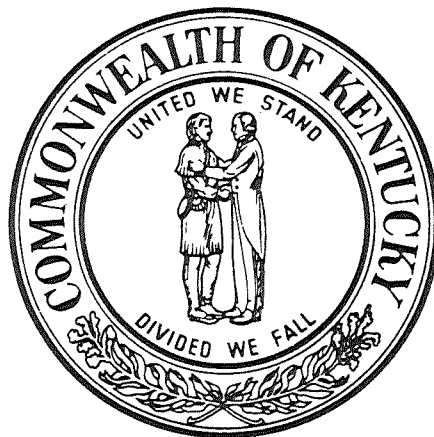


LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

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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 March 3 and 4, 1986. For information, call  
502-564-8100, ext. 312.

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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

The Secretary for Human Resources is required by KRS 371.270 to annually determine the rate schedule for unemployment insurance employer contributions. By statute, this determination is tied to the Unemployment Insurance Trust Fund balance as of December 31.

The rate schedule for calendar 1986 and its computation is reflected in this regulation. An ordinary regulation will not suffice in this instance, because a notice of the rate schedule must be mailed to all Kentucky employers by early March 1986 in order that they will know which rate to use in filing their first quarter 1986 contribution reports.

This emergency regulation will be replaced by an ordinary regulation in accordance with KRS Chapter 13A.

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

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

903 KAR 5:290E. Employer contribution rates.

RELATES TO: KRS 341.270

PURSUANT TO: KRS 194.050, 341.270

EFFECTIVE: February 10, 1986

NECESSITY AND FUNCTION: KRS 341.270 requires the Secretary for Human Resources to determine the rate schedule for employer's contributions.

The rate schedule in effect for each calendar year is determined by the "trust fund balance" as of December 31, of the preceding year. This regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

Section 1. Trust Fund Balance. The secretary finds the following to exist:

(1) The "trust fund balance" as of December 31, 1985, was \$76,598,469.22.

(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1985.

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this regulation, and in accordance with KRS 341.270(3), Schedule E of Table A shall be in effect for calendar year 1986, because the "trust fund balance" was less than \$150,000,000, on December 31, 1985. Rates listed in Schedule E of Table A are listed below.

<u>Employer Reserve Ratio</u>	<u>Rate Schedule</u>
8.0% and over	1.00%
7.0% but under 8.0%	1.05%
6.0% but under 7.0%	1.10%
5.0% but under 6.0%	1.40%
4.6% but under 5.0%	1.80%
4.2% but under 4.6%	2.30%
3.9% but under 4.2%	2.70%
3.6% but under 3.9%	3.00%
3.2% but under 3.6%	3.10%

2.7% but under 3.2%	3.20%
2.0% but under 2.7%	3.30%
1.3% but under 2.0%	3.40%
0.0% but under 1.3%	3.50%
-0.5% but under -0.0%	7.50%
-1.0% but under -0.5%	7.75%
-1.5% but under -1.0%	8.00%
-2.0% but under -1.5%	8.25%
-3.0% but under -2.0%	8.50%
-4.0% but under -3.0%	8.75%
-6.0% but under -4.0%	9.25%
-8.0% but under -6.0%	9.50%
Less than 8.0%	10.00%

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 5, 1986

FILED WITH LRC: February 10, 1986 at 10 a.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 KRS Chapter 13A.

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: February 3, 1986

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 February 1, 1986 [September 26, 1985], 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. 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 the maximum set at 102 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 percent of 102 percent of the median of allowable trended costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 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 maximum (upper limit) shall be set at 110 percent of the median of the array.

(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 except for ventilator therapy services which shall be paid on a prospective rate basis. 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 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 reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs. [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 allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price. [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)."]

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(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 seven (7) dollars and fifty (50) cents 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) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF [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 seven (7) dollars and fifty (50) cents 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.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting 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, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Certificate of Need Authority (CONA) an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Certificate of Need Authority (CONA) has acted on the application and any appropriate licensure action has been effected.

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 so as to reasonably take into account economic conditions and trends.

(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)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$27.00 & below	\$.92	\$.58
28.00 - 28.99	\$.86	\$.50
29.00 - 29.99	\$.78	\$.41
30.00 - 30.99	\$.70	\$.32
31.00 - 31.99	\$.61	\$.21
32.00 - 32.99	\$.51	\$.09
33.00 - 33.95	\$.35	-

Maximum Payment \$33.95

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

(Effective 8-3-85)

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	\$.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)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$36.99 & below	\$.92	\$.58
37.00 - 38.99	.86	.50
39.00 - 40.99	.78	.41
41.00 - 42.99	.70	.32
43.00 - 44.99	.61	.21
45.00 - 46.99	.51	.09
47.00 - 48.72	.35	-

Maximum Payment \$48.72\*

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

(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 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 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 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 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 except for ventilator therapy services 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 indwelling [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).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(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 occupancy factor and the median cost center per diem upper limits.

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

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

(10) "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) "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 September 26, 1985 except as otherwise specified herein.]

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 31, 1986

FILED WITH LRC: February 3, 1986 at 3 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 KRS Chapter 13A.

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

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

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

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: February 10, 1986

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Medical Assistance Program and is applicable for both the categorically and medically needy.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Material. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective February 1, 1986 [November 1, 1985]. The regulations contain federal supplementary policies, interpretations and implementing instructions for the Medical Assistance Program as authorized by Title XIX of the Social Security Act.

(2) Federal "State Medicaid Manual," effective February 1, 1986 [November 1, 1985]. The "State Medicaid Manual" contains federal interpretations and clarifications of policy relating to implementation of the Medical Assistance Program.

(3) Federal action transmittals and program memoranda issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-72, 79-98, 80-9, 80-59, 81-23, 81-33, 81-35, 82-1, 82-2, 82-20, 83-1, 83-4, 83-7, 83-8, 83-11, 84-1, 84-2, 84-4, 84-5, 84-10, 84-16, 85-1, and



HCFA PM-85-4, 85-10, and 85-13, effective October 1, 1985. Action transmittals and program memoranda contain federal instructions relating to implementation of the Medical Assistance Program.

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, 18-84, 20-84, 23-84, 24-84, 25-84, 26-84, 27-84, 29-84, 34-84, 35-84, 36-84, 39-84, 48-84, 50-84, 51-84, 55-84, 2-85, 4-85, 5-85, 6-85, 8-85, 10-85, 11-85, 14-85, 18-85, 19-85, 21-85, 22-85, 23-85, 24-85, 25-85, 27-85, 28-85, 29-85, 30-85, 31-85, 32-85, 33-85, 34-85, 36-85, 37-85, 38-85, 39-85, 41-85, 42-85, 43-85, 44-85, 46-85, and 47-85 effective February 1, 1986 [November 1, 1985]. Transmittal notices contain federal clarifications of policy relating to implementation of the Medical Assistance Program.

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective February 1, 1986 [November 1, 1985]. The Medicare and Medicaid Guide contains reprints of federal laws and regulations relating to the Medicare and Medicaid programs; reprints of Medicare/Medicaid related court decisions; Medicare principles of reimbursement; summaries of state plan characteristics; and other items of general information relating to the Medicare and Medicaid programs. Although the cabinet is bound by federal Medicaid law and regulations in the implementation of the Medical Assistance Program, the Guide is used principally as supplementary material for reimbursement issues in situations where the cabinet's vendor reimbursement system uses the Medicare cost principles in unaddressed areas.

(6) State Medicaid Program policies and procedures manuals and letters issued by the cabinet, and which contain benefit descriptions and operating instructions used by agency staff and participating vendors in the provision of, and billing for, Medical Assistance benefits provided eligible program recipients, as follows:

- (a) Home and Community Based Services Waiver Project Adult Day Health Care Services, effective October 1, 1985;
- (b) Alternative Intermediate Services/Mental Retardation Project, effective October 1, 1985;
- (c) Birthing Center Services, effective October 1, 1985;
- (d) Community Mental Health Benefits, effective July 1, 1985;
- (e) Dental Benefits, effective October 1, 1985;
- (f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective July 1, 1985;
- (g) Family Planning Benefits, effective October 1, 1985;
- (h) Hearing Services Benefits, effective October 1, 1985;
- (i) Home and Community Based Services Waiver Project, effective October 1, 1985;

(j) Home Health Benefits, effective October 1, 1985;

(k) Hospital Services Benefits, effective October 1, 1985;

(l) Independent Laboratory Services Benefits, effective October 1, 1985;

(m) Intermediate Care Facility Benefits, effective October 1, 1985;

(n) Mental Hospital Services Benefits, effective February 1, 1986 [October 1, 1985];

(o) Nurse Anesthetist Services, effective July 1, 1985;

(p) Nurse Midwife, effective October 1, 1985;

(q) Pharmacy Services, effective February 1, 1986 [November 1, 1985];

(r) Physician Services Benefits, effective February 1, 1986 [October 1, 1985];

(s) Primary Care Benefits, effective October 1, 1985;

(t) Rural Health Clinic Benefits, effective October 1, 1985;

(u) Skilled Nursing Facility Benefits, effective February 1, 1986 [October 1, 1985];

(v) Ambulance Transportation Benefits, effective May 16, 1984, as revised;

(w) Vision Services Benefits, effective November 1, 1985;

(x) Podiatry Services, effective October 1, 1985;

(y) Ambulatory Surgical Center Benefits, effective July 1, 1985;

(z) Renal Dialysis Center Benefits, effective October 1, 1985;

(aa) General Provider Letter A-8, effective July 1, 1985;

(bb) Medical Director's Letter dated April 26, 1985, effective July 1, 1985; and

(cc) EDS Federal Hospital Letter (as fiscal agent for the Medicaid Program) dated April 1, 1985, effective July 1, 1985.

(dd) Provider letters dated September 20 and 23, 1985 relating to KenPac, effective February 1, 1986.

Section 3. All documents included by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky. Copies may be obtained from that office upon payment of an appropriate fee which will not exceed approximate cost.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 10, 1986 at 10 a.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 KRS Chapter 13A.

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

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

904 KAR 1:320E. Kentucky patient access and care system.

RELATES TO: KRS 205.520  
PURSUANT TO: KRS 194.050  
EFFECTIVE: February 3, 1986

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 terms and conditions under which the cabinet will provide medical assistance pursuant to a waiver granted by the Secretary, United States Department of Health and Human Services, in accordance with Section 1915(b)(1) of the Social Security Act, providing for a physician primary care case management system which is hereinafter referred to as the Kentucky Patient Access and Care (KenPAC) System.

Section 1. General. The cabinet shall implement, within the Medical Assistance Program, a physician primary care case management system to be known as the Kentucky Patient Access and Care System (hereinafter referred to as KenPAC). KenPAC shall be implemented and administered in accordance with the terms of the waiver granted by the Secretary, United States Department of Health and Human Services under the authority granted by Section 1915(b)(1) of the Social Security Act.

Section 2. Recipient Participation. All recipients of Aid to Families with Dependent Children (AFDC) and AFDC related medical assistance only will be required to participate in KenPAC unless excluded as shown in Section 3 of this regulation.

Section 3. Recipient Exclusions from KenPAC. Excluded from KenPAC will be individuals who are aged, blind, or disabled (i.e., individuals whose eligibility for medical assistance is based on age, blindness, or disability); those who are in mental hospitals, skilled nursing facilities, intermediate care facilities, and personal care homes; individuals in foster care or subsidized adoption status; all spend-down cases; and refugees. Individuals eligible to participate but who reside in a county which does not have an adequate number of primary physicians or clinics participating in KenPAC will not be required to participate in KenPAC until adequate physician and/or clinic resources are available in the county, although the cabinet may, at its option, choose to permit voluntary participation by recipients in such counties.

Section 4. Physician Participation. Primary care physicians permitted to participate in KenPAC shall be general practitioners, family practitioners, pediatricians, internists,

obstetricians, gynecologists, and doctors of osteopathy. Clinics may participate if such clinic has at least one (1) full-time equivalent physician who is a primary care physician as shown above; rural health clinics may participate, but are not required to have a full-time equivalent primary care physician. Specialty physicians may participate under extraordinary circumstances when the cabinet determines such participation would be in the best interests of both the recipient and the KenPAC system.

Section 5. KenPAC Provider Agreements. All participating primary care providers shall be required to sign a KenPAC participation agreement in addition to the standard medical assistance provider agreement and will be bound by the terms and conditions shown in the KenPAC provider agreement.

Section 6. Quotas. Each primary care provider shall be required to specify the number of recipients the provider will be willing to serve as primary care case manager. Unless circumstances exist which require the cabinet to authorize a higher quota for a provider to ensure adequate coverage in an area, the upper limit shall be 1,500 recipients per full-time physician. Primary centers and rural health clinics may, in addition, have a quota of up to 300 recipients for each participating advanced registered nurse practitioner (ARNP).

Section 7. Primary Care Case Management Fees. Each physician or clinic shall receive a management fee of three (3) dollars per month per recipient for the first 1,000 assigned recipients per full-time equivalent physician; no management fee for the next 500 assigned recipients per full-time equivalent physician; and three (3) dollars per month per recipient for all recipients assigned which are over 1,500 per full-time equivalent physician as specially authorized by the cabinet. If a primary care center or rural health center has advanced registered nurse practitioners (ARNP) on staff for whom an additional quota is allowed, the clinic may be paid a management fee of three (3) dollars per month per recipient attributed to each ARNP (not to exceed 300 recipients per full-time ARNP), with the balance of the management fee computed in the manner previously specified.

Section 8. Covered Services under KenPAC. The following services shall be managed by the primary physician/clinic: physician services, pharmacy services when the prescription is issued by the primary physician or clinic; hospital inpatient and outpatient services, home health agency services, laboratory services, ambulatory surgical center services, primary care center services, rural health center (clinic) services, and nurse anesthetist services. For KenPAC purposes, the physician services element does not include services provided by ophthalmologists or board certified or board eligible psychiatrists; and it does not include obstetrical services provided by obstetricians or gynecologists. All other services available under the Medicaid program may be secured in the usual manner. Access to emergency services will not be restricted by KenPAC even though such medical service may



customarily be within KenPAC. Urgent care (i.e., when medical necessity dictates early treatment and/or hospitalization) may be provided without pre-authorization from the primary physician or clinic if the primary physician or clinic cannot be reached. For both emergency and urgent care, authorization must be obtained from either the primary physician or clinic or the Medicaid Program prior to billing Medicaid for the emergency or urgent care service.

Section 9. Recipient Assignment. Each KenPAC recipient will be afforded the opportunity to select his/her KenPAC provider from among participating KenPAC providers in his/her county of residence or any adjacent county. If a voluntary selection is not made, a primary care provider will be assigned by the Medicaid Program.

Section 10. Phase-in of KenPAC. KenPAC will be phased in by assigning recipients at the scheduled semiannual or annual reinvestigation so far as possible, with the assigned phase-in scheduled to end by July 1, 1986. New approvals will be assigned within sixty (60) days of the approval. Individuals who cannot be assigned during their scheduled semiannual or annual reinvestigation month or at the time of approval may be scheduled in an alternate month during the phase-in period.

Section 11. Hearing and Appeal Rights. Any applicant for or recipient of medical assistance required to participate in KenPAC shall be entitled to the same hearing and/or appeal rights as are available to any other applicant for or recipient of medical assistance.

Section 12. Utilization Control. Primary care physician/clinics identified by the cabinet as having an abusive or inappropriate utilization pattern, not consistent with the objectives of KenPAC, may be removed from KenPAC and/or denied further participation rights in KenPAC. Any provider so excluded may seek review of the decision in accordance with the KenPAC provider agreement.

Section 13. Relation to Other Regulations. The requirements specified herein shall supersede any other regulations issued by the cabinet which are inconsistent with this regulation.

Section 14. Implementation. KenPAC shall begin on February 1, 1986, and shall remain in effect for the term of the KenPAC waiver, including extensions thereto, unless terminated at an earlier date by action of the cabinet.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 31, 1986

FILED WITH LRC: February 3, 1986 at 3 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 KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

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

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

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

EFFECTIVE: February 10, 1985

NECESSITY AND FUNCTION: KRS 194.010 designates the Cabinet for Human Resources as the primary state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, child support enforcement, state supplemental payments for the aged, blind or disabled, disability determination, and collections which are essential for the implementation of those programs.

Section 1. General Policy Relating to Program Materials Incorporated by Reference. (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

Section 2. Incorporation by Reference. The following listed materials are hereby incorporated by reference, effective on the date shown.

(1) Department for Social Insurance Manual of Operations, effective February 1, 1986 [October 1, 1985]. The Manual of Operations provides operating instructions, procedural detail, and technical clarification for use of the department's field staff in implementing programs, under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; and medical assistance.

(2) Department for Social Insurance Manual of Forms, effective February 1, 1986 [October 1,

1985]. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; medical assistance; and the food stamp program.

(3) Federal regulations at 45 CFR Parts 16, 74, and 95, effective October 1, 1985. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 10, 1986 at 10 a.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 KRS Chapter 13A.

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

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

904 KAR 2:150E. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.

RELATES TO: KRS 194.030(6), 205.200, 205.220, 205.231

PURSUANT TO: KRS 194.050

EFFECTIVE: February 10, 1986

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Title IV-A of the Social Security Act, namely Aid to Families with Dependent Children, herein referred to as AFDC. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the AFDC program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Aid to Families with Dependent Children Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal regulations at 45 CFR Parts 200-299, which set forth the federal requirements and guidelines for the administration of the Aid to Families with Dependent Children Program, effective February 1, 1986 [July 1, 1985]; and

(2) Federal action transmittals, which provide operating instructions, procedural detail and technical clarification for use by the department's staff in administering the Aid to Families with Dependent Children Program, as follows: SSA-AT-77-44, 78-13, 78-14, 78-16, 78-21, 78-27, 78-28, 78-38, 79-2, 79-4, 79-5, 79-7, 79-11, 79-14, 79-18, 79-22, 79-26, 79-29, 79-31, 79-32, 79-33, 79-35, 79-42, 79-44, 80-2, 80-3, 80-9, 80-11, 80-19, 80-22, 80-24, 80-29, 80-30, 80-36, 80-38, 80-42, 80-44, 80-45, 80-50, 81-2, 81-7, 81-8, 81-10, 81-11, 81-12, 81-15, 81-16, 81-17, 81-18, 81-23, 81-29, 81-31, 81-33, 81-34, 81-35, 81-36, 81-37, 82-1, 82-5, 82-6, 82-9, 82-11, 82-13, 82-15, 82-16, 82-17, 82-18, 82-19, 82-20, 82-28, 82-33, 82-34, 83-6, 83-7, 83-10, 83-11, 83-13, 83-14, 83-17, 83-18, 83-21, 83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, 84-7, 84-8, 84-9, 84-13, 84-16, 84-25, [and] 85-10 and 85-27, effective February 1, 1986 [July 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 10, 1986 at 10 a.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 KRS Chapter 13A.

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

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

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

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

EFFECTIVE: February 13, 1986

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800, 205.992, and KRS 405.400 to KRS 405.530. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective February 1, 1986 [October 1, 1985];

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, and 84-05, effective October 1, 1984;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective February 1, 1986 [October 1, 1985];

(4) Department for Social Insurance Child Support System Handbook, which provides systems and data processing instructions for the implementation of the child support enforcement program, effective October 1, 1985;

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 83-16, 83-21, 83-30, 83-31, 83-38, 83-39, [83-48,] 84-10, 84-16, 84-18, 84-19, 84-20, 84-29, 84-34, 84-36, 85-10,

85-19, 85-22, 85-30, 85-32 and errata, 85-36, 85-39, and 85-42 [and 85-27], effective February 1, 1986 [October 1, 1985]; and

(6) Department for Social Insurance Child Support Administrative Process Manual, which provides operational instructions and procedural detail for the implementation of administrative procedures in the child support enforcement program, effective February 1, 1986 [October 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 13, 1986 at noon

**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 KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

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

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

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

EFFECTIVE: February 10, 1986

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR

Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective February 1, 1986 [July 1, 1985];

(2) Department for Social Insurance Food Stamp Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in administering the Food Stamp Program, effective February 1, 1986 [October 1, 1985]; and

(3) Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-19, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-25, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-39, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-59, 81-60, 81-62, 81-64, 81-65, 81-66, 81-67, 81-68, 82-2, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-14, 83-15, 83-17, 83-18, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-11, 84-12, 84-13, 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-21, 84-22, 84-23, 84-24, 84-26, 84-27, 84-28, 84-29, 84-30, 84-31, 84-32, 84-33, 84-34, 84-35, 84-36, 84-37, 84-38, 84-39, 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, 84-47, 84-48, and 84-49, effective January 1, 1985.

(4) Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective February 1, 1986 [October 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 28, 1986

FILED WITH LRC: February 10, 1986 at 10 a.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 KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

### CABINET FOR HUMAN RESOURCES Office of Inspector General Division of Licensing and Regulation

906 KAR 1:030E. Hearings concerning employment agencies.

RELATES TO: KRS Chapter 340

PURSUANT TO: KRS 194.120, 340.070

EFFECTIVE: February 10, 1986

NECESSITY AND FUNCTION: The Secretary of Human Resources is authorized by statute to promulgate regulations for administration of KRS Chapter 340 concerning the regulation of employment agencies. It is necessary to provide a framework for resolution of appeals of negative licensure actions.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Negative licensure action" means an action by the cabinet to revoke, modify, suspend or deny relicensure of an employment agency.

(3) "Employment agency" means the person or organization defined in KRS 340.010(3).

(4) "Hearing officer" means the person designated by the Secretary of Human Resources to conduct a hearing and make a recommendation to the cabinet on any appeal of negative licensure action.

Section 2. (1) Any employment agency may appeal negative licensure action taken by the cabinet by notifying the Cabinet for Human Resources within twenty (20) days of the issuance of notice of negative licensure action. Upon receipt of notice of appeal, the Secretary of the Cabinet for Human Resources shall designate a hearing officer.

(2) Notice of hearing shall be mailed to the employment agency not less than ten (10) days prior to the commencement of the hearing. The notice of hearing shall contain the reasons for negative licensure action. The notice of hearing shall be mailed by certified mail, return receipt requested to the employment agency.

(3) The employment agency and the cabinet may be represented by counsel and make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. No depositions shall be permitted for the purpose of discovery, however, the hearing officer may authorize depositions of witnesses who, in his opinion, for good cause shown cannot be present at the hearing. A hearing officer shall reside at the hearing, shall keep order, administer oaths, may issue subpoenas and may

admit relevant and probative evidence and shall conduct the hearing in accordance with reasonable administrative practice.

(4) All testimony at the hearing shall be recorded but need not be transcribed unless requested. The person or organization requesting a transcript shall bear the cost of such transcript.

(5) The hearing officer may place reasonable time limits upon the presentation of testimony, evidence and argument and may terminate or exclude irrelevant or redundant evidence, testimony or argument.

(6) The hearing officer shall make a written recommendation to the cabinet including findings of fact and conclusions of law. With the recommendation, the hearing officer shall forward to the cabinet the record consisting of

all documents, exhibits and recorded testimony introduced in the hearing.

(7) The cabinet shall issue a final determination of licensure status within ten (10) days of the receipt of the recommendation of the hearing officer.

(8) No hearing officer shall participate in any hearing involving an employment agency with which he has had in the past twelve (12) months preceding the hearing, any ownership, in whole or in part, employment, staff, fiduciary, contractual, creditor or consultative relationship.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 7, 1986

FILED WITH LRC: February 10, 1986 at 10 a.m.

## AS AMENDED

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

401 KAR 31:010. General provisions for hazardous wastes.

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864  
EFFECTIVE: February 4, 1986

NECESSITY AND FUNCTION: KRS 224.864(3) requires the Natural Resources and Environmental Protection Cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and list hazardous waste. This regulation establishes the general provisions necessary for identification and listing of a hazardous waste.

Section 1. Purpose and Scope. (1) This chapter identifies those wastes which are subject to regulation as hazardous wastes under 401 KAR Chapters 32 through 40 and which are subject to the notification and permitting requirements of KRS 224.830 through 224.877. In this chapter:

(a) This regulation defines the terms "waste" and "hazardous waste," identifies those wastes which are excluded from regulation under 401 KAR Chapters 32 through 40 and establishes special management requirements for hazardous waste produced by small quantity generators and hazardous waste which is used, reused, recycled or reclaimed.

(b) 401 KAR 31:020 sets forth the criteria used by the cabinet to identify characteristics of hazardous waste and to list particular hazardous wastes.

(c) 401 KAR 31:030 identifies characteristics of hazardous waste.

(d) 401 KAR 31:040 lists particular hazardous wastes.

(2)(a) The definition of waste contained in this chapter applies only to wastes that are also hazardous for purposes of the regulations implementing those provisions of KRS Chapter 224 relating to hazardous waste management [with

respect to the hazardous waste regulations implementing KRS 224.212, 224.213, and 224.2201 through 224.2215, and KRS 224.862 through 224.877]. This chapter identifies only some of the materials which are hazardous wastes under KRS 224.033(10), [and] 224.071, and 224.877. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes and that are recycled.

(b) This chapter identifies only some of the materials which are wastes and hazardous wastes under KRS 224.033(10), 224.071, and 224.877. A material which is not defined as a waste in this chapter, or is not a hazardous waste identified or listed in this chapter is still a waste and a hazardous waste for purposes of this regulation if: [A material which is not a hazardous waste identified in this chapter is still a hazardous waste for purposes of those sections if:]

1. [(a)] In the case of KRS 224.033(10), the cabinet has reason to believe that the material may be a waste within the meaning of KRS 224.005 and a hazardous waste within the meaning of KRS 224.005 ; or [(24)(b).]

2. [(b)] In the case of KRS 224.071, the statutory elements are established.

(3) For the purposes of Sections 2, 6, 8 and 9 of this regulation:

(a) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing;

(b) "Sludge" has the same meaning used in Section 1 of 401 KAR 30:010;

(c) A "by-product" is a material that is not one (1) of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(d) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

(e) A material is "used or reused" if it is either:

1. Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one (1) process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

2. Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(f) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad boxcars), which when worn or superfluous can be recycled.

(g) A material is "recycled" if it is used, reused, or reclaimed.

(h) A material is "accumulated speculatively" if it is accumulated before being recycled.

1. A material is not accumulated speculatively, if the person accumulating it can show:

a. That the material is potentially recyclable and has a feasible means of being recycled; and

b. That - during the calendar year (commencing on January 1) - the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five (75) percent by weight or volume of the amount of that material accumulated at the beginning of the calendar year (including any material accumulated from previous years).

2. In calculating the percentage of turnover, the seventy-five (75) percent requirement is to be applied to each material of the same type that is recycled in the same way. Materials accumulating in units that would be exempt from regulation under Section 4(3) of this regulation are not to be included in making the calculation. (Materials that are already defined as wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling.

Section 2. Definition of a Waste. (1)(a) A "waste" is any discarded [garbage, refuse, sludge or any other waste] material that [which] is not excluded by [under] Section 4(1) of this regulation or that is not excluded by a variance granted under Section 1 or 2 of 401 KAR 30:080, or Section 8 or 9 of this regulation.

(b) A "discarded material" is any material which is:

1. "Abandoned," as explained in subsection (2) of this section; or

2. "Recycled," as explained in subsection (3) of this section; or

3. Listed in subsection (4) of this section.

(2) Materials are waste if they are "abandoned" by being: [An "other waste material" is any solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining or agricultural operations, or from community activities which:]

[(a) Is discarded or is being accumulated, stored or physically, chemically or biologically

treated prior to being discarded; or]

[(b) Has served its original intended use and sometimes is discarded; or]

[(c) Is a manufacturing or mining by-product and sometimes is discarded.]

[(3) A material is "discarded" if it is abandoned (and not used, re-used, reclaimed or recycled) by being:]

(a) Disposed of; or

(b) Burned or incinerated[, except where the material is being burned as a fuel for the purpose of recovering usable energy]; or

(c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated. [Physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed.]

(3) The following materials are wastes if they are "recycled" - or accumulated, stored, or treated before recycling - as specified in paragraphs (a) through (d) of this subsection.

(a) "Used in a manner constituting disposal."

1. Materials noted with a "(waste)" in column (1) of Table 1 in paragraph (e) of this subsection are wastes when they are:

a. Applied to or placed on the land in a manner that constitutes disposal; or

b. Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which case the product itself remains a waste).

2. However, commercial chemical products listed in Section 4 of 401 KAR 31:040 are not wastes if they are applied to the land and that is their ordinary manner of use.

(b) The following materials are "burned for energy recovery:"

1. Materials noted with a "(waste)" in column (2) of Table 1 in paragraph (e) of this subsection are wastes when they are:

a. Burned to recover energy;

b. Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

2. However, commercial chemical products listed in Section 4 of 401 KAR 31:040 are not wastes if they are themselves fuels.

[3. Waste from burning any of the materials exempted from regulation by Section 6(1)(c)4, 6, 7, or 8 of this regulation.]

(c) The following materials are "reclaimed." Materials noted with a "(waste)" in column (3) of Table 1 in paragraph (e) of this subsection are wastes when reclaimed.

(d) The following materials are "accumulated speculatively." Materials noted with a "(waste)" in column (4) of Table 1 in paragraph (e) of this subsection are wastes when accumulated speculatively.

(e) The following Table 1 identifies materials which are wastes when "used in a manner constituting disposal," "burned for energy recovery," "reclaimed," or "accumulated speculatively." Materials noted with the word "(waste)" in Table 1 are considered to be wastes for the purposes of 401 KAR Chapters 32 through 40 and KRS Chapter 224. Materials noted with a dash "-" in Table 1 are not considered to be a waste for the purposes of 401 KAR Chapters 32 through 40 and KRS Chapter 224.

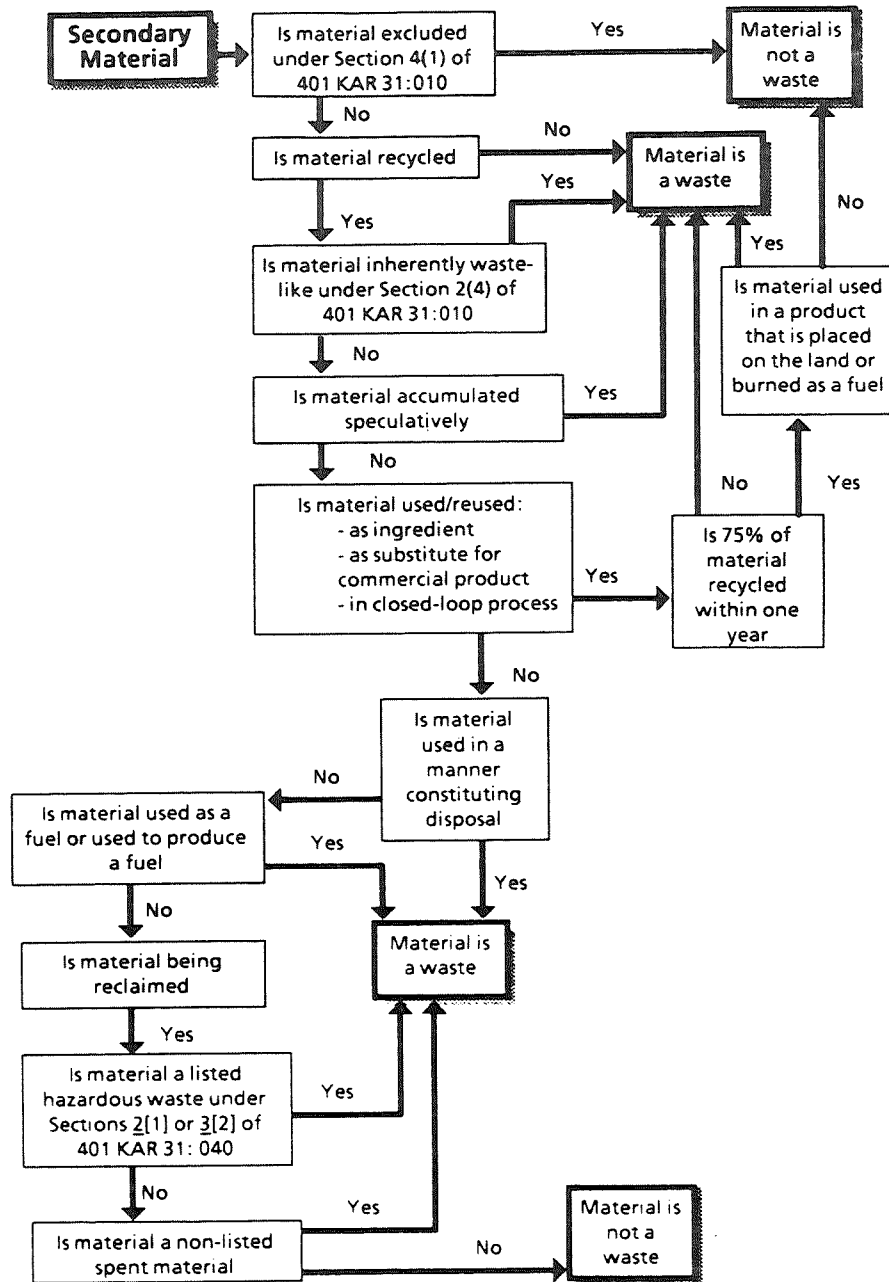
TABLE 1

	<u>Use constituting disposal</u> <u>401 KAR 31:010</u> <u>Section 2(3)(a)</u> <u>(1)</u>	<u>Energy recovery/fuel</u> <u>401 KAR 31:010</u> <u>Section 2(3)(b)</u> <u>(2)</u>	<u>Reclamation</u> <u>401 KAR 31:010</u> <u>Section 2(3)(c)</u> <u>(3)</u>	<u>Speculative accumulation</u> <u>401 KAR 31:010</u> <u>Section 2(3)(d)</u> <u>(4)</u>
<u>Spent materials</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>
<u>Sludges (listed in Sections 2 or 3 of 401 KAR 31:040)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>
<u>Sludges exhibiting a characteristic of hazardous waste</u>	<u>(waste)</u>	<u>(waste)</u>	<u>-</u>	<u>(waste)</u>
<u>By-products (listed in Sections 2 or 3 of 401 KAR 31:040)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>
<u>By-products exhibiting a characteristic of hazardous waste</u>	<u>(waste)</u>	<u>(waste)</u>	<u>-</u>	<u>(waste)</u>
<u>Commercial chemical products listed in Section 4 of 401 KAR 31:040</u>	<u>(waste)</u>	<u>(waste)</u>	<u>-</u>	<u>-</u>
<u>Scrap metal</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>	<u>(waste)</u>

NOTE - The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in Section 1 of this regulation.

(f) The following Table 2 is a decision tree for deciding which secondary materials are wastes when recycled.

TABLE 2. Decision Tree for Deciding Which Secondary Materials Are Wastes When Recycled





(4) The following materials are wastes when they are recycled in any manner: [A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.]

(a) Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028 (chlorinated dioxins, chlorinated dibenzofurans and chlorinated phenols).

(b) The cabinet will use the following criteria to add wastes to the list in paragraph (a) of this subsection:

1.a. The materials are ordinarily disposed of, burned, or incinerated; or

b. The materials contain toxic constituents listed in Section 1 of 401 KAR 31:170 and these constituents are not ordinarily found in raw materials or products for which the material substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

2. The material may pose a substantial hazard to human health and the environment when recycled.

(5) "Materials that are not wastes when recycled."

(a) Materials are not wastes when they can be shown to be recycled by being: [A "manufacturing or mining by-product" is a material that is not one (1) of the primary products of a particular manufacturing or mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one (1) of the steps in a manufacturing or mining process and is processed through the next step of the process within a short time.]

1. Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

2. Used or reused as effective substitutes for commercial products; or

3. Returned to the original process from which they are generated, without first being reclaimed. The material must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

(b) The following materials are wastes, even if the recycling involves use, reuse, or return to the original process (described in paragraph (a) 1 through 3 of this subsection):

1. Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

2. Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

3. Materials accumulated speculatively; or

4. Materials listed in subsection (4)(a) of this section.

(6) "Documentation of claims that materials are not wastes or are conditionally exempt from regulation." Respondents in actions to enforce regulations implementing the provisions in KRS Chapter 224 relating to hazardous waste management who raise a claim that a certain material is not waste, or is conditionally exempt from regulation, must demonstrate that

there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

Section 3. Definition of a Hazardous Waste.  
(1) A waste, as defined in Section 2 of this regulation is a hazardous waste if:

(a) It is not excluded from regulation as a hazardous waste under Section 4(2) of this regulation; and

(b) It meets any of the following criteria:

1. It exhibits any of the characteristics of hazardous waste identified in 401 KAR 31:030.

2. It is listed in 401 KAR 31:040 and has not been excluded from the lists under [in Section 1(2) of] 401 KAR 31:060 and 401 KAR 31:070 [31:040].

3. It is a mixture of any waste and a hazardous waste that is listed in 401 KAR 31:040 solely because it exhibits one (1) or more of the characteristics of hazardous waste identified in 401 KAR 31:040, unless the resultant mixture no longer exhibits any characteristics of hazardous waste identified in 401 KAR 31:030.

4. It is a mixture of any waste and one (1) or more hazardous wastes listed in 401 KAR 31:040 and has not been excluded from this paragraph under Section 1(2) of 401 KAR 31:040, however, the following mixtures of wastes and hazardous wastes listed in 401 KAR 31:040 are not hazardous wastes (except by application of subparagraph 1 or 2 of this paragraph) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

a. One (1) or more of the following spent solvents listed in Section 3 of 401 KAR 31:040, carbon tetrachloride, tetrachloroethylene, trichloroethylene provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed one (1) part per million; or

b. One (1) or more of the following spent solvents listed in Section 3 of 401 KAR 31:040, methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pre-treatment system does not exceed twenty-five (25) parts per million; or

c. One (1) of the following wastes listed in

Section 4 of 401 KAR 31:040, heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

d. A discarded commercial chemical product, or chemical intermediate listed in Section 5 of 401 KAR 31:040, arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this paragraph, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

e. Wastewater resulting from laboratory operations containing toxic (T) wastes listed in 401 KAR 31:040, provided that the annualized average flow of laboratory wastewater does not exceed one (1) percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes' combined annualized average concentration does not exceed one (1) part million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

(2) A waste which is not excluded from regulation under subsection (1), paragraph (a) of this section becomes a hazardous waste when any one (1) of the following events occur:

(a) In the case of a waste listed in 401 KAR 31:040 of this regulation when the waste first meets the listing description set forth in 401 KAR 31:040;

(b) In the case of a mixture of solid waste and one (1) or more hazardous wastes when a hazardous waste listed in 401 KAR 31:040 is first added to the waste; or

(c) In the case of any other waste (including a waste mixture) when the waste exhibits any of the characteristics identified in 401 KAR 31:030.

(3) Unless and until it meets the criteria of subsection (4) of this section:

(a) A hazardous waste will remain a hazardous waste.

