Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 13, NUMBER 5
SATURDAY, NOVEMBER 1, 1986

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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 November 10 and 11, 1986. See tentative agenda on pages 845-847 of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly advance sheets service for the 1987 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.**

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

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

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

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ADMINISTRATIVE REGISTER OF KENTUCKY
(ISSN 0096-1493)
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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: $48 per volume of 12 issues, beginning in July and ending with the June issue of the subsequent year.
Second class postage paid at Frankfort, Kentucky.
POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 300, State Capitol, Frankfort, Kentucky 40601.

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NOTE: The following agenda for the November meeting of the Administrative Regulations Review Subcommittee is subject to change. Please call (502) 564-8100, ext. 411, if you have questions.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
November 10, 1986
(Rm. 110, Capitol Annex @ 2 p.m.)

GENERAL GOVERNMENT CABINET

Board of Medical Licensure
201 KAR 9:081. Disciplinary proceedings.
201 KAR 9:083. Certification and supervision of physician assistants.
201 KAR 9:084. Fee schedule.

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

General Standards of Performance
401 KAR 63:021. Existing sources emitting toxic air pollutants. (Amended After Hearing)
401 KAR 63:022. New or modified sources emitting toxic air pollutants. (Amended After Hearing)

Department for Surface Mining Reclamation and Enforcement

Bond and Insurance Requirements
405 KAR 10:200 & E. Kentucky bond pool.

CORRECTIONS CABINET

Office of the Secretary
501 KAR 6:030. Kentucky State Reformatory.
501 KAR 6:040. Kentucky State Penitentiary.
501 KAR 6:050. Luther Luckett Correctional Complex.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:090 & E. Frankfort Career Development Center.
501 KAR 6:120. Blackburn Correctional Complex.

Jail Standards
501 KAR 3:010. Definitions.
501 KAR 3:020. Administration; management.
501 KAR 3:030. Fiscal management.
501 KAR 3:040. Personnel.
501 KAR 3:050. Physical plant.
501 KAR 3:060. Security, control.
501 KAR 3:070. Safety; emergency procedures.
501 KAR 3:080. Sanitation; hygiene.
501 KAR 3:090. Medical services.
501 KAR 3:100. Food services.
501 KAR 3:110. Classification.
501 KAR 3:120. Admission; release.
501 KAR 3:130. Inmate programs; services.
501 KAR 3:140. Inmate rights.
501 KAR 3:150. Hearings, procedures, disposition.

Ninety-six Hour Facilities
501 KAR 4:010. Definitions.
501 KAR 4:020. Administration; management.
501 KAR 4:030. Fiscal management.
501 KAR 4:040. Personnel.
501 KAR 4:050. Physical plant.
501 KAR 4:060. Security, control.
501 KAR 4:070. Safety; emergency procedures.
501 KAR 4:080. Sanitation; hygiene.
501 KAR 4:090. Medical services.
501 KAR 4:100. Food services.
501 KAR 4:110. Classification.
501 KAR 4:120. Admission; release.
501 KAR 4:130. Inmate programs; services.
501 KAR 4:140. Inmate rights.

Twelve-hour Facilities
501 KAR 5:010. Definitions.
501 KAR 5:020. Administration; management.
501 KAR 5:030. Fiscal management.
501 KAR 5:040. Personnel.
501 KAR 5:050. Physical plant.
501 KAR 5:060. Security, control.
501 KAR 5:070. Safety; emergency procedures.
501 KAR 5:080. Sanitation; hygiene.

501 KAR 5:090. Medical services.
501 KAR 5:100. Food services.
501 KAR 5:110. Classification.
501 KAR 5:120. Admission; release.
501 KAR 5:130. Inmate rights.

Restricted Custody Center

501 KAR 7:010. Definitions.
501 KAR 7:020. Administration; management.
501 KAR 7:030. Fiscal management.
501 KAR 7:040. Personnel.
501 KAR 7:050. Physical plant.
501 KAR 7:060. Security, control.
501 KAR 7:070. Safety; emergency procedures.
501 KAR 7:080. Sanitation; hygiene.
501 KAR 7:090. Medical services.
501 KAR 7:100. Food services.
501 KAR 7:110. Classification.
501 KAR 7:120. Admission; release.
501 KAR 7:130. Inmate programs; services.
501 KAR 7:140. Inmate rights.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
November 11, 1986
(Rm. 110, Capitol Annex @ 10 a.m.)

TRANSPORTATION CABINET

Administration

600 KAR 1:045 & E. Disciplinary and separation procedures. (Amended After Hearing)

Department of Vehicle Regulation

Division of Motor Carriers

601 KAR 1:005. Safety regulations. (Amended After Hearing)

Motor Vehicle Tax

601 KAR 9:040. Reciprocity.
601 KAR 9:055. Seat taxes.
601 KAR 9:110. Supplemental highway user's tax; decal.

Driver Improvement

601 KAR 13:050. Alcohol driver education program. (Amended After Hearing)

Department of Highways

Traffic

603 KAR 5:190 & E. Vehicles prohibited on I-75 & I-71. (Not Amended After Hearing)
603 KAR 5:200 & E. Vehicles prohibited on I-471. (Not Amended After Hearing)

EDUCATION AND HUMANITIES CABINET
Department of Education

Office of Superintendent

701 KAR 5:070. Criteria for Commonwealth Institute for Teachers.

Office of Local Services

School District Finance

702 KAR 3:200 & E. Management Assistance Program.

School Terms, Attendance and Operation

702 KAR 7:065 & E. Designation of agent to manage high school interscholastic athletics.
702 KAR 7:070 & E. Interscholastic athletic eligibility and requirements; redshirting prohibited.
702 KAR 7:080 & E. Recruiting of student athletes prohibited.

Office of Instruction

Student Services

704 KAR 7:070 & E. Guidelines for dropout prevention programs.

Teacher Certification

704 KAR 20:229. Hearing impaired, endorsement for teaching.
704 KAR 20:230. Hearing impaired; teacher's provisional certificate.
704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.
704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.
704 KAR 20:255. Visually impaired; teaching endorsement.

Office of Education for Exceptional Children

Exceptional and Handicapped Programs

707 KAR 1:120. Kentucky schools for the blind and deaf; contract teachers service regulation.
707 KAR 1:130. Kentucky schools for the blind and deaf; contract teachers appeal and grievance procedures.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

Kentucky Building Code
815 KAR 7:020. Building code.
815 KAR 7:060. Facilities for the physically disabled in new construction.

