title 405, Chapters 16 through 20; or]

[2. Other applicable state and federal laws.]

[(c) A plan for the collection, recording, and reporting of ground and surface water quality and quantity data, according to 405 KAR 18:110.]

[(3) The description shall include a determination of the probable hydrologic consequences of the proposed underground mining activities, on the proposed permit area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved solids, suspended solids, total iron, pH, total manganese, acidity, alkalinity and other parameters required by the cabinet.]

[(4) Each plan shall contain a description, with appropriate drawings, of permanent entry seals and downslope barriers designed to ensure stability under anticipated hydraulic heads developed while promoting mine inundation after mine closure for the proposed permit area.]

Section 33. MRP; Diversions. Each application shall contain descriptions, including maps and cross-sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 405 KAR 18:080.

Section 34. MRP; Impoundments and Embankments. (1) General. Each application shall include detailed design plans for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. Each design plan shall:

(a) Be prepared by, or under the direction of, and certified by, a qualified registered professional engineer;

(b) Contain a description, map, and appropriate cross-sections and drawings of the structure and its location;

(c) Contain all hydrologic and geologic information and computations necessary to demonstrate compliance with the design and performance standards of Title 405, Chapter 18; and all information utilized by the applicant to determine the probable hydrologic consequences of the mining operation under Section 32(3) of this regulation;

(d) Contain an assessment of the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;

(e) Include any geotechnical investigation, design, and construction requirements for the structure;

(f) Describe the operation and maintenance requirements for each structure; and

(g) Describe the timetable and plans to remove each structure, if appropriate.

(2) Sedimentation ponds.

(a) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 405 KAR 18:090. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 405

KAR 18:100.

(b) Each plan shall, at a minimum, comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(3) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 405 KAR 18:100. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(4) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 405 KAR 18:140.

(5) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 405 KAR 18:160. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(a) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(b) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(c) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(d) Consideration shall be given to the possibility of mudflows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(6) If the structure is twenty (20) feet or higher or impounds more than twenty (20) acre-feet, each plan under subsection (2), (3), and (5) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Section 35. MRP; Air Pollution Control. For all surface operations associated with underground mining activities, the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the cabinet, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices, under subsection (2) of this section to comply with applicable federal and state air quality standards; and

(2) A plan for fugitive dust control practices, as required under 405 KAR 18:170.

Section 36. MRP; Fish and Wildlife. Permit applications shall not be required under this section to contain a fish and wildlife plan unless and until federal regulations requiring such plan have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 37. MRP; Postmining Land Use. (1) Each plan shall contain a description of the proposed use, following reclamation, of the land to be affected within the proposed permit area by surface operations or facilities, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

(a) How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(b) Where a land use different from the premining land use is proposed, all supporting documentation submitted for approval of the proposed use under 405 KAR 18:220;

(c) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable state and local land use plans and programs;

(d) Where grazing is the proposed postmining land use, the detailed management practices necessary to properly implement the postmining use for grazing.

(2) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface areas to be affected by surface operations or facilities within the proposed permit area and the state and local government agencies, if any, which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

(3) Approval of the initial postmining land use plan pursuant to this section, shall not preclude subsequent consideration and approval of a revised postmining land use plan in accordance with the applicable requirements of this Title.

Section 38. MRP; Transportation on Public Roads. The application shall include or be accompanied by a transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Transportation Cabinet) which shall set forth the portions of the public road system, if any, over which the applicant proposes to transport coal extracted in the underground mining activities.

(1) The plan shall specify the legal weight limits for each portion of any such road or bridge over which the applicant proposes to transport coal.

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

(3) The plan shall contain a certification by a duly authorized official of the Kentucky Transportation Cabinet attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public

road system and the accuracy of the specifications of weight limits on such roads and bridges.

Section 39. MRP; Blasting. (1) Each application shall contain a blasting plan for the proposed permit area explaining how the applicant intends to comply with the requirements of 405 KAR 18:120. This plan shall include, at a minimum, information setting forth the limitations the permittee will meet with regard to ground vibration and airblast, the bases for the ground vibration and airblast limitations, and the methods to be applied in controlling the adverse effects of blasting operations.

(2) Each application shall contain a description of the systems to be used to monitor compliance with the standards for ground vibration and airblast including the types, capabilities, and sensitivities of blast monitoring equipment and identification of the monitoring procedures and locations.

(3) Blasting operations within 500 feet of active underground mines require approval of the cabinet, MSHA, and the Kentucky Department of Mines and Minerals.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: July 10, 1985

FILED WITH LRC: July 12, 1985 at noon

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
Division of Epidemiology  
(As Amended)

902 KAR 2:080. Sexually transmitted diseases [Venereal Disease].

RELATES TO: KRS 211.180, 214.010, 214.160, 214.170, 214.185 [402.120 to 402.180]

PURSUANT TO: KRS [13.082, 195.040,] 194.050, 211.090

EFFECTIVE: August 13, 1985

NECESSITY AND FUNCTION: KRS 211.180 mandates the Cabinet [Department] for Human Resources to implement a statewide program for the detection, prevention and control of communicable diseases. The purpose of this regulation is to establish uniform procedures for the diagnosis, prevention, treatment, and control of sexually transmitted diseases (STD) [venereal disease].

Section 1. Definitions. As used in this regulation: (1) "Approved serology laboratory" means a laboratory that has been evaluated and certified by the Cabinet [Department] for Human Resources for performing serological tests for syphilis, in compliance with Kentucky's [premarital and] prenatal laws (KRS [402.120 et. seq., and] 214.160 et seq.).

(2) "Sexually transmitted diseases (STD) [Venereal Disease]" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, acquired immune deficiency syndrome (AIDS), non-gonococcal [specific] urethritis, [(NSU), non-specific vaginitis (NSV)] mucopurulent cervicitis and chlamydia infections including lymphogranuloma venereum.

(3) An "approved serology test" means the VDRL slide test or RPR 18 mm circle card test or other test approved by the Cabinet [Department] for Human Resources and performed as described

in the current edition of the "Manual of Tests for Syphilis" published by the United States Public Health Service.

(4) The phrase "reasonably suspected of being infected with a sexually transmitted disease" is considered to mean any person either, named in a controlled interview with a second person infected with a STD, as a sexual contact of that second person within the incubation period for the STD, or having a laboratory test result indicating a likelihood of infection with a STD.

Section 2. Investigation and Enforcement. Only authorized personnel of the Cabinet [Department] for Human Resources and local health departments [who are] assigned to sexually transmitted disease control activities are empowered to carry out the prevention and control [administer and enforce the] provisions set forth in this regulation. Their duties shall include, among other things, the investigation of persons known to be or reasonably suspected of being infected with a sexually transmitted disease [venereal disease]. Such authorized personnel are empowered to direct that medical examinations, including laboratory tests, be conducted of persons reasonably suspected of having a sexually transmitted disease [require any person reasonably suspected of having a sexually transmitted disease to have appropriate medical examination including laboratory testing]. [Local health officers and authorized persons of the Department for Human Resources are hereby empowered and directed to make such examinations, including laboratory testing procedures, of persons reasonably suspected of having a venereal disease as may be necessary for carrying out this regulation].

Section 3. Medical Examination and Treatment of Sexually Transmitted Diseases [of Venereal Disease]. [(1)] Any person reasonably suspected of being infected with a sexually transmitted disease [venereal disease] shall undergo such medical examination as is necessary, including such laboratory testing procedures as are deemed advisable by the examining physician, to definitely determine the existence or non-existence of a sexually transmitted disease [venereal disease]. If such person is found to be infected with a sexually transmitted disease [venereal disease], or the potentiality for incubation exists, he or she shall undergo such treatment as may be determined adequate by the examining physician to render the person non-infectious, if it is possible to do so].

[(2) Any person reasonably suspected of being infected with a sexually transmitted disease [venereal disease] who refuses to submit [himself] for examination or treatment as herein [hereinafter] provided shall be [considered delinquent and shall be] subject to quarantine by the Cabinet [Department] for Human Resources or local health department to prevent sexual contact until [such time as] there is compliance with the provisions of subsection (1) of this section [are complied with].]

Section 4. Sexually Transmitted Diseases [Venereal Disease] to be Reported. Upon diagnosis of a case of sexually transmitted disease [venereal disease], the physician and every other [or a] person acting under a

[the] physician's order, shall report such case in a prescribed manner to their [his] local health department or to the Cabinet [Department] for Human Resources stating the infected person's name, address, age, sex, race, date of onset, and [for syphilis cases,] the name and stage of the disease; provided, however, that a reidentifiable code number assigned to the patient by the physician may be substituted in lieu of the patient's name and address and supplied upon request to personnel of the Cabinet for Human Resources or local health departments who are assigned to sexually transmitted disease control activities.

Section 5. Reports to be Confidential. (1) The Cabinet for Human Resources hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities and therefore, all information and reports concerning persons infected with a sexually transmitted disease, [venereal disease] or suspected of being infected with a or tested for or identified in an epidemiologic investigation for sexually transmitted disease [with a venereal disease] are hereby declared to be confidential and only authorized personnel of [the] local health departments, [concerned] the physician retained by the patient [concerned], and the Cabinet [Department] for Human Resources [who are] assigned to sexually transmitted disease control activities [and the physician retained by the patient] shall have [be permitted] access to such records and information.

(2) Except for requests from licensed practicing physicians retained by the patient concerned and authorized health department personnel, information contained in sexually transmitted disease [venereal disease] records shall be released only upon written consent of the patient.

Section 6. Approved Serology Laboratories for [Premarital and] Prenatal Tests. [All laboratories licensed pursuant to KRS Chapter 333 to perform tests in the specialty of serology are hereby approved.] (1) [In the event the laboratory is exempted from licensure under KRS Chapter 333,] The laboratory must have as its director a physician licensed to practice medicine in Kentucky or a person who meets the requirements set forth in 902 KAR 11:030, Section 1(4)(f), or (6).

(2) All approved laboratories must maintain satisfactory performance in a serological test for syphilis proficiency test program approved by the cabinet.

(a) Proficiency test results shall be reported on forms provided by the cabinet within seven (7) days after specimens are received. The following letter symbols are to be used:

N - Nonreactive  
W - Weakly Reactive  
R - Reactive

(b) Criteria for satisfactory test performance are:

1. Agreement with results of reference laboratories on individual specimens - ninety (90) percent.

2. Reproducibility on duplicate samples - ninety (90) percent.



(3) Certificates of approval shall be issued annually by the Cabinet [Department] for Human Resources to all laboratories evaluated and certified by the Cabinet [Department] for Human Resources [that are not required to be licensed pursuant to KRS Chapter 333].

(4) All approved serology laboratories shall fully comply with all the provisions of Kentucky's [premarital and] prenatal laws and with the rules and regulations of the Cabinet [Department] for Human Resources.

Section 7. Laboratory Tests for Sexually

Transmitted Diseases to be Reported [Venereal Disease]. Whenever any laboratory in Kentucky performs a test for any sexually transmitted disease [venereal disease], the result if reactive or positive shall be reported within one (1) week thereafter to the Cabinet [Department] for Human Resources on forms provided by the cabinet.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: May 14, 1985

FILED WITH LRC: May 15, 1985 at 11 a.m.

## AMENDED AFTER HEARING

### DEPARTMENT OF AGRICULTURE (Amended After Hearing)

#### 302 KAR 1:030. Bovine animals.

RELATES TO: KRS 247.610 to 247.685

PURSUANT TO: KRS 247.655

NECESSITY AND FUNCTION: KRS 247.655 authorizes the commissioner to establish and determine the rules and regulations to conduct a referendum among producers of bovine animals for the purpose of promoting and stimulating by research, market development and education, the increased [production,] use and sale, domestic and foreign, of bovine animals and bovine animal products.

Section 1. Definitions. As used in these rules and regulations, unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of the Department of Agriculture;

(2) "Board" means the State Board of Agriculture;

(3) "Producer" means every person who produces bovine animals and thereafter causes the same to be marketed;

(4) "New producer" means a producer who was not engaged in the business of producing bovine animals at the time a referendum was conducted in accordance with the provisions in these rules and regulations;

(5) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;

(6) "Referendum agent" means an employee of the Department of Agriculture under the direct control of the commissioner;

(7) "County referendum agent" means a person appointed by the commissioner, in a county where the bovine animal referendum is held, as his agent for the conduct of said referendum;

(8) "Kentucky Beef Cattle Association" means an existing association, representative of bovine animal producers of Kentucky.

Section 2. Counties in Which Referendum Will Be Conducted. The bovine animal referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who May Vote. (1) Each person engaged in the production of bovine animals on a commercial basis, including the owners of farms on which bovine animals are produced, tenants

and sharecroppers sharing in the proceeds of the sale of bovine animals shall be entitled to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of bovine animals is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which bovine animals were produced. No person who certifies to the county referendum agent that he is a producer of bovine animals shall be refused a ballot but such person shall be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before such ballot is counted in the referendum.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within the state where producers of bovine animals reside. [Such voting place will be in the agricultural and stabilization conservation [county extension] service (ASCS) office in each county where the referendum is conducted.] The voting place must provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at any one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against said referendum will not be permitted in the [agricultural and stabilization conservation [county extension] service (ASCS) offices during voting hours] voting place.

Section 5. Hours for Voting. The voting places will be open for a period of time on the referendum date as set by the commissioner [from 9:00 a.m. to 3:00 p.m. local time] and eligible voters will be permitted to vote only during such period of time unless absentee voting is permitted pursuant to Section 7 of this regulation [or by absentee ballot as set forth in Section 6 of this regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located].

Section 6. County for Voting. Voters will be

permitted to vote only in the county of their residence. This means voters with cattle in one (1) county and their residence in another county will be permitted to vote only in the county of their residence. A corporate producer will be permitted to vote only in the county where its principal place of business is located. Eligible voters who reside outside the Commonwealth will be permitted to vote only in the county where their farm is located; or, in the case of farms in two (2) or more counties eligible voters who reside outside the Commonwealth may choose one (1) of the counties for voting purposes.

Section 7. [[Absentee Voting. Voting by absentee ballot may [will] be permissible as determined by the commissioner at least thirty (30) days before the date set for the referendum; if permitted [provided], the request for an absentee ballot shall be [is] made in writing to the commissioner at least ten (10) days in advance of the referendum date [September 7, 1976]. The absentee ballot must be signed and returned to the commissioner on or before the referendum date [September 7, 1976], before such ballot is counted in the referendum.[]]

Section 8. [7.] Referendum Voting Date. The bovine animal referendum voting date will be set by the commissioner [September 7, 1976]. This date will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county extension service agent in any county covered by such referendum.

Section 9. [8.] Supervision of Referendum and Duties of the County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and regulations to conduct said referendum. Each county referendum agent shall have in his possession and under his control a ballot box and the official ballot forms, indelible marking pens, and other supplies sufficient to operate each voting place as established in Section 4 of this regulation. Each prospective voter must identify himself to the county referendum agent; and such person will be required to sign a registration book giving their name and complete mailing address. Upon signing the registration book, each prospective voter will receive an official ballot from the county referendum agent. The official ballot after it has been completed by each eligible voter shall be placed in the ballot box by said voter.

Section 10. [9.] Approved Ballot Forms. The commissioner shall furnish each county referendum agent with official ballots. Also, the approved ballot shall show that the bovine animal producer is voting on the question

presented to producers of bovine animals pursuant to KRS 247.660 [whether or not to have the ten (10) cents assessment increased by fifteen (15) cents to a total of twenty-five (25) cents [ten (10) cents] per bovine animal deducted by the purchaser at the time of sale to be sent to the Kentucky Beef Cattle Association to be used as provided in KRS 247.655].

Section 11. [10.] Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to insure that the information on the ballots is held in confidence. The county referendum agent shall mail all marked ballots and registration book the day following the voting in the bovine animal referendum to the Department of Agriculture in a properly secured manila envelope or folder.

Section 12. [11.] Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which any person voted, and all information furnished to, compiled by, or in the possession of the commissioner, the referendum agent, and the county referendum agents shall be regarded as confidential. The commissioner shall retain the records, the ballots, the result of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 13. [12.] Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's offices to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Beef Cattle Association and any organization actively engaged in the production of bovine animals in Kentucky may each have one (1) representative present during the counting of the votes. Such organization must establish, to the satisfaction of the commissioner, that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 14. [13.] Announcement of the Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

DAVID E. BOSWELL, Commissioner  
APPROVED BY AGENCY: August 13, 1985  
FILED WITH LRC: August 13, 1985 at 11 a.m.



## PROPOSED AMENDMENTS

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

**301 KAR 2:044. Taking of migratory wildlife.**

RELATES TO: KRS 150.010, 150.015, 150.025,  
150.170, 150.300, 150.305, 150.320, 150.330,  
 150.340, 150.360, 150.603

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of migratory wildlife within reasonable limits based upon an adequate supply. This amendment is necessary to implement the requirement for waterfowl hunters to possess a Kentucky waterfowl stamp and to change season dates where appropriate.

Section 1. Seasons: (1) Doves: September 1 through October 31; November 30 [December 1] through December 8 [9].

(2) Woodcock: October 1 through December 4.

(3) Common snipe: October 1 through December 4.

(4) Experimental September duck: September 11 [12] through September 15 [16].

## Section 2. Limits:

Species	Bag Limits	Possession Limits
Doves	12	24
Woodcock	5	10
Common snipe	8	16
Experimental September duck, wood duck, teal and other ducks	*4	*8

\*Daily bag limit is four (4) ducks, no more than one (1) of which may be a species other than teal or wood duck, and the possession limit is double the daily bag limit.

Section 3. Bag and Possession Limits: (1) After two (2) or more days of shooting, possession limits apply to transporting, but do not permit a double bag limit in the field.

(2) The above species (except doves) dressed in the field, or being prepared for transportation, must have one (1) fully feathered wing or head attached to the bird for identification purposes.

Section 4. Shooting Hours: (1) Doves: From eleven (11) o'clock a.m. until sunset during the period September 1 through October 31; from sunrise to sunset during the period November 30 through December 8.

(2) Common snipe and woodcock: from one-half (1/2) hour before sunrise to sunset.

(3) Experimental September duck: from one-half (1/2) hour before sunrise to sunset.

Section 5. Free Permit for Experimental September Duck Season. Persons hunting during the experimental September duck season should obtain a free permit from any conservation officer or other authorized agents before hunting. The free permit contains a request for harvest information to be furnished on a self-address, stamped post card.