(b) 1. Except as otherwise provided in subparagraph 2 of this paragraph, any waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. (However, materials that are reclaimed from wastes and that are used beneficially are not wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

2. The following wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one (1) or more of the characteristics of hazardous waste:

a. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).

b. Wastes burning any of the materials exempted from regulation by Section 6(1)(c)4, 6, 7 or 8 of this regulation. [Any waste generated from the treatment, storage or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate (but not including precipitation run-off), is a hazardous waste.]

(4) Any waste described in subsection (3) of this section is not a hazardous waste if it meets the following criteria:

(a) In the case of any waste, it does not exhibit any of the characteristics of hazardous waste identified in 401 KAR 31:030.

(b) In the case of a waste which is a listed waste under 401 KAR 31:040, contains a waste listed under 401 KAR 31:040 or is derived from a waste listed in 401 KAR 31:040, it also has been excluded from Section 1(3) [(2)] of 401 KAR 31:060 and 401 KAR 31:070 [31:040].

Section 4. Exclusions. (1) The following materials are not wastes for the purpose of this chapter:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works for treatment;

(b) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended; however, this exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment;

(c) Irrigation return flows;

(d) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq.;

(e) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process;

(f) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in Section 1(3) of this regulation.

(g) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in Section 1(3) of this regulation.

(h) [(f)] Mining overburden returned to the mine site; and

(i) [(g)] Material from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(2) Any waste which meets the requirements of this subsection is not a hazardous waste.

(a) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters,

campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under the waste management regulations, if such facility:

1. Receives and burns only:

a. Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or

b. Waste from commercial or industrial sources that does not contain hazardous waste; and

2. Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(b) Agricultural wastes generated by any of the following and which are returned to the soils as fertilizers:

1. The growing and harvesting of agricultural crops.

2. The raising of animals, including animal manures.

(c) Mining overburden returned to the mine site.

(d) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

(e) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(f) 1. Wastes which fail the test for the characteristic of EP toxicity because chromium is present or are listed in 401 KAR 31:040 due to the presence of chromium, which do not fail the test for the characteristic of EP toxicity for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

a. The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

b. The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

c. The waste is typically and frequently managed in non-oxidizing environments.

2. Specific wastes which meet the standard in subparagraph 1a, b and c of this paragraph (so long as they do not fail the test for any other characteristic) are:

a. Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

b. Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

c. Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome

tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

d. Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

e. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

f. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

g. Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

h. Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.

(g) Waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(h) Cement kiln dust waste.

(i) Waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(3) A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under 401 KAR Chapters 32, 33, 34, 35, 38 and 39 until it exits the unit in which it was generated unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than ninety (90) days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

(4) Samples.

(a) Except as provided in paragraph (b) of this subsection, a sample of waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter or 401 KAR Chapter 32, 33, 34, 35, 38 and 39 or to the notification requirements of 401 KAR Chapter 32 and 38 when:

1. The sample is being transported to a laboratory for the purpose of testing; or

2. The sample is being transported back to the sample collector after testing; or

3. The sample is being stored by the sample collector before transport to a laboratory for testing; or

4. The sample is being stored in a laboratory before testing; or

5. The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

6. The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(b) In order to qualify for the exemption in paragraphs (a)1 and 2 of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

1. Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

2. Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

a. Assure that the following information accompanies the sample:

(i) The sample collector's name, mailing address, and telephone number;

(ii) The laboratory's name, mailing address, and telephone number;

(iii) The quantity of the sample;

(iv) The date of shipment; and

(v) A description of the sample.

b. Package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in paragraph (a) of this subsection.

Section 5. Special Requirements for Hazardous Waste Generated by Limited Quantity [Small] Generators. (1) A generator is a limited [small] quantity generator in a calendar month if he generates less than 100 [1,000] kilograms of hazardous waste in that month.

(2) Except for those wastes identified in subsections (5), [and] (6), (7), and (10) of this section, a limited [small] quantity generator's hazardous wastes are not subject to regulation under 401 KAR Chapters 32 through 39 and the notification requirements of KRS 224.864(3) provided the generator complies with the regulations [requirements] of subsections (6), (7), and (10) of this section.

(3) Hazardous waste that is [beneficially used or re-used or legitimately] recycled [or reclaimed] and that is excluded from [certain] regulation under Sections 6(1)(b)3 and 6(1)(b)5, or 6(1)(c) of this regulation or Section 7 of 401 KAR 36:040 [by Section 6(1) of this regulation,] is not included in the quantity determinations of this section and is not subject to any requirements of this section. Hazardous waste that is subject to the [special] requirements of Sections 6(2) and (3) of this regulation and 401 KAR 36:030, 401 KAR 36:040, and 401 KAR 36:060 is included in the quantity determination of this section, and is subject to the requirements of this section.

(4) In determining the quantity of hazardous waste he generates, a generator need not include:

(a) His hazardous waste when it is removed from on-site storage; or

(b) Hazardous waste produced by on-site treatment of his hazardous waste.

(5) If a limited [small] quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous

waste are subject to regulation under 401 KAR Chapters 32 through 39, and the notification and permitting requirements of KRS 224.855 and 224.864 through 224.877:

(a) A total of one (1) kilogram of acute hazardous wastes [commercial chemical products and manufacturing chemical intermediates having the generic names listed in Section 4(5) of 401 KAR 31:040 and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specification, would have the generic names] listed in Sections 2, 3, and 4(5) of 401 KAR 31:040.

(b) A total of 100 kilograms of any residue or contaminated soil, waste [water] or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes [commercial chemical products or manufacturing chemical intermediates having the generic names] listed in Sections 2, 3 and 4(5) of 401 KAR 31:040[, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification commercial chemical products or manufacturing chemical intermediates which, if they met specifications, would have the generic names listed in Section 4(5) of 401 KAR 31:040].

(6) A limited [small] quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous waste, or his acutely hazardous wastes in quantities greater than set forth in subsection (5)(a) or (b) of this section, all of those accumulated wastes for which the accumulation limit was exceeded are subject to regulation under 401 KAR Chapters 32 through 39 and the notification and permitting requirements of KRS 224.830 through 224.877. The time period set out in 401 KAR 32:030, Section 5 for accumulation of wastes on-site begins for a limited [small] quantity generator when the accumulated wastes exceed the applicable exclusion level.

(7) In order for hazardous waste generated by a limited [small] quantity generator to be excluded from full regulations under this section, the generator must:

(a) Comply with the requirements of 401 KAR 32:010, Section 2;

(b) If he stores his hazardous waste on-site, stores it in compliance with the requirements of subsection (6) of this section; and

(c) Either treat or dispose of his hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment, or disposal facility, either of which is:

1. Permitted under 401 KAR Chapter 38;

2. In interim status under 401 KAR Chapters 35 and 38;

3. Located outside of Kentucky and is permitted under 40 CFR Part 270 or in interim status under 40 CFR Parts 270 and 265;

4. Located outside of Kentucky and is authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR Part 271; [or]

5. Permitted to manage municipal or industrial solid waste and is specifically approved for that waste; or

6. A facility which:

a. Beneficially uses or reuses, or legitimately recycles or reclaims his waste; or

b. Treats his waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(8) Hazardous waste subject to the reduced requirements of this section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section unless the mixture meets any of the characteristics of hazardous wastes identified in 401 KAR 31:030.

(9) If a limited [small] quantity generator mixes a solid waste with a hazardous waste that exceeds the quantity exclusion level of this section, the mixture is subject to full regulation.

(10) If a limited quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to Sections 7 through 11 of 401 KAR 36:040 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

Section 6. [Special] Requirements for Recyclable Materials [Hazardous Waste Which is Used, Re-used, Recycled or Reclaimed].

(1)(a) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsections (2) and (3) of this section, except for the materials listed in paragraphs (b) and (c) of this subsection. Hazardous wastes that are recycled will be known as "recyclable materials." [Except as otherwise provided in subsection (2) of this section, a hazardous waste which meets any of the following criteria is not subject to regulation under 401 KAR Chapters 32, 33, 34, 35, 38 and 39 and is not subject to the notification and permitting requirements of KRS 224.830 through 224.877 until the cabinet promulgates regulations to the contrary:]

[(a) It is being beneficially used or re-used or legitimately recycled or reclaimed.]

(b) The following recyclable materials are not subject to the requirements of this section but are regulated under 401 KAR Chapter 36 and all applicable provisions in 401 KAR Chapter 38: [It is being accumulated, stored or physically, chemically or biologically treated prior to beneficial use or re-use or legitimate recycling or reclamation.]

1. Recyclable materials used in a manner constituting disposal (see 401 KAR 36:030);

2. Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under 401 KAR 34:240 or 401 KAR 35:240 (see 401 KAR 36:040);

3. Used oil that exhibits one (1) or more of the characteristics of hazardous waste and is burned for energy recovery in boilers and industrial furnaces that are not regulated under 401 KAR 34:240 and 35:240 (see 401 KAR 36:050);

4. Recyclable materials from which precious metals are reclaimed (see 401 KAR 36:060); and

5. [4.] Spent lead-acid batteries that are being reclaimed (see 401 KAR 36:070).

(c) The following recyclable materials are not subject to regulation under 401 KAR Chapters 32 through 38, and are not subject to the notification requirements of KRS 224.864(3): [It is one (1) of the following materials being used, reused, recycled or reclaimed in the specified manner: spent pickle liquor which is reused in wastewater treatment at a facility holding a National Pollutant Discharge

Elimination System (NPDES) permit, or which is being accumulated, stored, or physically, chemically or biologically treated before such reuse.]

1. Industrial ethyl alcohol that is reclaimed;  
2. Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

3. Used oil that exhibits one (1) or more of the characteristics of hazardous waste but is recycled in some other manner than being burned for energy recovery;

4. Scrap metal;

5. Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

6. Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility; [or]

7. Coke and coal tar from the iron and steel industry that contains hazardous waste from the iron and steel production process;

8.a. Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under Section 7(5) of 401 KAR 36:040 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

b. Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining, production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under Section 7(5) of 401 KAR 36:040; and

c. Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under Section 7(5) of 401 KAR 36:040; and

9. Petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exceeds one (1) or more of the characteristics of hazardous waste in 401 KAR 31:030.

(2) Generators and transporters of recyclable materials are subject to the applicable requirements of 401 KAR Chapters 32 and 33 and the notification requirements under KRS 224.864(3) and 224.873, except as provided in subsection (1) of this section. [Except for those wastes listed in subsection (1)(c) of this section, a hazardous waste that is a sludge, or that is listed in Section 2 or 3 of 401 KAR 31:040, or that contains one (1) or more hazardous wastes listed in Section 2 or 3 of 401 KAR 31:040, and that is transported or stored prior to being used, re-used, recycled or reclaimed is subject to the following

requirements with respect to such transportation and storage:]

[(a) The notification and permitting requirements under KRS 224.830 through 224.877.]

[(b) 401 KAR Chapter 32.]

[(c) 401 KAR Chapter 33.]

[(d) The applicable provisions of 401 KAR 34:010 through 34:210.]

[(e) The applicable provisions of 401 KAR 35:010 through 35:210.]

[(f) 401 KAR Chapters 38 and 39 with respect to storage facilities.]

[(g) 401 KAR 30:020.]

(3)(a) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of 401 KAR 34:010 through 34:210; 401 KAR 35:010 through 35:210; and 401 KAR Chapter 38 and the notification requirements under KRS 224.864(3) and 224.866, except as provided in subsection (1) of this section. (The recycling process itself is exempt from regulation.)

(b) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in subsection (1) of this section:

1. The owner or operator shall submit a notification to the cabinet; and

2. Sections 2 and 3 of 401 KAR 35:050 (dealing with the use of the manifest and manifest discrepancies).

Section 7. Residues of Hazardous Waste in Empty Containers. (1)(a) Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in subsection (2) of this section, is not subject to regulation under 401 KAR Chapters 32, 33, 34, 35, 38 and 39 but is subject to regulations under 401 KAR Chapter 47.

(b) Any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty, as defined in subsection (2) of this section is subject to regulations under 401 KAR Chapters 32, 33, 34, 35, 38 and 39, and 401 KAR 30:020 and 30:030.

(2)(a) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Sections 2, 3, or 4(5) [5(3)] of 401 KAR 31:040, is empty if:

1. All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

2. No more than 2.5 centimeters (one (1) inch) of residue remain on the bottom of the container or inner liner; or

3.a. No more than three (3) percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

b. No more than 0.3 (three tenths) percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

(b) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(c) A container or an inner liner removed from a container that has held an acute [a] hazardous waste listed [identified] in Sections 2, 3, or 4(5) [5(3)] of 401 KAR 31:040 is empty if:

1. The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

2. The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by test conducted by the generator, to achieve equivalent removal; or

3. In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

Section 8. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-case Basis. (1) The cabinet may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in Section 6(1)(b)3 of 401 KAR 31:010 should be regulated under Section 6(2) and (3) of this regulation. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained or because the materials being accumulated or stored together are incompatible. In making this decision, the cabinet will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;

(b) The method of accumulation or storage;

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

(2) The procedures for this decision are set forth in Section 9 of this regulation.

Section 9. Procedures for Case-by-case Regulation of Hazardous Waste Recycling Activities. The cabinet will use the following procedures when determining whether to regulate hazardous waste recycling activities described in Section 6(1)(b)3 of 401 KAR 31:010 under the provisions of Section 6(2) and (3) of 401 KAR 31:010 rather than under the provisions of 401 KAR 36:060 (spent lead-acid batteries being reclaimed).

(1) If a generator is accumulating the waste, the cabinet will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of 401 KAR 32:010, 32:030, 32:040, and 32:050. The notice will become final within thirty (30) days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the cabinet will hold a public hearing. The cabinet will provide notice of the hearing to the public and allow public participation at the hearing. The cabinet will issue a determination after the hearing stating whether or not compliance with 401 KAR Chapter 32 is required. The order becomes effective thirty (30) days after service of the determination unless the cabinet specifies a later date.

(2) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of 401 KAR Chapter 38. The owner or

operator of the facility must apply for a permit within no more than six (6) months of notice. If the owner or operator of the facility wishes to challenge the cabinet's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the cabinet's determination. The question of whether the cabinet's decision was proper will remain open for consideration during the public comment period discussed under Section 8 of 401 KAR 38:050 and in any subsequent hearing.

CHARLOTTE E. BALDWIN, Secretary  
APPROVED BY AGENCY: January 14, 1986  
FILED WITH LRC: January 14, 1986 at noon

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

**401 KAR 31:040. Lists of hazardous wastes.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864(3)

EFFECTIVE: February 4, 1986  
NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation establishes the lists of hazardous wastes.

Section 1. General Applicability and Delisting Procedures. (1) A waste is a hazardous waste if it is listed in any section of this regulation unless it has been excluded from that list under 401 KAR 31:060 and 31:070.

(2) The cabinet will indicate the basis for listing the classes or types of wastes listed in this regulation by employing one (1) or more of the following Hazard Codes:

Hazard Code	Class or Type of Waste
(I)	Ignitable waste
(C)	Corrosive waste
(R)	Reactive waste
(E)	EP toxic waste
(H)	Acute hazardous waste
(T)	Toxic waste

401 KAR 31:160 identifies the constituent which caused the cabinet to list the waste as an EP toxic waste (E) or toxic waste (T) in Sections 2 and 3 of this regulation.

(3) Each hazardous waste listed in this regulation is assigned an EPA Hazardous Waste Number, which precedes the name of the waste. This number must be used in complying with the notification requirements of KRS 224.864 and certain recordkeeping and reporting requirements under 401 KAR Chapters 32 through 40.

(4) The following hazardous wastes listed in Section 2 or 3 of this regulation are subject to the exclusion limits for acutely hazardous wastes established in Section 5 of 401 KAR 31:010: EPA Hazardous Waste Nos. F020, F021,

F022, F023, F026, and F027.

Section 2. Hazardous Wastes from Non-Specific Sources. Hazardous wastes from non-specific sources are:

Industry and EPA Hazardous Waste No.	Hazardous Waste	Hazard Code
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**Generic:**

- |      |  |      |
|------|--|------|
| F001 | The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; <u>all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u> [and sludges from the recovery of these solvents in degreasing operations.]                              | (T)  |
| F002 | The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, <u>1,1,1-trichloroethane</u> [1,2,1-trichloroethane,] chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; <u>all spent solvent mixtures/blends containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above halogenated solvents or those solvents listed in F001, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u>   | (T)  |
| F003 | The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; <u>all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one (1) or more of the above non-halogenated solvents, and, a total of ten (10) percent or more (by volume) of one (1) or more of those solvents listed in F001, F002, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures.</u> | (I)* |
| F004 | The following spent non-halogenated solvents: cresols and cresylic acid,   | (T)  |







<u>2,4,5-trichlorophenol as the sole component.)</u>					dichloride production.	
F028	<u>Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.</u>	(T)	K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	(T)	
<u>* (I,T) should be used to specify mixtures containing ignitable and toxic constituents.</u>			K021	Aqueous spent antimony catalyst waste from fluoromethanes production.	(T)	
Section 3. Hazardous Wastes from Specific Sources. Hazardous wastes from specific sources are:			K022	Distillation bottom tars from the production of phenol/acetone from cumene.	(T)	
Industry and			K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	(T)	
EPA Hazardous	Hazardous		K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	(T)	
Waste No.	Waste	Hazard Code	K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	(T)	
Wood Preservation:			K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	(T)	
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T)	K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	(T)	
Inorganic Pigments:			K026	Stripping still tails from the production of methy ethyl pyridines.	(T)	
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	(T)	K027	Centrifuge and distillation residues from toluene diisocyanate production.	(R,T)	
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	(T)	K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	(T)	
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	(T)	K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	(T)	
K005	Wastewater treatment sludge from the production of chrome green pigments.	(T)	K095	Distillation bottoms from the production of 1,1,1-trichloroethane.	(T)	
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	(T)	K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	(T)	
K007	Wastewater treatment sludge from the production of iron blue pigments.	(T)	K030	Column bottoms or heavy ends from the combined production of tri-chloroethylene and perchloroethylene.	(T)	
K008	Oven residue from the production of chrome oxide green pigments.	(T)	K083	Distillation bottoms from aniline production.	(T)	
Organic Chemicals:			K103	Process residues from aniline extraction from the production of aniline.	(T)	
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	(T)	K104	Combined wastewater streams generated from nitrobenzene/aniline production.	(T)	
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	(T)	K085	Distillation or fractionation column bottoms from the production of chlorobenzenes.	(T)	
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	(R,T)	K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes.	(T)	
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	(R,T)	K111	<u>Product washwaters from the production of dinitrotoluene via nitration of toluene.</u>	(C,T)	
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	(T)	K112	<u>Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.</u>	(T)	
K015	Still bottoms from the distillation of benzyl chloride.	(T)	K113	<u>Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.</u>	(T)	
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	(T)	K114	<u>Vicinals from the purification of toluenediamine in the production of dinitrotoluene.</u>	(T)	
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	(T)	K115	<u>Heavy ends from the purification of toluenediamine in the production of</u>	(T)	
K018	Heavy ends from the fractionation column in ethyl chloride production.	(T)				
K019	Heavy ends from the distillation of ethylene dichloride in ethylene	(T)				

	<u>toluenediamine via hydrogenation of dinitrotoluene.</u>		K049	Slop oil emulsion solids from the petroleum refining industry.	(T)
K116	<u>Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.</u>	(T)	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.	(T)
			K051	API separator sludge from the petroleum refining industry.	(T)
			K052	Tank bottoms (leaded) from the petroleum refining industry.	(T)
Inorganic Chemicals:			Iron and Steel:		
K071	Brine purification muds from the mercury cell process in chlorine production, where separately pre-purified brine is not used.	(T)	K061	Emission control dust/sludge from the primary production of steel in electric furnaces.	(T)
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production.	(T)	K062	Spent pickle liquor from steel finishing operations.	(C,T)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production.	(T)	Secondary Lead:		
			K069	Emission control dust/sludge from secondary lead smelting.	(T)
Pesticides:			K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.	(T)
K031	By-product salts generated in the production of MSMA and cacodylic acid.	(T)	Veterinary Pharmaceuticals:		
K032	Wastewater treatment sludge from the production of chlordane.	(T)	K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	(T)	K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	(T)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	(T)	K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.	(T)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.	(T)	Ink Formulation:		
K035	Wastewater treatment sludges generated in the production of creosote.	(T)	K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.	(T)
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	(T)	Coking:		
K037	Wastewater treatment sludges from the production of disulfoton.	(T)	K060	Ammonia still lime sludge from coking operations.	(T)
K038	Wastewater from the washing and stripping of phorate production.	(T)	K087	Decanter tank tar sludge from coking operations.	(T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.	(T)	Section 4. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Residues Thereof. The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded, <u>when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, or when in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel. [:]</u>		
K040	Wastewater treatment sludge from the production of phorate.	(T)			
K041	Wastewater treatment sludge from the production of toxaphene.	(T)	(1) Any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of this section.		
K098	Untreated process wastewater from the production of toxaphene.	(T)	(2) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) or (6) of this section.		
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.	(T)			
K043	2,6-Dichlorophenol waste from the production of 2,4-D.	(T)			
K099	Untreated wastewater from the production of 2,4-D.	(T)			
Explosives:					
K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	(R)			
K045	Spent carbon from the treatment of wastewater containing explosives.	(R)			
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds	(T)			
K047	Pink/red water from TNT operations.	(T)			
Petroleum Refining:					
K048	Dissolved air flotation (DAF) float from the petroleum refining industry.	(T)			

(3) Any container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic names listed in subsection (5) of this section, or any container or inner liner removed from a container that has been used to hold any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) of this section unless:

(a) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; or

(b) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(c) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

(4) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of this section, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any off-specification chemical intermediate which, if it met specification, would have the generic name listed in subsection (5) or (6) of this section.

(5) The commercial chemical products, manufacturing chemical intermediate or off-specification commercial chemical products or manufacturing chemical intermediates referred to in subsections (1) through (4) of this section, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in Section 5 of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous  
Waste No.

Substance

P023	Acetaldehyde, chloro-
P002	Acetamide, N-(Aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-((methylcarbamoyl)-oxy)thio-, methyl ester
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3%
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide
P007	5-(Aminomethyl)-3-isoxazolo
P008	4-aAminopyridine
P009	Ammonium picrate (R)

P119	Ammonium vanadate
P010	Arsenic acid
P012	Arsenic (III) oxide
P011	Arsenic (V) oxide
P011	Arsenic pentoxide
P012	Arsenic trioxide
P038	Arsine, diethyl-
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-(1-hydroxy-2-(methylamino)ethyl)-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust
P016	Bis(chloromethyl) ether
P017	Bromoacetone
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbamimidoseleonic acid
P022	Carbon bisulfide
P022	Carbon disulfide
P095	Carbonyl chloride
P033	Chlorine cyanide
P023	Chloroacetaldehyde
P024	p-Chloroaniline
P026	1-(o-Chlorophenyl)thiourea
P027	3-Chloropropionitrile
P029	Copper cyanides
P030	Cyanides (soluble cyanide salts), not elsewhere specified
P031	Cyanogen
P033	Cyanogen chloride
P036	Dichlorophenylarsine
P037	Dieldrin
P038	Diethylarsine
P039	0,0-Diethyl S-(2-(ethylthio)ethyl) phosphorothioate
P041	Diethyl-p-nitrophenyl phosphate
P040	0,0-Diethyl O-pyrazinyl phosphorothioate
P043	Diisopropyl fluorophosphate
P044	Dimethoate
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-((methylamino)carbonyl) oxime
P071	0,0-Dimethyl O-p-nitrophenyl phosphorothioate
P082	Dimethylnitrosamine
P046	alpha, alpha-Dimethylphenethylamine
P047	4,6-Dinitro-o-cresol and salts
P034	4,6-Dinitro-o-cyclohexyphenol
P048	2,4-Dinitrophenol
P020	Dinoseb
P085	Diphosphoramidate, octamethyl-
P039	Disulfoton
P049	2,4-Dithiobiuret
P109	Dithiopyrophosphoric acid, tetraethyl ester
P050	Endosulfan
P088	Endothall
P051	Endrin
P042	Epinephrine
P046	Ethanamine, 1,1-dimethyl-2-phenyl-
P084	Ethenamine, N-methyl-N-nitroso-
P101	Ethyl cyanide
P054	Ethylenimine
P097	Famphur
P056	Fluorine
P057	Fluoroacetamide
P058	Fluoroacetic acid, sodium salt
P065	Fulminic acid, mercury (II) salt (R,T)
P059	Heptachlor
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-

P037	1,4,4a, 5,6,7,8,8a-octahydro-endo, endo-1,4:5,8-dimethanonaphthalene	P089	S-(ethylthio) methyl ester
P060	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4:5, 8-demethanonaphthalene	P040	Phosphorothioic acid, O, O-diethyl
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene	P097	0-(p-nitrophenyl) ester
P060	Hexachlorohexahydro-exo-dimethanonaphthalene	P097	Phosphorothioic acid, O, O-diethyl
P062	Hexaethyl tetraphosphate	P110	0-pyrazinyl ester
P116	Hydrazinecarbothioamide	P098	Phosphorothioic acid, O, O-dimethyl
P068	Hydrazine, methyl	P099	0-(p((dimethylamino)-sulfonyl)phenyl) ester
P063	Hydrocyanic acid	P110	Plumbane, tetraethyl-
P063	Hydrogen cyanide	P098	Potassium cyanide
P096	Hydrogen phosphide	P099	Potassium silver cyanide
P064	Isocyanic acid, methyl ester	P070	Propanal, 2-methyl-2-(methylthio)-, O-((methylamino)carbonyl)oxime
P007	3(2H)-isoxazalone,5-(aminomethyl)-	P101	Propanenitrile
P092	Mercury, (acetato-O) phenyl-	P027	Propanenitrile, 3-chloro-
P065	Mercury fulminate (R,T)	P069	Propanenitrile, 2-hydroxy-2-methyl-
P016	Methane, oxybis (chloro-)	P081	1,2,3-Propanetriol, trinitrate-(R)
P112	Methane, tetranitro-(R)	P017	2-Propanone, 1-bromo-
P118	Methanethiol, trichloro-	P102	Propargyl alcohol
P059	4,7-Methano-1H-indene,1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	P003	2-Propenal
P066	Methomyl	P005	2-Propen-1-ol
P067	2-Methylaziridine	P067	1,2-Propylenimine
P068	Methyl hydrazine	P102	2-Propyn-1-ol
P064	Methyl isocyanate	P008	4-Pyridinamine
P069	2-Methylactonitrile	P075	Pyridine, (S)-3-(1-methyl-2-pyrroli-dinyl); and salts
P071	Methyl parathion	P111	Pyrophosphoric acid, tetraethyl ester
P072	alpha-Naphthylthiourea	P103	Selenourea
P073	Nickel carbonyl	P104	Silver cyanide
P074	Nickel cyanide	P105	Sodium azide
P074	Nickel (II) cyanide	P106	Sodium cyanide
P073	Nickel tetracarbonyl	P107	Strontium sulfide
P075	Nicotine and salts	P108	Strychnidin-10-one, and salts
P076	Nitric oxide	P018	Strychnidin-10-one, 2, 3-dimethoxy
P077	p-Nitroaniline	P108	Strychnine and salts
P078	Nitrogen dioxide	P115	Sulfuric acid, thallium(I) salt
P076	Nitrogen (II) oxide	P109	Tetraethyldithiopyrophosphate
P078	Nitrogen (IV) oxide	P110	Tetraethyl lead
P081	Nitroglycerine (R)	P111	Tetraethylpyrophosphate
P082	N-Nitrosodimethylamine	P112	Tetranitromethane (R)
P084	N-Nitrosomethylvinylamine	P062	Tetraphosphoric acid, hexaethyl ester
P050	5-Norbornene-2,3-dimethanol,1,4,5,6,7,7-hexachloro, cyclic sulfite	P113	Thallic oxide
P085	Octamethylpyrophosphoramidate	P113	Thallium (III) oxide
P087	Osmium oxide	P114	Thallium (I) selenite
P087	Osmium tetroxide	P115	Thallium (I) sulfate
P088	7-Oxabicyclo (2.2.1)heptane-2,3-dicarboxylic acid	P045	Thiofanox
P089	Parathion	P049	Thioimidodicarbonic diamide
P034	Phenol, 2-cyclohexyl-4, 6-dinitro-	P014	Thiophenol
P048	Phenol, 2, 4-dinitro	P116	Thiosemicarbazide
P047	Phenol, 2, 4-dinitro-6-methyl-	P026	Thiourea, (2-chlorophenyl)-
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	P072	Thiourea, 1-naphthalenyl-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)	P093	Thiourea, phenyl-
P036	Phenyl dichloroarsine	P123	Toxaphene
P092	Phenylmercuric acetate	P118	Trichloromethanethiol
P093	N-Phenylthiourea	P119	Vanadic acid, ammonium salt
P094	Phorate	P120	Vanadium pentoxide
P095	Phosgene	P120	Vanadium (V) oxide
P096	Phosphine	P001	Warfarin, when present at concentrations greater than 0.3%
P041	Phosphoric acid, diethyl p-nitrophenyl ester	P121	Zinc cyanide
P044	Phosphorodithioic acid, O, O-dimethyl S-(2(methylamino)-2-oxoethyl) ester	P122	Zinc phosphide, when present at concentrations greater than ten (10) percent
P043	Phosphorofluoric acid, bis (1-methylethyl) ester		
P094	Phosphorothioic acid, O, O-diethyl		

(6) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in subsections (1) through (4) of this section, are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in Section 5(1) and (6) of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a

letter indicates that the compound is only listed for toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance		
U001	Acetaldehyde (I)	U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U034	Acetaldehyde, trichloro-	U239	Benzene, dimethyl- (I,T)
U187	Acetamide, N-(4-ethoxyphenyl)-	U201	1,3-Benzenediol
U005	Acetamide, N-9H-fluoren-2-yl-	U127	Benzene, hexachloro-
U112	Acetic acid, ethyl ester (I)	U056	Benzene, hexahydro (I)-
U144	Acetic acid, lead salt	U188	Benzene, hydroxy-
U214	Acetic acid, thallium (I) salt	U220	Benzene, methyl-
U002	Acetone (I)	U105	Benzene, 1-methyl-1,2, 4-dinitro-
U003	Acetonitrile (I,T)	U106	Benzene, 1-methyl-2,6-dinitro-
U004	Acetophenone	U203	Benzene, 1,2-methylenedioxy-4-allyl-
U005	2-Acetylaminofluorene	U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U006	Acetyl chloride (C,R,T)	U090	Benzene, 1,2-methylenedioxy-4-propyl-
U007	Acrylamide	U055	Benzene, (1-methylethyl), (I)
U008	Acrylic acid (I)	U169	Benzene, nitro- (I,T)
U009	Acrylonitrile	U183	Benzene, pentachloro-
U150	Alanine, 3-(p-bis(2-chlorethyl)amino) phenyl-, L-	U185	Benzene, pentachloro-nitro-
U248	3-(alpha-Acentonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3% or less	U020	Benzenesulfonic acid chloride (C,R)
U328	<u>2-Amino-1-methylbenzene</u>	U020	Benzenesulfonyl chloride (C,R)
U353	<u>4-Amino-1-methylbenzene</u>	U207	Benzene, 1,2,4,5-tetrachloro-
U011	Amitrole	U023	Benzene, (trichloromethyl)- (C,R,T)
U012	Aniline (I,T)	U234	Benzene, 1,3,5-trinitro- (R,T)
U014	Auramine	U021	Benzidine
U015	Azaserine	U202	1,2-Benzisothiazolin-3-one, 1, 1-dioxide
U010	Azirino (2',3':3,4) pyrrolo (1,2-a) indole-4, 7-dione, 6-amino-8-(((aminocarbonyl)oxy) methyl)-1,1a,2, 8,8a,8b-hexahydro-8a-methoxy-5-methyl-	U120	Benzo(j,k)fluorene
U157	Benz(j)aceanthrylene, 1,2-dihydro-3-methyl-	U022	Benzo(a)pyrene
U016	Benz(c)acridine	U022	3,4-Benzopyrene
U016	3,4-Benzacridine	U197	p-Benzoquinone
U017	Benzal chloride	U023	Benzotrithloride (C,R,T)
U018	Benz(a)anthracene	U050	1,2-Benzphenanthrene
U018	1,2-Benzanthracene	U085	2,2-Bioxirane (I,T)
U094	1,2-Benzanthracene, 7,12-dimethyl-	U021	(1,1-Biphenyl)-4,4'-diamine
U012	Benzenamine (I,T)	U073	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U014	Benzenamine, 4,4'-carbonimidoylbis (N, N-dimethyl-)	U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3', di-methoxy-
U049	Benzenamine, 4-chloro-2-methyl-	U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3', di-methyl-
U093	Benzenamine, N, N'-dimethyl-4-phenylazo-	U024	Bis(2-chloroethoxy) methane
U158	Benzenamine, 4,4'-methylenebis (2-chloro-)	U027	Bis(2-chloroisopropyl) ether
U222	Benzenamine, 2-methyl-, hydrochloride	U244	Bis(dimethylthiocarbamoyl) disulfide
U181	Benzenamine, 2-methyl-5-nitro	U028	Bis(2-ethylhexyl) phthalate
U019	Benzene (I,T)	U246	Bromine cyanide
U038	Benzenoacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester	U225	Bromoform
U030	Benzene, 1-bromo-4-phenoxy-	U030	4-Bromophenyl phenyl ether
U037	Benzene, chloro-	U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U190	1,2-Benzenedicarboxylic acid anhydride	U172	1-Butanamine, N-butyl-N-nitroso
U028	1,2-Benzenedicarboxylic acid, (bis(2-ethylhexyl)) ester	U035	Butanoic acid, 4-(Bis(2-chloro-ethyl)amino benzene-
U069	1,2-Benzenedicarboxylic acid, dibutyl ester	U031	1-Butanol (I)
U088	1,2-Benzenedicarboxylic acid, diethyl ester	U159	2-Butanone (I,T)
U102	1,2-Benzenedicarboxylic acid, dimethyl ester	U160	2-Butanone peroxide (R,T)
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester	U053	2-Butenal
U070	Benzene, 1,2-dichloro-	U074	2-Butene, 1,4-dichloro- (I,T)
U071	Benzene, 1,3-dichloro-	U031	n-Butyl alcohol (I)
U072	Benzene, 1,4-dichloro-	U136	Cacodylic acid
U017	Benzene, (dichloromethyl)-	U032	Calcium chromate
		U238	Carbamic acid, ethyl ester
		U178	Carbamic acid, methylnitroso-, ethyl ester
		U176	Carbamide, N-ethyl-N-nitroso-
		U177	Carbamide, N-methyl-N-nitroso-
		U219	Carbamide, thio-
		U097	Carbamoyl chloride, dimethyl-
		U215	Carbonic acid, dithallium (I) salt
		U156	Carbonochloridic acid, methyl ester (I,T)
		U033	Carbon oxyfluoride (R,T)
		U211	Carbon tetrachloride
		U033	Carbonyl fluoride (R,T)
		U034	Chloral
		U035	Chlorambucil
		U036	Chlordane, technical
		U026	Chlornaphazine
		U037	Chlorobenzene
		U039	4-Chloro-m-cresol
		U041	1-Chloro-2,3-epoxypropane

U042	2-Chlorethyl vinyl ether	U102	Dimethyl phthalate
U044	Chloroform	U103	Dimethyl sulfate
U045	Chloromethyl methyl ether	U105	2,4-Dinitrotoluene
U047	beta-Chloronaphthalene	U106	2,6-Dinitrotoluene
U043	o-Chlorophenol	U107	Di-n-octyl phthalate
U049	4-Chloro-o-toluidine, hydrochloride	U108	1,4-Dioxane
U032	Chromic acid, calcium salt	U109	1,2-Diphenylhydrazine
U050	Chrysene	U110	Dipropylamine (I)
U051	Creosote	U111	Di-N-propylnitrosamine
U052	Cresols	U001	Ethanal (I)
U052	Cresylic acid	U174	Ethanamine, N-ethyl-N-nitroso-
U053	Crotonaldehyde	U067	Ethane, 1,2-dibromo-
U055	Cumene (I)	U076	Ethane, 1,1-dichloro-
U245	Cyanogen bromide	U077	Ethane, 1,2-dichloro-
U197	1,4-Cyclohexadienedione	U114	1,2-Ethanediyldisulfamodithioic acid
U056	Cyclohexane (I)	U131	Ethane, 1,1,1,2,2,2-hexachloro-
U057	Cyclohexanone (I)	U024	Ethane, 1,1'-(methylenebis(oxy))bis (2-chloro-)
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexa- chloro-	U003	Ethanenitrile (I,T)
U058	Cyclophosphamide	U117	Ethane, 1,1'-oxybis- (I)
U240	2,4-D, salts and esters	U025	Ethane, 1,1'-oxybis(2-chloro-)
U059	Daunomycin	U184	Ethane, pentachloro-
U060	DDD	U208	Ethane, 1,1,1,2-tetrachloro-
U061	DDT	U209	Ethane, 1,1,2,2-tetrachloro-
U142	Decachlorooctahydro-1,3,4-metheno-2H- cyclobuta (c,d)-pentalen-2-one	U218	Ethanethioamide
U062	Diallate	U227	Ethane, 1,1,2-trichloro-
U133	Diamine (R,T)	U247	Ethane, 1,1,1-trichloro-2,2-bis(p- methoxyphenyl)
U221	Diaminotoluene	U043	Ethene, chloro-
U063	Dibenz(a,h) anthracene	U042	Ethene, 2-chloroethoxy-
U063	1,2:5,6-Dibenzanthracene	U078	Ethene, 1,1-dischloro
U064	1,2:7,8-Dibenzopyrene	U079	Ethene, trans-1,2-dichloro-
U064	Dibenz(a,i) pyrene	U210	Ethene, 1,1,2,2-tetrachloro-
U066	1,2-Dibromo-3-chloropropane	U173	Ethanol, 2,2'-(nitrosoimino) bis-
U069	Dibutyl phthalate	U004	Ethanone, 1-phenyl
U062	S-(2,3-Dichloroallyl) diisopropyl- thiocarbamate	U006	Ethanoyl chloride (C,R,T)
U070	o-Dichlorobenzene	U112	Ethyl acetate (I)
U071	m-Dichlorobenzene	U113	Ethyl acrylate (I)
U072	p-Dichlorobenzene	U238	Ethyl carbamate (urethan)
U073	3,3'-Dichlorobenzidine	U038	Ethyl 4,4'-dichlorobenzilate
U074	1,4-Dichloro-2-butene (I,T)	U114	Ethylenebis (dithiocarbamic acid)
U075	Dichlorodifluoromethane	U067	Ethylene dibromide
U192	3,5-Dichloro-N-(1,1-dimethyl-2-pro- pynyl) benzamide	U077	Ethylene dichloride
U060	Dichloro diphenyl dichloroethane	U115	Ethylene oxide (I,T)
U061	Dichloro diphenyl trichloroethane	U116	Ethylene thiourea
U078	1,1-Dichloroethylene	U117	Ethyl ether (I)
U079	1,2-Dichloroethylene	U076	Ethylidene dichloride
U025	Dichloroethyl ether	U118	Ethylmethacrylate
U081	2,4-Dichlorophenol	U119	Ethyl methanesulfonate
U082	2,6-Dichlorophenol	U139	Ferric dextran
U240	2,4-Dichlorophenoxyacetic acid, salts and esters	U120	Fluoranthene
U083	1,2-Dichloropropane	U122	Formaldehyde
U084	1,3-Dichloropropene	U123	Formic acid (C,T)
U085	1,2:3,4-Diepoxybutane (I,T)	U124	Furan (I)
U108	1,4-Diethylene dioxide	U125	2-Furancarboxaldehyde (I)
U086	N, N-Diethylhydrazine	U147	2,5-Furandione
U087	O, O-Diethyl-S-methyl-dithiophosphate	U213	Furan, tetrahydro- (I)
U088	Diethyl phthalate	U125	Furfural (I)
U089	Diethylstilbestrol	U124	Furfuran (I)
U148	1,2-Dihydro-3,6-pyridazinedione	U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3- nitroso-uredo)
U090	Dihydrosafrole	U126	Glycidylaldehyde
U091	3,3'-Dimethoxybenzidine	U163	Guanidine, N-nitroso-N-methyl-N'nitro-
U092	Dimethylamine (I)	U127	Hexachlorobenzene
U093	Dimethylaminoazobenzene	U128	Hexachlorobutadiene
U094	7,12-Dimethylbenz(a)anthracene	U129	Hexachlorocyclohexane (gamma isomer)
U095	3,3'-Dimethylbenzidine	U130	Hexachlorocyclopentadiene
U096	alpha, alpha-Dimethylbenzylhydro- peroxide (R)	U131	Hexachloroethane
U097	Dimethylcarbamoyl chloride	U132	Hexachlorophene
U098	1,1-Dimethylhydrazine	U243	Hexachloropropene
U099	1,2-Dimethylhydrazine	U133	Hydrazine (R,T)
U101	2,4-Dimethylphenol	U086	Hydrazine, 1,2-diethyl
		U098	Hydrazine, 1,1-dimethyl-
		U099	Hydrazine, 1,2-dimethyl
		U109	Hydrazine, 1,2-diphenyl