Plumbing
815 KAR 20:010. Definitions (plumbing).
815 KAR 20:070. Plumbing fixtures.

CABINET FOR HUMAN RESOURCES
Department for Health Services

Maternal and Child Health
902 KAR 4:030. Tests for inborn errors of metabolism.

Certificate of Need and Licensure
902 KAR 20:006. Certificate of need process.
902 KAR 20:132. Certificate of need expenditure minimums.

Department for Employment Services

Employment Services
903 KAR 6:040. Job training partnership act.

Department for Social Insurance

Public Assistance
904 KAR 2:006. Technical requirements; AFDC.

Department for Medicaid Services

Medicaid Services
907 KAR 1:013 & E. Payments for acute care and mental hospital inpatient services.

U.S. Postal Service
STATEMENT OF OWNERSHIP MANAGEMENT AND CIRCULATION
(Required by 39 U.S.C. 3685)

1A. TITLE OF PUBLICATION	1B. PUBLICATION NO.	2. DATE OF FILING	
ADMINISTRATIVE REGISTER OF KENTUCKY	0 9 6 1 4 9	October 2, 1986	
3. FREQUENCY OF ISSUE	3A. NO. OF ISSUES PUBLISHED ANNUALLY	3B. ANNUAL SUBSCRIPTION PRICE	
Monthly	12	$48.00	

4. COMPLETE MAILING ADDRESS OF KNOWN OFFICE OF PUBLICATION *(Street, City, County, State and ZIP+4 Code) (Not printers)*
Legislative Research Commission, Rm. 64, Capitol, Frankfort, KY 40601

5. COMPLETE MAILING ADDRESS OF THE HEADQUARTERS OF GENERAL BUSINESS OFFICES OF THE PUBLISHER *(Not printer)*
Legislative Research Commission, Rm. 300, Capitol, Frankfort, KY 40601

6. FULL NAMES AND COMPLETE MAILING ADDRESS OF PUBLISHER, EDITOR, AND MANAGING EDITOR *(This item MUST NOT be blank)*
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FULL NAME	COMPLETE MAILING ADDRESS
Commonwealth of Kentucky	Room 300, Capitol
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8. KNOWN BONDHOLDERS, MORTGAGEES, AND OTHER SECURITY HOLDERS OWNING OR HOLDING 1 PERCENT OR MORE OF TOTAL AMOUNT OF BONDS, MORTGAGES OR OTHER SECURITIES *(If there are none, so state)*

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B. PAID AND/OR REQUESTED CIRCULATION 1. Sales through dealers and carriers, street vendors and counter sales	153	154
2. Mail Subscription *(Paid and/or requested)*	637	688
C. TOTAL PAID AND/OR REQUESTED CIRCULATION *(Sum of 10B1 and 10B2)*	790	842
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F. COPIES NOT DISTRIBUTED 1. Office use, left over, unaccounted, spoiled after printing	81	129
2. Return from News Agents	0	0
G. TOTAL *(Sum of E, F1 and 2 - should equal net press run shown in A)*	875	975

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REGULATION REVIEW PROCEDURE

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, including public hearing information (described below), the tiering statement required by KRS 13A.210, the regulatory impact analysis as required by KRS 13A.240, the fiscal note required by KRS 13A.250, and the federal mandate comparison required by KRS 13A.245.

All proposed administrative regulations received by the deadline required in KRS 13A.050, as well as the information required above, shall be published in the Administrative Register.

Following publication in the Administrative Register, all proposed administrative regulations shall be referred by the Legislative Research Commission to the appropriate committee or subcommittee for review.

Public Hearing

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.

Any person interested in attending the scheduled 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 place the letter of cancellation in the file of the original administrative regulation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

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.

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and following publication shall be sent to the appropriate committee for review at its next meeting. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the regulation shall be sent to the appropriate committee for review at its next meeting. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the subcommittee meets.

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor
DON R. McCORMICK, Commissioner

TOURISM CABINET
Department of Fish & Wildlife Resources

301 KAR 2:220E. Hunting seasons for migratory birds.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.240, 150.305, 150.330, 150.340, 150.360, 150.600, 150.603, 150.630

PURSUANT TO: KRS 13A.350, 150.025

EFFECTIVE: September 29, 1986

NECESSITY AND FUNCTION: This regulation pertains to the seasons and limits for the taking of specified migratory birds, to the associated permitting and harvest reporting requirements, and to restrictions in the use of blinds and pits. It is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply. This amendment is necessary to change season dates, bag limits, and define terms.

Section 1. Seasons for Gun and Archery. (1) Ducks, coots and mergansers: November 27 [28] through November 30 [December 1] and December 14 [9] through January 18 [13].

(2) Geese:

(a) Eastern Zone: November 12 [28] through January 20, east of a boundary beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, East on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.

(b) Western Zone: This zone consists of the area to the west of the boundary described in paragraph (a) of this subsection. For the purpose of controlling the goose harvest, the Western Zone is subdivided into the Ballard Reporting Area [quota zone] and associated counties and the Henderson-Union Reporting Area [quota zone] and associated counties. Seasons within the Western Zone are specified as follows:

1. Canada Goose Seasons:

a. [1.] Ballard Reporting Area [quota zone]: December 13 [23] through January 31, or until such time as 9,500 [4,400] Canada geese are harvested, whichever occurs first. This reporting area [zone] is defined as the area within the following boundary: Starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the quota of 9,500 [4,400] Canada geese will be filled prior to January 31, the goose hunting season will close in the Ballard Reporting Area [quota zone and in those portions of Ballard, McCracken, Graves, Carlisle, Hickman, Fulton and Marshall Counties in the Western Zone]. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

b. Counties associated with the Ballard Reporting Area: December 13 through January 31, or seven (7) days after the closure of the Ballard Reporting Area, whichever occurs first. The counties associated with the Ballard Reporting Area include those portions of Ballard (excluding Ballard Reporting Area), McCracken, Graves, Carlisle, Hickman, Fulton and Marshall counties in the Western Zone.

c. [2.] Henderson-Union Reporting Area [quota zone]: December 13 [23] through January 31, or until such time as 3,000 [1,400] Canada geese are harvested, whichever occurs first. This reporting area [quota zone] includes those portions of Henderson and Union Counties within the Western Zone. Should it be determined that the quota of 3,000 [1,400] Canada geese will be filled prior to January 31, the goose hunting season will close in the Henderson-Union Reporting Area [in this zone and those portions of Lyon, Crittenden and Livingston Counties in the Western Zone will close]. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

d. Counties associated with the Henderson-Union Reporting Area: December 13 through January 31, or seven (7) days after the closure of the Henderson-Union Reporting Area, whichever occurs first. The counties associated with the Henderson-Union Reporting Area include those portions of Lyon, Crittenden and Livingston counties in the Western Zone.