Section 6. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession limits apply to falconry hunting.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

(1) Ballard Wildlife Management Area, located in Ballard County:

(a) Doves: September 1 through October 14 only. Areas so designated by signs are closed. No firearms permitted on this area except during shooting hours.

(b) Woodcock and snipe: Seasons closed.

(2) West Kentucky Wildlife Management Area, located in McCracken County:

(a) Doves: September 1 through October 16 only.

(b) Woodcock and snipe: Hunting permitted on tracts 2, 3, 6, and 7 only.

(3) Central Kentucky Wildlife Management Area, located in Madison County:

(a) Doves: September 1 through October 16 only.

(b) Woodcock and snipe: Seasons closed.

(4) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties:

(a) Doves: September 1 through September 30 and November 30 [December 1] through December 8 [9] only.

(b) Woodcock and snipe: November 30 [December 1] through December 4 only.

(5) Fort Campbell Wildlife Management Area, located in Christian and Trigg Counties:

(a) Doves: September 1 through September 27 [21], September 28 [22] through October 31 as announced by Fort Campbell Hunting and Fishing Unit, and November 30 [December 1] through December 8 [9] only. Hunting permitted during these periods in designated areas only.

(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset during the period September 1 through October 31; sunrise to sunset during the period November 30 through December 8.

(c) Woodcock and snipe: November 27 [22] through December 4 [November 30 and December 1 through December 2 on selected areas only].

(6) Closed Areas: The hunting of doves, woodcock, common snipe, and ducks is prohibited on the following wildlife management areas: that portion of Grayson Lake Wildlife Management Area east of the Little Sandy River and Bruin Creek portions of Grayson Lake; Beaver Creek Wildlife Management Area, including all private inholdings, located in Pulaski and McCreary Counties; Robinson Forest Wildlife Management Area, located in Breathitt, Perry, and Knott

Counties; Redbird Wildlife Management Area, including all private inholdings, located in Leslie and Clay Counties; Dewey Lake Wildlife Management Area, located in Floyd County; Cane Creek Wildlife Management Area, including all private inholdings, located in Laurel County; Mill Creek Wildlife Management Area, located in Jackson County.

Section 8. Kentucky Waterfowl Stamp Requirements. (1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).

(2) To be valid for hunting, said stamp shall be signed across the face by the bearer and fixed adhesively to the back of the bearer's hunting license. This stamp shall not be transferrable.

DON R. McCORMICK, Commissioner

ROBERT C. WEBB, Chairman

G. WENDALL COMBS, Secretary

APPROVED BY AGENCY: June 3, 1984

FILED WITH LRC: July 25, 1985 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on September 26, 1985 at 2 p.m. in the Commission Room of the Department of Fish and Wildlife Resources central offices at Frankfort, Kentucky. Those interested in attending this hearing shall contact: William D. Graves, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 90,000 persons will participate in the migratory bird hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license, a federal migratory bird hunting and conservation stamp and a state waterfowl stamp if hunting waterfowl. Indirect costs would be determined by the hunter, depending on his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license (\$7.50 for residents) unless exempt by regulations. Waterfowl hunters would be required to possess a \$7.50 federal migratory bird hunting and conservation stamp and a \$5.25 state waterfowl stamp.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Waterfowl hunters will be asked to report their hunting success by completing and mailing a short form on a franked survey card.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of

the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is \$140,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The results of the waterfowl harvest survey will be tabulated and reported to the U.S. Fish and Wildlife Service in accordance with experimental hunting season agreement.

(3) Assessment of anticipated effect on state and local revenues: A positive effect could be expected on state revenues since hunters are required to purchase a hunting license and pay other state taxes on items purchased in connection with hunting and the hunting trip. The average migratory bird hunter in Kentucky will expend about \$70 a season on food, lodging, transportation and equipment. This will add about \$6,300,000 to the incomes of local businesses.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The U.S. Fish and Wildlife Service requires that any harvest of migratory birds be through a regulated hunting season that is held within a specific time frame. Therefore, the only available alternative to regulated hunting is to close the season which was rejected since migratory birds are a renewable source and involved species are at population levels that permit regulated hunting for the benefit of Kentucky sportsmen.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process since it only applies to migratory bird hunters.

#### CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:010. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

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

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on August 15 [June 14], 1985 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 (Amended 12/7/84)
- 1.2 News Media
- 1.6 Extraordinary Occurrence Reports
- 1.11 Population Counts and Reporting Procedures (Added 2/8/85)
- 2.1 Inmate Canteen
- 3.1 Code of Ethics
- 3.2 Incentive Weather and Emergency Conditions (Added 2/8/85) (Amended 3/15/85)
- 3.3 Holding of Second Jobs by Bureau Employees
- 3.7 Employment of Relatives (Added 3/15/85)
- 3.10 Staff Clothing and Personal Appearance
- 3.12 Institutional Staff Housing (Amended 5/17/85)
- 3.14 Corrections Cabinet Payroll Deduction Policy and Procedure
- 4.1 Attendance at Professional Meetings (Amended 11/20/84)
- 4.2 Staff Training and Development
- 4.3 Firearms and Chemical Agents Training (Amended 2/8/85) (Amended 7/12/85)
- 4.4 Educational Assistance Program
- 6.1 Open Records Law
- 8.4 Emergency Preparedness
- 9.1 Use of Force
- 9.3 Transportation of Convicted Offenders
- 9.4 Transportation of Inmates to Funerals or for Reasons of Illness to Immediate Family (Amended 1/11/85) (Amended 6/28/85)
- 9.5 Return of Escapees by Automobile
- 9.6 Contraband (Amended 3/29/85)
- 9.7 Storage, Issue and Use of Weapons Including Chemical Agents
- 9.8 Search Policy
- 9.9 Transportation of Inmates
- 9.10 Security Inspections (Added 5/17/85)
- 9.15 Institutional Entry and Exit Policy and Procedures
- 9.18 Informants
- 10.1 Inmates Serving a Sentence of Death
- 10.2 Special Management Inmates
- 10.3 Safekeepers
- 10.4 Special Needs Inmates
- 11.2 Nutritional Adequacy of the Diet for Inmates (Amended 5/31/85)
- 11.3 Special Diet Procedures (Amended 3/29/85) (Amended 6/21/85)
- 12.1 Resident Clothing
- 13.1 Pharmacy Policy and Formulary
- 13.2 Health Maintenance Services (Amended 10/17/84) (Amended 11/2/84) (Amended 1/11/85)
- 13.3 Medical Alert System (Added 10/26/84) (Amended 7/5/85)
- 13.4 Health Program Audits (Added 5/17/85)
- 14.2 Personal Hygiene Items
- 14.3 Marriage of Inmates (Amended 5/31/85)
- 14.4 Legal Services Program (Amended 5/31/85)
- 15.1 Hair and Grooming Standards
- 15.2 Offenses and Penalties
- 15.3 Meritorious Good Time (Amended 4/1/85) (Amended 5/31/85)
- 15.4 Governor's Meritorious Good Time Award
- 15.5 Restoration of Forfeited Good Time

- 15.6 Adjustment Procedures and Programs (Amended 12/7/84)
- 16.1 General Inmate Visiting Procedure
- 16.2 Inmate Correspondence
- 16.3 Telephone Calls (Amended 11/2/84)
- 17.1 Inmate Personal Property
- 17.2 Assessment Center Operations
- 17.3 Controlled Intake of Inmates (Amended 5/31/85)
- 18.4 Classification of the Inmate
- 18.5 Custody/Security Guidelines (Amended 3/29/85)
- 18.6 Classification Document
- 18.7 Transfers (Amended 7/12/85)
- 18.8 Guidelines for Transfers Between Institutions
- 18.9 Out-of-State Transfers (Amended 3/15/85)
- 18.10 Pre-Parole Progress Reports
- 18.11 Kentucky Correctional Psychiatric Center Transfer Procedures (Amended 6/13/85)
- 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
- 18.13 Population Categories
- 19.1 Government Services Projects
- 19.2 Community Services Projects
- 20.1 Study Release
- 20.6 Vocational Study Release
- 22.1 Privilege Trips (Amended 5/31/85)
- 25.1 Gratuities
- 25.2 Public Official Notification of Release of an Inmate
- 25.3 Pre-Release
- 25.4 Inmate Furloughs (Amended 5/17/85)
- 25.6 Community Center Program (Amended 6/28/85)
- 25.7 Expedient/Expanded Expedient Release
- 25.8 Extended Furloughs (Amended 5/31/85)
- 27.1 Supervision: Case Classification
- 27.2 Risk/Needs Administration
- 27.4 Supervision Plan: General
- 27.8 Travel Restrictions
- 27.9 Conditions of Supervision
- 27.10 Preliminary Revocation Procedures
- 27.11 Apprehension and Transportation of Violators of Probation, Parole and Conditional Release
- 27.12 Fugitive Section/Probation and Parole
- 27.13 Supervision Fee (Amended 5/6/85)
- 27.18 Absconder procedures (Added 6/28/85)
- 27.19 Technical Violators (Added 7/5/85)
- 28.2 Investigations: General
- 28.3 Pre-Sentence Investigations (To the Court)
- 28.4 Pre-Parole (Pre-Sentence) Investigation (To the Institution and State Parole Board)
- 28.5 Special Report to the Parole Board
- 28.7 Out-of-State Investigations

(2) The Kentucky State Reformatory Procedures Memorandum:

- KSR 01-00-09 Public Information and News Media Relations
- KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
- KSR 01-00-14 Extraordinary Occurrence Report (Amended 2/15/85)
- KSR 01-00-15 Cooperation and Coordination with Oldham County Court (Amended 2/15/85)
- KSR 01-00-18 Assistant Duty Officers (Added 6/6/85)
- KSR 02-00-01 Inmate Canteen

KSR 02-00-03	Screening of Checks and Money Transfers from Inmate Personal Accounts	KSR 11-00-04	Dining Room Dress Code for Inmates
KSR 02-00-11	Inmate Personal Accounts	KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 02-00-12	Institutional Funds and Issuance of Checks	KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates (Added 1/8/85)
KSR 03-00-01	Shift Assignment/Reassignment (Amended 6/17/85)	KSR 12-00-01	Inmate Summer Dress Regulations
KSR 03-00-02	Employee Dress and Personal Appearance (Amended 6/6/85)	KSR 12-00-02	Sanitation and General Living Conditions
KSR 03-00-05	Intra-Agency Promotional Opportunity Announcements	KSR 12-00-03	State Items Issued to Inmates (Amended 7/23/85)
KSR 03-00-06	Employee Time and Attendance (Amended 1/8/85) (Amended 6/6/85)	KSR 13-00-01	Identification of Mentally Retarded Inmates
KSR 03-00-07	Travel Expense Reimbursement	KSR 13-00-02	Regulations for Hospital Patients
KSR 03-00-08	Employee Tuition Reimbursement	KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 03-00-10	Workers' Compensation	KSR 13-00-04	Dental Care for Inmates
KSR 03-00-11	Equal Employment Opportunity Complaints	KSR 13-00-05	Medical and Dental Sick Call
KSR 03-00-12	Employee Grievance Procedure (Amended 1/8/85)	KSR 13-00-06	Services for Mentally Retarded Inmates
KSR 03-00-14	Prohibited Employee Conduct, Disciplinary Actions, and Appeals Process	KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 03-00-15	Affirmative Action Program	KSR 13-00-08	Institutional Laboratory Procedures
KSR 03-00-16	Confidentiality of Personnel Records	KSR 13-00-09	Institutional Pharmacy Procedures (Amended 6/6/85)
KSR 03-00-19	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein	KSR 13-00-10	Requirements for Medical Personnel
KSR 03-00-20	Personnel Selection, Retention and Promotion	KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 03-00-21	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions (Amended 6/17/85)	KSR 13-00-12	Vision Care/Optomety Services
KSR 03-00-23	Work Planning and Performance Review (WPPR)	KSR 13-00-14	Periodic Health Examinations for Inmates (Added 1/8/85)
KSR 03-00-24	Inclement Weather and Employee Work Attendance	KSR 13-00-15	Medical Alert System (Added 2/4/85)
KSR 04-00-02	<u>Staff Training and Development (Added 7/15/85)</u>	KSR 13-00-16	<u>Suicide Prevention and Intervention Program (Added 7/15/85)</u>
KSR 05-00-02	Research Activities	KSR 14-00-01	Inmate Rights
KSR 05-00-03	Management Information Systems	KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services (Amended 1/8/85)
KSR 06-00-02	Inmate Master File	KSR 14-00-04	Inmate Grievance Procedure
KSR 06-00-02	Records Audit	KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, C (Amended 3/26/85)
KSR 06-00-03	Security of Inmate Records	KSR 15-00-02	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 07-00-02	Institutional Tower Room Regulations (Amended 7/23/85)	KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 07-00-03	Guidelines for Contractors	KSR 15-00-04	Restoration of Forfeited Good Time
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family	KSR 15-00-05	Differential Status for SU (QUIT) Inmates (Amended 6/17/85)
KSR 08-00-08	Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery, or Death of an Inmate	KSR 15-00-06	Inmate I.D. Cards
KSR 08-00-09	Emergency Preparedness Training	KSR 15-00-07	Inmate Rules and Discipline (Amended 7/15/85)
KSR 09-00-04	Horizontal Gates/Box 1 Enter and Exit Procedure	KSR 16-00-01	Visiting Regulations
KSR 09-00-05	Gate I Entrance and Exit Procedure	KSR 16-00-02	Inmate Correspondence and Mailroom Operations (Amended 7/15/85)
KSR 09-00-14	Use of Force	KSR 16-00-03	Inmate Access to Telephones (Amended 1/8/85)
KSR 09-00-21	Crime Scene Camera	KSR 17-00-01	Housing Unit Assignment
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence	KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 09-00-23	Drug Abuse Testing	KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations
KSR 09-00-25	Inmate Motor Vehicle Operator's License (Added 6/6/85)	KSR 17-00-05	Dormitory 10 Operations (Amended 2/4/85)
KSR 10-00-02	Special Management Inmates - Operations, Rules and Regulations for Unit D (Amended 6/17/85)	KSR 17-00-06	Identification Department Admissions and Discharges (Amended 2/4/85) (Amended 6/6/85)
KSR 10-00-03	Special Needs Unit	KSR 17-00-07	Inmate Personal Property (Amended 1/8/85) (Amended 2/15/85) (Amended 7/15/85)
KSR 10-00-04	Unit D Admission/Release Ticket	KSR 18-00-01	Special Management Inmates - Unit D Classification (Amended 2/4/85)
KSR 11-00-01	Meal Planning for General Population		
KSR 11-00-02	Special Diets		
KSR 11-00-03	Food Service Inspections		

KSR 18-00-04	Returns from Other Institutions	KSP 030000-04	Requisition and Purchase of Supplies and Equipment (Amended 3/8/85) (Amended 6/3/85) (Amended 6/4/85) (Amended 6/7/85)
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center	KSP 030000-05	Inmate Personal Funds (Amended 3/8/85) (Amended 4/5/85) (Amended 5/10/85) (Amended 6/21/85)
KSR 19-00-01	Inmate Work Incentives	KSP 030000-06	Inmate Commissary Program (Amended 3/8/85)
KSR 19-00-02	On-the-Job Training (Amended 1/8/85)	KSP 040000-02	Inmate Records Section (Amended 3/22/85) (Amended 4/23/85)
KSR 19-00-03	Safety Inspection of Inmate Work Assignment Locations (Added 1-8-85)	KSP 040000-08	Inmate Equal Opportunity Policy (Amended 4/23/85)
KSR 20-00-01	Vocational School Referral and Release Process	KSP 050000-14	Searches of Inmates, Visitors, Staff, Vehicles, Cells and Area Shakedown and Preservation of Evidence (Amended 7/26/85)
KSR 20-00-03	Academic School Programs (Amended 7/15/85)	KSP 060000-01	Telephones
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program	KSP 060000-02	General Operational Procedures for Special Management Unit (Amended 2/4/85) (Amended 2/8/85) (Amended 3/1/85) (Amended 3/8/85) (Amended 3/22/85) (Amended 4/12/85)
KSR 21-00-01	Legal Aide Office and Law Library Services	KSP 060000-03	Operational Procedures for Special Management Inmates Assigned to Disciplinary Segregation, Administrative Segregation, Administrative Control Unit and Special Security Unit (Amended 11/30/84) (Amended 1/30/85) (Amended 2/8/85) (Amended 3/1/85)
KSR 21-00-02	Inmate Library Services	KSP 060000-04	Operational Procedures for Special Management Inmates Assigned to Protective Custody (Amended 1/25/85) (Amended 3/8/85) (Amended 8/9/85)
KSR 21-00-03	Library Services for Unit D	[KSP 060000-09	Protective Custody Unit - Attorney Telephone Calls]
KSR 22-00-03	Inmate Organizations (Amended 6/6/85)	KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives	KSP 060000-12	Administrative Control Protective Custody
KSR 23-00-03	Religious Programming	KSP 060000-13	Special Management - Outdoor Exercise
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home	KSP 070000-02	Sick Call (Amended 12/10/84) (Amended 4/23/85) (Amended 5/3/85)
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough	KSP 070000-03	Health Evaluations (Amended 3/22/85) (Amended 5/3/85)
KSR 25-00-03	Pre-Parole Progress Report	KSP 070000-04	Consultations
(3) The Kentucky State Penitentiary Operations Memorandum:		KSP 070000-05	Emergency Medical Procedure (Added 5/31/85)
KSP 000000-06	Administrative Regulations (Amended 2/25/85)	KSP 070000-11	Medical and Dental Services for Western Kentucky Farm Center (Amended 3/22/85)
KSP 010000-04	Public Information and Media Communication (Amended 4/16/85)	KSP 070000-13	Pharmacy Procedures (Amended 1/28/85)
KSP 020000-01	General Guidelines for KSP Employees (Amended 11/9/84) (Amended 1/28/85) (Amended 3/1/85) (Amended 4/15/85)	KSP 070000-14	Medical Records (Amended 3/22/85)
KSP 020000-02	Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave (Amended 3/8/85) (Amended 4/12/85) (Amended 5/3/85)	KSP 070000-16	Psychiatric and Psychological Services (Amended 3/22/85)
KSP 020000-03	Work Planning and Performance Review (Amended 2/20/85)	KSP 070000-17	Dental Services for Special Management Units
KSP 020000-04	Employee Disciplinary Procedures (Amended 4/17/84) (Amended 2/8/85)	KSP 070000-19	Optometric Services
KSP 020000-05	Proper Dress for Uniformed and Non-Uniformed Personnel (Amended 12/10/84) (Amended 4/15/85)	KSP 070000-20	Menu Preparation and Planning
KSP 020000-06	Employee Grievance Procedure	KSP 070000-24	General Sanitation and Safety, and Protection Standards and Requirements
KSP 020000-07	Personnel Registers and Advertisements (Amended 5/3/85)	KSP 070000-25	Food Service Inspections
KSP 020000-09	Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files (Amended 5/3/85)	KSP 070000-30	Therapeutic Diets
KSP 020000-10	Overtime Policy (Amended 10/19/84) (Amended 7/26/85)	KSP 090000-01	Inmate Work Programs (Amended 4/15/85) (Amended 7/26/85)
KSP 020000-15	Legal Assistance (Amended 4/15/85)	KSP 090000-06	Utilization of Legal Postage and Copy Privileges by Indigents
KSP 020000-20	Equal Employment Opportunity Complaints (Amended 2/22/85)		
KSP 020000-23	Recruitment and Employment of Ex-Offenders (Amended 4/15/85)		
KSP 020000-24	Educational Assistance Program		
KSP 020000-25	Mediation and Appeal Procedure for WPPR		
KSP 020000-29	Promotional Opportunity Announcement Program (Added 12-10-84) (Amended 2/20/85)		
KSP 030000-01	Inventory Records and Control (Amended 4/23/85)		