U134	Hydrofluoric acid (C,T)		4,4'diyl)) bis(azo)bis(5)-amino-4-
U134	Hydrogen fluoride (C,T)		hydroxy),-tetrasodium salt
U135	Hydrogen sulfide	U166	1,4,Naphthaquinone
U096	Hydroperoxide, 1-methyl-1-phenylethyl (R)	U167	1-Naphthylamine
U136	Hydroxydimethylarsine oxide	U168	2-Naphthylamine
U116	2-Imidazolidinethione	U167	alpha-Naphthylamine
U137	Indeno(1,2,3-cd) pyrene	U168	beta-Naphthylamine
U139	Iron dextran	U026	2-Naphthylamine,N,N'-bis(2-chloromethyl)-
U140	Isobutyl alcohol (I,T)	U169	Nitrobenzene (I,T)
U141	Isosafrole	U170	p-Nitrobenzene
U142	Kepone	U171	2-Nitropropane (I)
U143	Lasiocarpine	U172	N-Nitrosodi-n-butylamine
U144	Lead acetate	U173	N-Nitrosodiethanolamine
U145	Lead phosphate	U174	N-Nitrosodiethylamine
U146	Lead subacetate	U111	N-Nitroso-N-propylamine
U129	Lindane	U176	N-Nitroso-N-ethylurea
U147	Maleic anhydride	U177	N-Nitroso-N-methylurea
U148	Maleic hydrazide	U178	N-Nitroso-N-methylurethane
U149	Malononitrile	U179	N-Nitrosopiperidine
U150	Melphalan	U180	N-Nitrosopyrrolidine
U151	Mercury	U181	5-Nitro-o-toluidine
U152	Methacrylonitrile (I,T)	U193	1,2-Oxathiolane,2,2-dioxide
U092	Methanamine, N-methyl- (I)	U058	2H-1,3,2-Oxazaphosphorine,2-(bis(2-chloro-ethyl)amino)tetrahydro-, oxide 2-
U029	Methane, bromo-		
U045	Methane, chloro- (I,T)	U115	Oxirane (I,T)
U046	Methane, chloromethoxy-	U041	Oxirane,2-(chloromethyl)-
U068	Methane, dibromo-	U182	Paraldehyde
U080	Methane, dichloro-	U183	Pentachlorobenzene
U075	Methane, dichlorodifluoro-	U184	Pentachloroethane
U138	Methane, iodo-	U185	Pentachloronitrobenzene
U119	Methanesulfonic acid, ethyl ester		<u>See F027</u>
U211	Methane, tetrachloro-	[U242]	Pentachlorophenol
U121	Methane, trichlorofluoro-	U186	1,3-Pentadiene (I)
U153	Methanethiol (I,T)	U187	Phenacetin
U225	Methane, tribromo-	U188	Phenol
U044	Methane, trichloro-	U048	Phenol,2-chloro-
U121	Methane, trichlorofluoro-	U039	Phenol,4-chloro-3-methyl-
U123	Methanoic acid (C,T)	U081	Phenol,2,4-dichloro-
U036	4,7-Methanoindan,1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	U082	Phenol,2,6-dichloro-
U154	Methanol (I)	U101	Phenol,2,4-dimethyl-
U155	Methapyrilene	U170	Phenol,4-nitro-
U247	Methoxychlor		<u>See F027</u>
U154	Methyl alcohol (I)	[U242]	Phenol, pentachloro-
U029	Methyl bromide		<u>See F027</u>
U186	1-Methylbutadiene (I)	[U212]	Phenol,2,3,4,6-tetrachloro-
U045	Methyl chloride (I,T)		<u>See F027</u>
U156	Methyl chlorocarbonate (I,T)	[U230]	Phenol,2,4,5-trichloro-
U226	Methylchloroform		<u>See F027</u>
U157	3-Methylcholanthrene	[U231]	Phenol,2,4,6-trichloro
U158	4,4'-Methylenebis (2-chloroaniline)	U137	1,10-(1,2-phenylene) pyrene
U132	2,2'-Methylenebis (3,4,6-trichlorophenol)	U145	Phosphoric acid, Lead salt
U068	Methylene bromide	U087	Phosphorodithioic acid,0,0-diethyl-, S-methylester
U080	Methylene chloride		
U122	Methylene oxide	U189	Phosphorus sulfide (R)
U159	Methyl ethyl ketone (I,T)	U190	Phthalic anhydride
U160	Methyl ethyl ketone peroxide (R,T)	U191	2-Picoline
U138	Methyl iodide	U192	Pronamide
U161	Methyl isobutyl ketone (I)	U194	1-Propanamine, (I,T)
U162	Methyl methacrylate (I,T)	U110	1-Propanamine, N-propyl- (I)
U163	N-Methyl-N'-nitro-N-nitrosoguanidine	U066	Propane, 1,2-dibromo-3-chloro-
U161	4-Methyl-2-pentanone (I)	U149	Propanedinitrile
U164	Methylthiouracil	U171	Propane, 2-nitro- (I)
U010	Mitomycin C	U027	Propane,2,2'oxybis (2-chloro-)
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-((3-amino-2,3,6-trideoxy-alpha-L-lyxohexopyranosyl)oxyl)-7,8,9,10,tetrahydro-6,8,11-trihydroxy-1-methoxy-	U193	1,3-Propane sulfone
U165	Naphthalene	U235	1-Propanol,2,3-dibromo-, phosphate (3:1)
U047	Naphthalene, 2-chloro-	U126	1-Propanol,2,3-epoxy
U166	1,4-Naphthalenedione	U140	1-Propanol, 2-methyl- (I,T)
U236	2,7-Naphthalenedisulfonic acid, 3,3'-((3,3'-dimethyl-(1,1'-biphenyl)-	U002	2-Propanone (I)
		U007	2-Propenamide
		U084	Propene,1,3-dichloro-
		U243	1-Propene,1,1,2,3,3,3-hexachloro-
		U009	2-Propenenitrile
		U152	2-Propenenitrile, 2-methyl- (I,T)

U008 2-Propenoic acid (I)  
 U113 2-Propenoic acid, ethyl ester (I)  
 U118 2-Propenoic acid, 2-methyl-, ethyl ester  
 U162 2-Propenoic acid, 2-methyl, methyl ester (I,T)

See F027

[U233] Propionic acid, 2-(2,4,5,-trichlorophen-  
 oxy)-

U194 n-Propylamine (I,T)  
 U083 Propylene dichloride  
 U196 Pyridine  
 U155 Pyridine, 2-(2-(dimethylamino)-2-  
 thenylamino)-  
 U179 Pyridine, hexahydro-N-nitroso-  
 U191 Pyridine, 2-methyl  
 U164 4(1H)-Pyrimidinone, 2,3-dihydro-6-  
 methyl-2-thio-

U180 Pyrrole, tetrahydro-N-nitroso  
 U200 Reserpine  
 U201 Resorcinol  
 U202 Saccharin and salts  
 U203 Saffrole  
 U204 Selenious acid  
 U204 Selenium dioxide  
 U205 Selenium disulfide (R,T)  
 U015 L-Serine, diazoacetate (ester)

See F027

[U233] Silvēx  
 U089 4,4'-Stilbenediol, alpha, alpha'-diethyl-  
 U206 Streptozotocin  
 U135 Sulfur hydride  
 U103 Sulfuric acid, dimethyl ester  
 U189 Sulfur phosphide (R)  
 U205 Sulfur selenide (R,T)

See F027

[U232] 2,4,5-T  
 U207 1,2,4,5,-Tetrachlorobenzene  
 U208 1,1,1,2-Tetrachloroethane  
 U209 1,1,2,2-Tetrachloroethane  
 U210 Tetrachloroethylene

See F027

[U212] 2,3,4,6-Tetrachlorophenol  
 U213 Tetrahydrofuran (I)  
 U214 Thallium (I) acetate  
 U215 Thallium (I) carbonate  
 U216 Thallium (I) chloride  
 U217 Thallium (I) nitrate  
 U218 Thioacetamide  
 U153 Thiomethanol (I,T)  
 U219 Thiourea  
 U244 Thiram  
 U220 Toluene  
 U221 Toluenediamine  
 U223 Toluene diisocyanate (R,T)  
 U328 o-Toluidine  
 U353 p-Toluidine  
 U222 O-Toluidine hydrochloride  
 U011 1H-1,2,4-Triazol-3-amine  
 U226 1,1,1-Trichloroethane  
 U227 1,1,2-Trichloroethane  
 U228 Trichloroethene  
 U228 Trichloroethylene  
 U121 Trichloromonofluoromethane

See F027

[U230] 2,4,5-Trichlorophenol

See F027

[U231] 2,4,6-Trichlorophenol

See F027

[U232] 2,4,5-Trichlorophenoxyacetic acid  
 U234 sym-Trinitrobenzene (R,T)  
 U182 1,3,5-Trioxane, 2,4,5-trimethyl-  
 U235 Tris(2,3-dibromopropyl) phosphate  
 U236 Trypan blue  
 U237 Uracil, 5(bis(2-chloromethyl) amino)  
 U237 Uracil mustard

U043 Vinyl chloride  
 U248 Warfarin, when present at concentrations  
 of 0.3% or less  
 U239 Xylene (I)  
 U200 Yohimban-16-carboxylic acid, 11, 17-  
 dimethoxy-18((3,4,5-trimethoxy-  
 benzoyl)oxy)-, methyl ester  
 U249 Zinc phosphide, when present at concen-  
 trations of 10% or less

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: November 12, 1985

FILED WITH LRC: November 13, 1985 at 3 p.m.

**EDUCATION AND HUMANITIES CABINET**  
**Governor's Commission on Literacy**  
**(As Amended)**

700 KAR 1:010. Adult literacy program fund.

RELATES TO: KRS [Chapter] 158.795

PURSUANT TO: KRS 158.795

EFFECTIVE: February 4, 1986

NECESSITY AND FUNCTION: The Education and Humanities Cabinet is authorized by KRS 158.795 to administer a statewide adult literacy program. The Governor's Commission on Literacy is authorized by KRS 158.795 to provide advice and counsel to the Education and Humanities Cabinet in administering the statewide adult literacy program and the provision of services in every county. This regulation is necessary to assure uniformity in the administration of literacy program grants under the statewide adult literacy program. [This regulation is filed in anticipation of the July 1, 1986, effective date in response to legislation enacted during the 1985 Special Session of the General Assembly.]

**Section 1. Program Purpose and Announcements.**

(1) The goal for the use of the literacy program grants is to encourage and promote the development and implementation of local literacy programs, or the improvement or supplementation of existing programs, in each county. Except as special circumstances require and as recommended by the Governor's Commission on Literacy, hereinafter referred to as the commission, no more than one (1) grant per county will be awarded each funding cycle.

(2) Funding cycle(s) during which applications will be received for the program will be announced annually. Deadlines for receiving proposals will be established and advertised in each county. [to all existing literacy programs throughout the Commonwealth. Interested parties and community groups will be notified about the program upon request to the Governor's Commission on Literacy, hereafter referred to as the commission.] More than one (1) funding cycle is anticipated annually, but this will be dependent upon the level of funding available and number of applicants funded during the first funding cycle.

**Section 2. Eligibility Requirements.** (1) The following may apply for funding:

(a) State agencies and units of local government (including county, municipality, city, town, local public authority and special district agencies). This also includes such intrastate entities as districts, councils of governments and multicounty units, and other



state and local organizations and institutions.

(b) Profit or non-profit public or private businesses.

(c) Community based organizations or subgroups of such organizations organized expressly for the purpose of providing adult literacy services and who are incorporated, or, are a legal entity, or who have an individual who accepts responsibility for appropriate use of the grant funds.

(2) To be eligible for funding, projects must:

(a) Provide or coordinate direct adult literacy services or provide training or technical assistance to such programs.

(b) Provide services to individuals age sixteen (16) and above who read at or below a fifth grade level, unless the application demonstrates the need and method for providing services to different ages and reading abilities, and can demonstrate that this is not a duplication of services.

(c) Be conducted in and applicable to use in Kentucky.

(d) Not charge for services except material costs may be borne by program participants; however, charges will be an exact rate paid by the program/service provider. In no instance will services be denied to persons who cannot pay.

(e) Show evidence of cooperation and coordination with other literacy programs within the community.

(f) Comply with non-discrimination requirements.

(g) Show documentation of cooperative referral between literacy and adult basic education programs.

(3) Proposals which are incomplete, subcontract for services, duplicate existing programs in the locality, or which request funds beyond the allowable maximum may be rejected.

(4) Project expenditures eligible for funding may include salaries, training, travel, operating expenses, books and materials, printing and duplicating, and equipment within limits set by the proposal guidelines. Construction expenditures are not eligible.

Section 3. Submission of Proposals. (1) Proposals must be submitted on application forms provided and within the deadline established in each funding cycle. A proposal submitted for consideration but not funded in any cycle may be resubmitted for consideration in any new funding cycle announced, providing signatures of responsible parties carry a current date.

(2) Proposals must be signed by a person who has the authority to obligate the organization to the terms of the grant or who accepts personal liability.

(3) Each applicant will be notified immediately by return postcard when a proposal is received by the commission.

Section 4. Evaluation of Proposals. (1) Project applications will be reviewed by the commission's Grant Development and Review Committee and one (1) individual involved in literacy programs in another state.

(2) After the application submittal deadline, applicants shall not be permitted to initiate contact with anyone involved in the review and evaluation process or to initiate changes in their proposal. Proposal changes or budgetary amendments may be requested by the Project

Review Committee or its designee.

(3) The proposal screening process consists of the following steps:

(a) The Project Review Committee will evaluate each proposal not eliminated in the prescreening process. During this evaluation, the applicant may be contacted for additional information or clarification on the project. Criteria which will be utilized to evaluate the proposals will be:

1. The documented need for an adult literacy program, considering both the number of adults who cannot read or read well (as defined in Section 2(2)(b) of this regulation) and the extent to which there are existing literacy programs in the county.

2. Qualifications and appropriateness of the applicant agency and agency staff to carry out adult literacy programs.

3. Quality of the implementation and operation plans, including clear objectives; methods for recruiting, training and managing volunteers; outreach plans; plans for standardized measures of student progress; and instructional design.

4. Ability to evaluate the effectiveness of the program.

5. Extent of cooperation and coordination with and support of other literacy programs.

6. Ability to keep required records.

7. Completeness and appropriateness of budget and cost effectiveness.

8. Strength of plans for continuation of projects.

(b) The Project Review Committee reserves the right to recommend for funding any, all, or none of the proposals submitted in response to requests for proposals. The committee may also choose to negotiate with competing applicants from any county to encourage a joint program.

(c) Recommendations of the Project Review Committee will go to the full commission for consideration. The recommendations of the commission will be forwarded to the Secretary of Education and Humanities Cabinet who will make the final decision regarding funding awards.

(d) Applicants selected for funding will be notified by mail of the decision of their proposals no later than sixty (60) days after the deadline established for the funding cycle.

Section 5. Funding Terms and Conditions. (1) State funds appropriated for literacy programs will be allocated by county; based on the percent of adults in that county as compared to the state total who have completed only the eighth grade or less. Funds not granted to that county during the first funding cycle each year will subsequently be made available statewide.

(2) Grant fund awards will be made in two (2) semi-annual payments. The initial payment for fifty (50) percent of the award will be made at the beginning of the project period and the remainder will be made at the middle of the project period contingent upon the recipients meeting reporting and monitoring requirements. The entire grant may be paid at the beginning of project period when the applicant has a demonstrated need for receiving the payment at that time. If inappropriate or unapproved use of funds occurs, the remainder of the award may be suspended or revoked. Misused funds will be recovered.

(3) Funding of projects will be established by a document of grant conditions to be finalized after grantees are notified. The document will

include requirements stipulated in this regulation and in the application guidelines.

(4) To insure proper use of funds, grantees will be held accountable for project expenses in a manner acceptable to the commission and the Secretary of the Education and Humanities Cabinet. A separate bank account for each project requiring two (2) signatures on each check is required. All records will be kept for three (3) years after the end of the funding cycle, or until any audits have been completed.

(5) Grantees may invest grant funds and retain any interest earnings except that such earnings shall be deemed grant funds and be used only for express purposes of the grant and shall be reported in all documents recording project financing.

(6) After completion of each project grantees shall return any unspent grant funds.

(7) Equipment and material purchased with grant funds is owned by the grantee. If the grantee organization dissolves, the property must be given to an organization serving a public purpose and meeting non-discrimination requirements. Preference is to be given to literacy programs.

Section 6. Reporting Requirements. (1) Grantees will be required to submit to the commission quarterly reports on progress of projects and financial expenditures and encumbrances. The quarterly reports are due ten (10) working days after the end of the quarter. A final report will be required within fifteen (15) working days of the completion of the project year. Reports will be in a format designed by the commission and may include but not be limited to request for demographic data, copies of materials produced, test results, equipment inventory, and financial activities.

(2) Grantees will be required to submit information in standardized summative form which reflects student progress in the adult literacy programs.

Section 7. Requirements for Public Access. (1) Individuals authorized by the commission may visit the project site at mutually agreed upon times to observe progress, provide guidance and analyze and publicize projects supported under this program.

(2) Sharing and distributing information and materials developed under this project is a major goal of this program. Therefore, except for confidential information clearly identified in the project proposal, the results of the projects will be made a matter of public record and grantees will make their projects available for public observation at mutually agreed upon times.

Section 8. Confidentiality of Information. (1) Data which is specifically identifiable to individual students is considered confidential and recipient of project awards will develop a written policy concerning its protection.

(2) Summative information which outlines progress of students and demographic information will not be considered confidential when no particular individual can be identified by the information.

(3) The commission reserves the right to use and disseminate information and data derived from the use of these project funds to the extent such information is not protected by any

claim of confidentiality.

LINDA L. HORTON, Assistant to the Secretary

JANE K. BESHEAR, Chairperson

APPROVED BY AGENCY: December 12, 1985

FILED WITH LRC: December 12, 1985 at 1 p.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
Public Service Commission  
(As Amended)

**807 KAR 5:006. General rules.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.280(2)

EFFECTIVE: February 4, 1986

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to electric, gas, water, sewage and telephone utilities.

Section 1. General Provisions. (1) The adoption of regulations by the commission shall not preclude the commission from altering or amending the same in whole or in part, or from requiring any other or additional service, equipment, facility, or standards, either upon request, or upon its own motion, or upon the application of the utility. No regulation of the commission shall in any way relieve a utility from any of its duties under the laws of this state.

(2) Whenever standards or codes are referred to in the commission's regulations it is understood that utilities employing competent corps of engineers are not to be prohibited thereby from continuing or initiating experimental work and installations which tend to improve, decrease the cost of, or increase the safety of their service.

Section 2. Definitions. In addition to the definitions as set out in KRS 278.010, the following definitions shall be used in interpreting the commission's regulations:

(1) "Commission" means the Public Service Commission.

(2) "Utility" means a [n energy] utility as defined in KRS 278.010(3).

(3) "Customer" means any person, firm, corporation or body politic supplied service by any [electric, gas or combined energy-non-energy] utility.

Section 3. Reports. (1) Financial and statistical reports. Every utility shall file annually a financial and statistical report upon forms to be furnished by the commission. Said report shall be based upon the accounts set up in conformity with the commission's order adopting uniform classification of accounts for utilities. This report shall be filed on or before March 31, each year. For good cause shown, the commission may, upon application in writing, allow a reasonable extension of time for such filing.

(2) Report of meters, customers and refunds. Every utility shall make periodical reports on such forms as may be prescribed, of meter tests, number of customers and amount of refunds.

(3) Other reports. Every utility shall make

such other reports as the commission may at its discretion from time to time require.

(4) All records and reports shall be retained in accordance with the uniform system of accounts unless otherwise specified herein.

(5) All reports shall be accompanied by two (2) copies of a transmittal letter describing the report being furnished.

Section 4. Service Information. (1) The utility shall, on request, give its customers or prospective customers such information as is reasonably possible in order that they may secure safe, efficient and continuous service. The utility shall inform its customers of any change made or proposed in the character of its service which might affect the efficiency, safety, or continuity of operation.

(2) Prior to making any substantial change in the character of the service furnished, which would affect the efficiency, adjustment, speed or operation of the equipment or appliances of any customer, the utility shall obtain the approval of the commission. The application shall show the nature of the change to be made, the number of customers affected, and the manner in which they will be affected.

(3) The utility shall inform each applicant for service of the type, class and character of service that is available to him or her at his or her location.

Section 5. Special Rules or Requirements. (1) No utility shall establish any special rule or requirement without first obtaining the approval of the commission on proper application.

(2) A customer who has complied with the regulations of the commission shall not be denied service for failure to comply with the rules of the utility which have not been made effective in the manner prescribed by the commission.

Section 6. Meter Readings and Information. (1) Information on bills. Each bill rendered periodically by utilities shall show the class of service, the present and last preceding meter readings, the date of the present reading, the number of units consumed, the meter constant, if any, the net amount for service rendered, all taxes, the adjustments, if any, and the gross amount of the bill. The date after which a penalty may apply to the gross amount must be indicated. Estimated or calculated bills shall be distinctly marked as such. The rate schedule under which the bill is computed shall be furnished under one (1) of the following methods:

(a) By printing rate schedule on the bill.

(b) By publishing in a newspaper of general circulation once each year or when rate is changed.

(c) By mailing to each customer once each year or when rate is changed.

(d) By providing a place on each bill where a customer may indicate his desire for a copy of the applicable rates and furnishing same by return first class mail.

(2) Meter readings. The registration of each meter shall read in the same units as used for billing unless a conversion factor be shown on the billing forms and if the meter does not read direct, the constant shall be plainly marked on the face of the meter dial.

(3) Flat rates. Flat rates for unmetered service shall approximate as close as possible

the utility's rates for metered service and the rate schedule shall clearly set out the basis upon which consumption is estimated.

(4) Utilities now using or desiring to adopt mechanical billing or other billing systems of such a nature as to render compliance with all of the terms of subsection (1) of this section impracticable may make application to the commission for relief from part of these terms. For good cause shown, the commission may allow the omission of part of these requirements. Each utility shall submit the form of bill to be used by it to the commission for its approval.

(5) Each utility using customer-read meter information shall initiate a program to read each revenue related meter on its system at least once during each calendar year. Records shall be kept by the utility to insure that this information is available to the commission staff and any customer requesting such information.

Section 7. Deposits. (1) A utility may require from any customer or applicant for service a minimum cash deposit or other guaranty to secure payment of bills of an amount not to exceed two-twelfths (2/12) of the estimated annual bill of such customer or applicant, where bills are rendered monthly or an amount not to exceed three-twelfths (3/12) of the estimated annual bill of such customer or applicant, where bills are rendered bimonthly or an amount not to exceed four-twelfths (4/12) of the estimated bill of such customer or applicant where bills are rendered quarterly. The utility may require an equal deposit from all applicants for the same class of service. If the utility retains a residential deposit for more than eighteen (18) months, it shall advise the customer that the deposit will be recalculated based on actual usage upon the customer's request. The notice of deposit recalculation shall state that if the deposit on account differs by more than ten (10) dollars from the deposit calculated on actual usage, then the utility shall refund any over collection and may collect any underpayment. Refunds may be made by check or by credit to the customer's bill.

(2) Notification of a customer's right to a deposit recalculation shall be made at least once annually. The notice may be made by means of a general mailing (or bill stuffer) to all customers which specifies the above conditions.

(3) The refund provisions contained in subsection (1) of this section notwithstanding, a utility shall not be required to refund any excess deposit if the customer's bill is delinquent by more than one (1) billing period at the time of recalculation.

(4) The utility shall issue to every customer from whom a deposit is received a certificate of deposit, showing the name of the customer, location of initial premises occupied, date and amount of the deposit. If a residential deposit is recalculated in accordance with the above provisions, the customer shall return the original certificate of deposit to the utility in return for a new, accurate certificate.

Section 8. Complaints. Upon complaint to the utility by a customer either at its office or in writing, the utility shall make a prompt and complete investigation and advise the complainant thereof. It shall keep a record of all such complaints concerning its utility service which shall show the name and address of

the complainant, the date and nature of the complaint, and the adjustment or disposition thereof. Such records shall be maintained for five (5) years from the date of the resolution of the complaint.

Section 9. Bill Adjustment. (1) Whenever a meter in service is found upon periodic request or complaint test to be more than two (2) percent fast, additional tests shall be made at once to determine the average error of the meter. Said tests shall be made in accordance with the commission's regulation applicable to the type of meter involved.

(2) If the result of tests on a customer's meter shows an average error greater than two (2) percent fast, then the customer's bills, for the period during which the meter error is known to have existed, shall be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill shall be recomputed for one-half (1/2) of the elapsed time since the last previous test or for the past twelve (12) month period, whichever is less [but in no case to exceed twelve (12) months]. (See exception in subsection (5) of this section.)

(3) If the result of tests on a customer's meter shows an average error greater than two (2) percent slow, then the customer's bill, for the period during which the meter error is known to have existed, may be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill may be recomputed for one-half (1/2) of the elapsed time since the last previous test but in no case to exceed twelve (12) months.

(4) It shall be understood that when a meter is found to have an error in excess of two (2) percent fast or slow the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test; i.e., it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100 percent as is commercially practicable. Therefore, percent error shall be that amount of error as is indicated by the test.

(5) The burden of maintaining measuring equipment so that it will register accurately is upon the utility; therefore, if meters are found upon test to register fast and if time for periodic test has passed the refund shall be for the twelve (12) months specified in subsection (2) of this section plus the time exceeding the periodic test period; provided, however, that the commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control.

(6) Each utility shall establish procedures, to be included in its rules and regulations, to monitor customers' usage and shall file the procedures with the Commission for review. The procedures shall be designed to draw the utility's attention to unusual deviations in a customer's usage and shall provide for reasonable means by which the utility may determine the reasons for the unusual deviation. If a customer's usage is unduly high and the deviation is not otherwise explained, the utility shall test the customer's meter in

accordance with subsections (2), (3) or (5) of this section.

(7) In instances in which the utility's procedure for monitoring usage indicates that an investigation of a customer's usage is necessary, the utility shall notify the customer either during or after the investigation of the reasons for the investigation, and of the findings of the investigation. In those instances where knowledge of a serious situation requires more immediate notice, the utility shall notify the customer by the most expedient means available.

(8) When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in substantially the following form:

On \_\_\_\_\_, 19\_\_\_\_, the meter bearing identification No. \_\_\_\_\_ installed in your building located at \_\_\_\_\_ (Street and Number) in \_\_\_\_\_ (City) was tested at \_\_\_\_\_ and found to \_\_\_\_\_ (on premises or elsewhere) register \_\_\_\_\_. The meter was tested on \_\_\_\_\_ (Percent fast or slow) \_\_\_\_\_ (Periodic, Request, Complaint) test.

Based upon this we herewith \_\_\_\_\_ (Charge or Credit) you with the sum of \$\_\_\_\_\_, which amount has been noted on your regular bill.

(9) Whenever it is determined that a customer has been incorrectly billed for any reason, other than a meter which was registering incorrectly due to being out of tolerance or in an instance where a utility has filed a verified complaint with the appropriate law enforcement agency alleging fraud or theft by a customer [customer has been convicted of theft or fraud], the utility may immediately attempt to determine the period during which the error has existed, and the customer's bill for the period during which the error is known to have existed may be recomputed, and the account readjusted to give a refund or collect an additional amount of revenue from the underbilled. The basis for recomputing the customer bills shall be based upon the historic usage data for the customer over the previous time period, unless that information is not available; and in that case, then an average usage of similar customer loads over the previous time period involved shall be used in this adjustment. In the event the period during which the meter error existed is unknown, the customer's bill may be recomputed for one-half (1/2) of the elapsed time since the last previous test, or the past twelve (12) month period, whichever is less. Customer repayment of any underbilling shall be made over a period coextensive with the underbilling, not to exceed twelve (12) months.

(10) Customer accounts shall be considered to be current while a dispute is pending, as long as a customer continues to make payments for the disputed period in accordance with historic

usage, or if that data is not available, the average usage of similar customer loads, and stays current on subsequent bills [good faith payments].

Section 10. Customer's Discontinuance of Service. (1) Any customer desiring service discontinued or changed from one address to another shall give the utility three (3) working days' notice in person or in writing, provided such notice does not violate contractual obligations.

(2) Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility may, subject to subsection (3) of this section, charge the applicant an amount not to exceed the actual average cost as approved by this commission of making such reconnection.

(3) Any utility desiring to establish a disconnection and/or reconnection charge under the provisions of subsection (2) of this section, shall submit for commission approval a formal application setting out:

(a) The actual average cost of making such reconnections; and

(b) The effect of such charges on the utility's revenues.

Section 11. Discontinuance of Service. (1) The utility may refuse or discontinue to serve an applicant or customer under the following conditions:

(a) For noncompliance with the utility's or commission's rules and regulations. However, no utility shall discontinue or refuse service to any customer or applicant for violation of its rules or regulations without first having made a reasonable effort to induce the customer or applicant to comply with its rules and regulations as filed with the commission. After such effort on the part of the utility, service may be discontinued or refused only after the customer shall have been given at least ten (10) days' written notice of such intention, delivered to an adult member of his or her household or mailed to his or her last known address.

(b) When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, provided that the utility notify the customer or applicant immediately of the reasons for the discontinuance or refusal and the corrective action to be taken by the applicant or customer before service can be restored.

(c) When a customer or applicant refuses or neglects to provide reasonable access to the premises for the purpose of installation, operation, meter reading, maintenance or removal of utility property, the utility may discontinue or refuse service only after the customer or applicant shall have been given at least fifteen (15) days' written notice of such intention.

(d) Except as provided in subsection (2) of this section, a utility shall not be required to furnish service to any applicant when such applicant is indebted to the utility for service furnished until such applicant shall have paid such indebtedness.

(e) A utility may refuse or discontinue service to a customer or applicant if the customer or applicant does not comply with state, municipal or other codes, rules and regulations applying to such service.

(2) A gas or electric utility may discontinue

service under the following conditions:

(a) For nonpayment of bills - ten (10) day notice. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least ten (10) days' written notice, but the cut-off shall not be effected before twenty-seven (27) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from any [the original] bill. The termination notice shall include notification to the customer in writing of the existence of local, state and federal programs providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. If prior to discontinuance of service, there is delivered to the utility office, payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until thirty (30) days elapse from the time of the utility's notification to the customer in writing of the existence of local, state and federal programs, providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. Service shall not be discontinued when the customer and the utility have reached agreement on a partial payment plan pursuant to subparagraph 1 of this paragraph and the customer is meeting the requirements of the plan. The written notice for any discontinuance of service shall advise the customer of his or her rights under this paragraph, subparagraph 1 and subparagraph 2 of this paragraph and of his or her right to dispute the reasons for such discontinuance.

1. Employee available to answer consumer questions and negotiate partial payment plan.

a. Every gas and electric utility shall have an employee available to answer questions regarding a customer's bill and to resolve disputes over the amount of such bill. Utilities shall keep the designated employee informed of the commission's regulations regarding customer bills. If a customer indicates to any utility personnel that he or she is experiencing difficulty in meeting a current utility bill, that employee shall be able to refer the customer to the designated employee for explanation of the customer's rights under this paragraph and 807 KAR 5:008. The designated employee shall be authorized to negotiate partial payment plans of an outstanding bill and accept payments where the customer has shown good faith in attempting to meet his or her financial obligations to the utility. Said employee shall be authorized by the utility to consider and shall consider proposals by the customer for a partial payment plan and retention of service. Each gas and electric utility shall also prominently display in each office in which payment is received a summary of the customer's rights under this section and 807 KAR 5:008.

b. Each utility shall maintain a telephone, shall publish the telephone number in all service areas, and shall make the necessary provisions so that all customers may contact the utility employee without charge. Such provisions may include a policy allowing customers to make collect calls to the utility.

c. Each major [Class A or B] utility (as defined by the Uniform System of Accounts) shall have at least one (1) employee available to answer consumer questions and negotiate partial payment plans at the utility's office during the utility's established working hours but not less than seven (7) hours per day, five (5) days per week excluding holidays.

d. Each minor [Class C or D] utility (as defined as all utilities that are not major utilities under the Uniform System of Accounts) [(as defined by the Uniform System of Accounts)] shall have an employee available to answer consumer questions and negotiate partial payment plans at the utility's office during the utility's established office hours but not less than seven (7) hours per day, one (1) day per week.

2. Certificate of need from Department for Social Insurance. Federal and statewide energy assistance programs are administered by the Kentucky Cabinet for Human Resources, Department for Social Insurance. Upon written certification from the Department for Social Insurance, issued at one (1) of its offices or the office of its designee, a customer who is eligible for energy assistance under the Department's guidelines or is certified as being in genuine financial need, defined as any household with gross income at or below 130 percent of the poverty level, and who has been issued a ten (10) day notice between December 1 and March 1 for nonpayment of a gas or electric bill and who presents such notice to the Department for Social Insurance or its designee, shall be allowed thirty (30) days in addition to such ten (10) day period in which to negotiate a partial payment plan with the utility provided such certification is delivered to the utility during the initial ten (10) day notice period by the applicant in person, by his or her agent, by mail, or by a telephone call from an employee of the Department for Social Insurance or its designee. The thirty (30) day period shall begin to run at the end of the tenth day of the ten (10) day period. When the customer exhibits good faith by offering to make a present payment commensurate with his or her ability to do so and by agreeing to a repayment schedule which would permit the customer to become current in the payment of his or her gas or electric bill as soon as possible but not later than October 15, the utility shall accept such partial payment plan. In addition to advising the customer of his or her rights under this paragraph, subparagraph 1 of this paragraph and this subparagraph, as required by paragraph (a) of this paragraph, the ten (10) day notice or a bill insert sent with the ten (10) day notice shall inform the customer of the telephone number and address of the nearest office of the Kentucky Cabinet for Human Resources, Department for Social Insurance. Referral of such customer to such office of the department may be made by a church, by a charitable or social organization, by a unit of state or local government, or by any other person.

3. Budget payment plan. Each jurisdictional

gas and electric utility shall develop a budget payment plan whereby a customer may elect to pay a fixed amount each month on a yearly basis in lieu of monthly billings based on actual usage. The provisions of this section relating to partial payments and budget plans shall apply primarily [only] to a utility's residential customers; however, a utility may offer budget payment plans to other classes of customers. It shall be the responsibility of the utility to disseminate information to its customers regarding the availability of such budget payment plan. If the commission finds, upon application, a budget plan for residential customers would materially impair or damage the utility's credit or operations, then it may grant the utility an exemption from the requirements of the budget plan. No exemption may extend beyond one (1) year without another application by the utility and a finding by the commission that said exemption should be allowed.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(3) A water, sewage or telephone utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least forty-eight (48) hours written notice, but the cut-off shall not be effected before twenty (20) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from any [the original] bill. The termination notice shall include notification to the customer in writing of the existence of local, state and federal programs providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. If prior to discontinuance of service, there is delivered to the utility office payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until ten (10) days elapse from the time of the utility's notification.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured,



the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(4) It shall be the duty of the utility before making service connections to a new customer to ascertain the condition of the meter and service facilities for such customer in order that prior fraudulent use of the facilities, if any, will not be attributed to the new customer, and the new customer shall be afforded the opportunity to be present at such inspections. The utility shall not be required to render service to such customer until all defects in the customer-owned portion of the service, if any, shall have been corrected.

(5) Reconnection. For all cases of refusal or discontinuance of service as herein defined, except as provided in 807 KAR 5:008, where the cause for refusal or discontinuance has been corrected and all rules and regulations of the utility and the commission have been complied with, the utility shall promptly render service to the customer or applicant.

(6) When advance notice is required, such notice may be given by the utility by mailing by United States mail, postage prepaid, to the last known address of the applicant or customer.

Section 12. Special Charges. (1) A utility may make a reasonable charge for each of the following trips:

(a) To read a meter when the customer has failed to read the meter for three (3) consecutive billing periods. This pertains only to those utilities whose customers ordinarily read their own meters.

(b) To collect a delinquent bill. This trip may be made only after written notice has been sent to the customer stating that if the bill is not paid by a certain date, the service will be disconnected.

(c) To reconnect a service that has been disconnected for nonpayment of bills or for violation of the utility's or commission's rules and regulations. This charge may include the cost of disconnecting the service and, in accordance with Section 10 of this regulation, shall not exceed the actual average cost.

(2) The charges, however, shall be applied uniformly within reasonable classifications throughout the entire area served by the utility, shall be incorporated in the utility's rules and regulations, shall be subject to the approval of the commission, and shall yield only enough revenue to pay the expenses incurred in rendering these services.