2. Season for goose species other than Canada geese (snow (including blue) geese, white-fronted geese, and brant): November 27 through January 20, or whenever the Canada goose season closes, whichever occurs first.

(3) Sora Rails, [and] Virginia Rails, Common Moorhens, and Purple Gallinules: November 27 [28] through January 20.

Section 2. Limits for Gun and Archery. (1) Ducks and Mergansers: Point system bag and possession limits will be in effect. Point values for species and sexes are as follows:

100 points: mallard hen and black duck.

70 points: redhead, wood duck, and hooded merganser.

35 points: mallard drake, pintail and all species of ducks not listed in other categories.

20 points: all teal species, wigeon, gadwall, shoveler, scaup, and mergansers (except hooded merganser).

The season on canvasbacks is closed.

The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in two (2) days. [: The daily bag limit is four (4), and may include no more than two (2) mallards (no more than one (1) of which may be a female), one (1) black duck, two (2) wood ducks, two (2) pintails, one (1) canvasback and one (1) redhead. The possession limit is the maximum number of ducks which could have legally been

taken in two (2) days.]

[(2) Mergansers: The daily bag limit is five (5), only one (1) of which may be a hooded merganser. The possession limit is ten (10), only two (2) of which may be hooded mergansers.]

(2) [(3)] Coots: Coots have a point value of zero, but the daily bag limit is fifteen (15) and the possession limit is thirty (30).

(3) [(4)] Geese:

(a) The bag limit is five (5) with no more than two (2) Canada and two (2) white-fronted geese.

(b) The possession limit is ten (10), not to include more than four (4) Canada and four (4) white-fronted geese.

(4) [(5)] Sora and Virginia Rails: The bag and possession limits are twenty-five (25) singly or in the aggregate.

(5) [(6)] Common Moorhens and Purple Gallinules: The bag and possession limits are fifteen (15) and thirty (30), respectively, singly or in the aggregate of the two (2) species.

Section 3. Shooting Hours. One-half (1/2) hour before sunrise to sunset for all species listed in this regulation except that shooting hours in the Ballard Reporting Area [quota zone] will be one-half (1/2) hour before sunrise to 2:00 p.m. for ducks, geese, coots and mergansers during the Canada goose season in the Ballard Reporting Area [quota zone].

Section 4. Shot Size Restrictions. No lead shot larger than BBs or steel shot larger than F [T] may be in possession while hunting the species listed in this regulation.

Section 5. Falconry Season. November 1 through Janaury 18 [20]. All legal species listed in this regulation may be taken by falconry.

(1) Falconry limits. The bag and possession limits are three (3) and six (6), respectively, of any legal species listed in this regulation, singly or in the aggregate.

(2) Hunting hours for falconry. The hunting hours will conform with the shooting hours stated in Sections 3 and 7 of this regulation.

Section 6. Wildlife Management Area Blind and Pit Regulations. The following restrictions apply to all wildlife management areas except those excluded in Section 7 of this regulation.

(1) Permanent blinds or pits are not permitted. Decoys and temporary blinds must be removed at the end of each hunting day.

(2) No blind may be established less than 200 yards from any other blind or waterfowl refuge areas. For the purposes of this section, an anchored, stationary, or drifting boat from which waterfowl are hunted is considered a blind.

(3) No more than four (4) persons shall occupy a blind or pit at any one time.

(4) Designated recreation areas and access points are closed to waterfowl hunting.

[Migratory Bird Shipping and Transporting Restrictions. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of any licensed waterfowl hunter, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese.]

Section 7. Exceptions for Specified Wildlife Management Areas and Counties. Unless otherwise specified in this section or other regulations, stipulations of the other sections of this regulation apply.

(1) Ballard Wildlife Management Area, except the Miller Tract, located in Ballard County.

(a) Species and seasons.

1. The season for ducks, coots and mergansers is December 18 [26] through January 18 [13].

2. The season for geese is December 18 [26] through January 31, or until such time as the Ballard Reporting Area [quota zone] is closed, whichever occurs first.

3. No hunting is permitted on Sundays.

4. No more than three (3) persons shall occupy a single blind or pit at the same time.

(b) General rules. There will be a ten (10) shell limit per hunter when hunting geese. [This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas.] Shooting ducks is permitted in goose hunting areas [but shooting geese in duck areas is prohibited]. Any hunter under the age of eighteen (18) years must be accompanied by an adult. Any person whose transportation to and from blinds and pits is furnished by the department must have his gun encased.

(c) Shooting hours. The shooting hours are one-half (1/2) hour before sunrise to 12:00 noon.

(2) Peal Wildlife Management Area located in Ballard County. That portion of the Peal Wildlife Area as designated by signs is closed to the public from October 15 through March 15. No person, except agents of the department and the U.S. Fish and Wildlife Service, shall enter upon this portion of the Peal Wildlife Area during the closed period. Waterfowl hunting will be permitted in the area to the east of the gravel road running from the north boundary to the south boundary of Peal Wildlife Management Area. This open area includes Fish and Buck Lakes. Waterfowl hunting is also permitted on the Mitchell Tract. [Waterfowl hunting on Fish Lake will be permitted from designated locations only. No more than one (1) blind may be placed at each designated location and all blinds must be removed daily. No more than three (3) persons may occupy a blind at one time.]

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

(a) Closed area. Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. Duncan Bay is closed to all activity. The Environmental Education Center is closed to waterfowl hunting.

(b) LBL permit. An annual LBL hunting permit is required for waterfowl hunting on all shoreline and inland areas. Shoreline areas are defined as all LBL areas along Kentucky and Barkley Lakes from the water's edge to twenty-five (25) yards above elevation 359'. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to Lake Barkley Wildlife Management Area regulations. Inland areas are defined as all areas above shoreline areas. No waterfowl hunting is permitted on inland areas during quota gun deer hunt days. Permanent blinds and pits are not permitted on inland areas nor along the Kentucky Lake shoreline area. Decoys and temporary blinds must be removed at the end of each hunting day.