KSP 090000-07	Access to the Inmate Legal Aide Office	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center
KSP 090000-08	Inmate Legal Aide Office	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 090000-12	WKFC Residents - Access to Kentucky State Penitentiary Legal Library	[KSP 110000-17	Detention Cells]
KSP 100000-02	Visiting Program (Amended 10/19/84) (Amended 1/18/85) (Amended 1/30/85) (Amended 7/12/85) (Amended 8/9/85)	KSP 110000-19	Custody/Security Guidelines (Added 6/7/85)
KSP 100000-03	Disposition of Unauthorized Property (Amended 1/25/85) (Amended 4/16/85)	KSP 120000-04	Academic Education (Amended 5/3/85)
KSP 100000-04	Inmate Grooming and Dress Code	KSP 120000-07	Community Center Program
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items (Amended 11/16/84) (Amended 4/16/85) (Amended 7/12/85) (Amended 8/9/85)	KSP 120000-08	Inmate Furloughs (Amended 6/21/85)
KSP 100000-06	Mail (Amended 2/21/84) (Amended 1/25/85) (Amended 3/8/85) (Amended 4/12/85) (Amended 6/21/85)	KSP 120000-11	Religious Services - Staffing (Amended 1/28/85)
KSP 100000-07	Long Distance Telephone Service	KSP 120000-18	Religious Services - Religious Programming (Amended 12/10/84)
KSP 100000-08	Behavioral Counseling Record	KSP 120000-20	Marriage of Inmates (Amended 6/21/85)
KSP 100000-09	Due Process/Disciplinary Procedures (Amended 11/2/84) (Amended 1/30/85) (Amended 5/3/85)	KSP 120000-24	Muslim Services
KSP 100000-11	Authorized and Unauthorized Property for Inmates (Amended 1/25/85) (Amended 2/8/85) (Amended 3/8/85) (Amended 4/12/85) (Amended 6/7/85) (Amended 7/26/85)	KSP 120000-31	Extended Furloughs
KSP 100000-14	Property Room and Inventory Procedures (Amended 6/21/85)	KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 100000-15	Uniform Standards for Fire Safety, Sanitation and Security of all Cells (Amended 5/31/85)	KSP 130000-10	Execution Plan (Added 6/10/85)
KSP 100000-18	Inmate Grievance Committee Hearings (Amended 5/10/85)		
KSP 100000-20	Legal Services Program (Amended 11/9/84) (Amended 1/25/85) (Amended 2/22/85)	(4) The Luther Luckett Correctional Complex Policies and Procedures:	
KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines (Amended 11/9/84)	LLCC 01-08-01	Institutional Legal Assistance
KSP 100000-22	Special Management Unit Legal Services Program (Amended 11/9/84) (Amended 2/22/85) (Amended 2/25/85)	LLCC 01-09-01	Public Information and News Media Access
KSP 100000-24	Resident Legal Services Office Library (Amended 11/9/84) (Amended 6/21/85)	LLCC 01-12-01	Duty Officer Responsibilities (Added 4/30/85)
KSP 110000-02	PFO I Transfers to Medium Security Institutions	LLCC 02-01-02	Fiscal Management: Accounting Procedures
KSP 110000-03	Governor's Meritorious Good Time Award Committee	LLCC 02-01-03	Fiscal Management: Checks
KSP 110000-04	Pre-Parole Report	LLCC 02-01-04	Fiscal Management: Insurance
KSP 110000-06	General Guidelines of the Classification Committee (Amended 5/31/85) (Amended 6/21/85) (Amended 7/26/85)	LLCC 02-03-01	Fiscal Management: Audits (Amended 2/15/85)
KSP 110000-07	Statutory Good Time Restoration	LLCC 02-06-01	Property Inventory
KSP 110000-08	Award of Meritorious Good Time (Amended 4/16/85) (Amended 6/21/85)	LLCC 03-01-01	General Guidelines for LLCC Employees (Amended 2/15/85)
KSP 110000-10	Special Needs Inmates	LLCC 03-01-02	Service Regulations, Attendance Accumulation and use of Leave (Amended 4/30/85) (Amended 7/2/85)
KSP 110000-11	Classification Committee - Transfer Requests	LLCC 03-02-01	Proper Dress for Uniformed Personnel
KSP 110000-12	Classification Committee - Inmate Work Assignments (Amended 4/16/85)	LLCC 03-03-01	Employee Grievance Mechanism (Amended 2/15/85)
KSP 110000-13	Classification Document	LLCC 03-04-01	Employee Records (Amended 2/15/85)
KSP 110000-14	Vocational School Placement	LLCC 03-05-01	Personnel Registers (Amended 2/15/85)
		LLCC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control (Amended 2/15/85)
		LLCC 03-08-01	Shift Transfers
		LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit Management Staff
		LLCC 03-09-01	Promotion Board (Amended 2/15/85)
		LLCC 03-10-01	Affirmative Action: EEO (Amended 2/15/85)
		LLCC 03-12-01	Confidentiality of Information by Consultants, Contract Personnel and Volunteers
		LLCC 08-01-01	Offender Records (Amended 2/15/85)
		LLCC 08-04-01	Storage of Expunged Records (Added 7/2/85)
		LLCC 11-02-01	General Population Status
		LLCC 11-03-01	LLCC Population Categories
		LLCC 11-07-01	Adjustment Procedure for Minor Rule Violation
		LLCC 11-09-01	Rules and Regulations of the Unit (Amended 11/28/84)

LLCC 11-13-01	Yard, Walkway and Recreation Field Dress Code and Conduct (Amended 11/28/84)	LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair (Added 2/15/85)
LLCC 11-15-01	Post-Parole Furloughs	LLCC 21-02-01	Classification/Security Levels
LLCC 11-16-01	Restoration of Forfeited Good Time	LLCC 21-03-01	Classification Process
LLCC 11-18-02	Use of Monitor Telephone (Added 7/2/85)	LLCC 22-01-01	OJT/Job Assignments
LLCC 11-19-01	Unit Shakedowns/Control of Excess Property	LLCC 23-01-01	Academic School (Amended 2/15/85)
LLCC 11-20-01	Program Services for "Special Needs" Inmates	LLCC 26-01-01	Religious Services (Amended 2/15/85)
LLCC 12-01-01	Special Management Inmates	[LLCC 28-01-01	Privilege Trips]
LLCC 12-04-01	Guidelines for (7E) PC Unit/General Living Conditions (Added 11/28/84) (Amended 4/30/85)	LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 13-04-01	Food Service: Meals (Amended 2/15/85)	LLCC 28-04-01	Pre-Parole Progress Report
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets (Amended 2/15/85)	LLCC 28-04-02	Parole Eligibility Dates
LLCC 13-05-02	Medical Screening of Food Handlers (Amended 2/15/85)		
LLCC 13-06-01	Food Service: Inspections and Sanitation (Amended 2/15/85)	(5) The Northpoint Training Center Policies and Procedures:	
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products (Amended 2/15/85)	NTC 01-05-01	Extraordinary Occurrence Reports (Amended 1/11/85)
LLCC 14-01-01	Procedures for Providing Clothing, Linens and Other Personal Items (Amended 2/15/85)	NTC 01-10-01	Institutional Legal Assistance (Amended 2/1/85)
LLCC 14-05-01	Institutional Inspections (Amended 2/15/85) (Amended 7/30/85)	NTC 01-11-01	Political Activities of Merit Employees
LLCC 15-01-01	Sick Call and Pill Call	NTC 01-15-01	Establishment of Warden as Chief Executive Officer
LLCC 15-02-01	Psychological Services	NTC 01-17-01	Relationships with Public, Media and Other Agencies
LLCC 15-03-01	Pharmacy (Amended 2/15/85)	NTC 02-01-02	Fiscal Management: Accounting Procedures
LLCC 15-04-01	Dental Services (Amended 2/15/85)	NTC 02-01-03	Fiscal Management: Checks
LLCC 15-05-02	Licensure and Training Standards (Amended 2/15/85)	NTC 02-01-04	Fiscal Management: Insurance
LLCC 15-06-02	Emergency and Specialized Health Services	NTC 02-03-01	Fiscal Management: Audits (Amended 1/25/85)
LLCC 15-06-03	Emergency Medical Care Plan (Amended 2/15/85)	NTC 02-08-01	Inmate Canteen
LLCC 15-07-01	Medical and Dental Records	NTC 03-01-01	Employee Dress Code
LLCC 15-08-01	Special Diets	NTC 03-02-01	General Guidelines for NTC Employees
LLCC 15-11-01	Provision of Psychiatric Services from the KCPC/Responsibilities of the Department of Corrections	NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants
LLCC 15-12-01	Disabled and Infirm Inmates	NTC 03-04-01	Shift Transfers
LLCC 15-13-01	Specialized Health Services (Added 2/15/85)	NTC 03-05-01	Work Planning and Performance Review (Amended 1/11/85)
LLCC 15-14-01	Informed Consent (Added 2/15/85)	NTC 03-06-01	Workers' Compensation
LLCC 15-15-01	Medical Restraints (Added 2/15/85)	NTC 03-07-01	Merit System Registers and Placement of Advertisements
LLCC 15-16-01	Health Education/Special Health Programs (Added 2/15/85)	NTC 03-09-01	Maintenance Confidentiality and Challenge of Information Contained in Employee Personnel File
LLCC 15-17-01	Health Records (Added 2/15/85)	NTC 03-10-01	Employment of Ex-Offenders
LLCC 16-01-01	Inmate Rights and Responsibilities (Amended 2/15/85)	NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings (Amended 4/16/85)
LLCC 16-02-01	Inmate Grievance Procedure (Amended 2/15/85)	NTC 03-14-01	Selection Retention, Promotion, and Lateral Transfer of Merit System Employees
LLCC 16-03-01	Inmate Law Library (Amended 4/30/85) (Amended 7/2/85)	NTC 03-14-02	Promotional Opportunities (Added 5/3/85)
LLCC 17-01-01	Due Process/Disciplinary Procedure (Amended 2/15/85) (Amended 4/30/85)	NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time (Added 3/8/85)
LLCC 18-01-01	Inmate Correspondence	NTC 03-15-02	Sick Leave Abuse (Added 3/8/85)
LLCC 18-02-01	Inmate Visiting	NTC 03-15-03	Inclement Weather and Emergency Conditions (Added 4/16/85)
LLCC 20-01-01	Personal Property Control	NTC 03-16-01	EEO - Affirmative Action (Amended 12/12/84)
LLCC 20-02-01	Authorized Inmate Personal Property	NTC 03-17-01	Employee Grievance Procedure (Added 1/11/85)
LLCC 20-03-01	Unauthorized Items	NTC 03-17-02	Review Committee (Added 3/15/85)
LLCC 20-04-02	Inmate Canteen	NTC 03-18-01	Educational Assistance Program (Added 2/13/85)
LLCC 20-05-01	Inmate Control of Personal Funds (Amended 2/15/85)	NTC 03-19-01	Holding of Second Jobs by Employees (Added 3/15/85)



NTC 04-01-01	Training and Staff Development (Amended 11/1/84) (Amended 1/11/85)	NTC 18-01-01	Pre-Parole Progress Report
NTC 06-01-01	Offender Records (Amended 3/15/85) ( <u>Amended 7/12/85</u> )	NTC 18-01-02	Parole Eligibility Dates
NTC 06-01-02	Records - Release of Information	NTC 18-02-01	Instructions for Scheduling 6 Month Classification Reviews
NTC 08-05-01	Duties of Fire Safety Officer (Added 5/15/85)	NTC 18-03-01	Classification Process
NTC 08-05-02	Fire Procedures (Added 5/15/85)	NTC 18-04-01	Classification Committee
NTC 08-05-03	Fire Prevention (Added 5/15/85) ( <u>Amended 7/12/85</u> )	NTC 18-05-01	Transfers to Other Institutions
NTC 08-05-04	<u>Storage of Flammables and Dangerous Chemicals and Their Use</u> ( <u>Added 7/12/85</u> )	NTC 19-01-01	Inmate Work Program (Added 4/23/85)
NTC 10-01-01	Special Management Inmates (Amended 4/23/85)	NTC 20-01-01	Academic School Program (Amended 12/12/84)
NTC 10-01-02	Legal Aide Visits for Special Management Inmates (Added 4/23/85)	NTC 21-01-01	Library Services
NTC 11-03-01	Food Service: General Guidelines	NTC 22-01-01	Privilege Trips ( <u>Amended 7/12/85</u> )
NTC 11-04-01	Food Service: Meals	NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 11-04-02	Menu, Nutrition and Special Diets	NTC 23-01-01	Religious Services
NTC 11-05-02	Medical Screening of Food Handlers	NTC 23-03-01	Marriage in Inmates
NTC 11-06-01	Inspections and Sanitation	NTC 24-04-01	Honor Status (Added 11/14/84)
NTC 11-07-01	Purchasing, Storage and Farm Products	NTC 24-05-01	Unit Management (Added 11/30/84) ( <u>Amended 7/12/85</u> )
NTC 12-01-01	Institutional Inspections	NTC 25-01-01	Release Preparation Program
NTC 12-02-01	Personal Hygiene for Inmates (Clothing and Linens)	NTC 25-01-02	Temporary Release/Community Center Release
NTC 12-02-02	Personal Hygiene Items	NTC 25-02-01	Funeral Trips and Bedside Visits (Amended 5/3/85)
NTC 13-01-01	Emergency Medical Care Plan (Amended 12/12/84)	(6) The Kentucky Correctional Institution for Women Policies and Procedures:	
NTC 13-01-02	Emergency and Specialized Health Services	KCIW 01-06-01	Legal Assistance for Corrections Staff
NTC 13-03-01	Sick Call and Pill Call ( <u>Amended 7/12/85</u> )	KCIW 01-08-01	Public Information and News Media Access
NTC 13-04-01	Pharmacy (Amended 1/25/85)	KCIW 02-01-01	Comprehensive Insurance (Amended 12/20/84)
NTC 13-05-01	Dental Services	KCIW 02-02-01	Fiscal Management: Audits (Amended 12/17/84)
NTC 13-06-01	Licensure and Training Standards ( <u>Amended 7/12/85</u> )	KCIW 02-02-03	Fiscal Management/Checks (Amended 12/18/84)
NTC 13-08-01	Medical and Dental Records	KCIW 02-03-03	Criteria for Selection of Bidders and Vendors (Added 1/24/85)
NTC 13-09-01	Special Diets	KCIW 02-04-01	Accounting Procedures (Amended 12/31/84)
NTC 13-11-01	Inmate Health Evaluation	KCIW 02-05-01	Inmate Canteen (Amended 12/31/84)
NTC 13-12-01	Disabled and Infirm Inmates	KCIW 02-07-01	Release of C.E.T.A. Money Earned (Added 10/12/84)
NTC 14-01-01	Legal Services Program	KCIW 03-01-01	Travel Expense Reimbursement (Amended 12/31/84)
NTC 14-03-01	Inmate Rights and Responsibilities	KCIW 03-02-01	General Orders for all Staff (Amended 12/27/84)
NTC 15-01-01	Restoration of Forfeited Good Time	KCIW 03-03-01	Employee Grievance Procedure (Amended 12/31/84) (Amended 1/22/85)
NTC 15-02-01	Due Process/Disciplinary Procedures (Amended 2/1/85)	KCIW 03-05-01	Employee Personnel File (Amended 12/18/84)
NTC 15-02-02	Extra Duty Assignments	KCIW 03-06-01	Affirmative Action EEO (Amended 12/28/84)
NTC 15-03-01	Rules for Inmates Assigned to Minimum Security Living Area	KCIW 03-08-01	Employee Performance Evaluations (Amended 1/24/85)
NTC 15-03-02	Rules and Regulations for Dormitories	KCIW 03-09-01	Payroll and Personnel Manning Records (Amended 12/31/84)
NTC 16-01-01	Mail Regulations (Amended 12/12/84)	KCIW 03-10-01	Promotion Committee
NTC 16-02-01	Visiting Policy (Amended 3/27/85)	KCIW 03-11-01	Personnel Registers (Amended 5/27/85)
NTC 16-02-02	Extended and Special Visits	KCIW 03-12-01	Criminal History Checks on all Personnel and the Recruitment and Employment of Ex-Offenders (Amended 5/27/85)
NTC 16-02-03	Honor Dorm Visiting (Added 2/13/85)	KCIW 06-01-01	Inmate Records (Amended 12/17/84)
NTC 16-02-04	Visiting Policy for Inmates Residing in the Minimum Security Living Area (Amended 5/15/85) ( <u>Amended 7/12/85</u> )	KCIW 06-01-02	Transfers to Community Centers and the Minimum Security Unit (Added 12/27/84)
NTC 16-03-01	Inmate Furloughs	KCIW 10-01-01	Special Management Unit: General Operation and Regulations (Added 12/31/84)
NTC 16-05-01	<u>Telephone Use and Control</u> (Added 7/12/85)		
NTC 17-01-01	Personal Property Control		
NTC 17-01-02	Authorized Inmate Personal Property (Amended 2/1/85) (Amended 3/15/85)		
NTC 17-01-03	Unauthorized Inmate Property		
NTC 17-01-04	Disposition of Unauthorized Property (Added 5/15/85)		
NTC 17-03-01	Assessment/Orientation (Amended 12/12/84)		