Section 13. Meter Testing. (1) All electric, gas and water utilities furnishing metered service shall provide meter standards and test facilities, as more specifically set out under 807 KAR 5:022, 807 KAR 5:041 and 807 KAR 5:066. Before being installed for the use of any customer, all electric, gas and water meters shall be tested and in good working order and shall be adjusted as close to the optimum operating tolerance as possible, as more specifically set out in 807 KAR 5:022, Section 8(3)(a), 807 KAR 5:041, Section 17(1)(a)-(c) and 807 KAR 5:066, Section 16(2)(a)-(b).

(2) A utility may have all or part of its testing of meters performed by another utility or agency approved by the commission for such purpose. Each utility having tests made by another agency or utility shall notify the commission of said arrangements in detail to include make, type and serial number of standards used to make said checks or tests.

(3) No utility shall place in service any basic measurement standard required by these rules unless it has been calibrated by the commission's Meter Standards Laboratory. All utilities or agencies making tests or checks for utility purposes shall notify the commission promptly of the adoption or deletion of any basic standards requiring calibration by the commission.

(4) Each electric, gas and water utility or agency doing meter testing for a utility shall have in its employ meter testers certified by this commission. These certified meter testers shall perform such tests as may be necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the regulations of the commission.

(5) A utility or agency desiring to have its employees certified as meter testers shall submit the names of applicants on the commission's form entitled "Application for Appointment of Meter Testers" and after compliance with the requirements noted in this form, the applicant may be certified as a meter tester and furnished with a card authorizing him or her to perform meter tests.

(6) A utility or agency may employ apprentices in training for certification as meter testers. The apprentice period shall be a minimum of six (6) months. All tests performed during this period by an apprentice shall be witnessed by a certified meter tester.

Section 14. Access to Property. The utility shall at all reasonable hours have access to meters, service connections and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation or removal of its property at the time service is to be terminated. Any employee of the utility whose duties require him or her to enter the customer's premises shall wear a distinguishing uniform or other insignia, identifying him or her as an employee of the utility, or carry a badge or other identification which will identify him or her as an employee of the utility, the same to be shown by him or her upon request.

Section 15. Meter Test Records. (1)(a) Test cards. A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations shall be recorded by the meter tester. Such record shall include: Information to identify the unit and its location; the date of tests; the reason for such tests; readings before and after the test; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations employed; indications showing that all required checks have been made; a statement of repairs made, if any; the identifying number of the meter; the type and capacity of the meter; and the constant of the meter.

(b) The complete record of tests of each meter shall be continuous for at least two (2)



periodic test periods and shall in no case be less than two (2) years. [The record of the prior periodic test of each meter shall be maintained for at least ninety (90) days after the current test has been made or until a refund or billing has been made or it is determined that a refund or billing is not to be made in accordance with Section 9 of this regulation.]

(2) History. Each utility shall keep numerically arranged and properly classified records giving for each meter owned and used by the utility for any purpose the identification number, date of purchase, name of manufacturer, serial number, type, rating, and the name and address of each customer on whose premises the meter has been in service with date of installation and removal. These records shall also give condensed information concerning all tests and adjustments including dates and general results of such adjustments. The records shall be of such character that a system can be used that will record the date of the last test and indicate the proper date for the next periodic test required by the applicable regulation of the commission.

(3) Sealing of meters. Upon completion of adjustment and test of any meter under the provisions of the regulations of the commission, the utility shall affix thereto a suitable seal in such a manner that adjustments or registration of the meter cannot be tampered with without breaking the seal. The seal shall be of a type acceptable to the commission.

(4) A utility may store any or all of the meter test and historical data described or required in subsections (1) and (2) of this section in a computer storage and retrieval system upon notification to the commission.

Section 16. Pole Identification. (1) Each utility owning poles or other structures supporting the company's wires, shall mark every pole or structure located within a built-up community with the initials or other distinguishing mark by which the owner of every such structure may be readily determined. For the purpose of this rule the term "built-up community" shall mean urban areas and those areas immediately adjacent thereto.

(2) Identification marks may be of any type but must be of a permanent material and shall be of such size and so spaced and hereafter maintained so as to be easily read from the surface of the ground at a distance of six (6) feet from the structure.

(3) When utilities' structures are located outside of a built-up community only every tenth structure need be so marked.

(4) All junction structures shall bear the identification mark and structure number of the owner.

(5) Poles need not be marked if they are clearly and unmistakably identifiable as the property of the utility.

(6) Each utility shall either number their structures and maintain a numbering system or use some other method of identification so that each structure in the system may be easily identified.

(7) The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

Section 17. Cable Television Pole Attachments and Conduit Use. (1) Each utility owning poles

or other facilities conducting the company's wires shall permit cable television system operators who have all necessary licenses and permits to attach cables to such poles and to use such facilities, as customers, for transmission of signals to their patrons.

(2) The rates, terms and conditions on which such use of the utility's facilities are made shall be set forth in the tariffs of the utilities, which shall be prepared and filed in accordance with the regulations of the commission governing tariffs generally.

(3) With respect to a complaint proceeding in any individual matter concerning cable television pole attachments before the commission, final action shall be taken on the same within a reasonable time, but in no event to exceed 360 days.

Section 18. [17.] System Maps and Records. (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

(a) Operating districts.

(b) Rate districts.

(c) Communities served.

(d) Location and size of transmission lines, distribution lines and service connections.

(e) Location and layout of all principal items of plant.

(f) The date of construction of all items of plant by year and month.

(2) In each division or district office there shall be available such information relative to the utility's system as will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.

(3) In lieu of showing the above information on maps a card record or suitable means may be used. For all construction the records shall also show the date of construction by month and year.

Section 19. [18.] Location of Records. All records required by the regulations of the commission shall be kept in the principal office of the utility or other acceptable safe storage place, and shall be made available to representatives, agents or employees of the commission upon reasonable notice and at all reasonable hours.

Section 20. [19.] Request Tests. Each utility shall make a test of any meter upon written request of any customer provided such request is not made more frequently than once each twelve (12) months. The customer shall be given the opportunity of being present at such request tests. If such tests show that the meter was not more than two (2) percent fast, the utility may make a reasonable charge for the test, the amount of such charge to be set out in the utility's rules and regulations filed with the commission, and subject to the approval of the commission.

Section 21. [20.] Complaint Tests. [(1)] Any customer of the utility may request a meter test by written application to the commission, after having first obtained a test from the utility [accompanied by payment of such fee for the test

as prescribed below]. Such request may not be made more frequently than once each twelve (12) months. [Upon receipt of such request, the commission will notify the utility to leave the customer's meter in place until such time as a commission representative is present to witness the removal and testing of said meter.]

[(2) If a meter tested upon complaint of a customer is found to register not more than two (2) percent fast, the cost of such test shall be borne by the customer. However, if the meter shall be found to register more than two (2) percent fast, the cost of such test shall be borne by the utility and the amount of the deposit made by the customer shall be refunded.]

[(3) The charges fixed by the commission for making such tests are as follows:]

[(a) Electric. Direct current and single phase alternating current watt hour meters operating on circuits of not more than 250 volts:]

[Amperes Rated Capacity	Fee
30 and under	\$ 6
Over 30 to 100	12
Each additional 50 amperes or factor thereof	3]

[Polyphase a.c. watt hour meters and single phase or direct current watt hour meters operating on circuits of over 250 volts with or without instrument transformers:]

[Kilowatts Rated Capacity	Fee
5 KW and under	\$ 6
Over 5 to 25	12
Over 25 to 100	24
Over 100 to 500	48]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(b) Gas. Displacement type meters operating on distribution system pressures:]

[Capacity in Cu. Ft. Per Hour	Fee
1,000 cu. ft. per hour and under	\$12
Over 1,000 to 10,000	24
Over 10,000 to 100,000	36]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(c) Water:

Size	Fee
Outlet 1 inch or less	\$12
Outlet over 1 inch to 2 inches	18
Outlet over 2 inch to 3 inches	24
Outlet over 3 inch to 4 inches	30]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(d) For meters of a size or capacity not shown herein, the commission will fix a suitable fee upon application.]

Section 22. [21.] Safety Program. Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

(1) Require employees to use suitable tools and equipment in order that they may perform

their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

Section 23. [22.] Inspection of Systems. (1) Each utility shall adopt procedures for inspection to assure safe and adequate operation of its facilities and compliance with commission rules. These procedures must be approved by [shall be filed with] the commission.

(2) Each electric utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

(a) At intervals not to exceed six (6) months:

1. Production facilities regularly operated and manned; continuous surveillance, monitoring and inspection as a part of operating procedure.

2. Unmanned production facilities including peaking units not on standby status; units shall be operated and inspected and all monitoring devices shall be checked to determine that there is no evidence of abnormality.

3. Substations where the primary voltage is sixty-nine (69) KV or greater; examination for the purpose of discovering damage to or deterioration of components including structures and fences; checking of all gauges and monitoring devices.

4. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, examination for leaks, condition of case, connections, temperature and overloading.

5. Electric lines operating at sixty-nine (69) KV or greater (including insulators, conductors, and supporting facilities).

(b) At intervals not to exceed one (1) year:

1. Production facilities maintained on a standby status; also inspection and examination prior to any start up, except remotely controlled facilities.

2. Substations where the primary voltage is less than sixty-nine (69) KV but is fifteen (15) KV or greater.

(c) At intervals not to exceed two (2) years: Electric lines operating at voltages of less than sixty-nine (69) KV (including insulators, conductors and supporting facilities).

(d) Other facilities:

1. Utility buildings inspected for compliance with safety codes at intervals not greater than one (1) year.

2. Construction equipment inspected for defects, wear and operational hazards at intervals not greater than quarterly.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(f) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(3) Each gas utility shall make systematic

inspections of its system for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is prescribed or recommended by the Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, for the various classes of facilities as defined in said standards, in accordance with the inspection procedures described therein.

(4) The following maximum time intervals are prescribed for certain inspections provided for in 49 CFR Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, with respect to which intervals are not specified and for certain additional inspections not provided for in such code.

(a) At intervals not to exceed one (1) year:

1. Production wells, storage wells and well equipment; visual inspection and examination of all exterior components.

2. Pressure limiting stations, relief devices and pressure regulating stations, including vaults.

3. The curb box on service line shall be inspected for accessibility.

(b) Other facilities:

1. Utility buildings inspected for compliance with safety codes at least annually.

2. Construction equipment under the control of the utility inspected for defects, wear and operational hazards at least quarterly.

(c) At intervals not to exceed the periodic meter test intervals: individual residential customer service regulators, vents and relief valve vents shall be checked for satisfactory operation.

(d) At intervals not to exceed the periodic meter test intervals: the curb box and valve on the service line shall be inspected for operable condition.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(f) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(5)(a) Each water utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Source of supply:

a. Dams, physical and structural, annually.

b. Intake structures, physical and structural, annually.

c. Traveling screens, physical and structural and safety of operation, annually.

2. Purification:

a. Sedimentation basins filters and clear wells, physical and structural and safety of operation, annually.

b. Chemical feed equipment, for proper and safe operation, annually.

c. Pumping equipment including electric power wiring and controls, for proper and safe operation, annually.

d. Hydrants, for proper and safe operation, annually.

e. Utility buildings, inspection for compliance with safety codes, annually.

f. Construction equipment, inspection for defects, wear and operational hazards, quarterly.

g. Mains and valves, leaks, annually.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(c) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(6)(a) Each telephone utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Aerial plant: Inspection for electrical hazards, proper clearance for electric facilities and climbing safety - Every two (2) years.

2. Underground plant: Inspection for presence of gas, proper clearance from electric facilities and safe working conditions - At least annually.

3. Utility-provided station equipment and connections: Inspection for external electrical hazards, damaged instruments or wiring, appropriate protection from lightning and safe location of equipment and wiring - When on customer's premises.

4. Utility buildings: Inspection for compliance with safety codes - At least annually.

5. Construction equipment: Inspection for defects, wear and operational hazards - At least quarterly.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(c) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

Section 24. [23.] Reporting of Accidents, Property Damage or Loss of Service. Each utility, other than a natural gas utility, shall notify the commission of any utility related accident which results in death or serious injury to any person or any other incident which has or may result in substantial property damage or substantial loss of service. Prompt notice of fatal accidents shall be given to the commission by telephone or telegraph. A summary [detailed] written report shall be submitted to the commission within seven (7) days. Natural gas utilities shall report accidents in accordance with the provisions of 807 KAR 5:027.

Section 25. [24.] Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

RICHARD D. HEMAN, JR., Chairman

MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: January 7, 1986

FILED WITH AGENCY: January 7, 1986 at noon

## PROPOSED AMENDMENTS

### KENTUCKY AGRICULTURAL EXPERIMENT STATION Division of Regulatory Services (Proposed Amendment)

#### 12 KAR 4:110. Terms and definitions.

RELATES TO: KRS 250.406

PURSUANT TO: KRS 250.421

NECESSITY AND FUNCTION: To utilize standard terms and definitions which reduces regulatory problems for companies selling fertilizer in Kentucky and other states.

Section 1. Except as the director has designated otherwise in specific cases, the official terms and definitions for commercial fertilizers adopted by the Association of American Plant Food Control Officials are hereby adopted by reference.

Section 2. The official terms and definitions adopted by the Association of American Plant Food Control Officials are generally recognized by industry and other regulatory agencies in North America as the standards. The terms are those commonly used in the fertilizer trade, such as brand, fertilizer grade, and primary nutrients; and the definitions include those for nitrogen, phosphorus, potassium, magnesium, sulfur, and manganese products.

Section 3. The official terms and definitions adopted are those found in Official Publication No. 38 (1985) [37 (1984)] of the Association of American Plant Food Control Officials. Copies are available from: Treasurer, Association of American Plant Food Control Officials, P.O. Box 1163, 1100 Bank Street, Room 412, Richmond, Virginia 23209 or may be viewed during regular business hours in Room 102, Scovell Hall, University of Kentucky, Lexington, Kentucky.

CHARLES E. BARNHART, Director

APPROVED BY AGENCY: January 13, 1986

FILED WITH LRC: January 16, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this administrative regulation will be held on March 28, 1986 at 9 a.m. in Room 101 Scovell Hall, Limestone and Washington Avenue, University of Kentucky, Lexington, Kentucky. Those interested in attending this hearing shall, no later than March 23, 1986, contact the following in writing: Dr. David Terry, Coordinator Fertilizer Regulatory Program, Division of Regulatory Services, 102 Scovell Hall, University of Kentucky, Lexington, Kentucky 40546-0064.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: D. L. Terry

(1) Type and number of entities affected:  
Fertilizer manufacturers: 279 in-state; 203

out-of-state.

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

1. First year: No change from previous regulation.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): The standard set of definitions reduces misunderstandings and promotes fair 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:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Any other set of definitions would be non-standard and cause problems in the industry.

(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.

### KENTUCKY AGRICULTURAL EXPERIMENT STATION Division of Regulatory Services (Proposed Amendment)

#### 12 KAR 4:140. Monetary penalties.

RELATES TO: KRS 250.396(1), (2)

PURSUANT TO: KRS 250.421

NECESSITY AND FUNCTION: To prescribe the specific method of calculating the monetary penalties required by the fertilizer law.

Section 1. Penalties for deficiencies in Total Nitrogen (N), Available Phosphoric Acid (P<sub>2</sub>O<sub>5</sub>), soluble potash (K<sub>2</sub>O), and index value shall be calculated from the following schedule:

Number of Investigational Allowances Below Guarantee	Penalty Schedule
≤ 2	Equal to the monetary value of the deficiency
> 2 ≤ 3	Two (2) times the monetary value of the deficiency
> 3	Three (3) times the monetary value of the deficiency

Section 2. Minimum standards and overages of primary nutrients are allowed to reduce penalties calculated in Section 1 of this regulation for fertilizer with index values equal to or greater than ninety-seven (97) percent on the basis of the following schedule:

<u>Number of Investigational Allowances Below Guarantee</u>	<u>Penalty Adjustments</u>
<u>No more than one (1) deficiency that is less than or equal to two (2) investigational allowances</u>	<u>Penalty adjusted to zero</u>
<u>No more than one (1) deficiency that is greater than two (2) but less than three (3) investigational allowances</u>	<u>Value of overages may adjust up to 100% of the value of the deficiencies</u>
<u>No more than two (2) deficiencies that are greater than two (2) but less than three (3) investigational allowances; or, no more than one (1) deficiency that is greater than three (3) but less than four (4) investigational allowances</u>	<u>Value of overages may adjust up to 75% of the value of the deficiencies</u>

[Section 2. Overages of individual primary nutrients are allowed to reduce the penalty calculated in Section 1 of this regulation a maximum of seventy-five (75) percent when the following conditions apply:]

[(1) The Index Value is equal to or exceeds ninety-seven (97) percent; and,]

[(2) Only one (1) primary nutrient is deficient beyond one (1) investigational allowance.]

[The value of an overage is determined by multiplying the unit value by the number of units the found analysis exceeds the guarantee. If two (2) nutrients exceed their guarantee then the total value of the overage is the sum of the two (2). The maximum adjustment for overage that is allowed is found by multiplying 0.75 by the penalty calculated in Section 1 of this regulation.]

Section 3. When a fertilizer is subject to a penalty from both a primary nutrient deficiency and an index value deficiency, only the larger penalty shall apply; however, in no case shall the penalty exceed the total value of the fertilizer.

Section 4. Penalties for deficiencies in secondary and minor elements and for excess chlorine in tobacco fertilizer shall be calculated from the following schedule.  
(1) Deficiencies.

Number of Investigational Allowances Below Guarantee	Penalty Schedule
≤ 2	<u>Equal to [Two (2) times] the monetary value of the deficiency</u>
> 2	<u>Two (2) [Three (3)] times the monetary value of the deficiency</u>

(2) Excess Chlorine in tobacco fertilizers. The investigational allowance for maximum chlorine shall be five-tenths (0.5) percent

Number of Investigational Allowances Above Maximum Chlorine Guarantee	Penalty Schedule
≤ 2	<u>Equal to the difference in [Two (2) times] the soluble potash (for tobacco) unit value and the non-tobacco soluble potash unit value</u>
> 2	<u>Two (2) [Three (3)] times the difference in the soluble potash (for tobacco) unit value and the non-tobacco soluble potash unit value</u>

Section 5. Any penalty assessed under Section 1 of this regulation shall be added to any penalty assessed under Section 4 of this regulation and the total shall be paid by the registrant to the consumer of the lot of fertilizer represented by the sample within three (3) months after the date of notice from the director, receipts taken therefore and promptly forwarded to the director. If said consumer cannot be found, the amount of the penalty payments shall be paid to the Kentucky Agricultural Experiment Station within three (3) months after the date of the notice from the director to the registrant and set aside for purchase of equipment for the sampling, handling, analyzing and reporting of results of analyses of official samples and for the education of the Kentucky fertilizer industry on the newest methods in manufacturing blended fertilizers. If the lot of fertilizer is on hand at a retail location the penalty payments assessed under this section shall be used to reduce the retail price of the fertilizer if it is to be relabeled and sold.

Section 6. In no case shall the total of the penalties assessed under this regulation exceed the retail value of the fertilizer.

CHARLES E. BARNHART, Director

APPROVED BY AGENCY: January 13, 1986

FILED WITH LRC: January 16, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this administrative regulation will be held on March 28, 1986 at 9 a.m. in Room 101 Scovell Hall, Limestone and Washington Avenue, University of Kentucky, Lexington, Kentucky. Those interested in attending this hearing shall, no later than March 23, 1986, contact the following in writing: Dr. David Terry, Coordinator Fertilizer Regulatory Program, Division of Regulatory Services, 102 Scovell Hall, University of Kentucky, Lexington, Kentucky 40546-0064.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: D. L. Terry

(1) Type and number of entities affected: Fertilizer manufacturers: 279 in-state; 203 out-of-state.

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

1. First year: An average of 11% reduction in penalty. Eliminating small nuisance penalties.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: Will reduce number of samples requiring paperwork associated with payment of penalties by 18%.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Indirect cost reduction by paperwork reduction.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Paperwork associated with penalty samples reduced by 18%.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Other alternatives were considered but proposed change appears to be the fairest to the registrant and the consumer.

(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.

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

201 KAR 13:070. License revocation.

RELATES TO: KRS 326.020

PURSUANT TO: KRS 326.020(3)

NECESSITY AND FUNCTION: Procedures regarding

revocation of license upon failure to pay license fee.

Section 1. (1) Upon failure of any licensee to pay his license fee to the treasurer of the board within thirty (30) days, the treasurer shall certify to the chairman the fact of non-payment. The licensee shall then have thirty (30) days in which either to pay his renewal fee or to request a hearing to show cause why his license should not be cancelled. If at the end of said thirty (30) day period the licensee has neither paid his renewal fee nor requested a hearing, his license shall be cancelled. [Pursuant to KRS 326.100, the chairman shall notify the licensee of a hearing date before the board not less than fifteen (15) days from date of the notice, that he is to show good cause, if any he has, why his license to practice shall not be revoked.]

[(2) The notice shall be served either personally or by registered mail and shall state the date and place of the hearing and set forth the ground or grounds constituting the charge against the license holder, to-wit: failure to renew license as provided in KRS 326.080.]

[(3) The license holder shall be heard in his defense, either in person or by counsel, and may produce witnesses and testify in his own behalf.]

DAVID NICHOLAS, Director

APPROVED BY AGENCY: February 14, 1986

FILED WITH LRC: February 14, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 25, 1986, at 2 p.m. (EST) at the offices of the Division of Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601. Those interested in attending this hearing shall contact: Kathryn A. Harmon, Regulations Compiler, Office of the Attorney General, Room 16, State Capitol, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Faye Fleming

(1) Type and number of entities affected:

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

1. First year: Kentucky Board of Ophthalmic Dispensers.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(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: 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: N/A

Tiering:

Was tiering applied? No. N/A

**FINANCE AND ADMINISTRATION CABINET**  
**Division of Occupations and Professions**  
**Board of Veterinary Examiners**  
**(Proposed Amendment)**

**201 KAR 16:020. Examination for licensing; reciprocity; fees; re-examinations.**

RELATES TO: KRS 321.220, 321.260, 321.270

PURSUANT TO: KRS 321.240

NECESSITY AND FUNCTION: KRS 321.190 requires all persons engaging in the practice of veterinary medicine in the State of Kentucky to be licensed by the Kentucky Board of Veterinary Examiners. KRS 321.260 provides that each applicant shall submit to an examination conducted by the board, with the exception of those persons who may obtain a license by reciprocity pursuant to the provisions of KRS 321.220. This regulation sets out the procedures to be followed in obtaining an application, the fees to be charged and procedures relating to the obtaining of a license as a result of this state reciprocating with another state.

Section 1. (1) The board recognizes the following veterinary colleges as having those standards and requirements adequate to comply with the provisions of KRS 321.260. All of the following veterinary colleges have been recognized and approved by the Kentucky Board of Veterinary Examiners. Those colleges are as follows:

- (a) College of Veterinary Medicine, Auburn University, Auburn, Alabama.
- (b) University of California, School of Veterinary Medicine, Davis, California.
- (c) Colorado State University, Division of Veterinary Medicine, Fort Collins, Colorado.
- (d) Cornell University, New York State Veterinary College, Ithaca, New York.
- (e) University of Utrecht, the Netherlands.
- (f) University of Florida, School of Veterinary Medicine, Gainesville, Florida.
- (g) University of Georgia, School of Veterinary Medicine, Athens, Georgia.
- (h) University of Guelph, Ontario Veterinary College, Guelph Ontario, Canada.
- (i) University of Illinois, School of Veterinary Medicine, Urbana, Illinois.
- (j) Iowa State University, Division of Veterinary Medicine, Ames, Iowa.
- (k) Kansas State University, School of Veterinary Medicine, Manhattan, Kansas.
- (l) Louisiana State University, Baton Rouge, Louisiana.
- (m) Michigan State College, Division of Veterinary Science, East Lansing, Michigan.
- (n) University of Minnesota, School of Veterinary Medicine, St. Paul, Minnesota.
- (o) Mississippi State University, Starksville, Mississippi.
- (p) University of Missouri, School of Veterinary Medicine, Columbia, Missouri.
- (q) Ecole Medicine Veterinaire de ma Province de Quebec, University de Montreal, La Trappe, Quebec, Canada.
- (r) Ohio State University, College of Veterinary Medicine, Columbus, Ohio.

(s) Oklahoma State University, School of Veterinary Medicine, Stillwater, Oklahoma.

(t) University of Pennsylvania, School of Veterinary Medicine, Philadelphia, Pennsylvania.

(u) Purdue University, School of Veterinary Science and Medicine, Lafayette, Indiana.

(v) University of Saskatchewan, Western College of Veterinary Medicine, Saskatoon, Saskatchewan, Canada.

(w) University of Tennessee, College of Veterinary Medicine, Knoxville, Tennessee.

(x) Texas Agricultural and Mechanical University, School of Veterinary Medicine, College Station, Texas.

(y) Tuskegee Institute, School of Veterinary Medicine, Tuskegee Institute, Alabama.

(z) Washington State University, College of Veterinary Medicine, Pullman, Washington.

(2) All other veterinary colleges must have academic standards equivalent to the schools listed above in order to be recognized by this board. Evaluation of the academic standards, of veterinary courses and practices of these schools will be made after an application for a license has been received.

Section 2. An application for examination for a license to practice veterinary medicine shall be submitted on an application form prescribed and provided by the board, accompanied by such evidence, statements, or documents as therein required, and shall be filed with the board at its principal office at least thirty (30) days, or in the case of graduates of veterinary colleges outside of the United States, at least ninety (90) days, before the date fixed for the examination. It will be necessary for an applicant to complete the application and forward it, along with the necessary enclosures, to the board's office, within the time described above, whether he desires a license through examination or as a result of reciprocity proceedings.

Section 3. In addition to the examination fee of twenty-five (25) dollars, all applicants shall be required to pay the fee charged for examination materials furnished to this board. Applicants will be notified of the examination fee and the examination materials fee at the time the application is forwarded to the applicant. All sums payable to the board shall be paid by certified check, cashier's check or postal money order and be payable to the Kentucky State Treasurer.

Section 4. Examinations shall be held at such times and places as shall be determined by the board. A schedule of the date, time and place of the examination shall be mailed to each applicant whose application is accepted by the board.

Section 5. The board shall not refund either the examination fee or the fee for the examination materials, except where good and sufficient cause for refunding all or a portion of the fees is shown to the board within a reasonable time prior to the date of the examination.

Section 6. [This state board reciprocates with the states of Illinois, Michigan, Missouri and Ohio.] In order for an applicant to obtain a license in this state by reciprocity, he must do



the following:

- (1) Obtain an application from this board;
- (2) Complete the application and return it, along with the enclosures, to the board within the time specified herein;
- (3) Show proof that he successfully passed the examination given by the reciprocating state and with which reciprocity is sought;
- (4) Have the reciprocating state board forward a letter or other documents stating that the applicant is licensed in that state by virtue of an examination, that his license is in good standing, and this board shall further be advised of any derogatory information which may be in that board's file concerning the applicant;
- (5) Submit a letter of good standing from the state licensing boards in each and every state in which the applicant has been licensed, or if the applicant has permitted his license to lapse or for any reason is no longer licensed in any of those states, submit a letter from the state board explaining why he is no longer licensed therein;
- (6) Upon receipt of a satisfactory application and information from the reciprocating state board, the Kentucky Board of Veterinary Examiners will schedule a personal interview for the applicant. This personal interview may be conducted by the board or by any person delegated to act for the board. All applicants for license by reciprocity are hereby advised that the granting of licenses by reciprocity is by privilege and not by right and the granting of such licenses rests solely in the discretion of this board.

Section 7. All applicants successfully passing the examination or obtaining a license in this state by virtue of reciprocity procedures shall be required to pay to this board the sum of twenty-five (25) dollars, which sum will be the fee charged for the issuance of the license certificate and the license certificate shall remain in good standing until the next renewal date. In addition to the reciprocity fee of twenty-five (25) dollars, those persons granted a license by reciprocity shall pay to this board all costs incurred by the board in processing and handling the application for such a license.

Section 8. Any applicant seeking to have the board consider examination scores forwarded by the Professional Examination Service (National Board scores) must submit scores of examinations conducted within the last five (5) years preceding the date of submission of the scores. Examination scores more than five (5) years old will not be considered by the board. The forwarded scores, in addition to being no more than five (5) years old, must meet the requirements of KRS 321.270(2)(a) and (b).

Section 9. The re-examination fee, when applicable, shall be twenty-five (25) dollars and in addition to the re-examination fee, all applicants shall be required to pay the costs charged for re-examination materials furnished to the board. Applicants will be notified of the re-examination costs at the time the application is forwarded to the applicant. All sums payable to the board shall be paid by certified check, cashier's check or postal money order and be payable to the Kentucky State Treasurer.

DIANE POPP, Executive Secretary

APPROVED BY AGENCY: January 23, 1986

FILED WITH LRC: January 24, 1986 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 24, 1986 at 10 a.m. in Room 141 of the Capitol. Those interested in attending this hearing shall contact: Diane Popp, Executive Secretary, Kentucky Board of Veterinary Examiners, Route 1, Fraley Drive, Morehead, Kentucky 40351.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Diane Popp

- (1) Type and number of entities affected: None
- (a) Direct and indirect costs or savings to those affected: N/A
  1. First year: N/A
  2. Continuing costs or savings: N/A
  3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
- (b) Reporting and paperwork requirements: Not affected.
- (2) Effects on the promulgating administrative body: None
  - (a) Direct and indirect costs or savings: N/A
    1. First year: N/A
    2. Continuing costs or savings: N/A
    3. Additional factors increasing or decreasing costs: N/A
  - (b) Reporting and paperwork requirements: Not affected.
- (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: 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:

Tiering:

Was tiering applied? No. N/A

#### GENERAL GOVERNMENT CABINET Board of Nursing (Proposed Amendment)

201 KAR 20:056. Advanced registered nurse practitioner registration, program requirements, recognition of a national certifying organization.

RELATES TO: KRS 314.011(6), 314.042, 314.131(1), 314.161

PURSUANT TO: KRS Chapter 13A, Chapter 314

NECESSITY AND FUNCTION: The Nurse Practice Act provides for the registration of advanced registered nurse practitioner. It is necessary to assure that applicants meet qualifications as set forth by the board as necessary for safe practice.

Section 1. Eligibility Requirements. To be eligible for registration as advanced registered nurse practitioner, the applicant shall:

- (1) Be currently licensed on an active status to practice as a registered nurse in Kentucky;
- (2) Have completed an organized post-basic



program of study and clinical experience acceptable to the board as defined in Section 2 of this regulation; "completed" shall mean that the applicant has completed all course requirements, including didactic, clinical and/or thesis components, and is eligible for receipt of a diploma or certificate as awarded by the school/program.

(3) Be currently/actively certified by one (1) of the following national organizations: American Nurses' Association as practitioner or clinical specialist, American College of Nurse Midwives as nurse midwife, Council on Certification/Recertification of Nurse Anesthetists (or their predecessor, American Association of Nurse Anesthetists) as nurse anesthetist, National Board of Pediatric Nurse Practitioners/Associates as practitioner, Nurses' Association of the American College of Obstetricians and Gynecologists as practitioner, or other national organizations designated by the board as defined in Section 3 of this regulation in collaboration with the Nurse Practice Council;

(4) Accurately complete and submit application form and necessary information for registration as advanced registered nurse practitioner;

(5) Submit a recent photograph (two (2) x three (3) inches) taken within the past six (6) months with the photograph signed by the applicant on the front under the facial features. Snapshots are not acceptable.

(6) Submit the current application fee for advanced registered nurse practitioner registration.

Section 2. Program Requirements. To be acceptable to the board an organized post-basic program of study and clinical experience shall:

(1) Be an established, ongoing and organized program offered on a routine basis to enrollees.

(2) Be accredited/approved for the education of nurses by a recognized accreditation/approval body, or the sponsoring organization holds such accreditation/approval.

(3) Have a program design which prepares enrollees to function in a role consistent with the advanced registered nursing practice specialty designation.

(4) Have a program design which includes purpose, philosophy, objectives, curriculum content, and plan to evaluate achievement of objectives and measurement of learning outcomes of students.

(5) Have a designated faculty responsible for planning, development, implementation and evaluation of curriculum and students.

(6) Extend over an enrollment period of no less than nine (9) months. See Section 3 of this regulation for exception.

(7) Include didactic components.

(8) Include a supervised clinical experience.

(9) Upon successful completion award a diploma or certificate.

Section 3. Program Requirements Exception. The only exception to the program requirements as stated in Section 2 of this regulation shall relate to Section 2(6) of this regulation. An organized post-basic program of study and clinical experience with an enrollment period of less than nine (9) months, completed by an applicant prior to January 1, 1986, shall be evaluated by the board on an individual basis to determine if the program is acceptable to the

board.

Section 4. [3.] Recognition of a National Certifying Organization. A national certifying organization may be recognized by the board to grant certification to meet eligibility requirements for registration as advanced registered nursing practitioner when said organization or agency meets the following criteria:

(1) Certifying body is an established national nursing organization or a subdivision thereof.

(2) Full membership privileges are restricted to registered nurses.

(3) Eligibility requirements for certification are delineated.

(4) Valid and current registered nurse licensure is required for initial and continuing certification.

(5) Certification is offered in speciality areas of clinical practice.

(6) Scope and standards of practice statements are promulgated and include:

(a) Belief statement.

(b) Statement on scope of practice.

(c) Standards for specialty area clinical practice.

(d) Guidelines for development of practice protocols.

(e) Guidelines for the provision of comprehensive client care.

(7) Mechanism for determining continuing competency is established.

(8) Procedures are established for determining qualifications for initial or continuing certification for members having had disciplinary action taken on license by any jurisdiction.

Section 5. [4.] Applicant Pending Certification Examination Results. A nurse who meets the requirements of Section 1(1), (2), (4), (5), and (6) of this regulation and who is eligible for and has applied for initial certification by one (1) of the national organizations specified in Section 1(3) of this regulation may be authorized by the board to practice under the supervision of a certified advanced registered nurse practitioner of the same specialty or a licensed physician until results of the certification examination have been received or for a period not to exceed one (1) year beyond the practice requirement for certification. To be eligible for authorization to practice under supervision the applicant shall:

(1) Submit evidence of verification of the required supervision.

(2) Submit evidence that he/she has applied to take and has met the eligibility requirements to take an initial examination to attain certification as required in Section 1(3) of this regulation.

Section 6. Applicant Holding Temporary Work Permit Pending Registered Nurse Licensure by Endorsement. A nurse who meets the eligibility requirements of Section 1(2), (3), (4), (5) and (6) of this regulation, and who holds a registered nurse temporary work permit issued pursuant to 201 KAR 20:090 pending licensure by endorsement, may be authorized by the board to practice as an advanced registered nurse practitioner for a period of time not to exceed the expiration date of the temporary work permit

or until the registered nurse license is issued or denied.

Section 7. [5.] Registration Renewal. (1) The advanced registered nurse practitioner registration shall expire/lapse at the time the registered nurse license expires/lapses.

(2) To be eligible for renewal of registration as advanced registered nurse practitioner, the applicant shall:

(a) Renew the registered nurse license on an active status.

(b) Submit a completed application form for renewal of registration as advanced registered nurse practitioner;

(c) Submit current renewal application fee;

(d) Meet requirements in Section 1(3) of this regulation.

(3) An advanced registered nurse practitioner who fails to renew the registered nurse license or is issued a license on an inactive status may not practice as or use the title of advanced registered nurse practitioner until a current active license has been issued by the board and the advanced registered nurse practitioner registration has been reinstated.

Section 8. [6.] Registration Reinstatement.

(1) If a nurse fails to renew the advanced registered nurse practitioner registration as prescribed by law and regulation, the registration shall lapse on the last day of the licensure period.

(2) To be eligible for reinstatement of advanced registered nurse practitioner registration, the applicant shall:

(a) Submit a completed application form;

(b) Submit current reinstatement application fee;

(c) Meet requirements in Section 1(1), (3) of this regulation.

Section 9. [7.] Certification/Recertification.

(1) An advanced registered nurse practitioner who has met requirements and has applied for recertification by one (1) of the national organizations specified in Section 1(3) of this regulation may practice as an advanced registered nurse practitioner until the results of the recertification have been received.

(2) A nurse who fails to attain certification from one (1) of the national organizations specified in Section 1(3) of this regulation will not be registered as an advanced registered nurse practitioner and may not practice or use the title of advanced registered nurse practitioner until the requirements of Section 1 of this regulation have been met.

(3) An advanced registered nurse practitioner who fails to attain recertification as required by the appropriate national organization will be notified that his/her advanced registered nurse practitioner number is void and he/she may not practice as or use the title of advanced registered nurse practitioner until the requirements of Section 1 of this regulation have been met.

(4) An advanced registered nurse practitioner who is decertified by the appropriate national organization shall notify the board of that fact and he/she shall not practice as or use the title of advanced registered nurse practitioner during the period of decertification.

Section 10. [8.] An application is valid for a period of one (1) year from date of submission

to board. After one (1) year from date of application, the applicant shall:

(1) Submit new application;

(2) Submit current fee;

(3) Meet requirements as stated in Section 1(1) through (3) of this regulation.

Section 11. [9.] The requirements of this regulation do not prohibit the supervised practice of nurses enrolled in post-basic educational programs for preparation in advanced registered nursing practice.

Section 12. [10.] Any registered nurse who holds himself out as a clinical specialist or is known as such, is required to register as an advanced registered nurse practitioner if his practice includes the performance of advanced registered nursing procedures according to an established protocol as defined in 201 KAR 20:057(2); such a nurse whose practice does not include the performance of procedures beyond the scope of registered nursing practice shall not be included under the requirements of this regulation.

Section 13. [11.] Any nurse practicing as an advanced registered nurse practitioner who is not registered as such by the board or any advanced registered nurse practitioner whose practice is inconsistent with the specialty to which he/she has been designated, shall be subject to the disciplinary procedures set in KRS 314.091.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: December 13, 1985

FILED WITH LRC: February 11, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 25, 1986 at 1:30 p.m. in Room 447 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by March 20, 1986: Bernadette M. Sutherland, Assistant Executive Director, Kentucky Board of Nursing, Suite 430, 4010 Dupont Circle, Louisville, Kentucky 40207.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: Approximately 150 registered nurses make application each fiscal year for registration and designation as an advanced registered nurse practitioner.

(a) Direct and indirect costs or savings to those affected: The proposed regulation amendments will not change costs.

1. First year: No change.

2. Continuing costs or savings: No change.

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

(b) Reporting and paperwork requirements: The proposed regulation amendments have no effect on existing reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None.

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: No

change.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative, to make no change, was assessed, and it was determined that existing policies and guidelines of the board must be in regulation form. The revisions were necessary (1) to insure that an applicant holding a registered nurse temporary work permit may be authorized to practice as an ARNP until the RN license is issued or denied, and (2) to provide a grandfather clause for applicants completing a program of less than nine months prior to January 1986.

(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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None.