(4) Lake Barkley Wildlife Management Area located in Trigg, Lyon, and Livingston Counties.

(a) Closed areas. Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated in this subsection and on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15 within an area including a row of islands on the west side of the main channel as marked by buoys and signs between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, Fulton Bay will remain closed until March 15 and Honker Bay until March 1, or later if marked by buoys and signs. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15.

(b) Blinds and pits. Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, may be used but must remain within ten (10) yards of the assigned numbered blind marker within the area described as follows: Beginning at the mouth of Donaldson Creek and proceeding south along the east side of the old Cumberland River channel as marked by buoys, to a point due west of the boat ramp at Linton, then east to the Linton boat ramp, then north along the east shore of Barkley Lake to the mouth of Donaldson Creek. All other blinds within this described area must be temporary.

(5) Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit. Waterfowl hunting is permitted only from permanent blinds or pits registered by the department.

(b) Jenny Hole-Highland Creek Unit. Waterfowl hunting will be allowed from permanent blind or pit sites registered by the department and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties.

(c) Shooting hours. One-half (1/2) hour before sunrise to 2:00 p.m.

(d) When the Ohio River reaches a level that requires boat access to the units, hunting will be allowed from boats spaced 200 yards apart, without regard to the registered blinds or pits.

(e) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County, except the Crenshaw and Duncan Tracts, will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. The privately owned inholding totaling 468 acres and known as the Wood Tract, located between mile marker 4 and 6 on state road 268 and bounded by the Ohio River on the north and Tram Road on the east and the Sauerheber Unit of the Sloughs WMA, is closed to all hunting, fishing, boating and trespassing between October 15 and March 15.

[(6) Ohio River Islands Wildlife Management Area. This area consists of Twin Sisters, Pryor and Rondeau Islands and the mainland marsh area between Twin Sisters and Pryor Islands. Waterfowl blinds must be removed at the end of each day's hunting. All blinds must be 200 yards apart and only four (4) persons may occupy a blind at one time.]

(6) [(7)] Ohio River Waterfowl Refuge located in Livingston County will be closed to all hunting and molesting of waterfowl from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(7) [(8)] Ohio River in the vicinity of the Ballard Wildlife Management Area located in Ballard County. Waterfowl hunting is not permitted on the Ohio river from a point fifty (50) yards upstream from Dam 53, downstream to a point fifty (50) yards below the downstream boundary of the Ballard Wildlife Management Area.

(8) [(9)] That portion of the Grayson Lake Wildlife Management Area located in Carter and Elliott Counties, which lies east of the Little Sandy River and Bruin Creek portions of Grayson Lake, is closed to all waterfowl hunting.

(9) [(10)] Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(10) [(11)] Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties is closed to all waterfowl hunting.

(11) [(12)] Cane Creek Wildlife Management Area located in Laurel County is closed to all waterfowl hunting.

(12) [(13)] Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all waterfowl hunting.

(13) [(14)] Redbird Wildlife Management Area located in Leslie and Clay Counties is closed to all waterfowl hunting.

(14) [(15)] Mill Creek Wildlife Management Area located in Jackson County is closed to all waterfowl hunting.

(15) [(16)] Ohio County south of Rough River, Muhlenberg County east of state route 181, and Butler County west of state route 79 are closed to goose hunting.

(16) [(17)] Yellowbank Wildlife Management Area in Breckinridge County. A twenty-five (25) acre wetland designated by signs and painted boundary markers is closed to the public from October 15 through March 15.

(17) [(18)] Blind and pit restrictions for Barkley Lake, Barren Lake, Green River Lake, Nolin River Lake, Rough River Lake, Buckhorn Lake and Taylorsville Lake Wildlife Management Areas, and the Grassy Pond-Powell's Lake and Jenny Hole-Highland Creek units of the Sloughs Wildlife management Area.

(a) Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, may be used but must be registered on a permit issued by the U.S. Army Corps of Engineers or the Department of Fish and Wildlife Resources. Permittees will be selected by drawing. Applicants for blind or pit permits must present a current Kentucky hunting license to the registration clerk at the time of the drawing. Applicants may designate one (1) other person as a partner for registration. No more than two (2) nontransferable permits may be issued for each permanent blind or pit. Only one (1) permit will be issued per hunter per area. Permittees who have not constructed a pit or blind at the designated location by November 20 will forfeit their permit. Sites which become available by forfeiture may be assigned to

another applicant according to the following procedure: twenty (20) additional names will be drawn at each area (or the number of remaining names if less than twenty (20) are present) and any forfeited blinds will be assigned to those people in the order they were drawn.

(b) Blinds or pits not occupied by permittees by the opening of shooting hours of any day are available for use by other hunters on a first come-first served basis for the remainder of that day.

(c) Permittees shall not lock blinds or pits so as to prevent use by other hunters in the absence of the permittee.

[(d) No blind or pit may be established less than 200 yards from any other blind or pit or waterfowl refuge.]

[(e) No more than four (4) persons shall occupy a blind or pit at any one time.]

[(f) Designated recreation areas and access points are closed to waterfowl hunting.]

(d) [(g)] Permanent pits or blinds must be removed within thirty (30) days of the close of waterfowl season unless extension of that period is approved.

(18) White City Wildlife Management Area located in Hopkins County.

(a) Existing blinds or pits not occupied by hunters by the opening of shooting hours of any day are available for use by other hunters on a first come-first serve basis for the remainder of that day.

(b) Hunters shall not lock blinds or pits, or otherwise prevent use by others in their absence.

(c) Existing permanent pits or blinds may be used, but must be removed within thirty (30) days of the close of waterfowl season unless extension of that period is approved by the commissioner.

(d) Waterfowl shooting hours on White City Wildlife Management Area are from one-half (1/2) hour before sunrise to 2:00 p.m.

Section 8. Ballard and Henderson-Union Reporting Area [quota zone] Waterfowl Hunting Permit Requirements. It is unlawful for any person to hunt waterfowl within the Ballard or Henderson-Union Reporting Areas [quota zones] without first obtaining the appropriate waterfowl hunting permit or waterfowl harvest register forms as specified in subsections (1), (2) and (3) of this section.