KCIW 10-01-02	Special Management Unit Programs, Placement and Review (Amended 12/31/84)	KCIW 17-02-01	Identification Department, Admissions and Discharges (Amended 12/27/84)
KCIW 11-01-01	Food Service Operation Inspections (Amended 10/12/84)	KCIW 17-03-01	Notifying Inmates Families of Admission and Procedures for Mail and Visiting (Amended 12/18/84)
KCIW 11-01-02	Budgeting, Accounting, Purchasing Procedures for Food Products (Amended 10/12/84)	KCIW 18-01-02	Institution Housing Assignments (Added 12/28/84)
KCIW 11-02-01	Menu Preparation, Special Diets	KCIW 18-02-01	Classification Procedures (Amended 12/31/84)
KCIW 11-03-01	General Guidelines for Food Service Manager (Amended 1/24/85)	KCIW 18-05-01	Special Needs Inmates (Amended 1/22/85)
KCIW 11-03-02	General Guidelines for Food Service Workers (Added 11/9/84)	KCIW 18-06-01	Status Codes (Added 12/17/84)
KCIW 11-04-01	Health Standards, Regulations for Food Service Employees (Amended 12/18/84)	KCIW 19-01-01	Inmate Work Programs (Amended 12/20/84) (Amended 12/28/84)
KCIW 12-01-01	Control of Pests and Vermin (Amended 11/9/84)	KCIW 19-03-01	Landscape and Maintenance Work Details (Added 12/27/84)
KCIW 12-02-01	Laundry Facilities and Clothing Issuance (Amended 11/9/84)	KCIW 20-01-01	Education Programs (Amended 1/22/85)
KCIW 12-02-03	Donated Items (Added 5/27/85)	KCIW 20-01-03	Vocational Education: Curriculum Flexible Schedule, up-grade programs and release preparation program (Added 1/24/85)
KCIW 12-04-01	Sanitation and General Living Conditions (Amended 12/27/84)	KCIW 20-01-04	Entry - Exit Vocational School (Added 1/24/85)
KCIW 13-01-01	Medical and Dental Care (Amended 1/22/85)	KCIW 20-01-05	Vocational Programs: Approved assessed and contain guidelines for vocational school records (Added 1/24/85)
KCIW 13-01-02	Preliminary Health Evaluation	KCIW 20-01-06	Vocational Education: Staffing patterns and requirements (Added 1/24/85)
KCIW 13-01-03	Drug Distribution	KCIW 20-01-07	Vocational Counselor (Added 1/24/85)
KCIW 13-03-01	Emergency Care (Amended 1/24/85)	KCIW 20-01-08	Vocational Education: Community Resources and the integration with academic progress (Added 1/24/85)
KCIW 13-03-02	Infirmity Care and Outside Services (Amended 12/17/84)	KCIW 20-01-09	Vocational Education: Support Equipment (Added 1/24/85)
KCIW 13-03-03	Outside Hospital Security (Amended 1/24/85)	KCIW 20-01-10	Control of Flammable, Hazardous, Toxic and Caustic Materials and Chemicals in the Vocational Area (Added 1/24/85)
KCIW 13-04-01	Medical Alert System (Added 1/24/85)	KCIW 22-01-04	Inmate Club Activities (Added 12/20/84)
KCIW 13-04-02	Psychiatric/Psychological Services (Amended 12/17/84)	KCIW 23-01-01	Religious Services (Amended 11/9/84)
KCIW 14-01-02	Inmate Rights and Responsibilities (Amended 12/18/84)	KCIW 25-01-01	Pre-Parole Progress Report (Amended 12/31/84)
KCIW 14-02-01	Access to Attorneys and Designated Counsel Substitutes (Amended 12/31/84)	KCIW 25-02-01	Temporary Release/Community Center Release and Code of Conduct (Amended 12/28/84)
KCIW 14-03-01	Inmates Not Subject to Discrimination (Amended 12/18/84)	KCIW 25-02-02	Furloughs (Amended 12/31/84)
KCIW 14-04-01	Inmate Grievance Procedure (Amended 12/18/84)	KCIW 25-03-01	Escorted Leaves into the Community (Amended 12/17/84)
KCIW 15-01-01	Offenses and Penalties (Added 12/31/84)	KCIW 27-02-01	Inmate Money and Property Control
KCIW 15-01-02	Adjustment Committee Procedures (Added 1/24/85)		
KCIW 15-03-01	Inmate Rule Book (Added 5/27/85)		
KCIW 15-04-01	Incentive Levels System (Added 12/31/84)		
KCIW 16-01-01	Inmate Correspondence (Amended 1/24/85) (Amended 5/27/85)		
KCIW 16-01-02	Inmate Mail Distribution (Amended 1/24/85)		
KCIW 16-01-03	Staff Mail (Added 12/28/84)		
KCIW 16-02-01	Inmate Access to Telephone		
KCIW 16-02-02	Intra-Institution Phone Calls		
KCIW 16-03-01	Inmate Visiting		
KCIW 16-03-02	Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages		
KCIW 16-04-01	Inmate Indigent Fund (Added 9/10/84)		
KCIW 17-01-01	Assessment/Classification Unit Operation and Reception Programs (Amended 12/27/84)		
KCIW 17-01-02	Assessment/Classification Unit Rules and Regulations (Amended 12/17/84) (Amended 1/24/85)		

(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.

Offender Records Manual (Amended 11/9/84, 5/20/84 and 4/2/85)

Food Services Manual (None)

Classification Manual (Amended 10/29/84)

GEORGE W. WILSON, Secretary  
 APPROVED BY AGENCY: August 15, 1985  
 FILED WITH LRC: August 15, 1985 at noon  
 PUBLIC HEARING SCHEDULED: A public hearing on

this regulation has been scheduled for September 23, 1985, at 9 a.m. at the auditorium in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 1943 employees of the Corrections Cabinet, 4661 inmates, 3458 parolees, 5158 probationers, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Weekly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. All policies are administered in a uniform manner.

#### TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers (Proposed Amendment)

601 KAR 1:020. Permit for hauling industrial materials; fee; bond.

RELATES TO: KRS 189.271, 189.221, 189.222

PURSUANT TO: KRS [13.082,] 174.080, 189.271

NECESSITY AND FUNCTION: KRS 189.271[, as enacted by the 1974 General Assembly,] empowers the [Department of] Transportation Cabinet to adopt rules and regulations to implement the provisions as set forth therein for the issuance of a special permit to the owner, operator, or lessee of a motor vehicle for the purpose of hauling industrial materials whose gross weight, or dimensions, including vehicle and load, exceeds the limits or fails to comply with the requirements of KRS Chapter 189.

Section 1. An application for an industrial materials permit shall be submitted to the chief district engineer having jurisdiction over the major portion of the proposed haul routes and shall be accompanied by a transportation plan. The transportation plan, in addition to such other information as may be required by the cabinet [department], shall indicate the portions of the state primary road system which the applicant intends to utilize in the transportation of industrial materials, the identities of the highways and bridges on the state primary road system over which the applicant proposes to transport industrial materials, and the specification of weight and dimensional limits on such highways and bridges. In the event an industrial materials permit is obtained, any deviation from the transportation plan shall be sufficient cause for the cabinet [department] to revoke the industrial materials permit.

Section 2. Upon receipt of the transportation plan and upon proper application upon forms approved by the cabinet [department], the applicant may be issued, for the sum of twenty (20) dollars, an industrial materials permit which shall be good for not more than one (1) year from the date of issuance. A separate permit shall be issued for each vehicle proposed to be operated by the applicant.

Section 3. The industrial materials permit shall be for the transportation of a specified material and shall allow the applicant to transport divisible or indivisible loads which a motor vehicle would transport in the usual and ordinary course of business. Said loads shall include, but not be limited to, minerals or natural resources.

Section 4. Any industrial materials permit issued by the cabinet [department] shall not allow a vehicle to exceed the gross weight or width for a vehicle as provided for in KRS 189.222[(1)(e)].

Section 5. Any industrial materials permit issued by the cabinet allowing for a variance in either height or length dimensions, as provided for in KRS 189.222, shall comply with 23 CFR 658 and shall meet all safety requirements of the Transportation Cabinet and shall be subject to such other terms and conditions as the cabinet may impose.

Section 6. [5.] Any applicant convicted under the provisions of KRS 189.990(2)(a) two (2) or more times within a five (5) year period shall be required to give bond to the cabinet [department] with an approved surety in an amount to be determined by the cabinet [department], said amount shall not exceed \$6,000 per vehicle. Additionally, upon conviction under KRS 189.990(2)(a) two (2) or more times within a five (5) year period, the cabinet [department] may revoke the applicant's permit to transport industrial materials.

Section 7. [6.] In the event the applicant is required to give a bond by the cabinet [department], the applicant shall be the principal obligor on the bond and the Commonwealth shall be the obligee. The bond may not exceed \$6,000 per vehicle and the applicant

may file a corporate bond or a cash bond which bond may be conditioned upon compliance with the terms of any transportation plan and/or industrial materials permit issued by the cabinet [department]. In the event the applicant's liability is discharged upon a bond, the cabinet [department] may require the filing of a new bond.

Section 8. [7.] The [Department of] Transportation Cabinet may at its discretion require a maintenance agreement with the applicant to insure upkeep of the highways or bridges which may become damaged by loads transported under authority of an industrial materials permit. Any maintenance agreement entered into shall not be in lieu of, but shall be in addition to, any bond which might be required.

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: August 14, 1985

FILED WITH LRC: August 14, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed amended administrative regulation will be held September 24, 1985 at 11 a.m., in the fourth floor hearing room of the State Office Building, corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing not later than September 19, 1985 so notify: Rusty Chevront, Assistant to the Secretary, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patricia K. Foley

(1) Type and number of entities affected: Truck manufacturers.

(a) Direct and indirect costs or savings to those affected:

1. First year: Unknown, but indicated to be substantial.

2. Continuing costs or savings: Unknown, but indicated to be substantial.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Increased dependability of raw material shipments increasing production efficiency.

(b) Reporting and paperwork requirements: Requires filing of a transportation plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No change.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Requires evaluation of a transportation plan.

(3) Assessment of anticipated effect on state and local revenues: Slight increase in state revenues through receipt of additional permit fees.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No statutory authority to use an alternative method.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: Present regulation is more restrictive than authorized statutory authority.

Tiering:

Was tiering applied? No. Not necessary.

#### TRANSPORTATION CABINET Department of Highways (Proposed Amendment)

603 KAR 3:030. Primary road system classifications.

RELATES TO: KRS 177.020

PURSUANT TO: KRS 177.020 [174.050]

NECESSITY AND FUNCTION: KRS 177.020 authorizes the Department of Highways to establish, construct, reconstruct and maintain public roads as a part of the State Primary Road System as defined by KRS 177.020(1). This regulation is adopted to establish and classify the State Primary Road System.

Section 1. As authorized by KRS 177.020 the following classification of roads is established as the State Primary Road System:

(1) State primary system:

(a) Interstate highways - Those routes designated as interstate routes.

(b) Parkways (tollroads) - Those routes designated as parkways on which toll is paid.

(c) Other state primary highways - Those routes which are considered to be long distance, high volume intrastate routes that are of statewide significance. The routes have mobility as their prime function and are distinguished by high traffic-carrying capacity. These routes link major urban centers within the state and/or serve as major interregional corridors.

(2) State secondary system: These highways are shorter distance routes of regional significance with both access to land use activity and mobility as their functions. They generally have less traffic-carrying capacity and a more impeded traffic flow than the state primary system highways. These routes serve the smaller cities and county seats within a region and link important traffic generators to most of the developed areas within the region.

(3) Rural secondary system: These roads are routes of subregional significance with access to land use activity as their prime function. These routes link locally important traffic generators with their service areas, are usually considered to be farm-to-market roads, urban arterial streets and other collector facilities.

(4) Supplemental roads: These roads are routes and unnumbered roadways which are being maintained by the Transportation Cabinet and which are not included in one (1) of the higher system classifications because they fail to meet the functional classification criteria of that system. These routes and roadways are generally of short distance and may begin and end without regard to road junctions.

[[1) Classified system:]]

[[a) Interstate highways;]]

[[b) Parkways (toll roads);]]

[[c) State primary;]]

[[d) State secondary; and]]

[[e) Rural secondary.]]

[(2) Unclassified system.]

Section 2. All roads or city streets or segments thereof adopted as a part of the state primary road system and all eliminations of such roads or city streets from said system shall be indicated by an official order which shall, upon being signed by the Commissioner, Department of Highways [Secretary of Transportation], or his designated representative, be kept on file in the Transportation Cabinet, Department of Highways, Frankfort, Kentucky 40622.

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: August 13, 1985

FILED WITH LRC: August 14, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on this proposed amended administrative regulation at 10 a.m. local prevailing time on September 24, 1985. This hearing will be held in the fourth floor hearing room of the State Office Building, located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must, in writing, no later than September 19, 1985 so notify: Rusty Chevront, Assistant to the Secretary, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Rusty Chevront

(1) Type and number of entities affected: None

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative - do nothing. Rejected because changes are easier for users to understand.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Yes.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions Division of Securities (Proposed Amendment)

808 KAR 10:210. Registration exemptions - Federal Regulation D.

RELATES TO: KRS 292.410(1)

PURSUANT TO: KRS 292.500(3)

NECESSITY AND FUNCTION: To declare that registration is not necessary in the public interest for certain business transactions pursuant to KRS 292.410(1)(q).

Section 1. Pursuant to KRS 292.410(1)(q), the director having found that registration is not necessary or appropriate in the public interest or for the protection of investors, the following transaction is determined to be exempt from the registration provisions of KRS 292.340 through KRS 292.390.

(1) Any offer or sale of securities offered or sold in compliance with Securities Act of 1933, Regulation D, Rules 230.501-230.503 and either 230.505 or 230.506 as made effective in Release No. 33-6389 and which satisfies the following further conditions and limitations:

(a) Persons receiving commissions, finders fees, or other remuneration in connection with sales of securities in reliance on this regulation are not relieved of compliance with KRS 292.330.

(b) No exemption under this rule shall be available for the securities of any issuer, if any of the parties or interest described in Securities Act of 1933, Regulation A, Rule 230.252, Sections (c), (d), (e) or (f):

1. Has filed a registration statement which is the subject of a currently effective stop order entered pursuant to any state's law within five (5) years prior to the commencement of the offering.

2. Has been convicted within five (5) years prior to commencement of the offering of [on] any felony or misdemeanor in connection with the purchase or sale of any security or any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

3. Is currently subject to any state's administrative order or judgment entered by that state's securities administrator within five (5) years prior to reliance on this exemption or is subject to any state's administrative order or judgment in which fraud or deceit was found and the order or judgment was entered within five (5) years of the expected offer and sale of securities in reliance upon this exemption.

4. Is currently subject to any state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

5. Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five (5) years prior to the commencement of the offering permanently restraining or enjoining, such person from engaging in or continuing any conduct or practice in connection with the

purchase or sale of any security or involving the making of any false filing with any state.

6. The prohibitions of subparagraphs 1 through 3 and subparagraph 5 of this paragraph shall not apply if the party or interest subject to the disqualifying order is duly licensed to conduct securities related business in the state in which the administrative order or judgment was entered against such party or interest.

7. Any disqualification caused by this section is automatically waived if the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

(c) The issuer shall file with the Division of Securities a notice on Form D (17 CFR 239.550);

1. No later than thirty (15) days after the first sale of securities to an investor in this state which results from an offer being made in reliance upon this exemption.

2. No later than thirty (30) days after the completion date of the offering of the issue.

3. Every six (6) months after the first sale of securities from the issue made in reliance on this regulation unless the final notice required by subparagraph 2 of this paragraph has been filed.

4. Every notice on Form D shall be manually signed by a person duly authorized by the issuer.

5. Any information furnished by the issuer to offerees shall be filed with the notice required pursuant to subparagraph 1 of this paragraph and, if such information is altered in any way during the course of the offering, the Division of Securities shall be notified of such amendment within fifteen (15) days after an offer using such amended information.

6. If more than one (1) notice is required to be filed pursuant to subparagraphs 1 through 3 of this paragraph, notices other than the original notice need only report the information required by Part C and any material change in the facts from those set forth in Parts A and B of the original notice.

7. There is no filing fee.

(d) In all sales to nonaccredited investors the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that both of the following conditions are satisfied:

1. The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situations and needs. For the limited purpose of this condition only, it may be presumed that if the investment does not exceed ten (10) percent of the investor's net worth, it is suitable.

2. The purchaser either alone or with his/her purchaser representative(s) has such knowledge and experience in financial and business matters that he/she is or they are capable of evaluating the merits and risk of the prospective investment.

(2) Offers and sales which are exempt under this rule may not be combined with offers and sales exempt under any other rule or section of this Act, however, nothing in this limitation shall act as an election. Should for any reason the offers and sales fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

(3) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of this state's securities law.

(4) In any proceeding involving this rule, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(5) In view of the objective of this rule and the purpose and policies underlying the securities act, the exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this rule.

RONDA S. PAUL, Director

APPROVED BY AGENCY: August 14, 1985

FILED WITH LRC: August 14, 1985 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Monday, September 23, 1985, at 10 a.m., Department of Financial Institutions, Division of Securities, 911 Leawood Drive, Frankfort, Kentucky 40601. If no written notice of intent to attend and testify at the public hearing, the hearing will be cancelled. Those interested in attending this hearing shall notify in writing: William E. Doyle, Department of Financial Institutions, Division of Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: William E. Doyle

(1) Type and number of entities affected: Persons utilizing Federal Regulation D of the Securities and Exchange Commission. Number indeterminable.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Regulation reads as it was intended.

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

**CABINET FOR HUMAN RESOURCES**  
**Department for Mental Health and Mental**  
**Retardation Services**  
**(Proposed Amendment)**

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

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the August [July] 1, 1985, 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, 1985, 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, 1985, 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 August [July] 1, 1985, 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 August [July] 1, 1985, 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 August [June] 1, 1985, edition of the "Western State Hospital Policy Manual" consisting of thirty-two (32) 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, 1985, 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, 1985, 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, 1985, 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, 1985, 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.