#### Tiering:

Was tiering applied? Tiering was applied in that a qualified applicant (1) holding a registered nurse temporary work permit may be authorized to practice as an ARNP, and (2) completing a program, prior to January 1986, of less than nine months, may be eligible for ARNP registration after evaluation of the program by the board. All other applicants must meet the requirements of the regulation.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Education for Exceptional Children  
(Proposed Amendment)

707 KAR 1:003. Annual program plan for the administration of the education of the handicapped act.

RELATES TO: KRS 156.010, 156.035, 157.200 to 157.290

PURSUANT TO: KRS 156.035, 156.070, 157.220, 157.221, 157.224

NECESSITY AND FUNCTION: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts, and KRS 156.010, 156.035, and 157.224 set forth the responsibilities of the Department of Education and the State Board of Education relative to the development and approval of a state plan required for receipt of federal funds for special education programs. This regulation adopts the current State [Annual Program] Plan for the Administration of the Education of the Handicapped Act, Part B, which is necessary in order for the Department of Education to be eligible to receive federal funds under P.L. 93-380, as amended by P.L. 94-142.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, the Kentucky State [Annual Program] Plan for the Administration of the Education of the Handicapped Act is hereby approved by the State Board of Education in accordance with the approved federal guidelines and submitted to the

U.S. Secretary of Education for his approval. This plan is incorporated by reference and hereinafter should be referred to as the "Kentucky State [Annual Program] Plan for the Administration of the Education of the Handicapped Act," revised 1986 [1983] and effective for the school year[s] 1986-87 [1983-84, 1984-85, and 1985-86]. Copies of the plan may be obtained from the Office of Education for Exceptional Children, State Department of Education, Frankfort, Kentucky 40601.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: February 12, 1986

FILED WITH LRC: February 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on March 24, 1986, at 10 a.m., Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky to review the regulations adopted by the State Board of Education at its February meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before March 19, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Vivian Link

(1) Type and number of entities affected: 180 local school districts.

(a) Direct and indirect costs or savings to those affected: Upon approval of the plan and receipt of funding, approximately 85% of the state's entitlement for the year covered by the plan will be distributed as "flow through" monies to the 180 local school districts of the state. Local school district entitlements are determined on a per pupil basis. Each local school district is allocated an amount equal to 85% of the amount per pupil received by the state times the number of handicapped children, age three through 21, reported by the district on a December 1 certified child count. For the 1985-86 school year, districts received approximately \$231 per child.

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: In order to receive their allocation, each local school district must submit an application for funding which meets federal and state requirements, and must maintain accurate fiscal records.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Fifteen percent (15%) of each fiscal year allocation will be set aside for use at the state level. Ten percent (10%) of these funds will be used to provide direct and support services to handicapped children through local Discretionary Grant activities. As provided in federal regulations, five percent (5%) will be used to fund state activities to administer the program in Kentucky.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: 707 KAR 1:003 incorporates by reference Kentucky's FY 87 Annual Program Plan for the Administration of the Education of the Handicapped Act. The plan is a requirement under P.L. 94-142, and must be submitted to and approved by the U.S. Department of Education in order for Kentucky to receive its share of federal funding.

(3) Assessment of anticipated effect on state and local revenues: Kentucky's share for the 1986-87 school year is expected to be approximately 19 million dollars.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal regulation requires the submission of this type of plan in order to receive funding. No alternative methods were available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The plan is required to contain state statutes and regulations which are sources of policy regarding exceptional child programs.

(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. Since all local school districts are treated equally and must comply with all federal and state requirements, tiering could not be applied.

EDUCATION AND HUMANITIES CABINET  
Department for the Blind  
(Proposed Amendment)

720 KAR 1:010. Federal Vocational Rehabilitation Program.

RELATES TO: KRS 163.450 to 163.470

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 163.450 to 163.470 designates the Department for the Blind to be responsible for all rehabilitation services for citizens of the Commonwealth of Kentucky who are blind and visually impaired. These regulations adopt federal rules governing the services, personnel, and administration of the Department for the Blind required as a condition for the agency to receive federal funds and to administer federal vocational rehabilitation programs. P.L. 93-112, as amended, requires the submission of a Three-Year State Plan for Vocational Rehabilitation Services to the Secretary of the United States Department of Education, and P.L. 93-516, as amended, requires the submission to the Commissioner of Rehabilitation Services, Department of Education, an application for designation as state licensing agency to administer the Randolph-Sheppard Vending Facility Program.

Section 1. Pursuant to the authority vested by KRS 163.450 to 163.470, the Kentucky State Plan for Vocational Rehabilitation Services for the Blind and Visually Impaired, as amended, for the period October 1, 1985, through September 30, 1987, effective October 1, 1985, is presented

herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said plan may be obtained from the Department for the Blind, Education and Humanities Cabinet.

Section 2. Pursuant to the authority vested by KRS 163.450 to 163.470, the Kentucky Application for Designation for the Randolph-Sheppard Vending Facility Program, effective November 15, 1979, as amended October 15, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said plan may be obtained from the Department for the Blind, Education and Humanities Cabinet.

CHARLES W. McDOWELL, Commissioner

APPROVED BY AGENCY: February 13, 1986

FILED WITH LRC: February 13, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 27, 1986, at 10 a.m. at the Frankfort office of the Department for the Blind, 427 Versailles Road. Those interested in attending this meeting shall contact: Howard Jones, Kentucky Department for the Blind, 427 Versailles Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Howard Jones

(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: 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: Agency State Plan under P.L. 93-112.

Tiering:

Was tiering applied? Yes

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

806 KAR 38:030. Contract filing, approval.

RELATES TO: KRS 304.4-010, 304.38-050, [304.38-160,] 304.38-180(1)  
PURSUANT TO: KRS Chapter 13A, 304.38-150  
NECESSITY AND FUNCTION: KRS 304.38-050 provides that health maintenance organization contracts be filed with and approved by the commissioner prior to their use. KRS 304.38-180(1) prohibits the use of false or misleading advertising or evidence of coverage. The filing fees referred to are from Subtitle 4 of KRS Chapter 304.

Section 1. Any proposed master contracts or agreements, or proposed certificates or other evidences of coverage for enrollees shall be filed for approval by the commissioner. All sales material of any nature, including, but not limited to, television, radio or newspapers, shall be submitted for informational purposes [approval] and shall conform to the department's current guidelines thereon. All materials required to be submitted shall contain thereon a proper identifying form number. A filing fee of five (5) [two (2)] dollars for each form or sales material is required to be submitted at the time of the filing.

GIL McCARTY, Commissioner

APPROVED BY AGENCY: January 17, 1986

FILED WITH LRC: January 24, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602. A public hearing concerning the proposed regulation will be held on March 21, 1986 at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed amendment is necessary to delete the regulatory requirement of prior approval of health maintenance organization advertising materials. The current regulation prohibits an HMO from using an advertisement unless it is filed with and approved by the Commissioner of Insurance. There are now 13 HMOs authorized to transact business in Kentucky. The burden of approving all of this advertising - a requirement not imposed on other health insurance organizations - is too great. Therefore, the proposed amendment makes this filing for informational purposes only. Thus, advertisements will be placed on file and HMOs will be contacted only if the advertisement is considered unfair or deceptive. The proposed amendment also makes technical changes in the amendment.

(1) Type and number of entities affected: There are 13 HMOs authorized to transact business in Kentucky.

(a) Direct and indirect costs or savings to those affected: The proposed amendment will result in savings to HMOs because HMOs will no

longer have to wait for approval of advertising prior to its use.

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: The proposed amendment will reduce paperwork because HMOs will no longer have to obtain prior approval of advertising.

(2) Effects on the promulgating administrative body: There will be fiscal impact in that the Department of Insurance will realize savings in a reduction of paperwork for approving HMO advertisements. The fee increase reflected in the proposed amendment is a technical amendment and results in no fiscal impact. The \$2.00 fee went out of use in 1982 with the repeal of KRS 304.38-160 and amendments to KRS 304.38-200 and 304.4-010. The \$5.00 fee is established by KRS 304.4-010(18)(a).

(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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Department of Insurance considered leaving the regulation as it is or eliminating all filing requirements for HMO advertising. The former alternative was rejected because of the administrative burdens involved. The latter method was rejected in order to continue to monitor competition involving HMOs.

(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. Tiering was not applied because the proposed amendment should apply equally among HMOs.

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
(Proposed Amendment)

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

RELATES TO: KRS 194.050, 211.180

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

NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for

the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the "Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1985-1986 [1984-1985]" by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC)-Fiscal Year 1985-1986 [1984-1985] (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

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

APPROVED BY AGENCY: February 7, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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: Peggy S. Kidd

(1) Type and number of entities affected: 63,000 clients per month in 120 counties.

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): Services are ongoing, therefore there are no changes.

(b) Reporting and paperwork requirements: No additional paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: Services are ongoing therefore not applicable.

(b) Reporting and paperwork requirements: No

additional paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: Services already ongoing therefore no effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Only efficient alternative available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.

(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. Tiering not applicable.

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 8:020. Policies and procedures for local health department operations.

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the February 15, 1986 [December 15, 1985], edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the February 15, 1986 [November 15, 1985], edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the March, 1985, edition of the "Planning Manual for

Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the March, 1985, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. MCH Maternity Manual. The policies set forth in the July 1, 1985, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 10. Sudden Infant Death Syndrome Program. The policies set forth in the January 1, 1985, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 11. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the October 15, 1985, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 12. Standards for Regional Pediatric Clinics. The policies set forth in the October 15, 1985, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Preventive Health Care in Children. The policies set forth in the December 15, 1985, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Child Restraint Program. The policy set forth in the January 1,

1986, edition of the "Standards for the Child Restraint Program" manual governing the operation of safety seat loan programs conducted by local health departments are hereby adopted by reference.

Section 15. 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 16. Summary of Amendment. (1) In relation to Section 1 relating to the Local Health Policy Manual, LHP 600-61 "Private Water Supply Samples" is being amended to enable local health departments to collect water samples for bacteriological analysis from any private water supply suspected of being contaminated. [13 relating to the Standards for Preventive Health Care in Children, the manual is being revised and updated to include the incorporation of the most recent Federal Poverty Income Guidelines, eligibility for all children enrolled in the Regional Pediatric Clinic Program, updated immunization guidelines, the deletion of the MCH-39 manual reporting form and a description of the automated reporting/reimbursement system. Attachment A - Chart Audit Tool is deleted and Attachment A - Chart Audit Tool (revised 12-15-85) inserted.]

(2) In relation to Section 2 relating to the Financial Management Manual, Section IV "Receipts Policies" is being revised by adding a policy which will place a limit on the amount of money that a local health department may accumulate in its Unrestricted Fund Account to a combination of fifteen (15) percent of non-fee programs annual expenditures plus twenty-five (25) percent of fee for service programs annual expenditures or \$50,000, whichever is greater. [14 of this regulation, the Child Restraint Program Standards manual is being incorporated by reference as Section 14 of this regulation. The Child Restraint Program Standards have been developed to provide guidance to local health departments in operating a loan program and to provide a statewide standard for program management. Local health departments will receive funds to purchase safety seats for infants and toddlers; these seats will then be loaned to eligible health department clients.]

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 24, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS (Section 1)

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: 49



local health departments.

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

1. First year: Undetermined until data is available relative to the number of samples taken.

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Same as #1.

(b) Reporting and paperwork requirements: Completion of a laboratory request form.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Increase in laboratory cost; the amount is undetermined at this time.

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing costs: Same as #1.

(b) Reporting and paperwork requirements: Filing of laboratory results and reporting results to local health departments.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Submission to a private laboratory; less costly in Department for Health Services Laboratory.

(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 policy does not mandate that local health departments sample water supplies; however, it does provide them with the option of testing private water supplies that are suspected of being contaminated.

Tiering:

Was tiering applied? No. Not applicable.

#### REGULATORY IMPACT ANALYSIS (Section 2)

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: 47 local health departments.

(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: No additional.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No practical alternative.

(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.

#### 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 February 15, 1986 [September 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 October 15, 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 September 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 February [January] 15, 1986, 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 January 15, 1986, 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 January 15, 1986, 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 September 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 September 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 September 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 February [January] 15, 1986, 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 Amendments.

Section 1 is revised as follows:

#### OAKWOOD POLICY MANUAL

##### Volume I, A-1

- |                |             |   |
|----------------|-------------|---|
| <u>DST-0-2</u> | <u>#1E</u>  | <u>States action to be initiated if abuse incidents observed in the community.</u>                          |
| <u>DST-0-2</u> | <u>#23A</u> | <u>Deletes policy regarding team meetings.</u>  |
| <u>DST-0-3</u> | <u>#16B</u> | <u>Specifies Division of Institutional Care Referral Coordinator responsibility in placement referrals.</u> |
| <u>DST-0-3</u> | <u>#18B</u> | <u>Deletes age specifications in regard to providing a free appropriate education.</u>                      |
| <u>DST-0-4</u> | <u>#1B</u>  | <u>Makes committee at large responsible for reviewing behavior programs prior to implementation.</u>        |
| <u>DST-0-7</u> | <u>#6C</u>  | <u>Brings facility policy and procedure into compliance with personnel regulations.</u>                     |

DST-0-7      #16B      Brings facility policy and procedure into compliance with personnel regulations.

DST-0-7      #29A      Deletes policy. Affirmative Action Plan posted separately.

DST-0-7      #30B      Brings facility policy into compliance with federal regulations governing ICF/MR.

##### Volume II, A-2

DST-1-3      #13D      More clearly identifies responsibilities for resident personal funds.

DST-1-3A      #1B      Relieves front desk of responsibility for seeing that responsibility forms are completed.

DST-1-3B      #2A      Clarifies Canteen organization.

DST-1-3B      #6A      Changes references to Canteen  
                   #9B      Committee to Board of Direc-  
                   #11A      tors. (Former Committee is  
                                   now the Board.)

##### Volume III, A-3

DST-2-2      #9D      States procedures for more clearly flagging allergies.

DST-4-2      #20D      Relieves Unit Team of responsibility for initiating intrafacility transfers. IDT Review team responsible.

Section 4 is revised as follows:

#### EASTERN STATE HOSPITAL POLICY MANUAL

##### Section 4

##### E1, I, p.22

The procedure for a two-step skin test for employees over age 45 has been changed to comply with state law.

##### E1, II, p.12 and 12A

The major changes in this policy involve the disciplines responsible for notifications when patients leave on AWOL:

1. Nursing will now notify all law enforcement officials immediately;
2. Social Work will notify the family designated to be notified in cases of emergency and, when applicable, the Comprehensive Care Center, legal committee, and committing judge; and
3. Nursing will notify all persons advised of the AWOL when and if the patient returns.

Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY  
MANUAL

STAFF RELATED POLICIES

- J-2/A-4 Duties of 8-4 Nursing Shift Supervisor  
Revised: Letter N - new duty added; letter C - deleted part due to change; letter D deleted part due to change of responsibilities.
- J-2/A-5 Duties of the 4-12 Nursing Shift Supervisor  
Revised: Letter U added, new duty.
- J-2/A-6 Duties of the 12-8 Nursing Shift Supervisor  
Revised: Letter X added, new duty.
- J-2/A-14 Nursing Service Report  
Revised: #2 to Letter B changed for clarification.
- J-2/A-15 Nursing Staff Meetings (Monthly)  
Revised: Letter B deleted statement as we no longer have Pre-trial Coordinator.
- J-2/A-16 Nursing Supply and Storage Are and After-Hours Acquisition of Supplies  
Revised: Letter B deleted; letter C changed to B and redefined for clarification.
- J-2/A-23 Stripping Charts  
Revised: Note deleted as there is no longer a Behavior Unit on 3D.

PATIENT RELATED POLICIES

- J-2/B-2 Admission  
Revised: Letter B, information deleted due to change of policy; letter D word change for clarification, and last sentence deleted due to change of policy; letter E new information added; letter H new information added for clarification; letter K new information added for medical clarification.
- J-2/B-3 Admission Chart Packet  
Revised: Letter B added new form; #5, changing all other number; letter C new; #7 added. Also another NOTE added.
- J-2/B-9 Chart Form Sequence  
Revised: Letter A added to #1 (new), changing all the numbers; NOTE added new statement for clarification.
- J-2/B-10 Charting on Inpatients  
Revised: Letter L, word clarification; letter W, word clarification; #GG, new information added for clarification.
- J-2/B-12 Cultures  
Revised: Letter F, word change for clarification; letter G, #4, new information added.

- J-2/B-13 Dental Consultations  
Revised: Letter B, new information added (new dentist, procedure change); letter D, new information added for clarification; letter E deleted due to no longer using the form; letter F deleted part of sentence, no longer use forms; letter H, new information added for clarification; letter I, word added to information; letter L deleted due to change of procedure; letter M, information changed due to new procedure.
- J-2/B-18 Discharge  
Revised: Letter B, word change for clarification; letter C, deleted due to information, change of policy; letter F, new information added, changing all the other numbers.
- J-2/B-19 Discontinuance of Physicians Orders on Patients Admitted/Transferred to Other Hospitals for Treatment  
Revised: Letter B, word changes for clarification.
- J-2/B-20 Ear Irrigation  
Revised: Letter N, #3, word changed for clarification.
- J-2/B-21 EEG  
Revised: Letter C, word changes and new information added for clarification; letter F, new information added; letter G, new information added for clarification.
- J-2/B-24 Enema  
Revised: Charting, letter D, word changes for clarification; letter E, new information added.
- J-2/B-25 Enema (Retention)  
Revised: Letter E, new information added.
- J-2/B-26 Fecal Impaction Removal  
Revised: New word to the policy name; letter F, new information added.
- J-2/B-27 First Aid  
Revised: Letter F, under What to do; #3, new information added.
- J-2/B-35 In-Hospital Incident Reports  
Revised: Letter B, #2, grammar changed; letter C, word changed for clarification.
- J-2/B-36 Intake and Output  
Revised: Statement added to new information; letter J, #2 changed; #3 changed, #4 changed, and #5 and #6 the same.
- J-2/B-39 Lab Procedures and EKG Procedures  
Revised: Letter A, new information added.

- J-2/B-40 Medical Emergency Plan - Transfer to Humana Hospital University of East End Medical Center  
Revised: The name of the policy and the policy statement were revised as new information was added. Letter D changed in wording due to policy change; letter E, added new statement; letter F, new information added; letter G, new information added; letter H, word changed; letter I, word change; letter J, #1, number changed.
- J-2/B-42 General Rules for Preparing and Administering Medication  
Revised: Letter A added as was not in old procedure, thus changing all the other numbers; letter J, new information added for clarification, under Charting; letter B, wording change for grammar.
- J-2/B-43 Oral Medication  
Revised: Letter A, new information added; letter G, #3, new information added; #5, word change for clarification.
- J-2/B-59 Drugs Brought to KCPC by Admitted Patients  
Revised: Letter J, wording changes for clarification.
- J-2/B-60 Nursing Assessment and History  
Revised: letters C, D, E, new information added to the policy.
- J-2/B-61 Nursing Care/Treatment Plans  
Revised: Numbers changed to the alphabet, A thru Q. Letter A, new information added; letter C, new information added; letter D, one word deleted; letter G, new information added; letter M, new information and word changed for clarification; letter Q, new information added.
- J-2/B-62 Off-Grounds Clinic Consultations  
Revised: Letter C, new information added; letter D, word change; letter F, new information added; letter G, word change for clarification.
- J-2/B-64 Oxygen (O<sub>2</sub>) Therapy  
Revised: NOTE, new information added for clarification of Oxygen.
- J-2/B-66 Physician Log Sheet - Daily Restraint and Seclusion.  
Revised: new letter G, added information.
- J-2/B-75 Special Diets  
Revised: Letter A deleted one statement; letter B, new information added; letter D, word changed; letter Q, new information added for clarification.
- J-2/B-76 Sputum Collection  
Revised: Letter J, one statement deleted, and new statement added; Procedure for Luki Tube deleted from the policy. Under Charting, letter C, wording change for clarification.
- J-2/B-83 TPR  
Revised: Letter A, IVAC thermometer added; NOTE added under letter P, #11; deleted IVAC policy and procedure from Index (J-2/B-38).
- J-2/B-86 Transcribing Physicians' Orders  
Revised: Policy statement: letter D, new information added; letter G, statement deleted from policy and new information added due to protocol; letter I and J, both are new information added for clarification.
- J-2/B-87 Transfer (Inter-facility, KCPC)  
Revised: Letter A, #1, deleted due to policy change; #2 changed to #1, and new information added, also word changing for grammar; #2, new information added. NOTE, new, added for information; letter B, #1, word change; #2, word change; #3, word change; #4, word change (all for clarification), #5 deleted as N/A now.
- J-2/B-88 Collection of Urine Specimen  
Revised: Letter A, #4, as new wording added; NOTE, new information added, under note #2, word change, under example #7, wording changed for clarification.
- J-2/B-91 Vital Signs  
Revised: Letters A, B, C, E, word changing for clarification; letter D, new information added.
- J-2/B-92 Weight  
Revised: Letter A, #1, new information added; letter A, #6, new information added for clarification.
- J-2/B-93 X-Ray Procedures  
Revised: Letter A, #1, new information added; letter A, #2, new information added; letter A, #3, information added; letter A, #4, new added; letter A, #7, new information added. Under NOTE, x-ray procedure of special diet has all been changed due to new information on procedure methods.
- NEW POLICIES**
- J-2/B-19a Drug Abuse Testing
- J-2/B-71 Seclusion and/or Restraints  
Deleted from Nursing Department Policy and Procedure manual as this is now a General Hospital Policy and Procedure.

[Section 4 is revised as follows:

# EASTERN STATE HOSPITAL POLICY MANUAL

GENERAL HOSPITAL POLICY: D1, Section I, page 9  
A complete revision to reflect the provisions outlined in the Governor's Cabinet's and Department's Affirmative Action Plan, including: complaint procedures, interviews, counselor positions, training, and length of counselor's term.

PERSONNEL POLICY MANUAL - D2, Section I, page 43  
Policy changed to reflect a change in Educational Achievement increment authorized by the State Personnel Board.

D2 - Section I A new policy is designed  
Page 69 to provide security for computerized data.

Section 5 is revised as follows:

# CENTRAL STATE HOSPITAL POLICY MANUAL

E1, Section D New policy. This policy is  
No. 2 assuring our health care professional staff meet all requirements for licensing, certification, and registration. The purpose of the policy is to know that a staff member meets necessary technical qualifications for practicing his or her profession and to assure that we meet Joint Commission for Accreditation of Hospitals. It is not anticipated that the implementation of this policy will result in additional cost or expenditure.

E1, Section E New policy. In order to meet  
No. 4 standards of the Joint Commission for Accreditation of Hospitals, a policy and procedure for quality assurance activities as they relate to Emergency Services was developed. Since these procedures will be a part of the Medical Staff meeting already in place, there should be no change in cost and very little additional time will be needed to implement them.

Section HH - Treatment Program - Revised Content  
- The content was revised to add the policies listed below.

Section HH No. 2:32 - New Policy - This policy was developed to meet standard 17.9 of the JCAH. Since this information is already being gathered, the only increase in time expended will be that required for documentation. There should be no increase in cost.

E1, Section HH, No. 8.30 - Revised policy

Policy HH 8.30 has been revised to include information contained in HH 8.60 which will be discarded. The new policy HH 8.30 will be entitled "Ward Charts." The procedures remain essentially the same; the major revision is the deletion of general information. Therefore, there should be no change in the cost of time or money for implementation.

Section HH, No. 8.80 - 3rd page revised and

revision in form - 4th page located behind 8.80

The Treatment Planning Policy has been revised to incorporate procedures for patient care monitoring reviews as required by JCAH Standards. Since this revision is merely the documentation of procedures already in effect, no added expenditure of money or time is expected.

This form has been revised to include a space for documenting that the diagnosis has been reviewed. Since this revision requires only the documentation of a review already done, it is anticipated that there will be little, if any, increase in time required and no increase in cost.

Section HH No. 9.12 - New Policy - Classes regarding the use of alcohol and/or drugs are available to patients upon referral by their treatment teams. This policy and procedure documents an educational service already in effect. Therefore, no increase in staff time or financial expenditure is expected.

Section R No. 9 - Revised policy - The Fiscal Services Quality Assurance Committee discussed that the present limits set up for the replacement of clothing damaged by an acting out patient, were not in keeping with today's higher prices for clothing. There should be no change in cost and very little additional time will be needed.

# E-2 - Nursing Manual

Section 11.15 - Urinary Tract Infection  
Section 11.16 - Bronchitis  
Section 11.17 - Vaginal Infections  
Section 11.18 - Eye Infection  
Section 11.19 - Pneumonia  
Section 11.20 - Otitis Media  
Section 11.21 - Tonsillitis  
Section 11.22 - Pharyngitis  
Section 11.23 - Skin Infections

The above policies have been added to meet JCAH Accreditation Standards for Infection Control. These policies cover the most frequently occurring infections at Central State Hospital.

Section 14 No. 3 - New Policy - This policy is needed to meet JCAH Standards and to continue to be accredited by JCAH. No extra cost is needed.

# E1 - Volunteers

Section GG, No. 1 - Revised policy

This revision is to comply with JCAH Standards and does not require additional personnel or funds.

# E1 - Dental

Section F, No. 1 - revised policy  
Section F, No. 3 - revised policy  
Section F, No. 6 - new policy

(Proposed changes and additions to the Dental Service Policy and Procedure have been presented to Clinical Executive Committee. Essentially the changes have been made so that the dental policies address the JCAH standards in Joint

Commission language. The changes do not effect cost. They do require some additional manhours which will not create the need for more personnel but will reduce the patient treatment hours somewhat. Overall the policies and procedures represent a higher standard of care for the patients so the changes are beneficial.)

Section 6 is revised as follows:

#### WESTERN STATE HOSPITAL POLICY MANUAL

##### DISASTER PLAN

F-16, Section III

This policy was added to the manual to complete the Disaster Plan.

##### EMPLOYEE HEALTH MANUAL

F-32 (Volume I)

Policy has been changed due to the fact that it should have stated new employees instead of just employees under A.#2.

Policy #2 Revised to coincide with the recommendations from Christian County Respiratory Disease Center.

Policy #3 Revised to read flu vaccine will not be given to person with a history of hypersensitivity to the components.

Policy #4 Revised to include responsibility of administering Hepatitis B vaccine assigned to Employee Health Nurse.

Policy #5 Name of policy changed to more appropriate title.

Policy #6 A new policy to apply to new employees as well as existing employees.

Policy #7 A new policy to apply to new employees as well as existing employees.

Section 10 is revised as follows:

#### KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY MANUAL

##### OUTPATIENT SERVICE

J-9/2 The changes in the Intake Form were made to reduce the need for typing and to use the same form for the Intake History and the Psychosocial Evaluation.

J-9/3 This procedure is being changed to reduce the time of professional staff in rewriting patient information, and to assure the accuracy of the information.

J-9/5 This procedure is being modified to include patient information necessary for records and to clarify staff responsibilities.

J-9/7 This procedure is being changed to reduce typing in conjunction with item J-9/2 above.

J-9/12 This procedure is being changed to reduce required paperwork. The data is available in the physicians' appointment book.

#### GENERAL HOSPITAL POLICY AND PROCEDURE SECLUSION AND RESTRAINTS #J-1/B-1

This policy replaces J-5/B-2 in the Security Department Policy and Procedure Manual and J-2/B-71 in the Nursing Department Policy and Procedure Manual.

The policy statement clarifies the four (4) types of accepted restraint orders. It also stated what is not considered restraint and/or seclusion situations.

Section A, 2, of the "new" policy explains the three (3) types of seclusion orders.

Section B, 5, and B, 6, changed to insure closer observation by Nursing and Security supervisors. Security supervisors must also review documentation.

Section D, 5, states types of information charged and when appropriate.

#### SECURITY DEPARTMENT POLICY AND PROCEDURE

J-5/A-1 Section G omitted as this is covered in J-1/A-45.  
Section I added to make a direct reference to J-1/A-45.

J-5/A-9 Section B and D, wording changes only.

J-5/A-18 Section D, 4, omitted as it is no longer necessary.  
Section G added; clarifies duties of position.

J-5/A-12 Section A, I, states amount issued.  
Section A, K, adds new equipment.  
Old Section A, K, omitted; not issued.  
Section F clarifies procedure when employment is terminated.  
Section E, explains new manner of issuing clothing.

J-5/A-24 Section 8 added; ensures supervisor to be on the scene of any incident and all required documentation completed.  
Section 9 added; allows for supervisor to take charge of situation.

J-5/A-25 Section C omitted; changes in Section C and D reflect change in procedure.

J-5/A-26 Section C omitted; change reflects procedural differences.  
Section G omitted; no longer a procedure.  
Section H omitted; unnecessary repeating in procedure.

J-5/A-28 Omitted from manual as this procedure is covered in several other policies.

J-5/A-29 Section B changed to reflect change in procedure.

J-5/A-30 Section C changed to more clearly define officer's duties.  
Section F added to clarify to officer what to do with uncooperative workers.

- J-5/A-31 Section 2-C, changed to reflect scheduled count at 4:00 p.m. Section 8,B specifies sequence of responding to count and when count is clear. Establishes visiting area as an accountable unit when applicable. Section D,4,b, changed to designate visiting as accountable for counts.
- J-5/A-32 Section B,1, changed to prevent "break" in chain of evidence. Section 8,a, clarifies that "on scene" staff member secure evidence.
- J-5/A-34 Section C omitted; never was implemented in institution.
- J-5/A-39 Section E omitted; keys no longer kept in control panel.
- J-5/A-44 Section A, 5, omitted; only accepted officers will be informed.
- J-5/A-45 Interaction and Participation in Recreational Activities with Patients New Policy written to set specific guidelines for officers when involved in recreational activities with patients; maintains accountability and purpose to staff interaction; restricts security supervisors from activities; encourages officers to get other patients involved instead of self entertainment; allows for exception when officer is assigned 1:1 with a specific patient.
- J-5/B-12 Section A, 9, changed to allow Security to restrict bullpen privileges. Section A, 10, changed to allow shift supervisors to make the decision. Section B, 3, omitted. Section D, 1, omitted as it is covered in another policy.
- J-5/B-13 Section A changed to allow removal of coffee pot when necessary. Section B changed to remove set standards.
- J-5/B-14 Section C changed to set specific times.
- J-5/B-15 Section L changed; Security is no longer able to allow phone calls.
- J-5/B-17 Section A, wording changes only.
- J-5/B-18 Omit policy. All information covered in policy #J-5/B-19.
- J-5/B-20 Section H, rewritten to set restrictions on privilege when necessary. Section J, changed to set restrictions and avoid confusion.
- J-5/B-24 Section B changes location of medication being dispensed. Section C omitted.
- J-5/B-3 Omit Section A covered in Section B. Charting required on all patients every day by officers. Section B clarifies that charting be done daily on all patients by officers. Section M omitted; covered in vital sign policy in Nursing manual. Charting of vital signs now being done by Ward Clerks, not the officers.
- J-5/B-4 Section A, 18, added to approve headbands as approved clothing items. Sections C, 1; C, 3; C, 4; C, 6; changed to allow increased amounts. Sections D, 1; D, 2; D, 3; D, 4; and D, 5 changed to allow only state-issued linens. Section E, footnote changed to allow approval of appliances to Unit Lieutenant on post-convicted units only. Also, now stated appliances must be inspected by the Fire & Safety Officer. Section F, 10, omitted; art supplies are no longer permitted in patient rooms. Section G, 3, changed; hardback books are no longer permitted. Section I, 7, added.
- J-5/B-9 Section D, 6, changed to allow headbands. Section F, 3, clarifies restricted area.]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 13, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities 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 1,850 residents.

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

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: 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.

(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

(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 January 15, 1986 [December 16, 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 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-servicemembers, 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 October 15, 1985. 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-servicemembers, 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 August 1, 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 wages and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; 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.

(7) Kentucky Unemployment Insurance Commission Administrative Branch Manual issued September 1, 1985. This manual includes procedures for the daily operations of the branch. Such procedures include staff duties and responsibilities, the review of cases, the conduct of hearings, the preparation of decisions and the proper handling of records and reports.

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 11000 [6000], Unemployment Compensation for Federal Employees [Claims Investigation], strike entire Chapter [contents page including 6129-6310 dated 11-15-85], and substitute in lieu thereof new chapter dated 1-15-86, which revises the chapter's format to the standardized Department for Employment Services Manual format and which ensures the federal agency receives immediate notification of reason of separation, all base period federal employers receive a Notice of Potential Benefit Charges and that all fraud investigations and pursuit of overpayment recovery in fraud cases are conducted by the Fraud Investigations and Internal Security Unit. [contents page including 6129-6310 dated 12-16-85. Strike pages (6224-6254) - (6254-6258) dated 9-16-85, and substitute in lieu thereof pages (6224-6236) - (6254-6258) dated 12-16-85, which adds the subheading "State Income Tax Refund Intercept" and describes the Appeals and Benefit Branch procedures as they relate to intercepting State Income Tax Refunds. Strike contents page dated 9-16-85, (section 6000

through 6127) and substitute in lieu thereof contents page dated 12-11-85, (sections 6000 through 6127). Strike pages (6000-6010) - (6017-6017) dated 9-16-85, and substitute in lieu thereof pages (6000-6010) - (6017-6019) dated 12-11-85, which adds a section regarding eligibility for benefits and disqualification of employees of educational institutions or educational service agencies between school terms and during vacation and holiday recesses. Strike pages (6190-6190) - (6190-6193) dated 9-16-85, and substitute in lieu thereof pages (6190-6190) - (6190-6193) dated 11-22-85, which provides instructions for entering weeks claimed on program 48 when an invalid claim becomes valid after reconsideration but the claimant is otherwise disqualified.]

(2) Chapter 14000 [12000], Charts and Form Letters [Personnel Time Distribution Section], strike page 14000-14015 dated 11-15-85, 1985-1986 BYE Chart and Official Benefit Calendar 1984-1985-1986 [entire chapter], and substitute in lieu thereof page 14000-14015 dated 1-3-86, 1986-1987 BYE Chart, Official Benefit Calendar 1985-1986-1987, TRA Benefits Chart, DUA Claims Calendar and WIN Compensable Period Calendar which updates the BYE Chart and Official Benefit Calendar and adds the TRA Benefits Chart, DUA Claim Calendar and WIN Compensable Period Calendar [entire chapter dated 11-15-85, which revises the chapter's format to the standardized Department for Employment Services manual format].

[(3) Chapter 14000, Charts and Form Letters, strike entire chapter, and substitute in lieu thereof entire chapter dated 11-15-85, which revises the chapter's format to the standardized Department for Employment Services Manual format.]

[(4) Chapter 15000, Local Office Ranking, strike entire chapter, and substitute in lieu thereof entire chapter dated 11-15-85, which revises the chapter's format to the standardized Department for Employment Services Manual format.]

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 5, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986, 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 March 16, 1986, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: James 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) Procedure already in effect. 2) All claimants treated equally under the law.

**CABINET FOR HUMAN RESOURCES  
Department for Social Insurance  
Division of Management & 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 February 1, 1986 [September 26, 1985], 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. 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 the maximum set at 102 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 percent of 102 percent of the median of allowable trended costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount

for the prospective uniform rate year will be at 102 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 maximum (upper limit) shall be set at 110 percent of the median of the array.

(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 except for ventilator therapy services which shall be paid on a prospective rate basis. 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 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 reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs. [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 allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price. [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)."]

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(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 seven (7) dollars and fifty (50) cents 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) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF [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 seven (7) dollars and fifty (50) cents 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.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is

available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting 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, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Certificate of Need Authority (CONA) an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Certificate of Need Authority (CONA) has acted on the application and any appropriate licensure action has been effected.

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 so as to reasonably take into account economic conditions and trends.

(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)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$27.00 & below	\$.92	\$.58
28.00 - 28.99	\$.86	\$.50
29.00 - 29.99	\$.78	\$.41
30.00 - 30.99	\$.70	\$.32
31.00 - 31.99	\$.61	\$.21
32.00 - 32.99	\$.51	\$.09
33.00 - 33.95	\$.35	-

Maximum Payment \$33.95

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

(Effective 8-3-85)

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	\$.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)

Investment Basic Per Diem Cost	Incentive Factor Per Diem Amount	Factor Per Diem Amount
\$36.99 & below	\$.92	\$.58
37.00 - 38.99	.86	.50
39.00 - 40.99	.78	.41
41.00 - 42.99	.70	.32
43.00 - 44.99	.61	.21
45.00 - 46.99	.51	.09
47.00 - 48.72	.35	-

Maximum Payment \$48.72\*

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

(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 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 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 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 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 except for ventilator therapy services 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 indwelling [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).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(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 occupancy factor and the median cost center per diem upper limits.

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

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

(10) "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) "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 September 26, 1985 except as otherwise specified herein.]

MIKE ROBINSON, Deputy Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 31, 1986

FILED WITH LRC: February 3, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 200 Medicaid recipients in an undetermined number of skilled nursing facilities.

(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: \$500,000\* (costs)

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: Transitional payments will end.

(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: \*Assumes approximately 200 SNF beds with grandfathered recipients will convert to ICF, that the conversion process will average six (6) months, and the additional daily patient cost will be approximately \$14.00 per day.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

#### CABINET FOR HUMAN RESOURCES

Department for Social Insurance

Division of Management and Development

(Proposed Amendment)

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

RELATES TO: KRS 194.030(6), 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the



Medical Assistance Program and is applicable for both the categorically and medically needy.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Material. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective February 1, 1986 [November 1, 1985]. The regulations contain federal supplementary policies, interpretations and implementing instructions for the Medical Assistance Program as authorized by Title XIX of the Social Security Act.

(2) Federal "State Medicaid Manual," effective February 1, 1986 [November 1, 1985]. The "State Medicaid Manual" contains federal interpretations and clarifications of policy relating to implementation of the Medical Assistance Program.

(3) Federal action transmittals and program memoranda issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-72, 79-98, 80-9, 80-59, 81-23, 81-33, 81-35, 82-1, 82-2, 82-20, 83-1, 83-4, 83-7, 83-8, 83-11, 84-1, 84-2, 84-4, 84-5, 84-10, 84-16, 85-1, and HCFA PM-85-4, 85-10, and 85-13, effective October 1, 1985. Action transmittals and program memoranda contain federal instructions relating to implementation of the Medical Assistance Program.

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, 18-84, 20-84, 23-84, 24-84, 25-84, 26-84, 27-84, 29-84, 34-84, 35-84, 36-84, 39-84, 48-84, 50-84, 51-84, 55-84, 2-85, 4-85, 5-85, 6-85, 8-85, 10-85, 11-85, 14-85, 18-85, 19-85, 21-85, 22-85, 23-85, 24-85, 25-85, 27-85, 28-85, 29-85, 30-85, 31-85, 32-85, 33-85, 34-85, 36-85, 37-85, 38-85, 39-85, 41-85, 42-85, 43-85, 44-85, 46-85, and 47-85 effective February 1, 1986 [November 1, 1985]. Transmittal notices contain federal clarifications of policy relating to implementation of the Medical Assistance Program.