(1) Commercial waterfowl hunting areas.

(a) A commercial waterfowl hunting area is any area of land or water, used in whole or in part for the taking of migratory waterfowl, where a monetary charge is made.

(b) A commercial waterfowl hunting permit issued by the department must be obtained by any person operating a commercial waterfowl hunting area. An annual fee will be charged for each commercial waterfowl hunting permit. Persons operating more than one (1) commercial waterfowl hunting area must obtain a permit for each individual area.

(c) A land holding divided by a public road may be operated as a commercial waterfowl hunting area under one (1) permit. Whenever a farm unit is divided by land owned by others, a separate permit is required for each tract of land operated as a commercial waterfowl hunting area.

(2) Non-commercial waterfowl hunting areas.

(a) A non-commercial waterfowl hunting area is any area used in whole or in part for the taking of migratory waterfowl where no monetary charge is made.

(b) Any person controlling the waterfowl hunting rights and privileges on a non-commercial waterfowl hunting area must obtain a free migratory goose hunting area permit. [This permit shall expire annually on the day after the end of the waterfowl season.]

(c) The holder of a free migratory goose hunting area permit may be the landowner, his tenant or any person to whom these individuals have assigned exclusive control of goose hunting rights or privileges, in writing, on forms provided by the department.

(d) The permittee shall display the permit openly on the property for which it was issued and provide the permit for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Ohio and Mississippi River waterfowl hunters. Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas [quota zones] must carry on their person a waterfowl harvest register form provided by the department. When hunting in a party, it is permissible that only one (1) hunter of the party possess the goose harvest reporting form provided the names of all members of the party are written on the form.

(4) Obtaining permits and harvest reporting forms.

(a) Persons desiring commercial waterfowl hunting permits, migratory goose hunting area permits, or a season supply of waterfowl harvest register forms for the Ballard Reporting Area [quota zone] may apply by writing to the Ballard County Wildlife Management Area, Route 1, LaCenter, Kentucky 42056.

(b) Persons desiring commercial waterfowl hunting permits, migratory goose hunting area permits, or a season supply of goose harvest reporting forms for the Henderson-Union Reporting Area [quota zone] may apply by writing to the Sloughs Wildlife Management Area, RR 2, Box 183A, Corydon, Kentucky 42406.

(c) Waterfowl harvest register forms for either reporting area [quota zone] will also be available from conservation officers in each area [zone] and from the Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

Section 9. Ballard and Henderson-Union Reporting Area [Quota Zone] Recordkeeping and Reporting Requirements. (1) Commercial waterfowl hunting permit holders.

(a) The permittee shall maintain and keep an accurate and complete daily hunter register and waterfowl harvest record in duplicate on the hunting area on forms provided by the department.

(b) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Sunday and Wednesday and mail or take the original [copy] of the completed daily register and waterfowl harvest record form each subsequent Monday and Thursday to the address indicated on the form. The permittee must hold duplicate copies of these completed forms at the place of registration and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and Wildlife

Service.

(c) A permittee is responsible for any violation of permit requirements or violations of other regulations committed on the premises under permit unless he immediately reports such violations to a conservation officer.

(2) Migratory goose hunting area permit holders.

(a) At all times during the waterfowl season, the permittee shall make available on the premises under permit the daily hunter registration forms as provided by the department.

(b) The permittee shall require all waterfowl hunters to enter their names and the date on the register and report form prior to each time they hunt on any permit area and to record, prior to leaving the permitted premises, the numbers and kinds of geese taken.

(c) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Sunday and Wednesday and mail or take the original [copy] of the completed daily register and waterfowl harvest record form each subsequent Monday and Thursday to the address indicated on the form. The permittee must hold duplicate copies of the forms for a period of two (2) months after the end of the waterfowl season and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Hunter requirements.

(a) Persons hunting waterfowl on commercial or non-commercial waterfowl hunting areas in the Ballard or Henderson-Union Reporting Areas [quota zones] must:

1. Prior to hunting, enter their name, address, and the date of the hunt on the daily register form made available by the waterfowl hunting area operator.

2. Before leaving the premises, enter on the waterfowl harvest register form the numbers and kinds of geese taken.

(b) Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas [quota zones] must:

1. Prior to hunting, enter on the waterfowl harvest register form their name and address, or the names and addresses of all hunting party members if only one (1) hunter is carrying the form for the party, and the date.

2. At the end of each day's hunting, enter on the waterfowl harvest register form the number and kinds of geese taken.

3. No later than Monday and Thursday of each week, mail or take the completed original [copy] of the waterfowl harvest register to the address indicated on the form.

Section 10. General Rules Concerning Waterfowl Hunting in the Ballard Reporting Area [Quota Zone]. (1) It is unlawful to hunt waterfowl except from a blind or a pit. For the purposes of this section, a blind or pit is defined as any form of concealing enclosure from which one may shoot game or observe wildlife including an anchored, stationary, or drifting boat from which waterfowl are hunted [is considered to be a blind].

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

(3) It is unlawful to establish or locate any blind or pit within fifty (50) yards of any property line.

(4) No more than five (5) persons may occupy a single blind or pit at the same time.

(5) A hunter may possess only one (1) shotgun while occupying a blind or pit.

Section 11. Kentucky Waterfowl Stamp Requirements. (1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).

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

G. WENDELL COMBS, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: September 26, 1986
FILED WITH LRC: September 29, 1986 at 11 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 3:020E. Eligibility requirements.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
EFFECTIVE: October 6, 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 Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and non-financial criteria, shall be utilized. Financial criteria shall consist of income and

resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this regulation, including but not limited to:

(1) Wages earned by a household member, including all wages received by a striker the month prior to the month of the strike, or the month of application, in accordance with 7 CFR Part 273.1(g).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Payments under Title I (Volunteers in Service to America, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 shall be considered earned income unless specifically excluded in 7 CFR Part 273.9(c)(10)(iii).

(5) The earned or unearned income of excluded household members as set forth in 904 KAR 3:035, Section 5(3).

(6) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(8) Wages earned by a household member which are garnisheed or diverted by an employer and paid to a third party for a household expense.

(9) Support or alimony payments made directly to the household from nonhousehold members and/or any portion of such payments returned to the household by the cabinet.