Section 12. Summary of Amendment.

Section 1 is revised as follows:

OAKWOOD POLICY MANUAL

DST-0-1 #3      Updated organizational chart to replace existing chart.

Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL

D1      Table of contents is updated.

D1      Section I. Page 65 - new policy is added to specify the availability of the hospital management committee.

D3      Pharmacy and Central Supply Manual is revised.

D1      Section II. Page 40 - Emergency Transfers from State Mental Retardation Facilities to State Psychiatric Facilities - new policy to outline procedures for accepting emergency transfers.

Section II. Page 41 - Transfer or Placement of Patients with Primary Diagnosis of Mental Retardation - New policy on placing patients out of the hospital.

Section II. Page 33-33a - Speech, Language and Hearing Services - revised policy to reflect new audiometric screening procedure.

Section II. Page 12 - Absent Without Leave - revised policy to require notifying police.

Section II. Page 1 and 1A - Patients Rights - policy revised to add "right to receive visitors unless clinically contraindicated" and the "right to receive compensation for work performed."



Section 5 is revised as follows:

CENTRAL STATE HOSPITAL POLICY MANUAL

E3 Activities Therapy Department Manual

Four new policies are added to establish guidelines for the operation of the Beauty Shop.

R-1 - how to order supplies.

R-2 - monthly reports are submitted to the supervisor.

R-3 - the beauty shop is to be open from 7 a.m. to 3:30 p.m.

R-4 - appointments are made one day in advance.

Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL

F1 #2 Abuse policy is changed to require suspected abuse to be reported to the Facility Director.

[Section 1 is revised as follows:

OAKWOOD POLICY MANUAL

DST-0-7 12A Revised form replaces the attachment to Policy and Procedure, Advice of Outside Employment.

Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL - D8

Table of Contents - Re-type to reflect revisions in policy and procedures to include page numbers.

Page 1: Revise current (11-7-84) ESH Organizational Chart.

Page 2: Revise Dietetics Organizational Chart to reflect the relationship that the Dietetics Advisory Committee has to the department.

Page 3: Second paragraph insert '... and a member of' the American Dietetic Association.

Page 4: Procedure 2 ... the individual needs of the patient as determined by - Delete '... each nutritional assessment' physicians orders...

Page 6: The policy "Nutritional Deficiencies in Special Diets" (page 7) be combined with "Nutritional Assessments" to reduce duplication and clarify the assessment process. Additionally to add Procedure 7 to reflect a reporting system which advises that assessments have been completed.

Old Page 7: Delete due to combining with "Nutritional Assessments" (page 6).

New Page 7 & 7A Insert "Quality Assurance Program for Dietetic Service Department." This policy has been completely revised to comply with JCAH consolidated Standards, 1985.

Page 10:

Special Diet Consultation

Policy statement to reflect the purpose of a special diet consultation, i.e... aids the discharged patient in his adjustment...

Procedure 2 revise to show that a patient's family shall (rather than may) be included in these consultations whenever possible.

Procedure 6 to reflect a reporting system which advises that consultations have been completed.

Page 11:

Special Diets

Procedure No. #1 - delete 'and and put in the Dietetic Order Box located on each ward.'

Procedure No. #2 - add 'and place in the Dietetic Order Box located on each ward.'

Page 13:

Staffing of Patients on Special Diets

Add Procedure 3 to reflect need for Dietetician to document in patient's chart if a change in a special diet is indicated.

Add Procedure 4 to reflect a reporting system which advises that staffings have been completed of patients on special diets.

Page 15:

Re-type to correct typographical errors.

Page 16:

Procedure 3 - change from RH-2 to RH-1.

Page 17:

Procedure 3 revised to read that Dietetics shall supply 'unprepared food items' rather than cold items.

Page 22:

Policy statement should include "and supply" as purchases which originate in Dietetics Department.

Page 25:

Procedure 1 - revise to show that a request for "special dietary services" must be submitted at least two (2) weeks...

Page 27:

Procedure 8 to include reference to what procedures the R.M. from the Allen Building must follow to secure a carry-out tray.

Page 34:

Delete Procedure No. #4 which was a duplicate of Procedure No. 3.

Page 36:

Remove Revised and Reviewed Notations to page 36A.

Page 40:

Procedure 1, delete "which is valid for three years."

Page 43:

Procedure No. 4 revised to reflect "Director or Assistant Director" may be invited to committee... rather than the wording "Dietitians."

Page 45:

Procedure 9, omit last sentence which states that employee paychecks may be deleted if an

employee fails to comply with the policy.

Old Page 46: Delete Policy "Handling of Cash for Evening, Holiday and Weekend Meals." This policy has been retitled "Cash Receipts for Meals" and has been revised to clarify how monies are secured and receipted.

Page 48: Policy statement was added.

Old Page 49 & 49A: Delete: This policy is now page number 7 and 7A.

Old Page 50 is Safety: This policy's page number has been changed from 50 to 49.

New Page 49: This policy be revised to reflect a name (Inservice) and the page number has been changed from 51 to 50.

Old Page 51 is No change

New Page 51: A policy statement be added to 53A and 53B this policy.

are New Pages 52, 52A, 52B:

#### EASTERN STATE HOSPITAL POLICY MANUAL - D12

Pages 8 & 9 Policies on Off-Hours Emergency Transportation of patients to other facilities and Off-Hours Non-Emergency Transportation of Patients to Other Facilities have been changed to agree with our General Hospital Policy

Page 11 Policy on Paging was revised to stipulate when routine announcements could be made over our paging system.

Page 20 New policy added on Infections Control.

Page 21 New policy added on Monitoring Burglar Alarm.

#### EASTERN STATE HOSPITAL POLICY MANUAL - D15

Policy & Procedures Manual for Community Relations

Throughout the entire set of policies and procedures, the term, 'Volunteer Services' needs to be deleted and the term, 'Community Relations' inserted. Because there are so many of the above changes, each one will not be included for each page.

Table of Contents - Add "Hospital Press Releases" and page number 33.

Consolidated Standards Manual (page 28) - 6.5.3 - needs to state who is responsible for recording volunteer observations of patients (supervisor).

Page 1 - line 2 - "... Volunteer Services, Community Education, and Information Services."

Page 1 - I. delete #2.

Page 1 - I.B. delete #6 and #7.

Page 1 - II. add "Community Education and Information Services."

##### A. Goals

1. To act as a liaison between the community and this facility.

#### B. Objectives

1. Will conduct tours and presentations for community groups.
2. Will release routine information to the public through the media.

Page 1 - Change II. to III.

Page 2 - Change Library Technician to Librarian on the staffing pattern.

Page 3 - Under Policy - 2nd paragraph - "The Director of Community Relations shall be ... to coordinate the department."

Page 4 - Under Procedure #3 - should read, "At least one member will be a person..."

Page 4 - #4 - should read - "The Volunteer Advisory Committee will meet quarterly or as..."

Page 8 - Under Procedures - #2.c. - delete "The Volunteer Director" to read "The Director..."

Page 10 - Under Procedures - #4 - typo "temporary".

Page 17 - Under Procedures - #6 - typo "or" instead of "of".

Page 23 - Under Procedures - #4 - typo "indicating".

Page 25 - Under Procedures - #1.a. - change Nurse to Ward Clerk

#1.b. - change Nurse to Ward Clerk

#1.c. - change sentence to read, "Gifts are selected..."

Page 27 - Under Procedures - #A. change to "Scheduling and Conducting of Tours".

Page 28 - Under Procedures - #13 change to, "The Patient Librarian should..."

Page 30 - Under Procedures - #3 change "Volunteer Services Department Staff" to "Patient Librarian".

Page 33 - add policy of "Hospital Press Releases" using General Hospital Policy as guideline.

Need to add Infection Control Policy and method of reporting.

Section 5 is revised as follows:

#### CENTRAL STATE HOSPITAL POLICY MANUAL - E-1

##### Section HH - Treatment Program

No. 9.20 This policy revised as a result of the following issues: (Remove old policy and replace with revised one.)

1. There has been uncertainty regarding the necessary frequency of Community Life Meetings.
2. There has been concern that the use of parliamentary procedure and the election of offices is not appropriate or practical in all unit situations.

3. Variations among the units in how these meetings are being conducted.

The goal of the revision is to provide clarification and flexibility relative to the above points, while maintaining the original purpose of the function.

This policy does not result in any additional expenditures or financial savings.]

DENNIS D. BOYD, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 13, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: This regulation with the attached reference material is the on-going policy and procedure manual of the state facilities for the treatment of patients with mental illness and mental retardation. These facilities function with 2,880 staff members serving 6,525 residents.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: This regulation usually does not affect the fiscal operation of these state facilities significantly. It affects the care and treatment of patients, compliance with JCAH standards, and Kentucky licensure regulations. The work environment of the staff is frequently the subject of this regulation also, along with the orderly management of the various programs.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

None

Tiering:

Was tiering applied? Yes

#### CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance (Proposed Amendment)

903 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) Unemployment Insurance Local Office Manual as issued February 1984 and last revised July 12 [June 4], 1985. This manual includes procedures: for requiring proper identification of persons filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting benefit rights interviews; for processing payorder cards for payment; for correcting and changing benefit data; for registering claimants for work; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-service-members, and claims for extended benefits and federal supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch

Procedures Manual issued May, 1982 and last revised December 12, 1984. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-service-members, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised January 15, 1985. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wage and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for maintaining records of employer accounts and tax payments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised November 9, 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual issued February 1984 and last revised January 11, 1985. This manual includes procedures for handling matters which cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and

collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983, and last revised December 12, 1984. This manual includes procedures for operating the Fraud Investigations and Internal Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

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 and in local unemployment insurance offices located throughout the state.

Section 3. Summary of Amendment. Unemployment Insurance Local Office Manual. (1) Chapter 6000, Claims Investigation, strike pages 92 and 93 dated 10-17-84, and pages 94-95 dated 12-7-84, and substitute in lieu thereof pages 92-95 dated 7-12-85, which revise procedures regarding partial payment agreements. [Chapter 6000, Claims Investigation, strike contents pages 1 and 2 dated 1-15-85, and substitute in lieu thereof pages 1 and 2 dated 5-1-85. Strike pages 30, 31A dated 1-11-85, and 32-35 dated 10-17-84, and substitute in lieu thereof pages 30-35A dated 5-1-85, which renumbers sections 6034, 6035, 6036 and which adds a new employer to the list of employers which have an approved SUB plan. Section 6097, strike pages 64 and 65 dated 10-17-84, and substitute in lieu thereof pages 64-65A dated 6-4-85, which updates procedures for the recording and filing of forms.]

(2) Chapter 3000, Continued Claims, strike entire chapter and substitute in lieu thereof new chapter dated 6-13-85, which adds Section 3025, Excess Earnings, and which revises the chapter's format to the standardized Department for Employment Services manual format. [Chapter 12000, Personnel Time Distribution, Section 12250, strike pages 37 and 38 dated 12-14-83, and substitute in lieu thereof pages 37 and 38 dated 5-24-85, which removes "election official leave" from the category of absences covered by other paid leave.]

(3) Chapter 2000, Initial Claims, strike pages 7 and 8 dated 10-2-84, and substitute in lieu thereof pages 7 and 8 dated 6-5-85, which incorporates the use of a new computer program into the initial claims filing process. [Chapter 13000, Statistical Reports, strike pages 11-14 dated 8-13-84, and substitute in lieu thereof pages 11-14 dated 6-4-85, which updates procedures for the completion of forms.]

(4) Chapter 4000, Video Operations, strike contents pages dated 3-1-85, and substitute in lieu thereof contents page dated 6-5-85. Strike pages (4150-4155) and pages (4200-4205) dated 3-1-85, and substitute in lieu thereof pages (4150-4155) - (4160) and (4200-4205) dated 6-5-85, which identifies computer program 4T-MOD applicant.

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

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels

(1) Type and number of entities affected: Unemployment insurance benefit claimants; thousands per year.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This amendment merely incorporates operational procedures by reference as required by KRS Chapter 13A.

Tiering:

Was tiering applied? No. (1) Procedures already in effect. (2) All claimants are treated equally under the law.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

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

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 194.050

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

physician services.

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

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

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

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1981 [1974], the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1980 [1973].

(2) Effective October 1, 1981 [1974], the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.

(3) Effective October 1, 1981 [1974], the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program [to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341].

(4) Effective October 1, 1981 [1974], the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program [to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341].

(5) Percentile:

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

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

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

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

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

(2) In no case may payment exceed the prevailing charge established under Part B, Title XVIII for similar service on a statewide basis.

(3) In instances where a prevailing charge has not been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(4) The upper limit for new physicians shall not exceed the 50th percentile.

(5) The amount otherwise payable for outpatient services, as determined in accordance

with Sections 1 through 3 of this regulation and subsections (1) through (4) of this section, shall be reduced by five (5) percent to arrive at the final payment amount.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first twenty (20) dollars of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of twenty (20) dollars per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of twenty (20) dollars per procedure is established at thirty-five (35) percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is made in accordance with Sections 1 through 4 of this regulation and subsection (1) of this section within the individual's deductible and coinsurance liability.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All physicians performing outpatient services under Medicaid.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$2,300,000 (savings)

2. Continuing costs or savings: \$2,300,000 (savings)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

#### 904 KAR 1:012. Inpatient hospital services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to inpatient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay. Inpatient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of fourteen (14) days per admission. A recipient may transfer from one (1) hospital to another hospital when such transfer is necessary for the patient to receive medical care which is not available in the first hospital. [In addition, for neonatal care related to any of the diagnoses specified in Section 4, an infant recipient may transfer from a hospital with a level III neonatal unit to a different hospital with a level II or level I neonatal unit.] Such transfers and admissions shall begin anew the fourteen (14) day per admission limitation; in such situations, the maximum covered inpatient hospital stay that may result is a total of twenty-eight (28) days for the two (2) admissions. Each admission must have prior approval of appropriateness by the Kentucky Peer Review Organization in order for the admission to be covered under the program; this requirement does not apply for emergency admissions. Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.

Section 2. Covered Admissions. Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an outpatient basis. Admissions relating to only observation or diagnostic purposes [or for elective cosmetic, plastic or reconstructive surgeries] shall not be covered. Cosmetic surgery shall not be covered except as required for prompt repair of accidental injury or for the improvement of the functioning of a

malformed or diseased body member.

Section 3. Inpatient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.

(2) Private duty nursing.

(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an inpatient.

(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.

(5) Private accommodations unless medically necessary and so ordered by the attending physician.

(6) The following listed surgical procedures, except when a life-threatening situation exists there is another primary purpose for the admission, or the admitting physician certifies a medical necessity requiring admission to a hospital:

(a) Biopsy: breast, cervical node, cervix, lesions (skin, subcutaneous, submucous), lymph node (except high axillary excision, etc), and muscle.

(b) Cauterization or cryotherapy: lesions (skin, subcutaneous, submucous), moles, polyps, warts/condylomas, anterior nose bleeds, and cervix.

(c) Circumcision.

(d) Dilation: dilation and curettage (diagnostic and/or therapeutic non-obstetrical); dilation/probing of lacrimal duct.

(e) Drainage by incision or aspiration: cutaneous, subcutaneous, and joint.

(f) Exam under anesthesia (pelvic).

(g) Excision: bartholin cyst, condylomas, foreign body, lesions lipoma, nevi (moles), sebaceous cyst, polyps, and subcutaneous fistulas.

(h) Extraction: foreign body, and teeth (per existing policy).

(i) Graft, skin (pinch, splint or full thickness up to defect size three-fourths (3/4) inch diameter).

(j) Hymenotomy.

(k) Manipulation and/or reduction with or without x-ray; cast change: dislocations depending upon the joint and indication for procedure, and fractures.

(l) Meatotomy/urethral dilation, removal calculus and drainage of bladder without incision.

(m) Myringotomy with or without tubes, otoplasty.

(n) Oscopy with or without biopsy (with or without salpingogram): arthroscopy, bronchoscopy, colonoscopy, culdoscopy, cystoscopy, esophagoscopy, endoscopy, gastroscopy, hysteroscopy, laryngoscopy, laparoscopy, peritoneoscopy, otoscopy, and sigmoidoscopy or procto sidmoidoscopy.

(o) Removal; IUD, and fingernail or toenails.

(p) Tenotomy hand or foot.

(q) Vasectomy.

(r) Z-plasty for relaxation or scar/contracture.

[Section 4. Neonatal Diagnosis Appropriate for

Additional Stay in A Different Hospital with a Level II or Level I Neonatal Unit. (1) Fetus or newborn affected by maternal conditions which may be unrelated to present pregnancy.]

[(2) Fetus or newborn affected by maternal complications of pregnancy.]

[(3) Fetus of newborn affected by complications or placenta, cord, and membranes.]

[(4) Fetus or newborn affected by other complications of labor and delivery.]

[(5) Slow fetal growth and fetal malnutrition.]

[(6) Disorders relating to short gestation and unspecified low birthweight.]

[(7) Disorders relating to long gestation and high birth-weight.]

[(8) Birth trauma.]

[(9) Intrauterine hypoxia and birth asphyxia.]

[(10) Respiratory distress syndrome.]

[(11) Other respiratory conditions of fetus and newborn.]

[(12) Infections specific to the perinatal period.]

[(13) Fetal and neonatal hemorrhage.]

[(14) Hemolytic disease of fetus or newborn, due to isoimmunization.]

[(15) Other perinatal jaundice.]

[(16) Endocrine and metabolic disturbances specific to the fetus and newborn.]

[(17) Hematological disorders of fetus and newborn.]

[(18) Perinatal disorders of digestive system.]

[(19) Conditions involving the integument and temperature regulation of fetus and newborn.]

[(20) Congenital anomalies and related surgical procedures.]

[(21) Other and ill-defined conditions originating in the perinatal period.]

[Section 5. Definitions Relating to Neonatal Care and Admissions. (1) "Infant" means a child not more than twelve (12) months of age.]

[(2) "Level II neonatal unit" means a unit able to provide the full range of resources and expertise required for the management of any complication of the newborn. A nurse/patient ratio of 1:2 is required.]

[(3) "Level II neonatal unit" means a unit able to provide care to the moderately ill infant who requires various support services. A nurse/patient ratio of 1:4 is required.]