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective February 1, 1986 [November 1, 1985]. The Medicare and Medicaid Guide contains reprints of federal laws and regulations relating to the Medicare and Medicaid programs; reprints of Medicare/Medicaid related court decisions; Medicare principles of reimbursement; summaries of state plan characteristics; and

other items of general information relating to the Medicare and Medicaid programs. Although the cabinet is bound by federal Medicaid law and regulations in the implementation of the Medical Assistance Program, the Guide is used principally as supplementary material for reimbursement issues in situations where the cabinet's vendor reimbursement system uses the Medicare cost principles in unaddressed areas.

(6) State Medicaid Program policies and procedures manuals and letters issued by the cabinet, and which contain benefit descriptions and operating instructions used by agency staff and participating vendors in the provision of, and billing for, Medical Assistance benefits provided eligible program recipients, as follows:

(a) Home and Community Based Services Waiver Project Adult Day Health Care Services, effective October 1, 1985;

(b) Alternative Intermediate Services/Mental Retardation Project, effective October 1, 1985;

(c) Birthing Center Services, effective October 1, 1985;

(d) Community Mental Health Benefits, effective July 1, 1985;

(e) Dental Benefits, effective October 1, 1985;

(f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective July 1, 1985;

(g) Family Planning Benefits, effective October 1, 1985;

(h) Hearing Services Benefits, effective October 1, 1985;

(i) Home and Community Based Services Waiver Project, effective October 1, 1985;

(j) Home Health Benefits, effective October 1, 1985;

(k) Hospital Services Benefits, effective October 1, 1985;

(l) Independent Laboratory Services Benefits, effective October 1, 1985;

(m) Intermediate Care Facility Benefits, effective October 1, 1985;

(n) Mental Hospital Services Benefits, effective February 1, 1986 [October 1, 1985];

(o) Nurse Anesthetist Services, effective July 1, 1985;

(p) Nurse Midwife, effective October 1, 1985;

(q) Pharmacy Services, effective February 1, 1986 [November 1, 1985];

(r) Physician Services Benefits, effective February 1, 1986 [October 1, 1985];

(s) Primary Care Benefits, effective October 1, 1985;

(t) Rural Health Clinic Benefits, effective October 1, 1985;

(u) Skilled Nursing Facility Benefits, effective February 1, 1986 [October 1, 1985];

(v) Ambulance Transportation Benefits, effective May 16, 1984, as revised;

(w) Vision Services Benefits, effective November 1, 1985;

(x) Podiatry Services, effective October 1, 1985;

(y) Ambulatory Surgical Center Benefits, effective July 1, 1985;

(z) Renal Dialysis Center Benefits, effective October 1, 1985;

(aa) General Provider Letter A-8, effective July 1, 1985;

(bb) Medical Director's Letter dated April 26, 1985, effective July 1, 1985; and

(cc) EDS Federal Hospital Letter (as fiscal agent for the Medicaid Program) dated April 1, 1985, effective July 1, 1985.

(dd) Provider letters dated September 20 and

23. 1985 relating to KenPac, effective February 1, 1986.

Section 3. All documents included by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky. Copies may be obtained from that office upon payment of an appropriate fee which will not exceed approximate cost.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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: Potentially all Medicaid providers and recipients.

(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:

\*Any cost impact will be shown in the state regulation covering that particular subject matter.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

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

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 194.010 designates the Cabinet for Human Resources as the primary state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, child support enforcement, state supplemental payments for the aged, blind or disabled, disability determination, and collections which are essential for the implementation of those programs.

Section 1. General Policy Relating to Program Materials Incorporated by Reference. (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

Section 2. Incorporation by Reference. The following listed materials are hereby incorporated by reference, effective on the date shown.

(1) Department for Social Insurance Manual of Operations, effective February 1, 1986 [October 1, 1985]. The Manual of Operations provides operating instructions, procedural detail, and technical clarification for use of the department's field staff in implementing programs, under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; and medical assistance.

(2) Department for Social Insurance Manual of Forms, effective February 1, 1986 [October 1, 1985]. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; child support enforcement; state supplementary payments; medical assistance; and

the food stamp program.

(3) Federal regulations at 45 CFR Parts 16, 74, and 95, effective October 1, 1985. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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 recipients of assistance programs administered by the Department for Social Insurance.

(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:  
\*Costs or savings are shown in the impact analysis for the governing regulations which show any policy changes.

Tiering:

Was tiering applied? No. Not applicable for public assistance regulations.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 2:150. Incorporation by reference of materials relating to the Aid to Families with Dependent Children Program.

RELATES TO: KRS 194.030(6), 205.200, 205.220, 205.231

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Title IV-A of the Social Security Act, namely Aid to Families with Dependent Children, herein referred to as AFDC. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the AFDC program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Aid to Families with Dependent Children Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal regulations at 45 CFR Parts 200-299, which set forth the federal requirements and guidelines for the administration of the Aid to Families with Dependent Children Program, effective February 1, 1986 [July 1, 1985]; and

(2) Federal action transmittals, which provide operating instructions, procedural detail and technical clarification for use by the department's staff in administering the Aid to Families with Dependent Children Program, as follows: SSA-AT-77-44, 78-13, 78-14, 78-16, 78-21, 78-27, 78-28, 78-38, 79-2, 79-4, 79-5, 79-7, 79-11, 79-14, 79-18, 79-22, 79-26, 79-29, 79-31, 79-32, 79-33, 79-35, 79-42, 79-44, 80-2, 80-3, 80-9, 80-11, 80-19, 80-22, 80-24, 80-29, 80-30, 80-36, 80-38, 80-42, 80-44, 80-45, 80-50, 81-2, 81-7, 81-8, 81-10, 81-11, 81-12, 81-15, 81-16, 81-17, 81-18, 81-23, 81-29, 81-31, 81-33, 81-34, 81-35, 81-36, 81-37, 82-1, 82-5, 82-6, 82-9, 82-11, 82-13, 82-15, 82-16, 82-17, 82-18, 82-19, 82-20, 82-28, 82-33, 82-34, 83-6, 83-7, 83-10, 83-11, 83-13, 83-14, 83-17, 83-18, 83-21,

83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, 84-7, 84-8, 84-9, 84-13, 84-16, 84-25, [and] 85-10 and 85-27, effective February 1, 1986 [July 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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: Unknown.

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

1. First year: Unknown.

2. Continuing costs or savings: Unknown.

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings: Cannot be determined.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: No impact.

(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: 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:

Tiering:

Was tiering applied? No. Not applicable to public welfare regulations.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

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

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800, 205.992, and KRS 405.400 to KRS 405.530. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective February 1, 1986 [October 1, 1985];

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, and 84-05, effective October 1, 1984;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective February 1, 1986 [October 1, 1985];

(4) Department for Social Insurance Child Support System Handbook, which provides systems and data processing instructions for the implementation of the child support enforcement program, effective October 1, 1985;

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 83-16, 83-21, 83-30, 83-31, 83-38, 83-39, [83-48,] 84-10, 84-16, 84-18, 84-19, 84-20, 84-29, 84-34, 84-36, 85-10, 85-19, 85-22, 85-30, 85-32 and errata, 85-36, 85-39, and 85-42 [and 85-27], effective February 1, 1986 [October 1, 1985]; and

(6) Department for Social Insurance Child Support Administrative Process Manual, which provides operational instructions and procedural detail for the implementation of administrative

procedures in the child support enforcement program, effective February 1, 1986 [October 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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: 1,800 foster care cases; 13,000 non-AFDC cases; 3,600 continuation cases.

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

1. First year: \$195,000 non-AFDC application fee on 13,000 cases; \$325,000 additionally if certified for tax intercept at \$25 per case.

2. Continuing costs or savings: Savings - \$994,000 past on to non-AFDC clients through automatic continuation of IV-D services.

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:

1. First year: \$144,900 state share salaries for 23 employees, including operating expenses.

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: Incentives at 6%, \$10,000 annually on foster care cases.

(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:

(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. Not applicable.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

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

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective February 1, 1986 [July 1, 1985];

(2) Department for Social Insurance Food Stamp Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in administering the Food Stamp Program, effective February 1, 1986 [October 1, 1985]; and

(3) Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-19, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-25, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-39, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-59, 81-60, 81-62, 81-64, 81-65, 81-66, 81-67, 81-68, 82-2, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30,

82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-14, 83-15, 83-17, 83-18, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-11, 84-12, 84-13, 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-21, 84-22, 84-23, 84-24, 84-26, 84-27, 84-28, 84-29, 84-30, 84-31, 84-32, 84-33, 84-34, 84-35, 84-36, 84-37, 84-38, 84-39, 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, 84-47, 84-48, and 84-49, effective January 1, 1985.

(4) Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective February 1, 1986 [October 1, 1985].

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Deputy Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 29, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 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 households applying for or receiving food stamps.

(a) Direct and indirect costs or savings to those affected: Not significant.

1. First year: Minimal

2. Continuing costs or savings: Unknown

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

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: These revisions will keep the state's practices in compliance with federal requirements.

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: Unknown

(b) Reporting and paperwork requirements: Insignificant

(3) Assessment of anticipated effect on state and local revenues: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes are in compliance with federal requirements.

(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: None

Tiering:

Was tiering applied? No. Not applicable to these changes as federal requirements mandate uniform statewide implementation/application of policies.

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Field Services (Proposed Amendment)

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

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

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services - Title XX," authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through December 2 [June 18], 1985, 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. (1) Chapter I, Management Procedures, Section B, Intake, Assessment, and Registration, strike Index, pages 1-8, 11-14 and DSS-7, and substitute in lieu thereof Index, pages 1-8, 11-14 and DSS-7 dated August, 1985, which transmits revised client eligibility income scales for the operation of Department for Social Services' Programs, a revised Authorization for Release of Confidential Information form, and revised

procedural instructions for the Client Registration form, DSS-1A.

(2) Chapter III, Support Services, Section A.6, Day Care, strike pages 13 and 14, and substitute in lieu thereof pages 13 and 14 dated August, 1985, which transmits the revised client eligibility income scales relating to day care for children.

(3) Chapter II, Adult Services, Section A, Adult Protection, strike page 24 and DSS-291A dated May, 1984, and substitute in lieu thereof page 24 and DSS-291A dated October, 1985, which transmits a revised form for notifying law enforcement agencies of reports of alleged abuse, neglect, or exploitation of an adult or spouse abuse; and the procedural instructions for completion of this form. [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.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 10, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 21, 1986 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 March 16, 1986: R. 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: All local DSS field offices.

(a) Direct and indirect costs or savings to those affected: None - Income scales used to determine eligibility only.

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: May effect number of clients served by making people with higher income eligible.

(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

(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? No. Applicable for persons applying for services statewide.

#### 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 August 19 [June], 1985; Therapeutic Milieu Manual revised through May 20, 1985; 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; Medical Procedures Manual revised through July 1, 1985; 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 CTS Policy Manual strike pages 95 through 95(h) and 96, Quality Assurance, Policy Number QA-01, revised 9-27-84, and substitute in lieu thereof pages 95, 96 through 96(j), Quality Assurance, Policy Number QA-01, revised 5-17-85 which makes revisions to the Quality Assurance program; strike pages 165 and 166, Seclusions, Policy No. TM-13, dated January 1985, and substitute in lieu thereof pages 165 and 166, Seclusion, Policy No. TM-13, dated August 19, 1985, which clarifies the seclusion policy; strike page 167, Physical and Mechanical Restraints, Policy



Number TM-14, dated January, 1985, and substitute in lieu thereof Physical and Mechanical Restraints, Policy Number TM-14, dated August 19, 1985, which revises the policy for the use of restraints; and strike pages 12 through 25, Clinical Staff By-Laws dated January 28, 1985, and substitute in lieu thereof Clinical Staff By-Laws, dated August 1, 1985, which revises the by-laws for clinical staff.

(2) In the CTS Medical Procedures Manual strike pages B-75 and B-76, Seclusion, Policy Number TM-13 dated January, 1985, and substitute in lieu thereof pages B-75 and B-76, Seclusion, Policy Number TM-13, dated August 19, 1985 which clarifies the seclusion policy; and strike pages B-77 and B-78, Physical and Mechanical Restraint, Policy Number TM-14, dated January 1985 and substitute in lieu thereof pages B-77 and B-78, Physical and Mechanical Restraint, Policy Number TM-14 dated August 19, 1985, which revises the policy for the use of restraints.

(3) In the Living Unit Procedure Manual strike pages D-86-A and D-86-B, Seclusion, Policy Number TM-13, dated January 1985 and substitute in lieu thereof pages D-86-A and D-86-B, Seclusion, Policy Number TM-13, dated August 19, 1985 which clarifies the seclusion policy; strike pages D-86, D-88 and D-89, Seclusion (Procedures), dated January, 1985, and substitute in lieu thereof, pages D-86, D-88 and D-85, Seclusion (Procedures) dated August 19, 1985, which sets forth the procedures for seclusion; strike pages D-89-A and D-89-B, Physical and Mechanical Restraint, Policy Number TM-14 dated January, 1985, and substitute in lieu thereof pages D-89-A and D-89-B, Physical and Mechanical Restraint, Policy Number TM-14 dated August 19, 1985, which revises the policy for the use of restraints; and strike pages D-90 and D-91, Procedure for Instituting the use of Physical and Mechanical Restraints, dated January, 1985, and substitute in lieu thereof pages D-90 and D-91, Procedure for Instituting the use of Physical and Mechanical Restraints, dated August 19, 1985, which sets forth the procedures to be followed in the use of physical or mechanical restraints.

(4) In the Emergency Services Manual strike pages E-53, E-54 and E-55, Seclusion (Procedure) dated January, 1985, and substitute in lieu thereof pages E-53, E-54 and E-55, Seclusion (Procedure) dated August 19, 1985, which sets forth the procedures for seclusion; and strike pages E-56 and E-57, Procedures for Instituting the Use of Physical and Mechanical Restraints, dated January, 1985, and substitute in lieu thereof pages E-56 and E-57, Procedures for Instituting the use of Physical and Mechanical Restraints, dated August 19, 1985, which sets forth the procedures to be followed in the use of physical or mechanical restraints.

(5) In the Therapeutic Milieu Procedure Manual strike page A-40 (a-e), Mental Inquest Proceedings, Policy Number TM-04, dated May, 1985, and substitute in lieu pages A-40 (a-e), Mental Inquest Proceedings, Policy Number TM-04, dated August 1985, which sets forth the requirements for instituting a mental inquest and the procedures to be followed. [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.]

[(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.]

[(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.]

[(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.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 5, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 21, 1986 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 March 16, 1986: R. 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: 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: No additional.

(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: Procedure already in use.

(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.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of 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 October 29 [May 1], 1985. 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 strike Policy No. TS-15, Child Abuse/Neglect-Legal Responsibility, and substitute in lieu thereof Policy No. TS-15, Child Abuse/Neglect-Legal Responsibility, dated October 29, 1985, which transmits revised procedures for staff to follow relating to child abuse/neglect. [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: February 10, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 21, 1986 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 March 16, 1986: R. 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: One treatment facility.

(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 - policy update.

(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.

(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? No. Only applies to one facility.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Services**  
**Division of 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 November 20 [August 15], 1985. 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. (1) In the treatment section of the manual, strike Policy T-42, Resident's Physical Aggression Toward Staff, pages T-42.1 and T-42.2 effective November 9, 1984, and substitute in lieu thereof Policy T-42, Resident's Physical Aggression Toward Staff, pages T-42.1 and T-42.2, revised November 20, 1985, which outlines the procedures staff are to follow when youth display physical aggression.

(2) In the treatment section of the manual, strike Policy T-39, Exit Procedure, page T-39.1 revised October, 1983, and substitute in lieu thereof Policy T-39, Exit Procedure, pages T-39.1 through T-39.12, revised November 5, 1985, which outlines the procedures staff are to follow then a youth is discharged, and transmits DSS-822A, Exit Interview form. [In the administrative section of the manual strike Policy A-3, Program Organization, pages A-3.1 through A-3.6, revised 11-11-83 and substitute in lieu thereof Policy A-3, Program Organization, pages A-3.1 through A-3.7, revised July 16, 1985, which describes the organization and functions of the four (4) components of the treatment program at the center.]

[(2) In the treatment section of the manual strike Policy T-6, Educational Services, page T-6.1, revised 11-11-83 and substitute in lieu thereof Policy T-6, Educational Services, page T-6.1, revised 7-16-85 which sets forth the policy to comply with PL 93-380 as amended.]

[(3) In the personnel section of the manual strike Policy P-29, Staff Hours, pages P-29 and P-29.1 dated August, 1983, and substitute in lieu thereof Policy P-29, Staff Hours, pages P-29.1 and P-29.2, dated August, 1985, which makes changes in the hours of duty of selected staff.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 10, 1986

FILED WITH LRC: February 13, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 21, 1986

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 March 16, 1986: R. 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: One treatment facility.

(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: Completing exit interview form when youth is discharged.

(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: 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? No. Only applicable to one facility.

## PROPOSED REGULATIONS RECEIVED THROUGH FEBRUARY 15

FINANCE AND ADMINISTRATION CABINET  
Division of Occupations and Professions  
Kentucky Board of Ophthalmic Dispensers

201 KAR 13:011. Regulations to be posted.

RELATES TO: KRS 326.020

PURSUANT TO: KRS 326.020(3)

NECESSITY AND FUNCTION: This regulation requires the posting of the laws pertaining to ophthalmic dispensing in Kentucky in all ophthalmic dispensing establishments governed by these regulations. The purpose of this regulation is to insure that the public has available to it the laws regulating ophthalmic dispensing in the Commonwealth.

Section 1. These regulations must be posted in all ophthalmic dispensing establishments governed by these regulations.

DAVID NICHOLAS, Director

APPROVED BY AGENCY: February 14, 1986

FILED WITH LRC: February 14, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 25, 1986, at 2 p.m. (EST) at the offices of the Division of Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601. Those interested in attending this hearing shall contact: Kathryn A. Harmon, Regulations Compiler, Office of the Attorney General, Room 16, State Capitol, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Faye Fleming, Secretary

(1) Type and number of entities affected:

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

1. First year: Kentucky Board of Ophthalmic

## Dispensers.

2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
  - (b) Reporting and paperwork requirements: N/A
- (2) Effects on the promulgating administrative body:
  - (a) Direct and indirect costs or savings:
    1. First year: N/A
    2. Continuing costs or savings: N/A
    3. Additional factors increasing or decreasing costs: N/A
  - (b) Reporting and paperwork requirements: N/A
  - (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: 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: N/A

## Tiering:

Was tiering applied? No. Not applicable.

**FINANCE AND ADMINISTRATION CABINET**  
**Division of Occupations and Professions**  
**Board of Veterinary Examiners**

**201 KAR 16:060. Procedure for denial, suspension, nonrenewal or revocation hearings.**

RELATES TO: KRS 321.330, 321.340, 321.350, 321.360, 321.370, 321.380, 321.390, 321.420

PURSUANT TO: KRS 321.240

NECESSITY AND FUNCTION: To outline the administrative and adjudicative procedure before the board in license denial, suspension, nonrenewal and revocation hearings.

Section 1. (1) Complaints. A complaint that a person (hereafter called respondent) has violated the requirements of KRS Chapter 321 or the rules and regulations of the board shall be made in writing to or by the Kentucky Board of Veterinary Examiners. The complaint must be a clear and concise statement of violation and it must be signed by the complainant. Within ten (10) days of the receipt of the complaint the executive secretary of the board shall acknowledge to the complainant receipt of the complaint.

(2) Notice to respondent. Within ten (10) days after the receipt of the written complaint, the executive secretary of the board shall notify the respondent of the complaint in writing. This notice shall require the respondent to reply to the complaint in writing to the board within twenty (20) days after receipt of notice.

(3) Consideration and investigation of complaint. At the next regularly scheduled meeting of the board, the executive secretary shall bring the complaint and response to the attention of the board. The board will decide either that no violation has occurred or that further investigation is needed. If the board decides that no violation has occurred, it shall so notify both the complainant and the respondent in writing. If the board decides that

further investigation is needed, the chairman of the board shall assign one (1) or more staff members, legal counsel or other person to conduct such investigation. The results of said investigation shall be communicated to the board members as soon as possible. The board shall decide if a hearing is necessary.

(4) Arrangement for a hearing. If the board decides that a hearing is necessary, it shall set a date for the hearing and it shall notify the respondent at least twenty (20) days prior to the date set for the hearing in writing of the charges made and the date and place of the hearing. Such written notice may be served by delivery of the same personally to the respondent or by mailing same by certified mail, return receipt requested, to the last known business address of the respondent.

(5) Hearing. At the hearing the respondent has the right to be present and to be represented by counsel. The board is not bound by the formal rules of evidence, but may exclude evidence that is irrelevant or repetitious. Testimony shall be under oath or affirmation. The hearing shall be recorded. All documents accepted by the board, including the complaint, response and investigative report, shall be made part of the record of the hearing. The hearing shall be held before at least a majority of the members of the board.

(6) Final order. The final decision in any case in which a hearing is held shall be in writing and shall be made a part of the official record. It shall include a statement of the findings of fact and conclusions of law. The results of the hearing shall be communicated to the respondent by certified mail, return receipt requested. The decision of the board shall be by majority vote of the entire board.

Section 2. Procedure After Revocation. If, following a hearing, the board revokes a license for cause and such decision of the board becomes final, the person whose license has been revoked may not be issued another license within five (5) years of the date of revocation. If, at the conclusion of the five (5) year period, such person applies for a license, the board shall decide whether to accept such application, depending on the cause for revocation. If the board decides not to accept the application, the revocation shall continue in force. If the board decides to accept the application, the applicant will be required to comply with KRS 321.260 and KRS 321.270.

DIANE POPP, Executive Secretary

APPROVED BY AGENCY: January 25, 1986

FILED WITH LRC: January 27, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 24, 1986 at 10 a.m. in Room 141 of the Capitol. Those interested in attending this hearing shall contact: Diane Popp, Executive Secretary, Kentucky Board of Veterinary Examiners, Route 1, Fraley Drive, Morehead, Kentucky 40351.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Diane Popp

(1) Type and number of entities affected: None

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: Not affected.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Not affected.

(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: 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:

Tiering:

Was tiering applied? No. N/A

#### STATE BOARD OF EXAMINERS FOR SPEECH PATHOLOGY AND AUDIOLOGY

##### 201 KAR 17:070. Complaint procedure.

RELATES TO: KRS 334A.180

PURSUANT TO: KRS 334A.080(3)

NECESSITY AND FUNCTION: KRS 334A.180 delineates the causes for which disciplinary action may be taken against a licensee. This regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

Section 1. All complaints shall be in writing and verified and shall bear the date and signature of the person making the complaint.

Section 2. The person making the complaint shall signify willingness to testify in the event that it is necessary.

Section 3. Before a complaint is investigated it shall present substantial evidence of a specific violation.

Section 4. Complaints may be received by any board member, the board attorney, or by any board staff member.

Section 5. The person(s) receiving a complaint shall make an investigation to verify complaints and collect additional information.

Section 6. The person(s) receiving a complaint shall interview the person against whom the complaint has been made.

Section 7. The person(s) receiving a complaint shall evaluate information received; determine if the complaint is valid, and if an apparent violation has been committed.

Section 8. Consult legal counsel as indicated.

Section 9. The board shall notify the individual against whom the complaint has been made of the charges. They shall be advised of their rights in accordance with the regulations of the board as follows:

(1) For legal counsel; and

(2) To access to evidence.

Section 10. If the complaint warrants a formal hearing, the board shall provide the respondent with:

(1) A formal written presentation of charges;

(2) A notice of the right to be represented by counsel;

(3) A reasonable time to prepare any defense;

(4) The right to answer charges;

(5) The right to subpoena witnesses in their behalf; and

(6) The notice of the right to appeal after an adjudication against them.

Section 11. A board member who has participated in the preliminary investigations shall not participate in the hearing process.

Section 12. All subpoenas shall be issued in the name of the board and shall be signed by the chairman of the board. The person requesting the subpoena shall bear the cost of serving the subpoena, paying the witness fees and expenses. The board shall bear the cost of witnesses subpoenaed in the board's behalf.

Section 13. The board shall notify the person making the complaint and the person against whom the complaint was made of the final disposition of the case.

DAVID NICHOLAS, Executive Director

APPROVED BY AGENCY: February 14, 1986

FILED WITH LRC: February 14, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 25, 1986 at 10 a.m. (EST) in the office of the Division of Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601. Those interested in attending this hearing shall contact: Kathryn A. Harmon, Regulations Compiler, Office of the Attorney General, Room 16, State Capitol, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas

(1) Type and number of entities affected:

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

1. First year: State Board of Examiners for Speech Pathology and Audiology.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(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: 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: N/A

Tiering:

Was tiering applied? No. Not applicable.

# STATE BOARD OF EXAMINERS FOR SPEECH PATHOLOGY AND AUDIOLOGY

201 KAR 17:080. Procedures for disciplinary hearings.

RELATES TO: KRS 334A.180

PURSUANT TO: KRS 334A.080(3)

NECESSITY AND FUNCTION: KRS 334A.180 mandates a hearing upon the filing of a complaint alleging a violation of KRS Chapter 334A. This regulation establishes detailed procedures for the conduct of administrative hearings held pursuant to KRS 334A.180.

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 Tribunal. (1) Disciplinary actions will be heard by a tribunal consisting of a quorum of the board, the board's designated hearing officer, or both.

(2) 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 as a member of the board hearing that particular action.

(3) 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 at the hearing, 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 KRS 334A.080.

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 therefor, 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 tribunal 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) Written response. 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 tribunal may for good cause permit the late filing of a response.

(4) Sanctions for failure to comply with prehearing disclosure. Should a party fail to comply with this section the tribunal 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.

(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 presiding 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 presiding officer will then ask the parties to state any objections or motions. The presiding officer will rule upon any objections or motions, subject to being overridden by the unanimous vote of the board members of the tribunal. Opening statements will then be made, with the attorney for the board proceeding first. Either side may waive opening statement.

(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 tribunal. 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 tribunal. 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 presiding officer may impose reasonable limitations upon the time allowed for opening and closing statements.

(5) The presiding 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 tribunal shall not be bound by the technical rules of evidence. The tribunal 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 tribunal 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 tribunal 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 presiding officer but may be overridden by the unanimous vote of the board members of the tribunal.

Section 7. Decisions by the Tribunal. (1) Upon the conclusion of the hearing, the tribunal will retire into closed session for the purpose of deliberations.

(2) At the conclusion of the tribunal's deliberations it will propose an order based upon the evidence presented. The presiding officer shall draft a proposed decision including findings of fact and conclusions of law consistent with the tribunal'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 attorneys for the board and the licensee or applicant.

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 chairman 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;
- (2) Modify the proposed decision as deemed necessary;
- (3) Remand the case to the tribunal for further evidence, in which case, the tribunal 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 hearing 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 presiding officer or president 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.

DAVID NICHOLAS, Executive Director

APPROVED BY AGENCY: February 14, 1986

FILED WITH LRC: February 14, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on March 25, 1986, at 10 a.m. (EST) at the offices of the Division of Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601. Those interested in attending this hearing shall contact: Kathryn A. Harmon, Regulations Compiler, Office of the Attorney General, Room



16, State Capitol, Frankfort, Kentucky 40601.

# REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas

(1) Type and number of entities affected:

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

1. First year: State Board of Examiners for Speech Pathology and Audiology.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(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: 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: N/A

Tiering:

Was tiering applied? No. N/A

## JUSTICE CABINET

500 KAR 1:010. Definitions.

RELATES TO: KRS 61.315

PURSUANT TO: KRS 61.315(4)

NECESSITY AND FUNCTION: This regulation provides the definitions of certain terms used in 500 KAR Chapter 1 which pertain to criteria and procedures applicable to the administration of benefits paid on death of police officers who have died in the line of duty, as required by KRS 61.315(4) to be promulgated by the Justice Cabinet.

Section 1. Definitions. The following definitions shall apply in this chapter:

(1) "Secretary" means the Secretary of the Justice Cabinet.

(2) "Cabinet" means the Justice Cabinet.

(3) "Police officer" means every full-time police officer, sheriff or deputy sheriff who works not less than forty (40) hours per week who is elected to office or employed by any county or city or by the state.

(4) "Full time" means a "police officer" as defined in subsection (3) of this section who is a salarized and duly sworn officer of a statutorily and lawfully organized police department for a city, county or Commonwealth of Kentucky or sheriff's office of Kentucky and is working a regular forty (40) hour week according to a uniform weekly schedule that is standard for police officers employed by the employing county, city or state agency or sheriff's office

and who is responsible for the prevention and detection of crime and the enforcement generally of the criminal laws and traffic laws of Kentucky for the general public.

(5) "Spouse" means the lawfully wedded husband or wife of the deceased officer living at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason or a spouse involved in divorce proceedings if a final divorce decree has not been entered.

(6) "Children" means any natural, adopted or posthumous child or child born out of wedlock of the deceased police officer who, at the time of the officer's death is:

(a) Living, or later born alive; and

(b) Under eighteen (18) years of age; or

(c) Eighteen (18) years of age or older and incapable of self-support because of physical or mental disability or impairment.

(7) "Dependent parent" means a living, natural or adoptive parent of the police officer who, at the time of the police officer's death, was regularly dependent for support upon the income of the officer for the parent's support in the nature of food, shelter, clothing, medical expenses and other ordinary and customary items for maintenance of the parent supported for a substantial period of time.

(8) "Death as a direct result of an act" means that the antecedent act, omission to act or event inflicted upon the police officer was the substantial factor in the result of the police officer's death.

(9) "Death" means the immediate death of the police officer from an act in the line of duty that resulted in his death, as well as a traumatic injury, wound, condition of the body or disease resulting therefrom or medical attention therefor that directly causes the death of the officer within one (1) year from an act in the line of duty that resulted in his death.

(10) "Act in the line of duty" means an act or omission to act by the police officer or event involving the police officer or external force upon the police officer while the officer is engaged in any action or duty which the officer is obligated or authorized by rule, regulation, condition of employment or service, or law to perform, and for which the officer is compensated by the public agency or office the police officer serves. Specifically, an act is not in the line of duty if the death was caused by:

(a) A non work-related disease or condition or a routine work-related disease or condition commonly regarded as a concomitant of the officer's occupation;

(b) Intentional misconduct of the police officer;

(c) The police officer's intention to bring about his death;

(d) The police officer's willfulness or wanton disregard to bring about his death;

(e) If voluntary intoxication of the police officer was a contributing cause of death; or

(f) If the actions or omissions of the beneficiary was a substantial factor to the death of the police officer, recovery being precluded as to that beneficiary only.

(11) "Office of the Secretary" as used herein means the person designated by the secretary of the cabinet to receive, process and make eligibility determinations on claims for

benefits to be paid on death of a police officer pursuant to KRS 61.315. The address of the office of the secretary for filing claims is: Office of the Secretary, Justice Cabinet, Death Benefits Claim Adjustor, Commonwealth Credit Union Building, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 12, 1986

FILED WITH LRC: February 13, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 1 p.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lucy B. Richardson, Attorney, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lucy B. Richardson

(1) Type and number of entities affected: Survivors of police officers or sheriffs who have died in the line of duty are affected.

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

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: Minimal cost to the survivor to present paperwork to prove entitlement to death benefits.

(2) Effects on the promulgating administrative body:

(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: These requirements will facilitate prompt and efficient processing of death benefits.

(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: 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. The new regulation only applies to one class of persons, i.e., survivors of dead officers.

#### JUSTICE CABINET

500 KAR 1:020. Filing and processing of death benefit claims.

RELATES TO: KRS 61.315

PURSUANT TO: KRS 61.315(4)

NECESSITY AND FUNCTION: This regulation

provides criteria and procedures applicable to filing and processing of death benefit claims for the proper administration of benefits legally required to be paid to the proper party or parties on the death of police officers who have died in the line of duty, as required by KRS 61.315(4) to be promulgated by the Justice Cabinet.

Section 1. Submission of Claim by Proper Party. The secretary of the cabinet shall determine who is the proper party or parties to submit a claim for death benefits in accordance with the following requirements:

(1) The claim shall be submitted and executed by the claimant or the claimant's legally designated representative upon submission of written proof of such designation.

(2) If the claimant is under a disability in terms of mental or physical incapacity or as a result of being a minor, then the claim shall be submitted and executed by the claimant's legally appointed guardian, committee, trustee or other legal representative upon submission of written proof of such disability and of the legal authority of representation in the nature of affidavits and certified court records or legal documents.

Section 2. Proof of Relationship. In filing the claim for death benefits the claimant or claimant's representative shall submit the following proof of relationship:

(1) If the claimant is a spouse of the police officer, the spouse shall submit proof of marriage in the form of a duly issued and certified marriage license or certificate, any other certified government or official report or affidavit of the marriage officiate or affidavit of two (2) witnesses of the marriage. Such documentation presented shall establish the names of parties married and the date and place of marriage. If the claimant spouse or officer was previously married, certified divorce decrees of all previous marriages shall be submitted.

(2) If the claimant is a child of the police officer, documentation of the relationship and age shall be provided in the form of certified official vital statistics records, adoption decrees, birth certificates, paternity decree, or other government agency records that reveal the age and relationship of the child with the deceased officer. Affidavits of two (2) disinterested credible witnesses or an affidavit of the officer prior to death may provide proof of the officer's recognition of the child as his natural or adopted child if none of the foregoing documentation is in existence.

(3) If the claimant is a dependant parent, proof of such relationship shall be provided in the form of certified vital statistics records, birth certificates, adoption decree or other official government records revealing the parental relationship. Affidavits of two (2) disinterested, credible witnesses may provide proof of the officer's recognition of the claimant as his parent if the foregoing documentation is not in existence.

(4) If dependency is to be established as in the case of a dependent parent such dependency shall be documented and proven as follows:

(a) A sworn statement of dependency by the dependent parent or the deceased officer, if one was made; and



- (b) Financial records or other records that reveal all sources of income and support available for the claimant for the twelve (12) months preceding the officer's death; and
- (c) The amount of income and value of support derived from each source listed; and
- (d) The nature of support provided by each source; and
- (e) Other documents that may be deemed necessary.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty. The claimant shall provide proof of death of the police officer as a direct result of an act in the line of duty by providing the following:

- (1) A certified copy of the officer's death certificate; and
- (2) Certified employment records substantiating the officer's full-time status as required by statute and regulation; and
- (3) A certified autopsy report, if requested by the cabinet, or other sworn medical evidence as to the cause of death, and a coroner's report or other formal investigative report, if made; and
- (4) A certified investigative report prepared by the employing police agency or sheriff's office regarding the circumstances leading to the death.
- (5) Other documents that may be deemed necessary.

Section 4. Filing the Claim. (1) In order to file a claim for benefits paid on death of a police officer, the claimant shall file completed forms provided by the office of the secretary of the cabinet including the claim for death benefits and report of police officer's death along with the appropriate documentary proof herein provided for.

(2) The claim for death benefits shall be filed within the office of the secretary six (6) months from the date of the death of the police officer for which the claim is made, unless the secretary extends the filing deadline for good cause shown by the claimant.

(3) The office of the secretary may at any time require additional evidence to be submitted with regard to entitlement, the right to receive payment, the amount to be paid, or any other material issue.

(4) Whenever a claimant for benefits herein has submitted no evidence or insufficient evidence of any material issue or fact, the office of the secretary shall inform the claimant what evidence is required for a determination as to such issue or fact and shall request the claimant to submit such evidence within forty-five (45) days from the date of the request of the office of the secretary.

(5) The claimant's failure to submit evidence on a material issue or fact as requested by the office of the secretary shall be a basis for determining that the claimant fails to satisfy the conditions required to award death benefits to the claimant.

(6) After the claim has been filed and the office of the secretary determines the claimant has submitted (or failed to submit) all reports, documents and/or evidence required to be submitted, the office of the secretary shall render a decision on the claim within forty-five (45) days.

(7) A claim for benefits may be withdrawn at

any time upon written notice to the secretary signed by the claimant or claimant's representative.

(8) Upon making a finding of eligibility, the office of the secretary shall, in writing, notify the claimant at claimant's last known address of its disposition of the claim. Payment shall be made to the claimant as soon thereafter as practicable, with the Justice Cabinet presenting the claim to the Finance Cabinet within five (5) working days.

(9) In those cases where the office of the secretary has found the claimant ineligible for a death benefit, the office of the secretary shall notify the claimant in writing at claimant's last known address of its disposition and shall set forth findings of fact and conclusions of law supporting the decision, as well as claimant's right to a hearing and review by the secretary.

Section 5. Priority and Amount of Claim Benefits. Upon final determination of eligibility for benefits, the benefits are to be paid in the manner as follows:

(1) \$25,000 to the surviving spouse of the police officer who died;

(2) If the police officer has no surviving spouse, then \$25,000 to the surviving children, divided in equal portions according to the number of surviving children; or

(3) If the police officer who died has no surviving spouse or surviving children, then \$25,000 to the surviving dependent parents of the police officer, divided in equal portions according to the number of surviving dependent parents.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 12, 1986

FILED WITH LRC: February 13, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 1 p.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lucy B. Richardson, Attorney, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lucy B. Richardson

(1) Type and number of entities affected: Survivors of police officers or sheriffs who have died in the line of duty are affected.

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

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: Minimal cost to the survivor to present paperwork to prove entitlement to death benefits.

(2) Effects on the promulgating administrative body:

(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:

These requirements will facilitate prompt and efficient processing of death benefits.

(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: 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. The new regulation only applies to one class of persons, i.e., survivors of dead officers.

### JUSTICE CABINET

#### 500 KAR 1:030. Request for hearing.

RELATES TO: KRS 61.315

PURSUANT TO: KRS 61.315(4)

NECESSITY AND FUNCTION: This regulation provides the procedures applicable to a claimant who desires to request a hearing concerning claimant's eligibility for benefits paid on death of a police officer who has died in the line of duty pursuant to KRS 61.315(4).

Section 1. Administrative Review. (1) A claimant may, within thirty (30) days after notification of ineligibility by the office of the secretary, request hearing before the secretary to review the claimant's request for death benefits. A request for a hearing shall be filed in writing with the office of the secretary within thirty (30) days of the date of the notice of ineligibility and shall set forth the exceptions taken to the initial determination of ineligibility.

(2) The hearing shall be held within sixty (60) days of receipt of the request for a hearing and shall be conducted by the secretary or the secretary's designated hearing officer. If a hearing officer conducts the hearing, the hearing officer shall submit findings of fact, conclusions of law and a recommended decision to the secretary. The hearing shall be held at a time and place designated by the secretary or the designated hearing officer with written notice being sent to the claimant and the cabinet's representative, if any.

(3) The hearing shall provide the claimant and the cabinet's representative, if any, with an opportunity to be heard publicly, to be represented by counsel, to put on proof by sworn witnesses, certified records, affidavits, exhibits or other evidence as the hearing officer or secretary may determine to be required or useful in evaluating the claim. The claimant shall have the opportunity to cross-examine or rebut adverse testimony or evidence. The hearing shall be recorded and the original of the complete transcript shall be made a part of the claims record at claimant's cost, if requested by the claimant to be transcribed.