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

(11) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(12) Monies withdrawn or dividends which are or could be received from a trust fund considered to be excludable under 7 CFR Part 273.8(e)(8) by a household, unless otherwise exempt under the provisions set forth in 7 CFR Part 273.9(c).

(13) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien in accordance with 7 CFR Part 273.11(h).

(14) Assistance monies from another program, as specified in 7 CFR 273.11(j), which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements. These withheld monies shall be considered as income in accordance with 7 CFR 273.11(j).

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided the overpayment was not excludable in accordance with 7 CFR Part 273.9(c). However, monies withheld, as specified in Section 2, subsection (14) of this regulation shall not be excluded.

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility. However, any portion of such monies returned to the household by the cabinet shall not be excluded.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment as defined in 7 CFR 273.9(c).

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty (30) dollars in a quarter.

(6) Effective November 1, 1986, as defined in 7 CFR 273.9(c), educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of post secondary education [higher education], including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. Benefits may be restored back to August 22, 1986.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household as defined in 7 CFR 273.9(c).

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not attained their eighteenth birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming as defined in CFR Part 273.11(a), such losses shall be offset against any other countable income in the household.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program.

(14) Any energy assistance payments made under federal laws or certified as excludable energy payments by FNS.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below:

(1) Households which contain a member who is elderly or disabled as defined in 904 KAR 3:010, Section 1(10) shall have their net income compared to 100 percent of the federal income poverty guidelines.

(2) Households which are categorically eligible as defined in CFR 273.2 do not have to meet either the gross or net income eligibility standards.

(3) [(2)] All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be periodically adjusted by FNS to reflect changes in the cost of living for a prior period of time as determined by FNS.

(2) Twenty (20) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment. This deduction for non-elderly/non-disabled households shall not exceed the child care maximum established by FNS. Elderly/disabled households with a child care deduction shall not exceed the excess shelter maximum established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction shall not exceed the excess shelter maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter maximum shall be adjusted periodically by FNS to reflect changes in the cost of living for a prior period of time. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d)(5). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (by air conditioning units only) costs separate and apart from their rent or mortgage payments in accordance with 7 CFR Part 273.9(d)(6). If the household is not entitled to the utility standard or does not choose to use the utility standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of elderly or disabled, as set forth in 7 CFR Part 271.2, are those meeting the criteria set forth in 7 CFR Part 273.9(d)(3) including, but not limited to:

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

(e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. Resources. Uniform national resource standards of eligibility shall be utilized. Eligibility shall be denied or terminated if the total value of a household's liquid and non-liquid resources, not exempt under Section 7 of this regulation and in accordance with 7 CFR Part 273.8, exceed:

(1) $3000: for all households with one (1) or more members, when at least one (1) member is sixty (60) years or older; or

(2) $2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 [in which all members receive AFDC benefits and whose gross income does not exceed 130 percent of the federal income poverty guidelines] shall be considered as having met the food stamp resource requirement.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods, personal effects including one (1) burial plot per household member, the cash value of life insurance policies and pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt), and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.

(3) Licensed/unlicensed vehicles as specified in 7 CFR Part 273.8.

(4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(5) Property which is essential to the employment or self-employment of a household member, in accordance with 7 CFR Part 273.8(e)(5).

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to

legal sanction if funds are not used as intended.
(8) Resources whose cash value is not accessible to the household.
(9) Resources which have been prorated as income.
(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and
(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

Section 8. Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer in accordance with 7 CFR 273.8(i).

Section 9. Non-financial Criteria. Non-financial eligibility standards apply equally to all households and consist of:
(1) Residency. A household must live in the county in which they make application;
(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;
(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;
(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and
(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.
(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.
(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.
(8) Work registration. All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.
(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective <u>October</u> [May] 1, 1986 <u>unless otherwise specified</u>.

E. AUSTIN, JR., Secretary
MIKE ROBINSON, Commissioner
APPROVED BY AGENCY: September 18, 1986
FILED WITH LRC: October 6, 1986 at 11 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 Medicaid Services

907 KAR 1:004E. Resource and income standard of medically needy.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: October 6, 1986
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:
(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at $1,700 and $3,400 respectively, effective January 1, 1986; at $1,800 and $3,600 respectively, effective January 1, 1987; at $1,900 and $3,800 respectively, effective January 1, 1988; and at $2,000 and $4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.
(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.
(3) Equity of $6,000 in income-producing,

non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of $4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, of if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to $1,500 per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), life insurance policies, or other [separate and] identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify [un-commingle] the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.

(6) Burial spaces, plots, [or] vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	$2,300	$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, $600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed $160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or $110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the

cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, but not including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their eligible spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind or disabled applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) [(3)] In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are

concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(5) [(4)] In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) [(5)] For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(7) [(6)] Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(8) [(7)] In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(9) [(8)] Income and resources of parent(s) are not considered available to a child living apart from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(10) [(9)] When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the forty (40) [twenty-five (25)] dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. When a child in a family case is in the long term care facility, eligiblity of the child is determined in the same manner for up to a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

(a) The first seventy-five (75) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(b) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(d) Payments by the stepparent or grandparent for alimony or child support with respect to individuals not living in the household.

(e) Income of a stepparent or grandparent receiving Supplemental Security Income.

(f) Verified medical expenses for the stepparent or grandparent and his/her dependents

in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income, the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligiblity of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-Sum Income. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

Section 14. Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by $500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A

waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the $500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibilty for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all particpants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. Special Provisions for Hospice Recipients. Effective October 1, 1986, medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant shall be the standard for the federal supplemental security income program.

(2) The attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized case when the cost of care is greater than the recipient's monthly income.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

Section 17. Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 18. [16.] Implementation. The amendments to [provisions of] this regulation[, as amended,] will be effective on November [August] 1, 1986, applicable at the time of the next determination of eligibility for each applicant or recipient, except as otherwise specified herein.

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: September 26, 1986
FILED WITH LRC: October 6, 1986 at 11 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 Medicaid Services

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

RELATES TO: KRS 205.550, 205.560
PURSUANT TO: KRS 194.050
EFFECTIVE: October 6, 1986
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the

physicians' usual, customary, reasonable and prevailing charges.

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

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

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

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

(3) Effective October 1, 1981, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program.

(4) Effective October 1, 1981, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program.