[(4) "Level I neonatal unit" means a unit providing care to infants with uncomplicated conditions. Normal nursery staffing is required.]

Section 4. [6.] The provisions of [Sections 1 through 5] of this regulation, as amended, shall be effective October 1, 1985 [September 1, 1983].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.



## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: None  
(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: There is a technical change made for purposes of clarification of current agency policy. In addition, a program provision that was not implemented is being deleted due to being contrary to equal coverage provisions of the Social Security Act.

Tiering:

Was tiering applied? No. Not applicable for medical regulations.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development  
(Proposed Amendment)

904 KAR 1:013. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) 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 August 3 [January 1], 1985, 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 20 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 447.280.

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. For universal rate years prior to January 1, 1985 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. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. 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. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. 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.]

(4) [(5)] Peer grouping. Acute care 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 (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 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. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(5) [(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.

(6) [(7)] Use of upper limits. For acute care hospitals, 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 most recent Medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data: however the arrays and/or upper limits may be changed as a result of changes of agency policy. [In addition,] The upper limit is established at 120 percent for those acute care 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) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(7) [(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.

(8) [(9)] Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(9) [(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, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, 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 (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. 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.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 120 acute care and mental hospitals participating in Medicaid.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$11,400,000 (savings)

2. Continuing costs or savings: \$11,400,000 (savings)

3. Additional factors increasing or decreasing

costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development  
(Proposed Amendment)

904 KAR 1:015. Payments for hospital outpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520(3) 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 outpatient services.

Section 1. Outpatient Hospital Services: In accordance with the provisions of 42 CFR 447.321, the cabinet shall reimburse participating hospitals for outpatient services at the rate of seventy (70) [eighty (80)] percent of usual and customary charges billed to the Medical Assistance Program. There is no settlement to the lower of cost or charges, nor may charges or costs be transferred between the inpatient and outpatient service units.

Section 2. The payment provisions shown in Section 1 of this regulation shall be effective for services provided on or after August 3, 1985 [not affect cost settlements or payment adjustments for services provided prior to July 1, 1983].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at

the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 108 acute care hospitals in this state participating in the Medicaid program; an estimated 50-70 hospitals in other states which also participate.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$3,800,000 (savings)

2. Continuing costs or savings: \$3,800,000 (savings)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development  
(Proposed Amendment)

904 KAR 1:031. Payments for home health services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for home health agency services.

Section 1. Payments to Home Health Agencies: The cabinet shall reimburse participating home health agencies on the basis of interim rates set by the cabinet using available Medicare data and methodology as applied to Medicaid covered

services, taking into consideration the upper limit shown in Section 2 of this regulation. Payments made at the interim rate will be settled back to actual allowable cost at the end of the facilities' fiscal year, with actual allowable costs not to exceed the amounts that would be allowable taking into consideration the upper limit specified in Section 2 of this regulation. The Medicaid final rates may not exceed federally established upper limits for Medicare.

Section 2. Payments may not exceed a prospective upper limit which will be set at 105 percent of the weighted median of the array of allowable per visit costs for the following cost centers or disciplines: skilled nursing, speech pathology, physical therapy, occupational therapy, medical social services, and home health aid services. The array shall be based on latest available annual cost report data with costs trended through June 30; the rate year shall begin on July 1 and end on June 30; and the upper limit shall be subject to an annual adjustment to be effective on July 1 of each rate year. For the July 1, 1985 through June 30, 1986 rate year, the upper limit shall be effective for services provided after August 2, 1985. For rate years beginning July 1, 1986 and thereafter, the array shall be based on the latest available cost report as of April 30 preceding the rate year.

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

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: An estimated 56 home health agencies participating in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$1,400,000 (savings)

2. Continuing costs or savings: \$1,400,000 (savings)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement.

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

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised August 3, 1985 [October 1, 1984], which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

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

components or principles:

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

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) Freestanding (non-hospital based) facilities will be arrayed and [Allowable costs will then be indexed for inflation for the rate year, and] the maximum set at 102 [105] percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 [165] percent of 102 [105] percent of the median of allowable trended [and indexed] costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985 [1982], so that the maximum payment amount for the prospective uniform rate year will be at 102 [105] percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment

amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the [no] maximum (upper limit) shall be set at 110 percent of the median of the array [imposed].

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

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

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

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

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

(5) Compensation to owner/administrators will

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

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

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

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

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

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of

additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

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

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

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

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

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

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

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

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

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for



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

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth in the Social Security Act (as amended by the Deficit Reduction Act of 1984) and shown herein for the revaluation of assets of skilled nursing and intermediate care facilities.

(a) The Social Security Act, Section 1861(v)(1)(O) (as published in the Commerce Clearing House Medicare/Medicaid Guide) specifies the following:

"(i) In establishing an appropriate allowance for depreciation and for interest on capital indebtedness and (if applicable) a return on equity capital with respect to an asset of a hospital or skilled nursing facility which has undergone a change of ownership, such regulations shall provide that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of the date of the enactment of this subparagraph, (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner."

"(ii) Such regulations shall provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984."

"(iii) Such regulations shall not recognize, as reasonable in the provision of health care services, costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title."

(b) The Social Security Act, Section 1902(a)(13) (as published in the Commerce Clearing House Medicare/Medicaid Guide) further specifies the following:

"(B) That the state shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities, and intermediate care facilities can reasonably be expected not to increase such payments, solely

as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O)."

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

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

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

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

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

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

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

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

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

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

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

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

(18) Each facility shall submit the required data for determination of the prospective rate

no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of \$7.50 for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) Each ICF which admits a recipient from an SNF on or after February 1, 1986 as a result of a change of patient status (from SNF to ICF) shall receive an incentive payment of \$7.50 for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

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

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

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year [and increased by a percentage] so as to reasonably take into account economic conditions and trends. [Such percentage increase shall be known as an inflation factor].

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

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

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

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
[\$26.99 & below*]	[-]	[-]
\$27.00 & below [- 27.99]	\$.92 [1.38]	\$.58 [.87]
28.00 - 28.99	\$.86 [1.29]	\$.50 [.75]
29.00 - 29.99	\$.78 [1.18]	\$.41 [.62]
30.00 - 30.99	\$.70 [1.06]	\$.32 [.47]
31.00 - 31.99	\$.61 [.92]	\$.21 [.31]
32.00 - 32.99	\$.51 [.76]	\$.09 [.13]
33.00 - 33.95 [35.05]	\$.35 [.53]	-

Maximum Payment \$33.95 [35.05]

[\*For a basic per diem of \$26.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.]

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$56.99 & below*	-	-
57.00 - 62.99	\$1.38	\$.87
63.00 - 68.99	\$1.29	\$.75
69.00 - 74.99	\$1.18	\$.62
75.00 - 80.99	\$1.06	\$.47
81.00 - 86.99	\$.92	\$.31
87.00 - 92.99	\$.76	\$.13
93.00 - 99.06 [98.99]	\$.53	-

Maximum Payment \$99.06

\*For a basic per diem of \$56.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.

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

(Effective 8-3-85 [7-1-84])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
<u>\$36.99 &amp; below</u>	<u>\$.92</u>	<u>\$.58</u>
<u>37.00 - 38.99</u>	<u>.86</u>	<u>.50</u>
<u>39.00 - 40.99</u>	<u>.78</u>	<u>.41</u>
<u>41.00 - 42.99</u>	<u>.70</u>	<u>.32</u>
<u>43.00 - 44.99</u>	<u>.61</u>	<u>.21</u>
<u>45.00 - 46.99</u>	<u>.51</u>	<u>.09</u>
<u>47.00 - 48.72</u>	<u>.35</u>	<u>-</u>
[ <u>\$36.99 &amp; below*</u>	<u>-</u>	<u>-</u>
<u>37.00 - 38.99</u>	<u>\$1.38</u>	<u>\$.87</u>
<u>39.00 - 40.99</u>	<u>\$1.29</u>	<u>\$.75</u>
<u>41.00 - 42.99</u>	<u>\$1.18</u>	<u>\$.62</u>
<u>43.00 - 44.99</u>	<u>\$1.06</u>	<u>\$.47</u>
<u>45.00 - 46.99</u>	<u>\$.92</u>	<u>\$.31</u>
<u>47.00 - 48.99</u>	<u>\$.76</u>	<u>\$.13</u>
<u>49.00 - 52.39</u>	<u>\$.53</u>	<u>-]</u>

Maximum Payment \$48.72\* [52.39\*\*]

[\*For a basic per diem of \$36.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed \$.87.]

[\*]The maximum payment for hospital based skilled nursing facilities is set at \$65.77 [84.14].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 [105] percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 [105] percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 [1982] and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 [105] percent of the median is a lower dollar amount than has been currently set.

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

(1) First recourse shall be for the facility to request in writing to the Director, Division of Medical Assistance, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within

twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division of Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Division of Management and Development, Department for Social Insurance. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

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

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

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

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

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

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

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

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

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs

are trended and adjusted in accordance with [the inflation factor,] the occupancy factor and the median cost center per diem upper limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Other items or services generally

available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

Section 7. Implementation Date. The provisions of this regulation, as amended, shall be effective with regard to services provided on or after August 3, 1985 [October 1, 1984].

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department of Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 87 skilled nursing, 190 intermediate care, and 9 ICF-MR's participating in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$17,200,000 (savings)\*

2. Continuing costs or savings: \$18,100,000 (savings)\*

3. Additional factors increasing or decreasing costs: Assumes reduced incentive payments to ICF's receiving SNF "grandfathered" patients after phase-in period.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: \*Includes \$4.2 million first year savings and \$5.1 million continuing savings resulting from transfer of "grandfathered" SNF patients to ICF level of CARE, based on anticipated change in SNF patient status criteria and payment of incentive to ICF's.

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

**CABINET FOR HUMAN RESOURCES  
Department for Social Insurance  
Division of Management and Development  
(Proposed Amendment)**

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to Kentucky based (in-state) providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractual arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:

(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (utilizing the latest audited annual cost report or unaudited report if an audited report is not available) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year [and indexed for the rate year,] so as to more accurately approximate actual costs which will be incurred during the year. (If an unaudited report is used, cost will not be adjusted based on audit.)

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised August 3, 1985 [July 1, 1984]) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs.

(4) The prospective rate shall not exceed 105 [110] percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities.

Section 2. Implementation of Payment System.

(1) Payments may be based on units of service

such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.

(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet. Notwithstanding this general requirement, the provider need not make available (for purposes of determining Medicaid payment amounts) staff notes or treatment records which show treatment details for non-Medicaid covered services; for such services, the information required shall be limited to a case summary sheet or listing which shows, at a minimum, the type of service provided, the staff member who provided the service, the date of the service, and appropriate identifying information relating to the patient.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. Reimbursement of Out-of-State Providers. The cabinet shall make payment to out-of-state mental health center providers who are appropriately licensed, participate with their state's Title XIX Medicaid Program, and have met the Kentucky Medical Assistance Program conditions of participation. The payment rate will be the lower of charges, or the facility's rate as set by the state Medicaid Program in the other state, or the upper limit for that type of service in effect for Kentucky providers.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main

Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 15 mental health centers participating in the Medicaid Program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$600,000 (savings)

2. Continuing costs or savings: \$600,000 (savings)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Program Management  
(Proposed Amendment)

905 KAR 3:040. Allocation formula.

RELATES TO: KRS 273.446

PURSUANT TO: KRS 194.050, 273.446(2)

NECESSITY AND FUNCTION: Pursuant to KRS 273.446(2), the Cabinet for Human Resources is to devise a formula for the allocation of community service block grant funds to applicant agencies to be set forth in the form of an administrative regulation. This regulation is designed to set forth the formula.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Service area" as used in this regulation means the land lying within the geographic boundary of the community action agency submitting an application.

Section 2. The formula for allocation of community service block grant funds for federal fiscal year 1984 and subsequent years shall be based upon the following:

(1) Twenty-five (25) percent of funds shall be based upon the 1981 federal fiscal year

federal community services administration grantee base[d] allocation received by the applicant.

(2) The remaining seventy-five (75) percent of funds to be distributed based upon the incidence and severity of poverty, as determined by the cabinet to exist within the service area of the applicant agency.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected: 15 area development districts

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None - federal funds already allocated

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Consistent across the state based on the formula.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Services  
Division of Children's Residential Services  
(Proposed Amendment)

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 revised through June, 1985 [December 31, 1984]; Therapeutic Milieu Manual revised through May 20, 1985 [December 31, 1984]; Psychology Procedural Manual revised through October 1, 1984; Nursing Manual revised through December 31, 1984; Staff Development/Volunteer Procedures Manual revised through December 31, 1984; Emergency Services Manual revised through December 31, 1984; Safety Rules and Practices revised through December 31, 1984; Pharmacy Manual revised through July 1, 1985 [October 1, 1984]; Medical Procedures Manual revised through July 1, 1985 [December 31, 1984]; The Living Unit Manual revised through December 31, 1984; 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.

Section 2. Summary of Amendments. (1) In the Pharmacy Manual strike page F18, Policy No. S-08, Nursing Personnel Authorized to Administer Medications, revised April, 1984 and substitute in lieu thereof page F18, Policy No. S-08, Nursing Personnel Authorized to Administer Medications which lists nurses that are authorized to administer medications. [In the CTS Policy Manual strike pages 2 through 6, Bylaws of the Governing Body of CTS, revised January, 1984, and substitute in lieu thereof pages 2 through 6, Bylaws of the Governing Body of CTS, revised October, 1984, which establishes and sets forth the purpose, responsibilities, powers, officers and duties of the Governing Board of Children's Treatment Services; under Staff Development strike Policy SD-005, Health Examinations for New Employees, revised January 15, 1983, and substitute in lieu thereof Policy SD-005, Health Examinations for New Employees, revised August 1, 1984, which sets forth the requirements for health examinations of new employees; strike Policy QA-01 pages 95-96, Quality Assurance, revised January 27, 1984, and substitute in lieu thereof Policy QA-01 pages 95(a-h) and 96, Quality Assurance, revised

9/27/84 which sets forth the scope, administration, functions, organization, and procedures for the quality assurance program; strike Policy QA-02 pages 97-98, Utilization Review Plan, revised 1/27/84 and substitute in lieu thereof Policy QA-02 page 97, Utilization Review Plan, revised 9/17/84 which sets forth the policy for utilization review; strike Policy QA-03 page 99, Patient Care Monitoring, revised February, 1983, and substitute in lieu thereof Policy QA-03 page 99, Patient Care Monitoring, revised October, 1984, which sets forth the policy for patient care monitoring; strike TM-13 pages 165-166, Seclusion, revised April 1, 1984, and substitute in lieu thereof TM-13 pages 165-166, Seclusion, reviewed January 31, 1985, which sets forth the purpose of and procedure for the use of seclusion; strike TM-14 pages 167-168, Physical and Mechanical Restraints, revised April, 1984, and substitute in lieu thereof TM-14 pages 167-168, Physical and Mechanical Restraints, reviewed January 31, 1985, which sets forth the purpose for the use of physical restraints; strike Policy No. PF-12 page 234, Infection Committee, revised October, 1982, and substitute in lieu thereof Policy No. PF-12 page 234, Infections Control Committee revised November, 1984.]

(2) In the Medical Procedures Manual strike page B19, Policy No. S-08, Nursing Personnel Authorized to Administer Medications, revised April, 1984 and substitute in lieu thereof page B19, Policy No. S-08, Nursing Personnel Authorized to Administer Medications revised July, 1985 which lists nurses that are authorized to administer medication. [In the Living Unit Manual strike pages D-86-A and D-86-B, Seclusion, revised October, 1984, and substitute in lieu thereof pages D-86-A and D-86-B, Seclusion, reviewed January 31, 1985, which sets forth the use of seclusion in the treatment program; strike pages D-89-A and D-89-B, Physical and Mechanical Restraints, revised 10/84 and substitute in lieu thereof D-89-A and D-89-B dated January 31, 1985, which sets forth the use of these constraints in the treatment program; strike pages D-87, D-88 and D-89, Seclusion, dated October, 1984, and substitute in lieu thereof pages D-87, D-88, and D-89, Seclusion, dated January, 1985, which sets forth the policies and procedures for the use of seclusion in the treatment program; strike pages D-90, D-91, D-94 and D-95, Procedure for Instituting the Use of Physical and Mechanical Restraints, dated October, 1984, and substitute in lieu thereof pages D-90 and D-91, Procedure for Instituting the Use of Physical and Mechanical Restraints, dated January 31, 1985, and D-92, D-93 a, b, c, D-94 and D-95, Procedures for Applying Physical and Mechanical Restraints, revised 10/84 which sets forth the procedures for the use of restraints.]

(3) In the Therapeutic Milieu Manual strike page A55, Authorization for Release of Information, revised May 19, 1985, and substitute in lieu thereof page A55, Authorization for Release of Information dated May 20, 1985, which permits the release of confidential information to Children's Treatment Services. [In the Medical Procedural Manual strike pages B-75 and B-76, Seclusion, revised 10/84, and substitute in lieu thereof pages B-75 and B-76, Seclusion, reviewed January 31, 1985 which sets forth the purpose of and procedure for the use of seclusion; strike pages B-77 and



B-78, Physical and Mechanical Restraints, revised 10/84, and substitute in lieu thereof pages B-77 and B-78, Physical and Mechanical Restraints, reviewed January 31, 1985, which sets forth the purpose for the use of physical restraints.]

(4) In the CTS Policy Manual strike pages 135 through 142. Policy No. TM-01, Treatment Modalities-Specialized Therapies, revised November, 1982 and substitute in lieu thereof pages 135 through 142. Policy No. TM-01, Treatment Modalities-Specialized Therapies, which describes the treatment provided children while in resident. [In the Emergency Procedure Manual strike pages E-53, E-54 and E-55, Seclusion, revised 10/84, and substitute in lieu thereof pages E-53, E-54 and E-55, Seclusion, reviewed January, 1985, which sets forth the purpose of and procedures for the use of seclusion; strike pages E-56 through E-59, Procedure for Instituting the Use of Physical and Mechanical Restraints, revised 10/84, and substitute in lieu thereof E-56 through E-59, Procedure for Instituting the Use of Physical and Mechanical Restraints, revised January, 1985, which sets forth the methods of applying physical restraints; strike pages E-60 through E-65, Procedures for Applying Physical and Mechanical Restraints, revised June, 1984, and substitute in lieu thereof pages E-60 through E-64, Procedures for Applying Physical and Mechanical Restraints, which sets forth the methods of applying physical restraint.]