(4) Failure of the claimant or claimant's representative to appear at the hearing shall be

deemed an abandonment of the claimant's request for a hearing and concomitant decision adverse to the claimant's request for benefits unless within ten (10) days of the hearing good cause is shown to the secretary or the hearing officer for failure to appear by means of affidavit filed with the secretary.

(5) The secretary or hearing officer designated may, whenever necessary, administer oaths, examine witnesses or continue the hearing to facilitate the receipt of evidence.

(6) The claimant shall bear the burden of proof by substantial, reliable and probative evidence.

(7) No payment of any portion of a death benefit shall be made until all determinations, hearings and reviews which may affect that payment have been completed.

(8) In conducting the hearing, the secretary or hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedures, but must conduct the hearing in such a manner as to best ascertain the rights of the claimant. The secretary or hearing officer may additionally schedule a pre-hearing conference upon its own motion or motion of the party to consider such matters that will aid in the simplification of the hearing or avoidance of costly or unnecessary proof or manner for presenting proof.

(9) Within sixty (60) days following the hearing, the secretary shall issue a written opinion, containing findings of facts and conclusions of law to support the decision. A copy of the decision shall be provided to all parties at their last known address. The decision of the secretary shall be the final decision of the cabinet.

(10) Upon a favorable decision to claimant, which has become final, payment shall be made to the claimant as soon thereafter as practicable, with the Justice Cabinet presenting the claim to the Finance Cabinet within five (5) working days.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 12, 1986

FILED WITH LRC: February 13, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 1 p.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lucy B. Richardson, Attorney, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lucy B. Richardson

(1) Type and number of entities affected: Survivors of police officers or sheriffs who have died in the line of duty are affected.

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

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: Minimal cost to the survivor to present paperwork to prove entitlement to death benefits.

(2) Effects on the promulgating administrative body:

- (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: These requirements will facilitate prompt and efficient processing of death benefits.
- (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: 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. The new regulation only applies to one class of persons, i.e., survivors of dead officers.

**JUSTICE CABINET**  
Department of State Police

502 KAR 40:010. Law Information Network of Kentucky.

RELATES TO: KRS 16.060, 17.110

PURSUANT TO: KRS 16.060, 16.080, 17.080

NECESSITY AND FUNCTION: KRS 16.060 mandates that the Commissioner of the Department of State Police shall collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals. KRS 17.110 provides that city and county police shall file felony arrest reports with the Justice Cabinet, Department of State Police. KRS 17.080 provides that the Secretary of Justice may adopt rules and regulations necessary to carry out the functions vested in the cabinet by KRS Chapter 17. KRS 16.080 provides that the Commissioner of the Department of State Police may adopt such rules and regulations necessary to carry out the responsibilities of the Department of State Police as outlined in KRS 16.010 to 16.170. This regulation establishes the definitions to be used in the administration of the Law Information Network of Kentucky.

Section 1. As employed in 502 KAR 40:010 through 502 KAR 40:040, unless the context requires otherwise:

(1) "Law Information Network of Kentucky," hereafter referred to as LINK, shall be defined as the system, including hardware, software, equipment; facilities, procedures, agreements and organizations thereof responsible for the timely acceptance, processing, and subsequent dissemination of criminal justice information.

(2) "Criminal Justice Information," hereafter referred to as CJI, shall be defined as information collected by criminal justice agencies that is needed for performance of their legally authorized, required function. This includes: wanted person information; stolen property information; criminal history information; information compiled in the course

of investigation of crimes that are known or believed on reasonable grounds to have occurred, including information on identifiable individuals; and information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity.

(3) "Criminal Justice Agency" shall be defined as: A governmental agency or a sub-unit thereof which performs administration of criminal justice pursuant to a statute, regulation, ordinance, or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

The term criminal justice agency shall be inclusive of but not limited to: The Attorney General, sheriff departments, law enforcement agencies of a county or municipality, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, State Police, State Fire Marshal, Fire Department, Board of Alcohol Beverage Control, Justice Cabinet and every other criminal justice agency engaged in the administration of criminal justice.

(4) "Administration of Criminal Justice" shall be defined as the performance of any of the following activities: Detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage and dissemination of Criminal History Record Information (CHRI).

(5) "Satellite Agency" shall be defined as a non-terminal agency accessing the LINK System through a terminal agency.

(6) "Terminal Agency" shall be defined as an agency that has direct access to the LINK System via automated means.

MORGAN T. ELKINS, Commissioner

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 13, 1986

FILED WITH LRC: February 14, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 9 a.m., in the Conference Room, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lt. William Kline, Kentucky State Police, Information Services Branch, 1250 Louisville Road, Frankfort, Kentucky 40601.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Lt. William Kline

(1) Type and number of entities affected: Participating local law enforcement agencies.

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

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: N/A

(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: N/A
  - (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: N/A
  - (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 regulation brings Kentucky into compliance with federal guidelines.

**JUSTICE CABINET**  
Department of State Police

502 KAR 40:020. Agreements for the Legal Exchange of Criminal Justice Information.

RELATES TO: KRS 16.060, 16.130  
PURSUANT TO: KRS 16.060, 16.130  
NECESSITY AND FUNCTION: KRS 16:060 mandates that the Commission of the Department of State Police shall collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals. KRS 16.130 provides that the commissioner shall cooperate and exchange information with any other department or agency of this Commonwealth, or with other police forces, both within and without this Commonwealth and with the federal government.

Section 1. Criminal Justice Information Exchange Agreements Where the Kentucky State Police is Designated as the User Agency. The Commissioner of the Department of State Police may at the discretion of the commissioner, enter into agreements with federal, state, local or any other agency or entity as he deems fit, for the purpose of having receiving and/or submitting criminal justice information to criminal justice information systems as covered in the respective agreement. Further, pursuant to mandates as designated in the respective criminal justice agreements, the commissioner shall insure that all provisions listed in said agreements are followed by the Department of State Police or any and all criminal justice agencies within the Commonwealth having access to that respective criminal justice information system.

Section 2. Criminal Justice Information Exchange Agreements Whereby the Department of State Police is Designated as the System Control Agency. The commissioner shall develop and institute Criminal Justice Information Exchange Agreements with criminal justice terminal agencies within the Commonwealth prior to the exchange of any criminal justice information.

MORGAN T. ELKINS, Commissioner  
NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 13, 1986  
FILED WITH LRC: February 14, 1986 at 9 a.m.  
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 9 a.m., in the Conference Room, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lt. William Kline, Kentucky State Police, Information Services Branch, 1250 Louisville Road, Frankfort, Kentucky 40601.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: Lt. William Kline  
(1) Type and number of entities affected: Participating local law enforcement agencies.  
(a) Direct and indirect costs or savings to those affected: N/A  
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: N/A  
(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: N/A  
(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: N/A  
(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 regulation brings Kentucky into compliance with federal guidelines.

**JUSTICE CABINET**  
Department of State Police

502 KAR 40:030. Criminal Justice Information Exchange User Agreement.

RELATES TO: KRS 16.130  
PURSUANT TO: KRS 16.060, 16.080, 16.130  
NECESSITY AND FUNCTION: KRS 16.080 provides that the commissioner may establish rules and regulations for the government and operation of the Department of State Police. KRS 16.130 mandates that the commissioner shall cooperate with criminal justice agencies by exchanging criminal justice information. This regulation establishes criteria for the exchange of criminal justice information via the LINK system by those criminal justice agencies within the Commonwealth of Kentucky by means of a Criminal Justice Information Exchange User Agreement contract.

Section 1. All criminal justice terminal agencies within the Commonwealth of Kentucky that participate in the LINK system shall enter into a User Agreement with the Department of State Police as prescribed by the commissioner. (A copy of the User Agreement is available from the Kentucky State Police Records Section, Louisville Road, Frankfort, Kentucky 40601.) (See Appendix A.)

APPENDIX A  
CRIMINAL HISTORY RECORD INFORMATION  
EXCHANGE AGREEMENT

BETWEEN

AND

This agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ by and between \_\_\_\_\_, a terminal agency of a communications system, hereinafter referred to as LINK and \_\_\_\_\_, a non-terminal agency, hereinafter referred to as Satellite Agency.

PURPOSE OF AGREEMENT:

The Terminal Agency agrees to furnish the Satellite Agency such criminal record information as is available in the Kentucky State Police computerized Criminal Justice Information System files and further agrees to furnish such criminal record information as is available in the FBI National Crime Information Center (NCIC) Computerized Criminal History files, Interstate Identification Index data base and National Law Enforcement Telecommunication System.

DISCIPLINE:

The Satellite Agency agrees to abide by all present rules, policies and procedures which regulate the collection, storage and dissemination of criminal record information. In addition, Satellite Agency agrees to abide by any rules, policies and procedures which have or may be adopted which regulate the collection, storage and dissemination of criminal record information. Further, the Satellite Agency agrees to comply with the National Crime Information Center (NCIC) and National Law Enforcement Telecommunication System (NLET) rules, policies and procedures which are incorporated by reference into this agreement.

The Kentucky State Police and the Terminal Agency each reserve the right to immediately suspend furnishing any information provided for in this agreement to the Satellite Agency when any state or federal law, rule, policy or procedure regulating the collection, storage and dissemination of criminal record information is violated or appears to have been violated. The Kentucky State Police and the Terminal Agency may jointly, at its discretion, reinstate the Satellite Agency privileges when violations are resolved satisfactorily.

SECURITY AND PRIVACY:

The Satellite Agency agrees to maintain logs and dissemination records which identify individuals and agencies requesting criminal record information and the purpose of each request. Also, the logs and dissemination records shall include times and dates of each

request plus information which identifies the particular record requested. Such logs and records shall be subject to audit by the Terminal Agency, the Kentucky State Police and/or FBI National Crime Information Center Staff.

PROVISIONS:

The Satellite Agency agrees to indemnify and save harmless the Terminal Agency, the Kentucky State Police, administrator of LINK; its officials and employees from and against any and all claims, demands, actions, suits and proceedings by others arising out of false arrest, imprisonment, or any cause of action brought about by negligence on the part of the Satellite Agency in the exercise or enjoyment of this agreement.

AGREEMENT PERIOD:

This agreement is effective through the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at which time the agreement may be renewed upon agreement of the parties.

In WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by authorized officials and officers.

Terminal Agency:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
Chief Law Enforcement Official

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
Chief Executive Officer of Governmental Entity  
(i.e., County Judge-Executive, Mayor, etc.)

DATE: \_\_\_\_\_

Satellite Agency:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
Chief Law Enforcement Official

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_  
Chief Executive Officer of Governmental Entity  
(i.e., County Judge-Executive, Mayor, etc.)

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Commissioner, Kentucky State Police  
919 Versailles Road  
Frankfort, KY 40601

MORGAN T. ELKINS, Commissioner

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 13, 1986

FILED WITH LRC: February 14, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 9 a.m., in the Conference Room, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lt. William Kline, Kentucky State Police, Information Services Branch, 1250 Louisville Road, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lt. William Kline

(1) Type and number of entities affected:  
Participating local law enforcement agencies.

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

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: N/A

(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: N/A

(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: N/A

(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 regulation brings Kentucky into compliance with federal guidelines.

JUSTICE CABINET  
Department of State Police

502 KAR 40:040. LINK user agencies to initiate agreement with satellite agencies.

RELATES TO: KRS 16.130

PURSUANT TO: KRS 16.080, 16.130

NECESSITY AND FUNCTION: KRS 16.130 mandates that the commissioner shall cooperate with criminal justice agencies by exchanging criminal justice information. This regulation establishes criteria for the exchange of criminal justice information via the LINK system by those criminal justice agencies within the Commonwealth of Kentucky by means of a Criminal Justice Information Exchange User Agreement contract.

Section 1. All criminal justice satellite agencies that access and/or enter CJI in the LINK system shall be required to enter into a User Agreement with the terminal agency providing said access/entry services. The form of the agreement shall be prescribed and approved by the commissioner prior to the entry, retrieval or access to information. A completed copy of this Agreement shall be filed with the Commissioner, Kentucky State Police, by all terminal agencies. (A copy of the Satellite User Agreement is available from the Kentucky State Police Records Section, Louisville Road, Frankfort, Kentucky 40601.) (See Appendix A)

APPENDIX A  
COMPUTER INFORMATION  
EXCHANGE AGREEMENT

BETWEEN

AND

This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ Between \_\_\_\_\_, a Terminal Agency accessing the Law Information Network of Kentucky (LINK), Hereinafter referred to as Terminal Agency, and \_\_\_\_\_, A Nonterminal Agency, Hereinafter referred to as Satellite Agency.

This Agreement entitles Satellite Agency authority to request access to LINK files, except criminal history record information; to National Crime Information Center (NCIC) files, except criminal history record information; and to National Law Enforcement Telecommunications System (NLETS) for the exchange of criminal justice related information, except criminal history record information.

Satellite Agency agrees to abide by all statutes, regulations, rules, policies and procedures of the Law Information Network of Kentucky, the National Crime Information Center and the National Law Enforcement Telecommunications System, Inc.

Satellite Agency agrees to cooperate with the Terminal Agency and provide assistance and information necessary to meet the following minimum standards:

1. Ensure that all Record Entries and Modifications are accurate and complete.
2. Ensure immediate removal of all related records when property is recovered or individuals are apprehended.
3. React to error notifications as specified in LINK policies and procedures.
4. React within ten (10) minutes to a hit confirmation request.
5. Ensure immediate entry of locate message upon recovery of property or apprehension of Wanted/Missing persons.

Satellite Agency agrees to indemnify and save harmless the Terminal Agency, its director and employees; and the Kentucky State Police, its director and employees from and against any and all claims, demands, actions, suits and proceedings by others; against all liabilities to others including but not limited to any liability for damages by reason of or rising out of any false arrest or imprisonment or any cause of actions whatsoever, and against a loss, cost, expense and damage resulting therefrom, or rising out of or involving any negligence on the part of the Satellite Agency in the exercise or enjoyment of this agreement.

The Kentucky State Police and the Terminal Agency each reserve the right to immediately suspend services to the User Agency when rules, regulations, policies or procedures of LINK, NCIC or NLETS have been violated.

This Agreement will become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

In WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by authorized officials and officers.

Terminal Agency:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Chief Law Enforcement Official

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

Chief Executive Officer of Governmental Entity  
(i.e., County Judge-Executive, Mayor, etc.)

DATE: \_\_\_\_\_

Satellite Agency:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Chief Law Enforcement Official

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

Chief Executive Officer of Governmental Entity  
(i.e., County Judge-Executive, Mayor, etc.)

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Commissioner, Kentucky State Police  
919 Versailles Road  
Frankfort, KY 40601

MORGAN T. ELKINS, Commissioner

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: February 13, 1986

FILED WITH LRC: February 14, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on March 21, 1986, at 9 a.m., in the Conference Room, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing, the following individual: Lt. William Kline, Kentucky State Police, Information Services Branch, 1250 Louisville Road, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lt. William Kline

(1) Type and number of entities affected: Participating local law enforcement agencies.

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

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: N/A

(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: N/A

(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: N/A

(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 regulation brings Kentucky into compliance with federal guidelines.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission

811 KAR 1:220. Harness racing at county fairs.

RELATES TO: KRS 230.630, 230.640, 230.680, 230.690, 230.710, 230.770

PURSUANT TO: KRS 230.630

NECESSITY AND FUNCTION: To regulate conditions, races, purses and payments in races conducted at fairs in which funds for purses are provided by the Kentucky Harness Racing Commission. The function of this regulation is to regulate eligibility for participation in harness racing at county fairs.

Section 1. Definitions. "Persons domiciled in Kentucky" are those persons that have their true, fixed and permanent home in Kentucky and to which they have an intention of returning whenever they are absent and, those corporations wholly owned by a person domiciled in Kentucky. Factors which indicate domicile and intent include, but are not limited to:

(1) The amount of time spent in Kentucky each year by the person in question as compared to the amount of time spent by him elsewhere;

(2) Whether or not the person or corporation in question owns real estate in Kentucky;

(3) Whether or not the person in question is registered to vote in Kentucky, or whether the corporation in question was organized under Kentucky law;

(4) The "permanent residence" of the person in question as indicated by the records of the Kentucky Harness Racing Commission;

(5) Whether or not the person in question has a Kentucky automobile driver's license.

Section 2. Fair Committee. (1) Each county fair board shall appoint a committee composed of three (3) persons to determine questions of domicile.

(2) The committee shall weigh all factors in Section 1(1) to (5) of this regulation in determining questions of domicile.

(3) Any decision of a fair committee may be appealed directly to the Kentucky Harness Racing Commission.

Section 3. Eligibility. The following horses are eligible to participate in stake races at county fairs:

(1) Those two (2) and three (3) year olds that were sired by a stallion registered with the Kentucky Standardbred Development Fund.

(2) Two (2) and three (3) year olds that are wholly owned by a "person domiciled in



Kentucky," both at the time of nomination and at the time of the contest of the race.

(3) Foals of 1984 to race as two (2) year olds in 1986 and three (3) year olds in 1987; foals of 1985 to race as two (2) year olds in 1987 and three (3) year olds in 1988 in accordance with subsection (1) or (2) of this section. Foals of 1986 and thereafter to race as two (2) and three (3) year olds in accordance with subsection (1) of this section.

Section 4. Each fair shall have a safe and adequate track with entire track, including start and finish lines, visible to judges and spectators. The track shall be inspected and approved by a representative of the Kentucky Harness Racing Commission.

Section 5. All tracks must have a hub rail of some type to be approved by the Kentucky Harness Racing Commission.

Section 6. Each fair shall have safe and adequate stalls for participating horses. If permanent barns are not available, tents or other tie-in type stalls may be used. This can be accomplished by knowing the number of "ship in" horses and possibly by stabling some horses off the grounds in private barns.

Section 7. Nomination fees shall be the same at all tracks and shall be set by the Kentucky Harness Racing Commission. (See Section 15 of this regulation.)

Section 8. All fairs shall use licensed presiding judges to preside over the racing.

Section 9. All fairs shall use a licensed starter with adequate equipment.

Section 10. The entry fee shall be set by the Kentucky Harness Racing Commission (see Section 15 of this regulation) and shall be collected by each fair and used for purses for overnight racing events, paying starters, paying presiding judges, promoting fair racing or otherwise as needed in the discretion of the fair collecting the fee. Each fair shall be responsible for making a full accounting of the entry fees to the Kentucky Harness Racing Commission within sixty (60) days of the completion of the meet.

Section 11. Each fair shall apply to the Kentucky Harness Racing Commission for a license to race and for approval of funds by December 15 of the year prior to the racing year. At the time of application, the request for pari-mutuel wagering shall be included.

Section 12. All fairs shall have a complete racing program to be eligible for funds from the Kentucky Harness Racing Commission which shall include overnight events for horses of all ages and classes. Purse distribution shall be determined by a majority of participating fair managers, subject to approval of the Kentucky Harness Racing Commission.

Section 13. The Kentucky Harness Racing Commission shall award dates and approval of funds by January 15 of the applicable racing year.

Section 14. Each fair shall have a printed

program, and, if there is pari-mutuel betting, the program shall show number of starts, number of firsts, seconds, and thirds, best winning time, and money earned.

Section 15. Payments. Nomination and sustaining fees are payable to the Fair Nominations Fund and mailed to the Kentucky Harness Racing Commission. Entry fees are payable to the individual fairs.

#### COUNTY FAIR PAYMENT SCHEDULE

February 15 Nomination Fee.....\$30 per horse.  
(makes horse eligible to all fairs)  
April 15 Sustaining Fee.....\$20 per horse.  
- each fair  
Entry Fee - each fair.....\$40 per horse.

Section 16. 811 KAR 1:067, Harness racing at county fairs, and 811 KAR 1:205, Guidelines for fairs to qualify for funds for purses from the Kentucky Harness Racing Commission, are hereby repealed.

CARL B. LARSEN, Executive Director  
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: December 20, 1985

FILED WITH LRC: February 5, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on March 21, 1986 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508, at least five days before the hearing.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen

(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:

(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:

(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: No

(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:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable.



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

**903 KAR 5:290. Employer contribution rates.**

RELATES TO: KRS 341.270

PURSUANT TO: KRS 194.050, 341.270

NECESSITY AND FUNCTION: KRS 341.270 requires the Secretary for Human Resources to determine the rate schedule for employer's contributions. The rate schedule in effect for each calendar year is determined by the "trust fund balance" as of December 31, of the preceding year. This regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

Section 1. Trust Fund Balance. The secretary finds the following to exist:

(1) The "trust fund balance" as of December 31, 1985, was \$76,598,469.22.

(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1985.

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this regulation, and in accordance with KRS 341.270(3), Schedule E of Table A shall be in effect for calendar year 1986, because the "trust fund balance" was less than \$150,000,000, on December 31, 1985. Rates listed in Schedule E of Table A are listed below.

<u>Employer Reserve Ratio</u>	<u>Rate Schedule</u>
8.0% and over	1.00%
7.0% but under 8.0%	1.05%
6.0% but under 7.0%	1.10%
5.0% but under 6.0%	1.40%
4.6% but under 5.0%	1.80%
4.2% but under 4.6%	2.30%
3.9% but under 4.2%	2.70%
3.6% but under 3.9%	3.00%
3.2% but under 3.6%	3.10%
2.7% but under 3.2%	3.20%
2.0% but under 2.7%	3.30%
1.3% but under 2.0%	3.40%
0.0% but under 1.3%	3.50%
-0.5% but under -0.0%	7.50%
-1.0% but under -0.5%	7.75%
-1.5% but under -1.0%	8.00%
-2.0% but under -1.5%	8.25%
-3.0% but under -2.0%	8.50%
-4.0% but under -3.0%	8.75%
-6.0% but under -4.0%	9.25%
-8.0% but under -6.0%	9.50%
Less than 8.0%	10.00%

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

APPROVED BY AGENCY: February 5, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

**REGULATORY IMPACT ANALYSIS**

Agency Contact Person: James P. Daniels

(1) Type and number of entities affected: 65,000 Kentucky employers.

(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

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: 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: 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: None

Tiering:

Was tiering applied? No. All taxpaying employers treated equally.

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

**904 KAR 1:320. Kentucky patient access and care system.**

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 terms and conditions under which the cabinet will provide medical assistance pursuant to a waiver granted by the Secretary, United States Department of Health and Human Services, in accordance with Section 1915(b)(1) of the Social Security Act, providing for a physician primary care case management system which is hereinafter referred to as the Kentucky Patient Access and Care (KenPAC) System.

Section 1. General. The cabinet shall implement, within the Medical Assistance Program, a physician primary care case management system to be known as the Kentucky Patient Access and Care System (hereinafter referred to as KenPAC). KenPAC shall be implemented and administered in accordance with

the terms of the waiver granted by the Secretary, United States Department of Health and Human Services under the authority granted by Section 1915(b)(1) of the Social Security Act.

Section 2. Recipient Participation. All recipients of Aid to Families with Dependent Children (AFDC) and AFDC related medical assistance only will be required to participate in KenPAC unless excluded as shown in Section 3 of this regulation.

Section 3. Recipient Exclusions from KenPAC. Excluded from KenPAC will be individuals who are aged, blind, or disabled (i.e., individuals whose eligibility for medical assistance is based on age, blindness, or disability); those who are in mental hospitals, skilled nursing facilities, intermediate care facilities, and personal care homes; individuals in foster care or subsidized adoption status; all spend-down cases; and refugees. Individuals eligible to participate but who reside in a county which does not have an adequate number of primary physicians or clinics participating in KenPAC will not be required to participate in KenPAC until adequate physician and/or clinic resources are available in the county, although the cabinet may, at its option, choose to permit voluntary participation by recipients in such counties.

Section 4. Physician Participation. Primary care physicians permitted to participate in KenPAC shall be general practitioners, family practitioners, pediatricians, internists, obstetricians, gynecologists, and doctors of osteopathy. Clinics may participate if such clinic has at least one (1) full-time equivalent physician who is a primary care physician as shown above; rural health clinics may participate, but are not required to have a full-time equivalent primary care physician. Specialty physicians may participate under extraordinary circumstances when the cabinet determines such participation would be in the best interests of both the recipient and the KenPAC system.

Section 5. KenPAC Provider Agreements. All participating primary care providers shall be required to sign a KenPAC participation agreement in addition to the standard medical assistance provider agreement and will be bound by the terms and conditions shown in the KenPAC provider agreement.

Section 6. Quotas. Each primary care provider shall be required to specify the number of recipients the provider will be willing to serve as primary care case manager. Unless circumstances exist which require the cabinet to authorize a higher quota for a provider to ensure adequate coverage in an area, the upper limit shall be 1,500 recipients per full-time physician. Primary centers and rural health clinics may, in addition, have a quota of up to 300 recipients for each participating advanced registered nurse practitioner (ARNP).

Section 7. Primary Care Case Management Fees. Each physician or clinic shall receive a management fee of three (3) dollars per month per recipient for the first 1,000 assigned recipients per full-time equivalent physician;

no management fee for the next 500 assigned recipients per full-time equivalent physician; and three (3) dollars per month per recipient for all recipients assigned which are over 1,500 per full-time equivalent physician as specially authorized by the cabinet. If a primary care center or rural health center has advanced registered nurse practitioners (ARNP) on staff for whom an additional quota is allowed, the clinic may be paid a management fee of three (3) dollars per month per recipient attributed to each ARNP (not to exceed 300 recipients per full-time ARNP), with the balance of the management fee computed in the manner previously specified.

Section 8. Covered Services under KenPAC. The following services shall be managed by the primary physician/clinic: physician services, pharmacy services when the prescription is issued by the primary physician or clinic, hospital inpatient and outpatient services, home health agency services, laboratory services, ambulatory surgical center services, primary care center services, rural health center (clinic) services, and nurse anesthetist services. For KenPAC purposes, the physician services element does not include services provided by ophthalmologists or board certified or board eligible psychiatrists; and it does not include obstetrical services provided by obstetricians or gynecologists. All other services available under the Medicaid program may be secured in the usual manner. Access to emergency services will not be restricted by KenPAC even though such medical service may customarily be within KenPAC. Urgent care (i.e., when medical necessity dictates early treatment and/or hospitalization) may be provided without pre-authorization from the primary physician or clinic if the primary physician or clinic cannot be reached. For both emergency and urgent care, authorization must be obtained from either the primary physician or clinic or the Medicaid Program prior to billing Medicaid for the emergency or urgent care service.

Section 9. Recipient Assignment. Each KenPAC recipient will be afforded the opportunity to select his/her KenPAC provider from among participating KenPAC providers in his/her county of residence or any adjacent county. If a voluntary selection is not made, a primary care provider will be assigned by the Medicaid Program.

Section 10. Phase-in of KenPAC. KenPAC will be phased in by assigning recipients at the scheduled semiannual or annual reinvestigation so far as possible, with the assigned phase-in scheduled to end by July 1, 1986. New approvals will be assigned within sixty (60) days of the approval. Individuals who cannot be assigned during their scheduled semiannual or annual reinvestigation month or at the time of approval may be scheduled in an alternate month during the phase-in period.

Section 11. Hearing and Appeal Rights. Any applicant for or recipient of medical assistance required to participate in KenPAC shall be entitled to the same hearing and/or appeal rights as are available to any other applicant for or recipient of medical assistance.

Section 12. Utilization Control. Primary care physician/clinics identified by the cabinet as having an abusive or inappropriate utilization pattern, not consistent with the objectives of KenPAC, may be removed from KenPAC and/or denied further participation rights in KenPAC. Any provider so excluded may seek review of the decision in accordance with the KenPAC provider agreement.

Section 13. Relation to Other Regulations. The requirements specified herein shall supersede any other regulations issued by the cabinet which are inconsistent with this regulation.

Section 14. Implementation. KenPAC shall begin on February 1, 1986, and shall remain in effect for the term of the KenPAC waiver, including extensions thereto, unless terminated at an earlier date by action of the cabinet.

MIKE ROBINSON, Deputy Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: January 31, 1986

FILED WITH LRC: February 3, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 200,000 to 225,000 AFDC or AFDC related MA only recipients; 750 to 1,000 physicians; various other providers of Medicaid services.

(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: \$4,000,000 (savings)\*

2. Continuing costs or savings: \$4,000,000\*\*

3. Additional factors increasing or decreasing costs: \*\*Savings may vary depending on number of recipients, utilization, and the rate of inflation.

(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:

\*Savings for first full-year after KenPAC

phase-in is completed.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

#### CABINET FOR HUMAN RESOURCES Office of Inspector General Division of Licensing and Regulation

906 KAR 1:030. Hearings concerning employment agencies.

RELATES TO: KRS Chapter 340

PURSUANT TO: KRS 194.120, 340.070

NECESSITY AND FUNCTION: The Secretary of Human Resources is authorized by statute to promulgate regulations for administration of KRS Chapter 340 concerning the regulation of employment agencies. It is necessary to provide a framework for resolution of appeals of negative licensure actions.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Negative licensure action" means an action by the cabinet to revoke, modify, suspend or deny relicensure of an employment agency.

(3) "Employment agency" means the person or organization defined in KRS 340.010(3).

(4) "Hearing officer" means the person designated by the Secretary of Human Resources to conduct a hearing and make a recommendation to the cabinet on any appeal of negative licensure action.

Section 2. (1) Any employment agency may appeal negative licensure action taken by the cabinet by notifying the Cabinet for Human Resources within twenty (20) days of the issuance of notice of negative licensure action. Upon receipt of notice of appeal, the Secretary of the Cabinet for Human Resources shall designate a hearing officer.

(2) Notice of hearing shall be mailed to the employment agency not less than ten (10) days prior to the commencement of the hearing. The notice of hearing shall contain the reasons for negative licensure action. The notice of hearing shall be mailed by certified mail, return receipt requested to the employment agency.

(3) The employment agency and the cabinet may be represented by counsel and make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. No depositions shall be permitted for the purpose of discovery, however, the hearing officer may authorize depositions of witnesses who, in his opinion, for good cause shown cannot be present at the hearing. A hearing officer shall reside at the hearing, shall keep order, administer oaths, may issue subpoenas and may admit relevant and probative evidence and shall conduct the hearing in accordance with reasonable administrative practice.

(4) All testimony at the hearing shall be recorded but need not be transcribed unless requested. The person or organization requesting a transcript shall bear the cost of such transcript.

(5) The hearing officer may place reasonable time limits upon the presentation of testimony, evidence and argument and may terminate or exclude irrelevant or redundant evidence,

testimony or argument.

(6) The hearing officer shall make a written recommendation to the cabinet including findings of fact and conclusions of law. With the recommendation, the hearing officer shall forward to the cabinet the record consisting of all documents, exhibits and recorded testimony introduced in the hearing.

(7) The cabinet shall issue a final determination of licensure status within ten (10) days of the receipt of the recommendation of the hearing officer.

(8) No hearing officer shall participate in any hearing involving an employment agency with which he has had in the past twelve (12) months preceding the hearing, any ownership, in whole or in part, employment, staff, fiduciary, contractual, creditor or consultative relationship.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 7, 1986

FILED WITH LRC: February 7, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for March 21, 1986 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 March 16, 1986, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: William Gardner

(1) Type and number of entities affected: 81

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

1. First year: No additional cost required unless an employment agency appeals a determination.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No hearings in the last fiscal year.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: Frequency of appeals.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: 0

(4) Assessment of alternative methods; reasons why alternatives were rejected: Due process of law allows for no alternatives.

(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: 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: No

Tiering:

Was tiering applied? No. N/A.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February 3-4, 1986 Meeting

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 3, 1986 at 9:00 a.m. and on Tuesday, February 4, 1986 at 9:00 a.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. Without objection the minutes of the January 2-3, 1986 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senator Pat McCuiston; Representatives James Bruce and Joe Meyer.

Guests: Representative Don Blandford; Representative John Harper; Marion J. O'Donoghue, Treasury Department; Tracey Ballman, Celia Dunlap, Keith A. George, John A. Miller, Larry C. Moore, Revenue Cabinet; Robert V. Bullock, Board of Social Work; Dave Nicholas, Finance Occupations & Professions; Thomas M. Troth, Department of Agriculture; J. Alex Barber, William S. Coakley, Kim Gray, Joan A. Griggs, James B. Hale, Martha L. Hall, Kay Harker, Laura Keller, Roger B. McCann, Abbie Meyer, George Risk, Hisham Saaid, Art Williams, Patricia Zweig, Natural Resources and Environmental Protection Cabinet; Linda G. Cooper, Corrections Cabinet; Jane Beshear, Linda Horton, Governor's Commission on Literacy;

Dorothy Archer, Gary Bale, Jim Batts, William Gary Steinhilber, R. C. Story, Thomas J. Vest, Carolyn C. Wosoba, Department of Education; Patricia M. McCann, Kentucky Association for Health, Physical Education, Recreation and Dance; Charles W. McDowell, Department for the Blind; Ellyn Elise Crutcher, Claude G. Rhorer, Jr., Public Service Commission; Gene Buchheit, Ken Hazelwood, Ron Sheets, Kentucky Association of Electric Co-ops; Pamela Johnson, Utility & Rate Intervention Division, Attorney General's Office; Gary Larimore, Kentucky Rural Water Association; James M. Baker, Wanda S. Harrod, Jan Smith, Department of Financial Institutions; Martin Anderson, Tom Andis, Pat Bishop, Marge Brock, Barbara Coleman, Betty Conner, Ed Crews, Eva Ellis, Ronald J. Epling, Vic Gausepohl, Jim Heth, Margaret Hockensmith, Eugenia Jump, Greg Lawther, E. Edsel Moore, Sharon Perry, Joyce Selvidge, Stan Smith, Phillip R. Spangler, Stephanie Wechsler, Thyra Whitford, Mark Yancey, Cabinet for Human Resources; Etta Ruth Kepp, Don Rouse, Governor's Office for Policy & Management; Jay Runyon.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, June Mabry, Donna Valencia, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on February 3-4, 1986, and submits the following report:

The Subcommittee determined that the following regulations, amended as agreed by the subcommittee and promulgating body, complied with KRS Chapter 13A:

**Commerce Cabinet: Department of Agriculture: Pesticides**

302 KAR 31:010 (Hearings upon denial, suspension, modification, or revocation of licenses.) Section 1(1)(f) of this regulation was technically amended by deleting the word "decisions" and replacing it with the word "recommendations."

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management: Identification and Listing of Hazardous Waste**

401 KAR 31:010 (General provisions for hazardous wastes.) This regulation was amended by moving an erroneously placed sentence from Section 2 to Section 3, and by correcting cites in the decision tree.

401 KAR 31:040 (Lists of hazardous wastes.) This regulation was amended to add language which is identical to the federal regulation promulgated as a final rule on December 31, 1985; this amendment lists mixtures and blends of solvents as hazardous wastes.

**Department for Surface Mining Reclamation and Enforcement: Special Performance Standards**

405 KAR 20:040 (Prime farmland.) This regulation was technically amended to reflect the adoption by reference of a more recent document.

**Education and Humanities Cabinet: Governor's Commission on Literacy**

700 KAR 1:010 (Adult literacy program fund.) This administrative regulation was amended: (1) To correct the RELATES TO: section to refer to KRS Chapter 158.795; (2) In Section 1(1), to add the following language after the words, "each county.": "Except as special circumstances require and as recommended by the Governor's Commission on Literacy, hereinafter referred to as the Commission, no more than one grant per county will be awarded each funding cycle."; (3) In Section 1(2), after the words "established and advertised", insert the words, "in each county"; and, delete the words, "to all existing literacy programs throughout the Commonwealth. Interested parties and community groups will be notified about the program upon request to the Governor's Commission on Literacy, hereafter referred to as the Commission."

700 KAR 1:020 (State adult literacy program plan.) A technical amendment was made to delete an incorrect effective date.

**Education and Humanities Cabinet: Department of Education: Office of Local Services: School District Finance**

702 KAR 3:190 (Maximum class sizes.) This regulation was technically amended to correct a typographical error.

**Elementary and Secondary Education Act**

704 KAR 10:022 (Elementary, middle and secondary schools standards.) A technical amendment was made to correct a typographical

error in the material incorporated by reference.

**Public Protection and Regulation Cabinet: Public Service Commission: Utilities**

807 KAR 5:006 (General rules.) Several objections were raised concerning the exemption due to a customer's conviction of theft or fraud. Rep. Harper felt this was adequate, since it did not reverse the presumption of innocence in disputed billing cases in which there had not been such a conviction. Representative Meyer pointed out that Section 9(10) provided for service in cases where theft may be suspected, so long as payments were made. Although the Commission seemed to indicate it would not accept payment in some such cases, Section 9(10) does so provide. Mr. Sheets stated that convictions in these cases were rare. He suggested amending Section 9(9) to exempt cases in which there "is no evidence of fraudulent or illegal use of service...." The Commission would agree only to amend Section 9 to provide for an exemption "where a utility has filed a verified complaint with the appropriate law enforcement agency alleging fraud or theft by a customer." Mr. Sheets and Mr. Hazelwood stated that the Commission should hear and resolve disputes relating to incorrect billings, including cases where fraud or theft may be involved, whether or not a formal complaint or civil action for payment have been filed.

The Commission stated that it did hear such cases. However, the failure to include an exemption relating to cases in which fraud or theft is not the subject of a criminal or civil action but may be an element in the disputed billing was felt to be inadequate by some appearing before the Subcommittee. Representative Meyer stated that illegal use could occur even if a meter was in tolerance, and that the liability of those perpetrating such illegal use would appear to be limited.

The Commission amended the administrative regulation to add: (1) The following language, in Section 9(9), after the words, "where a": delete the words, "customer has been convicted of theft or fraud"; and, by inserting in lieu thereof, the words, "utility has filed a verified complaint with the appropriate law enforcement agency alleging fraud or theft by a customer."; and, (2) The following language, in Section 9(10), after the word "make" and before the words "good faith payments": "payments for the disputed period in accordance with historic usage, or if that data is not available, the average usage of similar customer loads, and stays current on subsequent bills."; and,

to delete the words "good faith payments."

The Subcommittee referred the subject matter of this regulation to the Legislative Research Commission for transmittal to the Interim Joint Committee on Energy for consideration during the next interim.

**Cabinet for Human Resources: Department for Health Services: State Health Plan**

202 KAR 17:010 (State health plan.) This regulation was technically amended to correct the effective date of the material incorporated by reference.

**Department for Social Services: Spouse Abuse Shelters and Crisis Centers**

905 KAR 5:040 (Standards.) An objection had

been raised that the language appeared to provide for services for child abuse and that such services are not permitted by KRS 209.160. The agency stated that the intent was to insure that services for the dependent children of abused spouses could be provided as part of the protective services for victims of spouse abuse. If services cannot be provided for their dependent children, or if they cannot bring their dependent children to centers with the ability to include services for the children, such abused spouses will be unable to receive the services provided for by law. The words, "domestic violence" and "families" could be read to authorize services for abused children or for those who were the victims of any type of domestic violence. The agency amended Section 1(2),(4),(9) and (11) to delete the words, "domestic violence" and "families", and to insert the words "spouse abuse" and "dependent children."