(5) Percentile:

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

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

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

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

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

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

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

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

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

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows:

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

(2) Payments for specified obstetrical services provided on or after October 1, 1986, shall be at the following flat rates: normal delivery, $250; classic cesarean section, $300; low cervical cesarean section, $320; cesarean and hysterectomy, $350; and extraperitoneal cesarean section, $200.

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

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: September 29, 1986
FILED WITH LRC: October 6, 1986 at 11 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 Medicaid Services

907 KAR 1:330E. Hospice services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: October 6, 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 hospice care to both the

categorically and medically needy.

Section 1. Definition of Hospice Care. Hospice care means the care described in Section 1905(o) of the Social Security Act. Summarized, hospice care may be described as a package of palliative and supportive services provided by a hospice program to a terminally ill Medicaid recipient and his/her family to alleviate the patient's pain and suffering and assist the patient and his/her family to cope with dying and the circumstances surrounding terminal illness. The hospice package of services is provided in lieu of certain benefits described in Section 1812(d)(2)(A) of the Social Security Act and intermediate care facility services. The patient must voluntarily elect the hospice care. Hospice care may be provided an individual in a skilled nursing or intermediate care facility but in that circumstance coverage does not exist under the program for skilled nursing and intermediate care facility services, i.e., a payment may be made for only the hospice care. Hospice care must be provided by an appropriately licensed, accredited and/or certified hospice program (as defined in Section 1861(dd)(2) of the Social Security Act) participating in both Medicare and Medicaid.

Section 2. Voluntary Election. Any terminally ill Medicaid recipient may elect hospice coverage (where hospice care is provided by a participating hospice program in his/her county of residence) in accordance with procedures and using such forms as may be prescribed by the cabinet. Each recipient will be required to make his/her voluntary selection in writing, and must present a statement from a physician (or such statement must be available) to show that the recipient's illness is terminal and that death is expected to occur within six (6) months.

Section 3. Benefit Periods. Each voluntary election is made for a specified period of time, and disenrollment from hospice care (which may be made at any time at the recipient's option) will result in forfeiture of the balance of the period. The benefit periods are as follows:

(1) First period, ninety (90) days;
(2) Second period, ninety (90) days;
(3) Third period, thirty (30) days; and
(4) Extension period, sixty (60) days. The extension period is available only when a physician states that the recipient continues to suffer from a terminal illness and that death is expected within the sixty (60) day extension period.

Section 4. Concurrent Medicare Coverage. When a Medicaid eligible individual with concurrent eligibility for hospice services under Medicare wishes to enroll in a hospice program under Medicaid he/she shall be required as a prerequisite for Medicaid hospice enrollment to enroll in the Medicare hospice program, i.e., concurrent enrollment is required to the extent there is concurrent eligibility for hospice services in both programs.

Section 5. Disenrollment, Re-enrollment, and Transfers. A recipient may disenroll from a hospice program at any time, with the sole penalty being that the balance of that enrollment period is lost to him/her so far as hospice care is concerned. If the recipient has an additional period(s) remaining, he/she may re-enroll at such time as he/she may desire (subject only to the usual participation requirements). If a county is served by two (2) or more hospice programs, or if the recipient moves his/her county of residence to a county serviced by a different hospice(s), the recipient may transfer between hospice programs with no loss of time in his/her benefit period.

Section 6. Effective Date. Coverage of hospice services in the Medicaid program shall begin on October 1, 1986.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 30, 1986
FILED WITH LRC: October 6, 1986 at 11 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 Medicaid Services

907 KAR 1:340E. Payments for hospice services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: October 6, 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 policies of the cabinet with regard to payments for hospice services.

Section 1. Conditions for Participation. A hospice program must meet the Medicare conditions for participation and such other standards as may be set by the cabinet in order to participate in the Medicaid program.

Section 2. Provision of Service. Payment for services shall be limited to those hospice program services as defined in 907 KAR 1:330, provided to eligible individuals meeting the criteria for receipt of hospice care as set forth in 907 KAR 1:330.

Section 3. Payment Rates. The payment rates shall be the same as those used in the Medicare

program. If for some reason a Medicare payment rate is unavailable, the payment rate that will be used by Medicaid will be determined in the same manner as Medicare rates.

Section 4. Copayments. (1) The Medicaid program will pay the Medicare copayments if the Medicaid recipient qualifies for and has elected Medicaid hospice benefits as specified in 907 KAR 1:330.

(2) No copayments will be applied to Medicaid payment rates for hospice services.

Section 5. Coverage of Drugs. When the hospice provides to a participating recipient a medically necessary drug which is for a condition not relating to the terminal illness, the Medicaid program will reimburse the hospice separately for such drug taking into consideration usual program constraints on drug coverage and payments. (Drugs relating to the terminal illness are reimbursed as a part of the usual hospice payment rate.)

Section 6. Effective Date. Payments for hospice services shall be effective for hospice services provided on or after October 1, 1986.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 30, 1986
FILED WITH LRC: October 6, 1986 at 11 a.m.

AMENDED AFTER HEARING

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Air Pollution
(Amended After Hearing)

401 KAR 63:021. Existing sources emitting toxic air pollutants.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033, 224.877
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions of toxic air pollutants.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility commenced before the effective date of this regulation which emits toxic air pollutants as defined in Section 2 of this regulation.

(2) The provisions of this regulation shall not apply to the following [facilities]:

(a) Emissions [Facilities] which are regulated under [subject to the regulations of] Title 401, Chapter 57, or 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants).

(b) Laboratory equipment used for chemical or physical analysis or experimentation.

(c) Dry cleaning facilities that use petroleum distillates.

(d) Dry cleaning facilities that use perchloroethylene at a make-up rate of less than 600 [seventy (70)] gallons per year or are subject to 401 KAR 59:240 or 401 KAR 61:160.

(e) Sources which emit less than the significant levels specified in Appendix B, adjusted for height of release and hours of operation per week pursuant to Appendix C to this regulation.

(f) Indirect heat exchangers using fossil fuel, except for indirect heat exchangers which burn waste material containing toxic substances.

(g) Gasoline dispensing facilities other than gasoline bulk plants and terminals.

(h) Agricultural operations.

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

(1) "Toxic air pollutant" means a substance which is listed in Appendix B of this regulation.

(2) "Affected facility" means an apparatus, building, operation or other entity or series of entities which emits or may emit any toxic air pollutant into the outdoor atmosphere.