[(5) In the Therapeutic Milieu Procedure Manual strike the Index pages 1 and 2 and substitute in lieu thereof Index pages 1 and 2 and 3 dated 1/85 which update the contents of the manual; and insert in numerical order pages 13(a), (b), (c) and (d) dated 11/16/84 which sets forth the procedures for using videotapes.]

[(6) In the Staff Development Procedural Manual strike Index page 1 and substitute in lieu thereof Index page 1 which updates the index for the manual.]

[(7) In the Emergency Services Procedural Manual strike Index page 1 and substitute in lieu thereof Index page 1 which updates the index for the manual.]

[(8) In the CTS Safety Rules and Practices Procedures strike Index pages 1 and 2 and substitute in lieu thereof Index pages 1 and 2 which updates the index for the manual. Insert page G-13(i), Mononucleosis, in proper numerical order.]

[(9) In the Living Unit Manual strike Index page 2 and substitute in lieu thereof Index page 2 which updates the index for the manual.]

[(10) In the Nursing Services Procedure Manual strike Index pages 2 and 3 and substitute in lieu thereof Index pages 2 and 3 which update the index for the manual. Insert page C-185, Infectious Mononucleosis, in numerical order.]

[(11) In the Therapeutic Milieu Procedural Manual insert behind page A-40 pages A-40(a), A-40(b) and A-49(c) dated November 1, 1984, which sets forth the policies and procedures for mental inquest petitions for Involuntary Commitments.]

[(12) In the CTS Staff Development and Volunteer Procedural Manual strike page J-11, SD-005 (CTS-QA-04), Health Examination for New Employees, revised 1/15/84 and substitute in lieu thereof Page J-11, SD-005 (CTS-QA-04), Health Examination for New Employees, revised 8/1/84 which sets forth the requirements for

health examinations of new employees; insert Policy No. SD-007, CSH Librarians, revised 12/1/84 which permits staff to use Central State Hospital's libraries.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None - Manuals presently in effect

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None - Manuals presently in effect

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: NA

(4) Assessment of alternative methods; reasons why alternatives were rejected: NA

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Manual applies to only one facility.

#### CABINET FOR HUMAN RESOURCES Department for Social Services Children's Residential Services (Proposed Amendment)

905 KAR 7:110. Northern Kentucky Treatment Center policy and procedures manual.

RELATES TO: KRS Chapters 202A and 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 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 a program for the care and treatment of children who are delinquent, status offenders and mentally ill or emotionally disturbed.

Section 1. Residential Facility Manual. The Cabinet for Human Resources hereby adopts by reference as operating policies and procedures the Northern Kentucky Treatment Center Policies and Procedures Manual as revised through June 21 [March 1], 1985. This manual sets forth the policies and procedures for the care and treatment of juveniles residing in the Northern Kentucky Treatment Center. This manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

Section 2. Summary of Amendments. (1) In the Administrative Section strike Policy A-1, Northern Kentucky Treatment Center Philosophy Statement, revised September 1, 1983, and substitute in lieu thereof Policy A-1, Northern Kentucky Treatment Center Philosophy Statement, revised June 21, 1985, which clarifies the program description; insert Policy A-1-A, Mission Statement, dated June 21, 1985, immediately behind Policy A-1. This policy states the purpose of the treatment program at Northern Kentucky Treatment Center.

(2) In the Treatment Program Section strike Policy TP-1-A, Residential Orientation to the Program, revised September 1, 1983, Policy TP-2, Transition, revised September 1, 1983, Policy TP-3 including TP-3-A and TP-3-B-1 and 2, Discharge, dated September 1, 1983, and TP-4, Therapeutic Communications with Residents, dated September 1, 1983, and substitute in lieu thereof Policy TP-1-A, TP-2, TP-3 including TP-3-A and TP-3-B-1 and 2, and TP-4 revised June 21, 1985. These revisions update policies relating to admission, transition, discharge, and communication with children at the treatment facility.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 23, 1985, 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 September 18, 1985: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None - Manuals presently in effect.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None - Manuals presently in effect.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Manual applies to only one facility.

#### CABINET FOR HUMAN RESOURCES Department for Social Services Children's Residential Services (Proposed Amendment)

905 KAR 7:170. Cardinal Treatment Center policy and 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 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 a program for the care and treatment of children who are delinquent.

Section 1. Residential Facility Manual. The Cabinet for Human Resources hereby adopts by reference as operating policies and procedures the Cardinal Treatment Center Policy and Procedural Manual revised through June 1, 1985. This manual sets forth the policies and procedures for the care and treatment of juveniles residing in Cardinal Treatment Center. This manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

Section 2. Summary of Amendments. Insert in numerical order in Section II, Policy No. 204, Referral and Admission Activity, dated April 22, 1985, which is designed to provide a system for the compilation of regular statistical reports, aid in the identification of inappropriate

referrals, and aid in the projection of trends in population needs.

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

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 23, 1985, 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 September 18, 1985: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None - Manuals presently in effect.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None - Manuals presently in effect.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Manual applies to only one facility.

CABINET FOR HUMAN RESOURCES  
Department for Social Services  
Children's Residential Services  
(Proposed Amendment)

905 KAR 7:200. Re-Ed Treatment  
policy/procedural manuals.

RELATES TO: KRS Chapters 202A and 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 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 a program for the care and treatment of children who are delinquent, status offenders and mentally ill or emotionally disturbed.

Section 1. Residential Facility Manual. The Cabinet for Human Resources hereby adopts by reference as operating policies and procedures the Re-Ed Treatment Program Policy/Procedural Manuals, Chapters II, III, and IV revised through May 1, 1985 [October 1, 1984]. This manual sets forth the policies and procedures for the care and treatment of children in the Re-Ed Program. This manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

Section 2. Summary of Amendments. In the Treatment Section of the manual insert in numerical order Policy TS-44, Referral and Admission Activity effective April 22, 1985. This amendment provides for the systematic collection of data relating to referral and admissions.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 23, 1985, 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 September 18, 1985: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: One form

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: One statistical report.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Simplest procedure available

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in

conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Manual applies to only one facility.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Children's Residential Services**  
**(Proposed Amendment)**

**905 KAR 7:210. Central Kentucky Re-Ed Center policy and procedural manual.**

RELATES TO: KRS Chapters 202A and 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 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 a program for the care and treatment of children who are delinquent, status offenders and mentally ill or emotionally disturbed.

Section 1. Residential Facility Manual. The Cabinet for Human Resources hereby adopts by reference as operating policies and procedures the Central Kentucky Re-Ed Center Policy and Procedural Manual revised through May 1, 1985 [October 1, 1984]. This manual sets forth the policies and procedures for the care and treatment of children in the Central Kentucky Re-Ed Program. This manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

Section 2. Summary of Amendments. In the Administrative Section of the manual insert in numerical order Policy A-45, Referral and Admission Activities effective April 26, 1985. This amendment provides for the systematic collection of data relating to referrals and

admissions.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 23, 1985, 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 September 18, 1985: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected: One

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: One form.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: One statistical report.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Apparently the simplest procedure available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Manual applicable to one facility.

**PROPOSED REGULATIONS RECEIVED THROUGH AUGUST 15**

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management and Development**

**904 KAR 1:300. Withholding the federal share of payments to recover Medicare or Medicaid overpayments.**

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with

Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the conditions under which the cabinet will withhold the federal share of medical assistance payments as a recoupment of Medicare overpayments, or request withholding of Medicare payments by the United States Health Care Financing Administration, Department of Health and Human Services as recoupment of Medicaid

overpayments.

Section 1. Withholding the Federal Share of Payments to Medicaid Providers to Recover Medicare Overpayments. (1) The cabinet shall withhold the federal share of Medicaid payments otherwise due a Medicaid provider when ordered to do so by the United States Health Care Financing Administration (HCFA), Department of Health and Human Services, as recovery of Medicare overpayments. Such withholding shall be accomplished in accordance with the terms and conditions specified in federal regulations at 42 CFR 447.30 which are hereby incorporated by reference as effective on June 10, 1985.

(2) The right of the cabinet to withhold the federal share of payments otherwise due a Medicaid provider(s) for the purpose of recovery of Medicare overpayments shall be superior to the right of the provider(s) to receive reimbursement for Medicaid services provided eligible Medicaid recipients as otherwise provided for by state regulation.

(3) The "federal share" of Medicaid payments is that portion of the payment funded with federal funds. The federal share is generally that amount known as the "federal medical assistance percentage," but the actual percentage may vary for specified services.

Section 2. Withholding Medicare Payments to Recover Medicaid Overpayments. (1) The cabinet may request HCFA to withhold Medicare payments to a provider in order to recover Medicaid overpayments to the provider. Such requests for withholding shall be accomplished in accordance with the terms and conditions specified in federal regulations at 42 CFR 447.31 which are hereby incorporated by reference as effective on June 10, 1985.

(2) Amounts withheld by HCFA and returned to the cabinet by HCFA (as provided for in 42 CFR 405.375(g)) which are ultimately determined (by the cabinet) to be in excess of overpayments will be returned (paid) to the provider as required in 42 CFR 447.31(f).

Section 3. Summary of Incorporated Material. (1) 42 CFR 447.30 which provides for withholding the federal share of payments to Medicaid providers to recover Medicare overpayments contains the following elements:

- (a) Basis and purpose;
- (b) An explanation as to when withholding occurs;
- (c) An explanation as to which providers are affected;
- (d) Provisions for the order to the state Medicaid agency to withhold;
- (e) Provisions for notice to the state Medicaid agency and the provider; provision for appeal by the state Medicaid agency; provision for reporting by the state Medicaid agency;
- (f) A statement as to the amount to be withheld;
- (g) Effective date of withholding;
- (h) Duration of withholding;
- (i) Procedures for termination of withholding;
- (j) Procedures for restoring excess withholding; and
- (k) A provision that the provider is not entitled to recover from the state Medicaid agency the amount of payment withheld by the agency in accordance with a HCFA order issued pursuant to 42 CFR 447.30(d).

(2) 42 CFR 447.31 which provides for withholding Medicare payments to recover Medicaid overpayments contains the following elements:

- (a) Basis and purpose;
- (b) Provisions for notice to providers;
- (c) An explanation of the documentation that must be submitted to HCFA with the request for withholding;
- (d) Provisions for notification to HCFA to terminate withholding;
- (e) Provision for accounting for returned overpayments; and
- (f) A requirement for procedures for restoring excess withholding to the provider from which the excess was withheld.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Undetermined number of providers with overpayments (possibly 5-10)

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Negligible

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management & Development**

904 KAR 1:310. Repeal of 904 KAR 1:018.

RELATES TO: KRS 205.520  
 PURSUANT TO: KRS 194.050

**NECESSITY AND FUNCTION:** The Cabinet for Human Resources has responsibility for administering the program of Medical Assistance in accordance with Title XIX of the Social Security Act. 904 KAR 1:018, Payments for tuberculosis and psychiatric services, is no longer needed since there are no participating tuberculosis hospitals and the payment methodology for mental hospitals (including psychiatric facilities) is being shown in a different regulation. Repeal of 904 KAR 1:018 is required to avoid unnecessary confusion in this area.

Section 1. 904 KAR 1:018, Payments for tuberculosis and psychiatric services, is hereby repealed.

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

APPROVED BY AGENCY: August 2, 1985

FILED WITH LRC: August 5, 1985 at 11 a.m.

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation has been scheduled for September 23, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Roy Butler

(1) Type and number of entities affected:  
 Approximately 10-12 mental hospitals participating in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None\*

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

\*Savings of approximately \$1.4 million annually as a result of changing mental hospitals to a prospective payment system are shown in 904 KAR 1:013.

**Tiering:**

Was tiering applied? No. Not applicable to Medicaid regulations.

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

905 KAR 8:090. Personal care assistance services.

RELATES TO: KRS 205.900 through 205.920

PURSUANT TO: KRS 194.050, 205.910

**NECESSITY AND FUNCTION:** KRS 205.910 directs the Cabinet for Human Resources to promulgate an eligibility standard for personal care assistance services which takes into consideration the unique economic and social needs of severely physically disabled adults. The purpose of this regulation is to satisfy the requirements of KRS 205.910.

Section 1. Eligibility Criteria. To be eligible for participation in the personal attendant care services program a person must meet both the physical eligibility standard and the income eligibility standard as set forth in this regulation.

Section 2. Physical Eligibility Standard. To participate in the personal care assistance program a person must be eighteen (18) years of age or older with permanent, temporary, or recurring functional loss of two (2) or more limbs, need not less than fourteen (14) hours a week of personal care assistance services including but not limited to attendant at night, and have the ability to select and manage an attendant.

Section 3. Income Eligibility. (1) Income eligibility for receiving personal care assistance services shall be determined by the following formula contained on a form prescribed by the cabinet:

(a) Deduct from the annual gross income the cost of unreimbursed extraordinary medical expenses and impairment related expenses, an amount adjusted to a family size of one (1) at sixty (60) percent of the median income as published in the Title XX Block Grant Plan, dependent care expenses, and any other extraordinary expenses for which a waiver has been obtained from the cabinet to obtain the adjusted gross income.

(b) From the adjusted gross income subtract a basic cost of living factor of \$1,260 to obtain the adjusted gross income less the cost of living allowance.

(c) Divide the adjusted gross income less the cost of living allowance by two (2) to allow for the unique economic and social needs of the severely disabled adults.

(d) To obtain the remaining income subtract from the adjusted gross income less the basic cost of living allowance divided by two (2) a supplemental cost of living allowance which shall be calibrated annually so that a participant requiring the minimum level of

service at the maximum rate for care will become ineligible when the difference between the adjusted gross income and the remaining income equals or exceeds eighty (80) percent of the median income as published in the Title XX Block Grant Plan.

(2) If the remaining income equals the cost of care the client is ineligible.

(3) If the remaining income is more than four (4) dollars but less than the cost of care the client shall contribute to the cost of care.

Section 4. Clients' Contribution to Cost of Care. When the eligibility determination indicates the client shall contribute to the cost of care, the weekly amount of the clients' contribution shall be determined by dividing the remaining income by fifty-two (52). The required contribution shall be paid to the attendant. It shall be the responsibility of the qualified agency or the attendant to collect the contribution.

Section 5. Acceptance for Services. Pursuant to the established requirements of the demonstration project, and within budgetary limitations, eligible clients shall be accepted for service. When programs are at capacity, eligible clients' names shall be placed on a chronological waiting list and as vacancies occur be accepted for service on a first-come basis. In the event of several potential participants making application at the same time, an equitable procedure for selecting applicants will be proposed by the service provider agency to be approved by the Division of Aging Services.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1985

FILED WITH LRC: August 15, 1985 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 23, 1985, 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 September 18, 1985: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret Hockensmith

(1) Type and number of entities affected: Three

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Process a form.

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings: The fee will reduce state costs.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Process a form.

(3) Assessment of anticipated effect on state and local revenues: This demonstration project will attempt this assessment.

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. All agencies will comply with the same eligibility standards.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the August 12-13, 1985 Meeting

The August meeting of the Administrative Regulation Review Subcommittee was held on Monday, August 12, 1985 at 2 p.m. and on Tuesday, August 13, 1985 at 10:30 a.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator Quinlan, seconded by Representative Meyer, the minutes of the July 8-9, 1985 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senators Harold Haering, Pat McCuiston and Bill Quinlan; Representatives James Bruce and Joe Meyer.

Guests: Representative Woody Allen; Jim Ramsey; State Investment Commission; Barbara Schoen, Board of Auctioneers; Alta P. Haunsz, William C. Shouse, Sharon M. Weisenbeck, Board of Nursing; Bill Graves, John Phillips, Tom Young, Department of Fish and Wildlife; Dave

Boswell, Thomas M. Troth, J. D. Wolf, Department of Agriculture; James B. Hale, George Risk, Richard A. Rohlf, Ralph Schiefferle, A. Leon Smothers, Natural Resources and Environmental Protection Cabinet; Michael Bradley, Barbara W. Jones, Corrections Cabinet; Jenny Payne, David VanMeter, Kentucky Missing Child Information Center; John M. Crossfield, Mel Jenkins, Yolanda L. Morris, Sandra G. Pullen, Transportation Cabinet; Gary Bale, Ricki Cook, Preston O. Lewis, Conley Manning, Beverly S. Ratliff, Kathy Williams, Department of Education; Edward A. Farris, Catherine Staib, Department of Alcoholic Beverage Control; Eugene D. Attkisson, Department of Mines and Minerals; Wanda S. Harrod, Jan Smith, Department of Financial Institutions; Carl VanCleve, Judith Walden, Department of Housing, Buildings & Construction; Charles Babb, Pete Campassi, Jr., Barbara Coleman, Ked R. Fitzpatrick, Margaret Frederick,



Vic Gausepohl, Gary R. Hammonds, M. Ward Hinds, Margaret Hockensmith, Ron Holland, Cliff Howard, Greg Lawther, Angie Scott, Barbara Southard, Mark Yancey, Cabinet for Human Resources; Bill Caylor, Kentucky Coal Association; Mack Morgan, Kentucky Retail Federation/Kentucky Restaurant Association.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, June Mabry, Donna Valencia, Mike Benassi, Alice Downey, Gordon Mullins, Bill Leach and Carla Arnold.

Press: Paul Long, Billy Mallard, State Journal; Susan Warren, UPI; Chuck Young, WLEX-TV.

The Administrative Regulation Review Subcommittee met on August 12-13, 1985, and submits the following report:

The Subcommittee had no objections to the following regulations, but makes the following recommendations:

**Corrections Cabinet: Office of Secretary**

501 KAR 6:010 (Corrections policies and procedures.) The subcommittee raised questions concerning the list of those permitted to attend an execution. KRS 431.250 is specific as to who may attend an execution; the regulation increases the number and category of those who may attend. The subcommittee pointed out that the regulation, in so doing, was in excess of statutory authority. The subcommittee approved a motion that this matter be referred to the Interim Joint Committee on Judiciary-Criminal for recommendations for legislation during the next general assembly.