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

**Kentucky Treasury: Treasurer's Office**  
20 KAR 1:010 (Access to public records of State Treasury).

**Revenue Cabinet: Corporation License Tax**  
103 KAR 20:010 (Definition of gross income.)  
**Sales and Use Tax; Miscellaneous Retailer Occupations**  
103 KAR 27:080 (Meals served by railroads, airlines, etc.)

**General Government Cabinet: Board of Social Workers**  
201 KAR 23:120 (Equivalency standard.)

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management: General Administrative Procedures**  
401 KAR 30:010 (Definitions.)  
401 KAR 30:020 (General provisions.)  
401 KAR 30:070 (Reference documents.)  
401 KAR 30:080 (Standards for variances.)

**Identification and Listing of Hazardous Waste**  
401 KAR 31:060 (Rulemaking petitions for hazardous waste.)  
401 KAR 31:070 (Delisted hazardous waste streams.)

401 KAR 31:120 (Appendix on chemical analysis test methods.)  
401 KAR 31:160 (Appendix on basis for listing hazardous waste.)

401 KAR 31:170 (Appendix on hazardous constituents.)  
401 KAR 31:190 (Appendix on method of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans.)

**Standards Applicable to Generators of Hazardous Waste**  
401 KAR 32:010 (General provisions for generators.)

401 KAR 32:020 (Manifest system.)  
401 KAR 32:030 (Pre-transport requirements.)  
401 KAR 32:040 (Recordkeeping and reporting.)  
401 KAR 32:050 (Special conditions.)  
401 KAR 32:100 (Appendix on hazardous waste manifest and instructions.)

**Standards for Owners and Operators of Hazardous Waste Storage Treatment and Disposal Facilities**  
401 KAR 34:010 (General provisions for facilities.)

401 KAR 34:020 (General facility standards.)

401 KAR 34:030 (Preparedness and prevention.)

401 KAR 34:040 (Contingency plan and emergency procedures.)

401 KAR 34:050 (Manifest system, recordkeeping and reporting.)

401 KAR 34:060 (Groundwater protection.)

401 KAR 34:070 (Closure and post-closure.)

401 KAR 34:090 (Closure financial requirements.)

401 KAR 34:100 (Post-closure financial requirements.)

401 KAR 34:180 (Use and management of containers.)

401 KAR 34:190 (Tanks.)

401 KAR 34:200 (Surface impoundments.)

401 KAR 34:210 (Waste piles.)

401 KAR 34:220 (Land treatment.)

401 KAR 34:230 (Landfills.)

401 KAR 34:240 (Incinerators.)

**Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities**

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

401 KAR 35:020 (General facilities standards (IS).)

401 KAR 35:050 (Manifest system, recordkeeping and reporting (IS).)

401 KAR 35:070 (Closure and post-closure (IS).)

401 KAR 35:180 (Use and management of containers (IS).)

401 KAR 35:190 (Tanks (IS).)

401 KAR 35:200 (Surface impoundments (IS).)

401 KAR 35:210 (Waste piles (IS).)

401 KAR 35:220 (Land treatment (IS).)

401 KAR 35:230 (Landfill (IS).)

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

401 KAR 35:250 (Thermal treatment (IS).)

**Standards for the Management of the Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities**

401 KAR 36:030 (Recyclable materials used in a manner constituting disposal.)

401 KAR 36:040 (Hazardous waste burned for energy recovery.)

401 KAR 36:060 (Recyclable materials used for precious metal recovery.)

401 KAR 36:070 (Spent lead-acid batteries being reclaimed.)

**Hazardous Waste Permitting Process**

401 KAR 38:020 (Interim status provisions.)

401 KAR 38:030 (Conditions applicable to all permits.)

401 KAR 38:040 (Changes to permits; expiration of permits.)

401 KAR 38:050 (Public information procedures.)

401 KAR 38:060 (Special types of permits.)

401 KAR 38:070 (Application procedures.)

401 KAR 38:090 (General contents of Part B application.)

401 KAR 38:100 (Specific Part B requirements for groundwater protection.)

401 KAR 38:160 (Specific Part B requirements for tanks.)

401 KAR 38:170 (Specific Part B requirements for surface impoundments.)

401 KAR 38:180 (Specific Part B requirements for waste piles.)

401 KAR 38:200 (Specific Part B requirements for land treatment facilities.)

401 KAR 38:210 (Specific Part B requirements for landfills.)

**Hazardous Waste Fees**

401 KAR 39:010 (Generator registration fees.)

401 KAR 39:020 (Delisting and exemption fees.)

401 KAR 39:080 (Recycling fees.)

**Underground Storage Tanks**

401 KAR 42:010 (General provisions for underground storage tanks.)

**Division of Air Pollution: New Source Requirements: Non-Attainment Areas**

401 KAR 51:017 (Prevention of significant deterioration of air quality.)

401 KAR 51:052 (Review of new sources in or impacting upon non-attainment areas.)

**Department for Surface Mining Reclamation and Enforcement: General Provisions**

405 KAR 7:020 (Definitions and abbreviations.)

405 KAR 7:060 (Experimental practices mining.)

**Permits**

405 KAR 8:030 (Surface coal mining permits.)

405 KAR 8:040 (Underground coal mining permits.)

405 KAR 8:050 (Permits for special categories of mining.)

**Performance Standards for Surface Mining Activities**

405 KAR 16:010 (General provisions.)

405 KAR 16:060 (General hydrologic requirements.)

405 KAR 16:080 (Diversions.)

405 KAR 16:190 (Backfilling and grading.)

**Performance Standards for Underground Mining Activities**

405 KAR 18:060 (General hydrologic requirements.)

405 KAR 18:080 (Diversions.)

405 KAR 18:190 (Backfilling and grading.)

**Special Performance Standards**

405 KAR 20:040 (Prime farmland.)

405 KAR 20:070 (Offsite coal processing plants.)

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:020 (Corrections policies and procedures.)

**Education and Humanities Cabinet: Department of Education: Office of Instruction: Instructional Services**

704 KAR 3:035 (Annual in-service plan.)

**Health and Physical Education Programs**

704 KAR 4:010 (Physical education.) This regulation provided exemptions from physical education requirements based on religious grounds. The Subcommittee received comments against this exemption on the grounds that it would establish the principle that educational requirements could be avoided, if not voided, so long as it was alleged they conflicted with one's religious beliefs. Chairman Brinkley stated that this regulation was limited to the physical education requirements.

Representative Meyer stated that the exemption should not be restricted to students who were members of an organized church or denomination, and should include those students who had a moral belief that such classes were wrong or immoral. He pointed out that Section 2(b)

permitted structuring classes to meet the objections of the religious denomination or church and that this might violate separation of church and state. Representative Meyer requested that it be recorded that he objected to this regulation for these reasons.

**Student Services**

704 KAR 7:020 (Counselor; criteria and duties.) Chairman Brinkley and Representative Meyer questioned whether the amount of time allotted for the paper work and planning involved in implementing the counseling program was either realistic or adequate.

**Teacher Certification**

704 KAR 20:005 (Kentucky standards for preparation program approval.)

**Education and Humanities Cabinet: Department for the Blind**

720 KAR 1:010 (Federal vocational rehabilitation program.)

**Public Protection and Regulation Cabinet: Financial Institutions: Multi-Bank Companies**

808 KAR 11:020 (Procedures.)

**Cabinet for Human Resources: Department for Health Services: Local Boards of Health**

902 KAR 8:020 (Policies and procedures for local health department operations.)

902 KAR 8:030 (Merit system for local health departments.) Representative Meyer asked whether suspension of an employee without pay was permitted. The agency responded that suspension without pay, pending a hearing for dismissal, was permitted.

**Hospitalization of Mentally Ill/Mentally Retarded**

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)

**Controlled Substances**

902 KAR 55:015 (Schedule I substances.)

902 KAR 55:020 (Schedule II substances.)

902 KAR 55:030 (Schedule IV substances.)

**Department for Employment Services: Unemployment Insurance**

903 KAR 5:260 (Unemployment insurance procedures.)

**Employment Services**

903 KAR 6:020 (Weatherization assistance for low income persons.)

**Department for Social Insurance: Public Assistance**

904 KAR 2:020 (Child support.)

**Department for Social Services: Spouse Abuse Shelters and Crisis Centers**

905 KAR 5:050 (Funding.)

**Children's Residential Services**

905 KAR 7:170 (Cardinal Treatment Center policy and procedural manual.)

**Aging Services**

905 KAR 8:040 (Allocation formula for Older Americans Act.)

905 KAR 8:060 (Older Americans Act state plan.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:00 a.m. until March 3, 1986 at 1:00 p.m.





ADMINISTRATIVE REGISTER - I1

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	I2
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## 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			405 KAR 18:050		
Amended	169		Amended	1851	8-13-85
405 KAR 7:020			405 KAR 18:170		
Amended	228	10-9-84	Amended	1864	8-13-85
Amended	1791	8-13-85	405 KAR 20:030		
405 KAR 7:080			Amended	1865	8-13-85
Amended	1800	8-13-85	804 KAR 4:250	360	9-11-84
405 KAR 12:010			Amended	1893	8-13-85
Amended	1831	8-13-85	804 KAR 11:030	1968	8-13-85
405 KAR 16:050			812 KAR 1:050		
Amended	1837	8-13-85	Amended	1505	
405 KAR 16:170			Withdrawn		12-17-85
Amended	1850	8-13-85	902 KAR 20:132		
			Amended	78	10-9-84
			Amended	1933	8-13-85

## VOLUME 12

Emergency Regulation	12 Ky.R. Page No.	Effective Date	Emergency Regulation	12 Ky.R. Page No.	Effective Date
101 KAR 1:051E	643	10-29-85	902 KAR 6:060E	109	7-10-85
Replaced	1228	1-3-86	Replaced	258	9-10-85
101 KAR 1:120E	1205	1-15-86	902 KAR 8:030E	1212	12-17-85
101 KAR 1:145E	1207	1-15-86	Replaced	1172	2-4-86
101 KAR 1:205E	1208	1-15-86	902 KAR 10:081E	1213	12-23-85
201 KAR 9:021E	646	11-4-85	902 KAR 12:030E	110	6-27-85
Replaced	668	1-3-86	Replaced	260	9-10-85
301 KAR 2:044E	313	8-2-85	902 KAR 12:080E	1154	11-18-85
Replaced	347	10-8-85	Replaced	609	12-10-85
301 KAR 2:220E	468	10-1-85	903 KAR 2:010E	1	6-11-85
Replaced	631	12-10-85	Expired		6-28-85
302 KAR 1:030E	99	7-2-85	903 KAR 5:270E	110	6-28-85
Replaced	345	9-10-85	Replaced	272	9-10-85
302 KAR 20:010E	101	7-2-85	903 KAR 5:290E	1475	2-10-86
Replaced	220	9-10-85	903 KAR 6:020E	111	6-28-85
302 KAR 20:065E	102	7-2-85	Replaced	273	9-10-85
Replaced	221	9-10-85	904 KAR 1:010E	316	8-2-85
302 KAR 20:180E	1209	1-13-86	Replaced	365	11-12-85
302 KAR 31:010E	648	10-29-85	904 KAR 1:011E	2	5-17-85
Replaced	1093	2-4-86	Replaced	1938	7-9-85
405 KAR 7:020E	1139	12-2-85	904 KAR 1:013E	317	8-2-85
Replaced	1280	2-4-86	Replaced	368	10-8-85
405 KAR 8:050E	1147	12-2-85	Resubmitted	1219	12-30-85
Replaced	1310	2-4-86	904 KAR 1:015E	319	8-2-85
405 KAR 20:070E	1152	12-2-85	Replaced	370	10-8-85
Replaced	1339	2-4-86	904 KAR 1:020E	649	11-4-85
600 KAR 1:045E	315	7-26-85	Replaced	1079	1-3-86
Replaced	293	9-10-85	904 KAR 1:022E	394	8-30-85
603 KAR 5:070E	104	7-8-85	Replaced	451	11-12-85
Replaced	231	9-10-85	904 KAR 1:031E	319	8-2-85
702 KAR 3:190E	1211	1-10-86	Replaced	370	11-12-85
Replaced	1164	2-4-86	904 KAR 1:036E	112	6-28-85
702 KAR 7:070E	1153	11-18-85	Expired		8-2-85
Replaced	962	1-3-86	Resubmitted	320	8-2-85
704 KAR 3:355E	391	7-13-85	Expired		9-26-85
Replaced	417	11-12-85	Resubmitted	473	9-26-85
704 KAR 10:022E	1211	1-13-86	Replaced	615	12-10-85
Replaced	1166	2-4-86	Resubmitted	1221	12-17-85
704 KAR 20:045E	107	6-26-85	Expired		2-3-86
Replaced	239	9-10-85	Resubmitted	1476	2-3-86
815 KAR 7:013E	472	9-25-85			
Replaced	638	12-10-85			



# ADMINISTRATIVE REGISTER - I3

Emergency Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
904 KAR 1:045E	118	6-28-85	11 KAR 5:090		
Expired		8-2-85	Amended	661	1-3-86
Resubmitted	326	8-2-85	11 KAR 5:100		
Replaced	378	10-8-85	Amended	662	1-3-86
904 KAR 1:055E	119	6-28-85	11 KAR 6:010		
Replaced	282	9-10-85	Amended	408	11-12-85
904 KAR 1:250E	120	7-10-85	11 KAR 7:010	1447	
Replaced	284	9-10-85	12 KAR 4:110		
Resubmitted	479	10-8-85	Amended	1519	
Expired		11-12-85	12 KAR 4:140		
Resubmitted	650	11-12-85	Amended	1519	
Replaced	1084	1-3-86	15 KAR 1:020		
Resubmitted	1482	2-10-86	Repealed	458	11-12-85
904 KAR 1:310E	327	8-2-85	15 KAR 1:021	458	11-12-85
Replaced	386	10-8-85	20 KAR 1:010	1193	2-4-86
904 KAR 1:320E	1484	2-3-86	101 KAR 1:051		
904 KAR 2:006E			Amended	663	
Replaced	6	5-17-85	Amended	1228	1-3-86
Resubmitted	6	5-17-85	101 KAR 1:120		
Replaced		7-9-85	Amended	213	9-10-85
904 KAR 2:116E	481	9-27-85	Amended	1351	
Replaced	623	12-10-85	101 KAR 1:140		
904 KAR 2:140E	121	7-10-85	Amended	487	
Replaced	286	9-10-85	Reprint	1466	12-10-85
Resubmitted	484	10-8-85	101 KAR 1:145	1449	
Replaced	626	12-10-85	101 KAR 1:200		
Resubmitted	1485	2-10-86	Amended	492	12-10-85
904 KAR 2:150E	122	7-10-85	101 KAR 1:205	1451	
Replaced	287	9-10-85	103 KAR 7:020		
Resubmitted	1486	2-10-86	Amended	666	1-3-86
904 KAR 2:170E	123	7-10-85	103 KAR 20:010	1193	2-4-86
Replaced	288	9-10-85	103 KAR 27:080		
Resubmitted	485	10-8-85	Amended	1156	2-4-86
Replaced	627	12-10-85	103 KAR 28:050		
Resubmitted	1487	2-13-86	Repealed	651	11-12-85
904 KAR 2:200E	9	6-11-85	103 KAR 28:051	458	
Replaced	73	8-13-85	Amended	651	11-12-85
904 KAR 3:090E	124	7-10-85	200 KAR 14:080	83	8-13-85
Replaced	289	9-10-85	201 KAR 1:035		
Resubmitted	486	10-8-85	Amended	497	12-10-85
Replaced	628	12-10-85	201 KAR 1:062	84	
Resubmitted	1487	2-10-86	Withdrawn		6-28-85
905 KAR 1:180E	327	7-17-85	201 KAR 2:010		
Replaced	290	9-10-85	Amended	498	12-10-85
905 KAR 6:020E	396	8-23-85	201 KAR 2:125		
Expires		12-30-85	Amended	498	12-10-85
905 KAR 7:030E	9	6-6-85	201 KAR 2:135		
Replaced	75	8-13-85	Amended	499	12-10-85
905 KAR 7:060E	14	6-11-85	201 KAR 2:140		
Replaced	79	8-13-85	Amended	499	12-10-85
905 KAR 7:080E	14	6-6-85	201 KAR 2:155		
Replaced	80	8-13-85	Amended	500	12-10-85
906 KAR 1:030E	1488	2-10-86	201 KAR 3:065	86	8-13-85
			201 KAR 9:021		
			Amended	668	1-3-86
			201 KAR 11:190	630	12-10-85
			201 KAR 12:050		
			Amended	670	1-3-86
			201 KAR 12:105		
			Amended	671	1-3-86
			201 KAR 12:120		
			Amended	672	1-3-86
			201 KAR 13:011	1556	
			201 KAR 13:070		
			Amended	1521	
			201 KAR 16:010		
			Amended	409	11-12-85
			201 KAR 16:020		
			Amended	1522	
			201 KAR 16:060	1557	
			201 KAR 17:070	1558	
Regulation	12 Ky.R. Page No.	Effective Date			
1 KAR 4:005					
Amended	22	8-13-85			
1 KAR 5:010	456	11-12-85			
11 KAR 3:050	1445				
11 KAR 4:050					
Amended	659				
Amended	1227	1-3-86			
11 KAR 5:010					
Amended	408	11-12-85			
11 KAR 5:080					
Amended	660	1-3-86			

## ADMINISTRATIVE REGISTER - I4

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
201 KAR 17:080	1559		401 KAR 5:055		
201 KAR 18:150	291	9-10-85	Amended	511	12-10-85
201 KAR 20:030			401 KAR 5:060		
Repealed	17	7-9-85	Amended	528	12-10-85
201 KAR 20:050			401 KAR 5:065		
Repealed	17	7-9-85	Amended	540	12-10-85
201 KAR 20:056			401 KAR 5:070		
Amended	1523		Amended	550	12-10-85
201 KAR 20:115	1452		401 KAR 5:075		
201 KAR 20:162	87		Amended	554	12-10-85
Amended	328	8-13-85	401 KAR 5:080		
201 KAR 20:310			Amended	559	12-10-85
Amended	17	7-9-85	401 KAR 5:085		
201 KAR 22:031			Amended	566	12-10-85
Amended	215	9-10-85	401 KAR 6:300		
201 KAR 22:052			Amended	143	8-13-85
Amended	217	9-10-85	401 KAR 6:310		
201 KAR 22:070			Amended	144	8-13-85
Amended	1353		401 KAR 30:010		
201 KAR 22:106			Amended	674	2-4-86
Amended	218	9-10-85	401 KAR 30:020		
201 KAR 23:120			Amended	684	2-4-86
Amended	1157	2-4-86	401 KAR 30:070		
301 KAR 1:015			Amended	686	2-4-86
Amended	501	12-10-85	401 KAR 30:080	1093	2-4-86
301 KAR 1:055			401 KAR 31:010		
Amended	502	12-10-85	Amended	687	
Amended	1354		Amended	1231	
301 KAR 1:057			Amended	1489	2-4-86
Amended	1355		401 KAR 31:040		
301 KAR 1:122			Amended	698	
Amended	1356		Amended	1499	2-4-86
301 KAR 1:145			401 KAR 31:060		
Amended	503	12-10-85	Amended	707	2-4-86
301 KAR 1:150			401 KAR 31:070		
Amended	1357		Amended	710	2-4-86
301 KAR 1:170	1454		401 KAR 31:120		
301 KAR 1:180	1455		Amended	713	2-4-86
301 KAR 2:044			401 KAR 31:160		
Amended	347	10-8-85	Amended	715	2-4-86
301 KAR 2:045			401 KAR 31:170		
Amended	18	7-9-85	Amended	718	2-4-86
301 KAR 2:111			401 KAR 31:190	1096	2-4-86
Amended	25	8-13-85	401 KAR 32:010		
301 KAR 2:140			Amended	723	
Amended	672	1-3-86	Amended	1241	2-4-86
301 KAR 2:200			401 KAR 32:020		
Repealed	631	10-1-85	Amended	724	2-4-86
301 KAR 2:210	89	8-13-85	401 KAR 32:030		
301 KAR 2:220	631	12-10-85	Amended	725	
301 KAR 3:030			Amended	1242	2-4-86
Amended	29	8-13-85	401 KAR 32:040		
302 KAR 1:030			Amended	727	2-4-86
Amended	30		401 KAR 32:050		
Amended	345	9-10-85	Amended	729	2-4-86
302 KAR 20:010			401 KAR 32:100		
Amended	220	9-10-85	Amended	730	2-4-86
302 KAR 20:055			401 KAR 34:010		
Amended	19	8-13-85	Amended	736	2-4-86
302 KAR 20:065			401 KAR 34:020		
Amended	221	9-10-85	Amended	738	2-4-86
302 KAR 20:180			401 KAR 34:030		
Amended	1358		Amended	742	2-4-86
302 KAR 31:010	1093	2-4-86	401 KAR 34:040		
302 KAR 34:040	293	9-10-85	Amended	744	2-4-86
401 KAR 5:005			401 KAR 34:050		
Amended	504	12-10-85	Amended	746	2-4-86
401 KAR 5:026			401 KAR 34:060		
Reprint	303	4-9-85	Amended	749	2-4-86
401 KAR 5:050			401 KAR 34:070		
Amended	507	12-10-85	Amended	757	2-4-86



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Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
401 KAR 34:090			401 KAR 38:170		
Amended	761	2-4-86	Amended	860	2-4-86
401 KAR 34:100			401 KAR 38:180		
Amended	768	2-4-86	Amended	862	2-4-86
401 KAR 34:180			401 KAR 38:200		
Amended	776	2-4-86	Amended	863	2-4-86
401 KAR 34:190			401 KAR 38:210		
Amended	778	2-4-86	Amended	865	2-4-86
401 KAR 34:200			401 KAR 39:010		
Amended	780		Amended	867	2-4-86
Amended	1243	2-4-86	401 KAR 39:020		
401 KAR 34:210			Amended	868	2-4-86
Amended	785	2-4-86	401 KAR 39:080	1104	2-4-86
401 KAR 34:220			401 KAR 42:010	1104	
Amended	788	2-4-86	Amended	1262	2-4-86
401 KAR 34:230			401 KAR 51:017		
Amended	793		Amended	869	
Amended	1246	2-4-86	Amended	1263	2-4-86
401 KAR 34:240			401 KAR 51:052		
Amended	798		Amended	879	
Amended	1250	2-4-86	Amended	1273	2-4-86
401 KAR 35:010			405 KAR 7:015		
Amended	801	2-4-86	Amended	569	12-10-85
401 KAR 35:020			405 KAR 7:020		
Amended	804	2-4-86	Amended	888	
401 KAR 35:050			Amended	1280	2-4-86
Amended	807	2-4-86	405 KAR 7:060		
401 KAR 35:070			Amended	897	2-4-86
Amended	810	2-4-86	405 KAR 7:090		
401 KAR 35:180			Amended	571	12-10-85
Amended	814	2-4-86	405 KAR 8:030		
401 KAR 35:190			Amended	158	8-13-85
Amended	815	2-4-86	Amended	900	
401 KAR 35:200			Amended	1288	2-4-86
Amended	816	2-4-86	405 KAR 8:040		
401 KAR 35:210			Amended	170	
Amended	819	2-4-86	Amended	330	8-13-85
401 KAR 35:220			Amended	911	
Amended	820	2-4-86	Amended	1299	2-4-86
401 KAR 35:230			405 KAR 8:050		
Amended	823	2-4-86	Amended	924	
401 KAR 35:240			Amended	1310	2-4-86
Amended	827		405 KAR 10:030		
Amended	1253	2-4-86	Amended	579	12-10-85
401 KAR 35:250			405 KAR 12:020		
Amended	828	2-4-86	Amended	184	8-13-85
401 KAR 36:030	1097	2-4-86	405 KAR 16:010		
401 KAR 36:040	1099		Amended	931	2-4-86
Amended	1254	2-4-86	405 KAR 16:060		
401 KAR 36:060	1101	2-4-86	Amended	933	
401 KAR 36:070	1102	2-4-86	Amended	1316	2-4-86
401 KAR 38:020			405 KAR 16:080		
Amended	830	2-4-86	Amended	936	
401 KAR 38:030			Amended	1319	2-4-86
Amended	833	2-4-86	405 KAR 16:110		
401 KAR 38:040			Amended	187	8-13-85
Amended	836	2-4-86	405 KAR 16:130		
401 KAR 38:050			Amended	189	8-13-85
Amended	840		405 KAR 16:190		
Amended	1258	2-4-86	Amended	939	
401 KAR 38:060			Amended	1322	2-4-86
Amended	844	2-4-86	405 KAR 18:060		
401 KAR 38:070			Amended	944	
Amended	850	2-4-86	Amended	1326	2-4-86
401 KAR 38:090			405 KAR 18:080		
Amended	853	2-4-86	Amended	948	
401 KAR 38:100			Amended	1329	2-4-86
Amended	857	2-4-86	405 KAR 18:110		
401 KAR 38:160			Amended	197	8-13-85
Amended	859	2-4-86	405 KAR 18:130		
			Amended	198	8-13-85

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Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
405 KAR 18:190			704 KAR 3:304		
Amended	951		Amended	209	8-13-85
Amended	1332	2-4-86	704 KAR 3:355		
405 KAR 20:040			Amended	417	11-12-85
Amended	955		704 KAR 4:010		
Amended	1336	2-4-86	Amended	963	
405 KAR 20:070			Amended	1341	2-4-86
Amended	959		704 KAR 7:020		
Amended	1339	2-4-86	Amended	238	
405 KAR 24:030			Amended	396	10-8-85
Amended	582	12-10-85	Amended	964	
500 KAR 1:010	1561		Amended	1341	2-4-86
500 KAR 1:020	1562		704 KAR 10:022		
500 KAR 1:030	1564		Amended	420	11-12-85
501 KAR 6:010			Amended	1166	2-4-86
Amended	32	8-13-85	704 KAR 15:080		
Amended	223	9-10-85	Amended	209	8-13-85
Amended	348	10-8-85	704 KAR 20:005		
Repealed	1157	1-3-86	Amended	421	11-12-85
501 KAR 6:020	1106	1-3-86	Amended	1167	2-4-86
Amended	1157	2-4-86	704 KAR 20:045		
Amended	1360		Amended	239	9-10-85
502 KAR 35:010	91	8-13-85	Amended	1367	
502 KAR 35:020	92	8-13-85	704 KAR 20:290		
502 KAR 35:030	92	8-13-85	Amended	422	12-10-85
502 KAR 35:040	94	8-13-85	705 KAR 1:010		
502 KAR 35:050	95	8-13-85	Amended	1369	
502 KAR 40:010	1565		705 KAR 4:210	295	
502 KAR 40:020	1566		Amended	397	10-8-85
502 KAR 40:030	1566		706 KAR 1:010		
502 KAR 40:040	1568		Amended	241	
600 KAR 1:040			Amended	398	10-8-85
Repealed	315	7-26-85	706 KAR 1:020		
600 KAR 1:045	293	9-10-85	Amended	210	8-13-85
601 KAR 1:020			707 KAR 1:003		
Amended	356	10-8-85	Amended	1526	
603 KAR 3:030			707 KAR 1:051		
Amended	357	10-8-85	Amended	242	
603 KAR 5:070			Amended	398	10-8-85
Amended	231	9-10-85	Amended	1370	
603 KAR 5:096			720 KAR 1:010		
Amended	206	8-13-85	Amended	1168	2-4-86
603 KAR 7:040			Amended	1527	
Amended	40	8-13-85	725 KAR 2:020	1113	1-3-86
700 KAR 1:010	1194		745 KAR 1:010	1114	1-3-86
Amended	1508	2-4-86	745 KAR 1:020	1116	1-3-86
700 KAR 1:020	1196	2-4-86	745 KAR 1:030	1116	1-3-86
701 KAR 7:010	1456		745 KAR 1:040	1118	1-3-86
702 KAR 1:010			745 KAR 1:050	1118	1-3-86
Amended	410		745 KAR 1:060	1119	1-3-86
Amended	655	12-10-85	801 KAR 1:110	1457	
702 KAR 3:020			803 KAR 2:015		
Amended	412	11-12-85	Amended	252	9-10-85
702 KAR 3:100			803 KAR 2:020		
Amended	413	11-12-85	Amended	254	9-10-85
702 KAR 3:190			803 KAR 7:030		
Amended	1164	2-4-86	Amended	210	8-13-85
702 KAR 5:140	462	11-12-85	804 KAR 4:280	1120	1-3-86
702 KAR 7:070			805 KAR 7:040		
Amended	962	1-3-86	Amended	211	8-13-85
702 KAR 7:090			805 KAR 7:050		
Amended	208	8-13-85	Amended	211	8-13-85
704 KAR 3:005			805 KAR 7:070		
Amended	414		Amended	212	8-13-85
Amended	655	12-10-85	806 KAR 38:030		
704 KAR 3:025			Amended	1528	
Amended	234	9-10-85	806 KAR 39:070		
704 KAR 3:035			Amended	19	
Amended	1165	2-4-86	Amended	125	7-9-85
704 KAR 3:175			807 KAR 5:001		
Amended	237	9-10-85	Amended	127	7-9-85



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Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
807 KAR 5:002			902 KAR 12:030		
Amended	965	1-3-86	Amended	260	9-10-85
807 KAR 5:006			902 KAR 12:080		
Amended	423		Amended	56	8-13-85
Withdrawn		11-14-85	Amended	260	9-10-85
Amended	967		Amended	360	10-8-85
Amended	1343		Amended	442	11-12-85
Amended	1510	2-4-86	Amended	609	12-10-85
808 KAR 1:060			Amended	1173	2-4-86
Amended	40	8-13-85	Amended	1384	
808 KAR 1:070			Amended	1531	
Amended	42	8-13-85	902 KAR 13:020		
808 KAR 1:080			Amended	444	11-12-85
Amended	44	8-13-85	902 KAR 13:030		
808 KAR 3:050			Amended	445	11-12-85
Amended	1380		902 KAR 13:050		
808 KAR 10:210			Amended	445	11-12-85
Amended	358	10-8-85	902 KAR 13:070		
808 KAR 10:220	636	12-10-85	Amended	448	11-12-85
808 KAR 10:230	637	12-10-85	902 KAR 13:080		
808 KAR 11:010			Amended	449	11-12-85
Amended	45	8-13-85	902 KAR 17:010		
808 KAR 11:020			Amended	450	
Amended	46	8-13-85	Amended	658	2-4-86
Amended	1169	2-4-86	902 KAR 20:018		
810 KAR 1:013			Amended	62	8-13-85
Amended	586	12-10-85	902 KAR 20:106		
810 KAR 1:018			Amended	611	12-10-85
Amended	589	12-10-85	902 KAR 20:200		
811 KAR 1:070			Amended	65	8-13-85
Amended	431	11-12-85	902 KAR 47:050	1121	1-3-86
811 KAR 1:075			902 KAR 47:060	1463	
Amended	433	11-12-85	902 KAR 47:070	1465	
811 KAR 1:220	1569		902 KAR 55:015		
815 KAR 7:010			Amended	266	9-10-85
Amended	134	7-9-85	Amended	1175	2-4-86
815 KAR 7:013	638	12-10-85	902 KAR 55:020		
815 KAR 7:030			Amended	1176	2-4-86
Repealed	463	11-12-85	902 KAR 55:030		
815 KAR 7:031	463	11-12-85	Amended	1177	2-4-86
815 KAR 20:110			902 KAR 100:005		
Amended	47	8-13-85	Amended	978	1-3-86
815 KAR 20:120			902 KAR 100:010		
Amended	436	11-12-85	Amended	979	1-3-86
815 KAR 20:191			902 KAR 100:012		
Amended	49	8-13-85	Amended	1388	
815 KAR 25:010			902 KAR 100:015		
Amended	592	12-10-85	Amended	987	1-3-86
815 KAR 25:020			902 KAR 100:017		
Amended	599	12-10-85	Amended	989	1-3-86
815 KAR 45:030			902 KAR 100:020		
Amended	1381		Amended	991	1-3-86
902 KAR 2:080			902 KAR 100:021	1123	1-3-86
Amended	343	8-13-85	902 KAR 100:022	1128	1-3-86
902 KAR 2:090			902 KAR 100:025		
Amended	55	8-13-85	Amended	1000	1-3-86
902 KAR 4:060			902 KAR 100:030		
Amended	1528		Amended	1011	1-3-86
902 KAR 6:060			902 KAR 100:035		
Amended	258	9-10-85	Amended	1013	1-3-86
902 KAR 8:020			902 KAR 100:040		
Amended	439	11-12-85	Amended	1017	1-3-86
Amended	606	12-10-85	902 KAR 100:045		
Amended	976	1-3-86	Amended	1020	1-3-86
Amended	1170	2-4-86	902 KAR 100:050		
Amended	1382		Amended	1023	1-3-86
Amended	1529		902 KAR 100:051		
902 KAR 8:030			Amended	1030	1-3-86
Amended	1172	2-4-86	902 KAR 100:052		
902 KAR 10:081	1457		Amended	1033	1-3-86

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Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
902 KAR 100:057 Repealed	1035	1-3-86	903 KAR 5:130 Amended	267	9-10-85
902 KAR 100:058 Amended	1035	1-3-86	903 KAR 5:260 Amended	70	8-13-85
902 KAR 100:060 Amended	1042	1-3-86	Amended	270	9-10-85
902 KAR 100:065 Amended	1043	1-3-86	Amended	363	10-8-85
902 KAR 100:070 Amended	1044	1-3-86	Amended	1076	1-3-86
902 KAR 100:075 Amended	1056	1-3-86	Amended	1178	2-4-86
902 KAR 100:077 Repealed	1030	1-3-86	Amended	1431	
902 KAR 100:080 Amended	1058	1-3-86	Amended	1538	
902 KAR 100:085 Amended	1059	1-3-86	903 KAR 5:270 Amended	272	9-10-85
902 KAR 100:090 Amended	1061	1-3-86	903 KAR 5:290 903 KAR 6:020	1571	
902 KAR 100:095 Amended	1063	1-3-86	Amended	72	
902 KAR 100:100 Amended	1065	1-3-86	Withdrawn		6-28-85
902 KAR 100:105 Amended	1389		Amended	273	9-10-85
902 KAR 100:110 Amended	1391		Amended	1181	2-4-86
902 KAR 100:115 Amended	1392		904 KAR 1:004 Amended	1433	
902 KAR 100:120 Amended	1395		904 KAR 1:009 Amended	1078	1-3-86
902 KAR 100:125 Amended	1397		904 KAR 1:010 Amended	365	11-12-85
902 KAR 100:130 Amended	1401		904 KAR 1:011 Amended	1437	
902 KAR 100:136 Amended	1402		904 KAR 1:012 Amended	366	10-8-85
902 KAR 100:137 Amended	1406		904 KAR 1:013 Amended	368	10-8-85
902 KAR 100:140 Amended	1410		Amended	1441	
902 KAR 100:142 Amended	1069	1-3-86	904 KAR 1:015 Amended	370	10-8-85
902 KAR 100:145 Amended	1412		904 KAR 1:018 Repealed	327	8-2-85
902 KAR 100:150 Amended	1414		904 KAR 1:020 Amended	1079	1-3-86
902 KAR 100:155 Amended	1416		904 KAR 1:022 Amended	451	11-12-85
902 KAR 100:160 Amended	1418		904 KAR 1:026 Amended	1081	1-3-86
902 KAR 100:165 Amended	1073	1-3-86	904 KAR 1:027 Amended	1082	1-3-86
902 KAR 100:170 Amended	1419		904 KAR 1:031 Amended	370	11-12-85
902 KAR 105:010 Amended	1424		904 KAR 1:036 Amended	274	
902 KAR 105:020 Amended	1425		Withdrawn		8-2-85
902 KAR 105:030 Amended	1427		Amended	371	
902 KAR 105:040 Amended	1428		Withdrawn		9-26-85
902 KAR 105:060 Amended	1430		Amended	615	12-10-85
903 KAR 2:010 Amended	67		Amended	1182	
Withdrawn			Withdrawn	1540	2-3-86
Repealed	111	6-28-85	Amended		
		6-28-85	904 KAR 1:045 Amended	280	
			Withdrawn		8-2-85
			Amended	378	10-8-85
			904 KAR 1:055 Amended	282	9-10-85
			904 KAR 1:150 Amended	283	
			Reprint	464	9-10-85
			904 KAR 1:250 Amended	284	9-10-85
			Amended	621	
			Withdrawn		11-12-85
			Amended	1084	1-3-86
			Amended	1546	
			904 KAR 1:300	384	10-8-85
			904 KAR 1:310	386	10-8-85



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Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
904 KAR 1:320	1571		905 KAR 7:210	302	9-10-85
904 KAR 2:006			Amended	384	10-8-85
Amended	453	11-12-85	Amended	1091	1-3-86
904 KAR 2:015			Amended	1555	
Amended	1443		905 KAR 7:220	1136	1-3-86
904 KAR 2:020			905 KAR 8:040		
Amended	1188	2-4-86	Amended	1191	2-4-86
904 KAR 2:022			905 KAR 8:060		
Amended	1085	1-3-86	Amended	1192	2-4-86
904 KAR 2:116			905 KAR 8:090	386	10-8-85
Amended	623	12-10-85	905 KAR 8:120		
904 KAR 2:140			Amended	1092	1-3-86
Amended	286	9-10-85	906 KAR 1:030	1573	
Amended	626	12-10-85			
Amended	1548				
904 KAR 2:150					
Amended	287	9-10-85			
Amended	1549				
904 KAR 2:170					
Amended	288	9-10-85			
Amended	627	12-10-85			
Amended	1550				
904 KAR 2:200					
Amended	73	8-13-85			
904 KAR 3:090					
Amended	289	9-10-85			
Amended	628	12-10-85			
Amended	1551				
905 KAR 1:150					
Amended	74	8-13-85			
905 KAR 1:180					
Amended	290	9-10-85			
Amended	1552				
905 KAR 3:040					
Amended	379	10-8-85			
905 KAR 5:010					
Repealed	1197	2-4-86			
905 KAR 5:020					
Repealed	1200	2-4-86			
905 KAR 5:030					
Repealed	1200	2-4-86			
905 KAR 5:040	1197	2-4-86			
905 KAR 5:050	1200	2-4-86			
905 KAR 6:020					
Amended	1089	1-3-86			
905 KAR 7:030					
Amended	75	8-13-85			
Repealed	302	9-10-85			
905 KAR 7:060					
Amended	79	8-13-85			
905 KAR 7:080					
Amended	80	8-13-85			
Amended	379	10-8-85			
Amended	1553				
905 KAR 7:110					
Amended	296	9-10-85			
Amended	381	10-8-85			
Amended	1090	1-3-86			
905 KAR 7:120	297	9-10-85			
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