**Cabinet for Human Resources: Department for Social Services: Children's Residential Services**

905 KAR 7:060 (Children's residential facilities capacities.) Representative Bruce referred to the list of facilities to be used that were specified in this regulation and questioned the use of facilities not specified in the regulation or required by statute. He requested the agency look into this. Senator McCuiston asked whether, in private facility placement, the state gave consideration to the location, neighborhood, and to the opinion of the community. The subcommittee recommended that these concerns be expressed by the agency representatives to the agency.

The Subcommittee determined that the following regulations, as amended, complied with the requirements of KRS Chapter 13A:

**General Government Cabinet: Board of Nursing**

201 KAR 20:162 (Procedures for disciplinary hearings.) Representative Meyer questioned a provision in this regulation requiring payment of the cost of reproduction of documentation used at a hearing. The subcommittee felt that so long as the material was available and the charge was reasonable, a charge could be imposed. Representative Meyer questioned a provision in the regulation that permitted closed hearings. He felt that even if a closed hearing were permissible, the regulation would need to specify the conditions under which a hearing could be closed. Representatives of the agency explained that the hearing could be closed only at the request of a nurse. The agency agreed to amend the regulation to prohibit closed hearings, but to permit

objections to hearing procedures to be made and recorded.

**Tourism Cabinet: Department for Fish and Wildlife Resources: Game**

301 KAR 2:111 (Deer and turkey hunting on special areas.) The chairman of the subcommittee expressed the opinion that the regulation was worded in such way as to possibly be an unconstitutional delegation of authority. and was therefore amended.

**Natural Resources and Environmental Protection Cabinet: Department for Surface Mining and Reclamation: Permits**

405 KAR 8:040 (Underground coal mining permits.) The agency agreed to amend Section 16 of this regulation as a result of recent federal litigation. The section was amended to allow rather than require submission by applicants of information where the possibility of water contamination or diminution may result from underground mining activities.

**Public Protection and Regulation Cabinet: Department of Financial Institutions: Multibank Companies**

808 KAR 11:020 (Procedures.) The subcommittee and agency agreed to delete the words "bank or" as KRS 287.905 does not apply to banks but only to bank holding companies.

**Cabinet for Human Resources: Department for Health Services: Communicable Diseases**

902 KAR 2:080 (Sexually transmitted diseases.) The agency presented an amended version of this regulation deleting references to quarantine and more narrowly defining the diseases covered by the regulation. The subcommittee felt that some of the statutes seem to grant broad authority; however, there are sufficient questions relating to enforcement of requirements for treatment that should be reviewed by the Interim Joint Committee on Health and Welfare to make suggestions for legislation.

**Cabinet for Human Resources: Department for Health Services: Child Welfare**

905 KAR 1:150 ("Baby Doe" regulation.) This regulation was amended by the subcommittee and agency to clarify that reports of suspect medical neglect of disabled infants may be made by use of the "Hotline" number.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

**Legislative Research Commission: Block Grants**

1 KAR 4:005 (Legislative oversight procedures applicable to federal block grants administered by state agencies.)

**Finance and Administration: State Investment Commission**

200 KAR 14:080 (Repurchase agreement.)

**General Government Cabinet: Board of Auctioneers**

201 KAR 3:065 (Maintaining a license while on active military duty.)

**Tourism Cabinet: Department for Fish and Wildlife Resources: Game**

301 KAR 2:210 (Antlerless deer permits.)

**Hunting and Fishing**

301 KAR 3:030 (Year-round season for some birds and animals.)

**Department of Agriculture: Livestock Sanitation**

302 KAR 20:055 (Brucellosis vaccination.)

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water**

401 KAR 6:300 (Water well drillers certification; examination; fees.)

401 KAR 6:310 (Water well construction practices and standards.)

**Department for Surface Mining and Reclamation: General Provisions**

405 KAR 7:020 (Definitions and abbreviations.)

405 KAR 7:080 (Small operator assistance.)

**Permits**

405 KAR 8:030 (Surface coal mining permits.)

**Inspection and Enforcement**

405 KAR 12:010 (General provisions for inspection and enforcement.)

405 KAR 12:020 (Enforcement.)

**Performance Standards for Surface Mining Activities**

405 KAR 16:050 (Topsoil.)

405 KAR 16:110 (Surface and ground water.)

405 KAR 16:130 (Disposal of excess spoil.)

405 KAR 16:170 (Stabilization of surface areas.)

**Performance Standards for Underground Mining Activities**

405 KAR 18:050 (Topsoil.)

405 KAR 18:110 (Surface and ground water.)

405 KAR 18:130 (Disposal of excess spoil.)

405 KAR 18:170 (Stabilization of surface areas.)

**Special Performance Standards**

405 KAR 20:030 (Auger mining.)

**Justice Cabinet: Department of State Police: Kentucky Missing Child Information Center**

502 KAR 35:010 (Definitions.)

502 KAR 35:020 (Capabilities of the missing child information center computer system.)

502 KAR 35:030 (Quality of information reported to the Kentucky Missing Child Information Center.)

502 KAR 35:040 (Reporting of missing children by law enforcement agencies.)

502 KAR 35:050 (Statistical analysis of information related to missing children.)

**Transportation Cabinet: Department of Highways: Traffic**

603 KAR 5:096 (Highway classifications.)

**Mass Transportation**

603 KAR 7:040 (Public transportation capital assistance program.)

**Education and Humanities Cabinet: Department of Education: Office of Local Services: School Terms, Attendance and Operation**

702 KAR 7:090 (Requirements for coaches and other personnel staffing interscholastic athletic programs.)

**Office of Instruction: Instructional Services**

704 KAR 3:304 (Required program of studies.)

**Teacher Education**

704 KAR 15:080 (Paraprofessional employees and volunteer personnel.)

**Office of Vocational Rehabilitation: Administration**

706 KAR 1:020 (Independent living plan.)

**Public Protection and Regulation Cabinet: Department of Alcoholic Beverage Control: Licensing**

804 KAR 4:250 (Special temporary licenses.)

**Malt Beverage Equipment, Supplies and Service**

804 KAR 11:030 (Beer tastings.)

**Department of Mines & Minerals: Miner Training, Education and Certification**

805 KAR 7:030 (Annual retraining program.)

805 KAR 7:040 (Training of newly hired miners.)

805 KAR 7:050 (Training of miners for new work assignments.)

805 KAR 7:070 (Monthly reporting procedures and maintenance.)

**Department of Financial Institutions: Administration**

808 KAR 1:060 (Remote service units.)

808 KAR 1:070 (Application and hearing procedures.)

808 KAR 1:080 (Investments in bank service corporations by state-chartered banks.)

**Multibank Companies**

808 KAR 11:010 (Acquisitions.)

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

815 KAR 20:110 (Traps and clean-outs.)

815 KAR 20:191 (Minimum fixture requirements.)

**Cabinet for Human Resources: Department for Health Services: Communicable Diseases**

902 KAR 2:090 (Tuberculosis testing.)

**Hospitalization of Mentally Ill/Mentally Retarded**

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)

**Certificate of Need and Licensure Board**

902 KAR 20:018 (Operation and services; renal dialysis facilities.)

902 KAR 20:132 (Certificate of need expenditure minimums.)

902 KAR 20:200 (Tuberculosis testing in long term care facilities.)

**Department for Employment Services: Unemployment Insurance**

903 KAR 5:260 (Unemployment insurance procedures.)

**Department for Social Insurance: Public Assistance Program**

904 KAR 2:200 (Collections program.)

**Department for Social Services: Children's Residential Services**

905 KAR 7:030 (Children's residential services facilities manuals.)

905 KAR 7:080 (Children's treatment services facility manual.)

The following regulation was deferred at the agency's request:

**Public Protection and Regulation Cabinet: Harness Racing Commission: Quarter Horse, Appaloosa, and Arabian Commission**

812 KAR 1:050 (Jockeys.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11 a.m. until September 9, 1985.



CUMULATIVE SUPPLEMENT

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KRS Index.....	C5
Subject Index to Volume 12.....	C7



## LOCATOR INDEX -- EFFECTIVE DATES

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

## VOLUME 11

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
1 KAR 1:010			902 KAR 20:132		
Amended	169		Amended	78	10-9-84
405 KAR 7:020			Amended	1933	8-13-85
Amended	228	10-9-84	904 KAR 1:004		
Amended	1791	8-13-85	Amended	280	9-11-84
405 KAR 7:080			Amended	842	12-11-84
Amended	1800	8-13-85	Amended	1201	
405 KAR 12:010			Reprint	1354	3-12-85
Amended	1831	8-13-85	Amended	1934	7-9-85
405 KAR 16:050			904 KAR 1:011		
Amended	1837	8-13-85	Amended	846	12-11-84
405 KAR 16:170			Amended	1205	3-12-85
Amended	1850	8-13-85	Amended	1938	7-9-85
405 KAR 18:050			904 KAR 1:014		
Amended	1851	8-13-85	Amended	1941	7-9-85
405 KAR 18:170			904 KAR 1:260	1971	7-9-85
Amended	1864	8-13-85	904 KAR 2:006		
405 KAR 20:030			Amended	858	12-11-84
Amended	1865	8-13-85	Amended	1942	7-9-85
804 KAR 4:250	360	9-11-84	904 KAR 2:022	1972	7-9-85
Amended	1893	8-13-85	904 KAR 2:116	916	12-11-84
804 KAR 11:030	1968	8-13-85	Amended	1945	7-9-85
812 KAR 1:050					
Amended	1505				

## VOLUME 12

Emergency Regulation	12 Ky.R. Page No.	Effective Date	Emergency Regulation	12 Ky.R. Page No.	Effective Date
301 KAR 2:044E	313	8-2-85	904 KAR 2:006E		
302 KAR 1:030E	99	7-2-85	Replaced	6	5-17-85
302 KAR 20:010E	101	7-2-85	Resubmitted	6	5-17-85
302 KAR 20:065E	102	7-2-85	Replaced		7-9-85
600 KAR 1:045E	315	7-26-85	904 KAR 2:140E	121	7-10-85
603 KAR 5:070E	104	7-8-85	904 KAR 2:150E	122	7-10-85
704 KAR 20:045E	107	6-26-85	904 KAR 2:170E	123	7-10-85
902 KAR 6:060E	109	7-10-85	904 KAR 2:200E	9	6-11-85
902 KAR 12:030E	110	6-27-85	Replaced	73	8-13-85
903 KAR 2:010E	1	6-11-85	904 KAR 3:090E	124	7-10-85
Expired		6-28-85	905 KAR 1:180E	327	7-17-85
903 KAR 5:270E	110	6-28-85	905 KAR 7:030E	9	6-6-85
903 KAR 6:020E	111	6-28-85	Replaced	75	8-13-85
904 KAR 1:010E	316	8-2-85	905 KAR 7:060E	14	6-11-85
904 KAR 1:011E	2	5-17-85	Replaced	79	8-13-85
Replaced	1938	7-9-85	905 KAR 7:080E	14	6-6-85
904 KAR 1:013E	317	8-2-85	Replaced	80	8-13-85
904 KAR 1:015E	319	8-2-85			
904 KAR 1:031E	319	8-2-85			
904 KAR 1:036E	112	6-28-85			
Expired		8-2-85			
Resubmitted	320	8-2-85			
904 KAR 1:045E	118	6-28-85			
Expired		8-2-85			
Resubmitted	326	8-2-85			
904 KAR 1:055E	119	6-28-85			
904 KAR 1:250E	120	7-10-85			
904 KAR 1:310E	327	8-2-85			



# ADMINISTRATIVE REGISTER - C3

Regulation	12 Ky.R. Page No.	Effective Date			
1 KAR 4:005			502 KAR 35:050	95	8-13-85
Amended	22	8-13-85	600 KAR 1:040		
101 KAR 1:120			Repealed	315	7-26-85
Amended	213		600 KAR 1:045	293	
200 KAR 14:080	83	8-13-85	601 KAR 1:020		
201 KAR 1:062	84		Amended	356	
Withdrawn		6-28-85	603 KAR 3:030		
201 KAR 3:065	86	8-13-85	Amended	357	
201 KAR 18:150	291		603 KAR 5:070		
201 KAR 20:030			Amended	231	
Repealed	17	7-9-85	603 KAR 5:096		
201 KAR 20:050			Amended	206	8-13-85
Repealed	17	7-9-85	603 KAR 7:040		
201 KAR 20:162	87		Amended	40	8-13-85
Amended	328	8-13-85	702 KAR 7:090		
201 KAR 20:310			Amended	208	8-13-85
Amended	17	7-9-85	704 KAR 3:025		
201 KAR 22:031			Amended	234	
Amended	215		704 KAR 3:175		
201 KAR 22:052			Amended	237	
Amended	217		704 KAR 3:304		
201 KAR 22:106	218		Amended	209	8-13-85
Amended			704 KAR 7:020		
301 KAR 2:044	347		Amended	238	
Amended			704 KAR 15:080		
301 KAR 2:045	18	7-9-85	Amended	209	8-13-85
Amended			704 KAR 20:045		
301 KAR 2:111	25	8-13-85	Amended	239	
Amended	89	8-13-85	705 KAR 4:210	295	
301 KAR 2:210			706 KAR 1:010		
301 KAR 3:030	29	8-13-85	Amended	241	
Amended			706 KAR 1:020		
302 KAR 1:030	30		Amended	210	8-13-85
Amended	345		707 KAR 1:051		
Amended			Amended	242	
302 KAR 20:010			803 KAR 2:015		
Amended	220		Amended	252	
302 KAR 20:055	19	8-13-85	803 KAR 2:020		
Amended			Amended	254	
302 KAR 20:065	221		803 KAR 7:030		
Amended	293		Amended	210	8-13-85
401 KAR 5:026			805 KAR 7:040		
Reprint	303	4-9-85	Amended	211	8-13-85
401 KAR 6:300			805 KAR 7:050		
Amended	143	8-13-85	Amended	211	8-13-85
401 KAR 6:310			805 KAR 7:070		
Amended	144	8-13-85	Amended	212	8-13-85
405 KAR 8:030			806 KAR 39:070		
Amended	158	8-13-85	Amended	19	
405 KAR 8:040			Amended	125	7-9-85
Amended	170		807 KAR 5:001		
Amended	330	8-13-85	Amended	127	7-9-85
405 KAR 12:020			808 KAR 1:060		
Amended	184	8-13-85	Amended	40	8-13-85
405 KAR 16:110			808 KAR 1:070		
Amended	187	8-13-85	Amended	42	8-13-85
405 KAR 16:130			808 KAR 1:080		
Amended	189	8-13-85	Amended	44	8-13-85
405 KAR 18:110			808 KAR 10:210		
Amended	197	8-13-85	Amended	358	
405 KAR 18:130			808 KAR 11:010		
Amended	198	8-13-85	Amended	45	8-13-85
501 KAR 6:010			808 KAR 11:020		
Amended	32	8-13-85	Amended	46	8-13-85
Amended	223		815 KAR 7:010		
Amended	348		Amended	134	7-9-85
502 KAR 35:010	91	8-13-85	815 KAR 20:110		
502 KAR 35:020	92	8-13-85	Amended	47	8-13-85
502 KAR 35:030	92	8-13-85	815 KAR 20:191		
502 KAR 35:040	94	8-13-85	Amended	49	8-13-85
			902 KAR 2:080		
			Amended	343	8-13-85
			902 KAR 2:090		
			Amended	55	8-13-85

# ADMINISTRATIVE REGISTER - C4

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
902 KAR 6:060			905 KAR 1:180		
Amended	258		Amended	290	
902 KAR 12:030			905 KAR 3:040		
Amended	260		Amended	379	
902 KAR 12:080			905 KAR 7:030		
Amended	56	8-13-85	Amended	75	8-13-85
Amended	260		905 KAR 7:060		
Amended	360		Amended	79	8-13-85
902 KAR 20:018			905 KAR 7:080		
Amended	62	8-13-85	Amended	80	8-13-85
902 KAR 20:200			Amended	379	
Amended	65	8-13-85	905 KAR 7:110	296	
902 KAR 55:015			Amended	381	
Amended	266		905 KAR 7:120	297	
903 KAR 2:010			905 KAR 7:130	297	
Amended	67		905 KAR 7:140	298	
Withdrawn		6-28-85	905 KAR 7:150	299	
Repealed	111	6-28-85	905 KAR 7:160	299	
903 KAR 5:130			905 KAR 7:170	300	
Amended	267		Amended	382	
903 KAR 5:260			905 KAR 7:180	301	
Amended	70	8-13-85	905 KAR 7:190	301	
Amended	270		905 KAR 7:200	302	
Amended	363		Amended	383	
903 KAR 5:270			905 KAR 7:210	302	
Amended	272		Amended	384	
903 KAR 6:020			905 KAR 8:090	386	
Amended	72				
Withdrawn		6-28-85			
Amended	273				
904 KAR 1:010					
Amended	365				
904 KAR 1:012					
Amended	366				
904 KAR 1:013					
Amended	368				
904 KAR 1:015					
Amended	370				
904 KAR 1:018					
Repealed	327	8-2-85			
904 KAR 1:031					
Amended	370				
904 KAR 1:036					
Amended	274				
Withdrawn		8-2-85			
Amended	371				
904 KAR 1:045					
Amended	280				
Withdrawn		8-2-85			
Amended	378				
904 KAR 1:055					
Amended	282				
904 KAR 1:150					
Amended	283				
904 KAR 1:250					
Amended	284				
904 KAR 1:300	384				
904 KAR 1:310	386				
904 KAR 2:140					
Amended	286				
904 KAR 2:150					
Amended	287				
904 KAR 2:170					
Amended	288				
904 KAR 2:200					
Amended	73	8-13-85			
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1. The first section of the report is a summary of the case. It includes the date of the investigation, the name of the subject, and a brief description of the case. The summary is written in a clear and concise manner, and it provides a good overview of the case for the reader.

2. The second section of the report is a detailed description of the case. It includes information about the subject, the location of the case, and the circumstances of the case. This section is written in a more detailed and descriptive manner than the summary, and it provides a more complete picture of the case for the reader.

3. The third section of the report is a discussion of the case. It includes an analysis of the evidence, a discussion of the possible causes of the case, and a discussion of the possible solutions to the case. This section is written in a more analytical and discussion-oriented manner than the previous sections, and it provides a more in-depth look at the case for the reader.

4. The fourth section of the report is a conclusion. It includes a summary of the findings of the investigation, a statement of the investigator's opinion, and a recommendation for further action. This section is written in a clear and concise manner, and it provides a final summary of the case for the reader.