(3) "Threshold [Acceptable] ambient limit (T[A]AL)" means the concentration level in the ambient air of a toxic air pollutant, calculated pursuant to [listed in] Appendix B to this regulation.

(4) "Reasonably available control technology" means the lowest emission limit that a particular affected facility is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

Section 3. Control of Toxic Air Pollutants. (1) Except as provided in subsection (2) of this section, no owner or operator shall allow any source to exceed the allowable emission limit determined by the formula specified in Appendix A to this regulation.

(2) Where a threshold [acceptable] ambient limit for a toxic air pollutant is not specified in Appendix B to this regulation, or where the owner or operator can demonstrate to the satisfaction of the cabinet that the allowable emission limit referenced in subsection (1) of this section cannot be met even after the application of reasonably available control technology, then reasonably available control technology shall be required.

(3) As used in this regulation, allowable emission limit is applicable to each toxic air pollutant and applied to the source as a whole. The provisions of 401 KAR 50:042 shall not apply when determining an allowable emission limit of a toxic air pollutant.

(4) The maximum ground level concentration as applied in Appendix A is determined for the affected facility, or a series of affected facilities within the source, through the application of an approved dispersion model specified in "Guideline for Air Quality

Modeling," filed by reference in 401 KAR 50:015. For the purpose of this regulation, no additive effect or interaction among sources is presumed in determining maximum ground level concentration.

(5) Demonstration of compliance with emission limits may be made through calculations. Continued compliance shall be demonstrated through production and throughput records, maintenance schedules and operating practices, and/or as specified as a permit condition.

(6) The cabinet may upon request assist the owner or operator in determining the applicable emission limits for the source. The cabinet shall charge no fee for this service, except as required in 401 KAR 50:036.

Section 4. Public Participation. (1) Except as provided in subsection (2) of this section, the cabinet shall notify the public through prominent advertisement in a newspaper of general circulation in the region in which the source is located, of the cabinet's intention to accept a compliance schedule or demonstration of reasonably available control technology as a part of an operating permit issued pursuant to this regulation. The cabinet shall afford the public the opportunity to submit written comments on the cabinet's intended action within thirty (30) days following the publication of said advertisement. The cabinet shall consider these comments in its decision to issue the operating permit.

(2) The following affected facilities are not subject to this section:

(a) Dry cleaning facilities.

(b) Fertilizer dispensing facilities.

Section 5. Compliance Timetable. (1) The owner or operator of an affected facility which constructed or received a permit to construct or operate before the effective date of this regulation shall within twelve (12) months following the effective date of this regulation submit either:

(a) A permit application to operate the source [affected facility(ies)] which ensures compliance with the provisions of this regulation; or

(b) A permit application to operate the source [affected facility(ies)] with a compliance schedule that will enable the source to achieve compliance with the provisions of this regulation as expeditiously as possible but not later than two and a half (2 1/2) years following the effective date of this regulation.

(2) A compliance schedule identified in subsection (1)(b) of this section shall contain the following elements:

(a) A commitment for submission of a control plan for achieving compliance with this regulation. Submission of control plan shall not be more than six (6) months following the submission date of the compliance schedule.

(b) The date by which the control system installation contract will be awarded.

(c) The date by which construction or installation of the emission control equipment or implementation of control measures will be initiated.

(d) The date by which on-site construction or installation of emission control equipment or implementation of control measures will be completed.

(e) The date by which final compliance will be demonstrated and which is within sixty (60) days following completion of installation of the control system or implementation of the control measures.

(3) The cabinet shall issue an operating permit contingent upon an acceptable compliance schedule.

(4) Requests for extension of the timetable presented in this section may be made to the director in writing. Extensions may be granted upon the demonstration to the cabinet's satisfaction that strict compliance with the timetable is unattainable for reasons beyond the reasonable control of the source.

Section 6. Failure of the owner or operator to comply with the provisions of this regulation may result in the denial or revocation of an operating permit for the noncomplying affected facility.

(See Appendices below and on following pages)

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at noon

APPENDIX A TO 401 KAR 63:021
Allowable Emission Limit

The following equation shall be used to determine the allowable emission limit for a toxic air pollutant.

$$E_{Allowable} = E_{Actual} \times \frac{T[A]AL}{C}$$

Where:

$E_{Allowable}$ = Allowable emission limit in pounds per hour, expressed as an average for a time averaging period corresponding to the T[A]AL time average.

E_{Actual} = Actual emission rate in pounds per hour.

T[A]AL = Threshold [Acceptable] ambient limit determined using the formula in Appendix B to this regulation.

C = Maximum ground level concentration in the ambient air estimated through the use of a dispersion model specified in the "Guideline on Air Quality Models."

APPENDIX B TO 401 KAR 63:021

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
1,1,1-Trichloroethane (Methyl chloroform)	7600.00	8-hour	4.848E-01
1,1,2-Trichloroethane	180.00	8-hour	1.148E-02
1,3-Butadiene	88.00	8-hour	5.613E-03
4,4'-Methylenebis(2-chloro-aniline) (MOCA)	RACT		5.613E-05
Acetaldehyde	720.00	8-hour	4.593E-02
Acetic acid	100.00	8-hour	6.379E-03
Acetone	7120.00	8-hour	4.542E-01
Acrolein	1.00	8-hour	6.379E-05
Acrylic acid	120.00	8-hour	7.655E-03
Acrylonitrile	RACT		1.148E-03
Allyl chloride	12.00	8-hour	7.654E-04
Ammonia	72.00	8-hour	4.593E-03
Ammonium chloride	40.00	8-hour	2.551E-03
Antimony and compounds [comounds], as Sb	2.00	8-hour	1.276E-04
Arsenic and Arsenic compounds [cmpds.]	RACT		5.103E-05
Barium, soluble compounds, as Ba	2.00	8-hour	1.276E-04
Benzene	RACT		7.654E-03
Benzo(a)anthracene	RACT		5.100E-07
Benzo(a)pyrene	RACT		5.100E-07
Cadmium	RACT		1.276E-05
Calcium hydroxide	20.00	8-hour	1.276E-03
Carbon disulfide	120.00	8-hour	7.655E-03
Carbon tetrachloride	RACT		7.654E-03
Chlorine	12.00	8-hour	7.654E-04
Chlorine dioxide	1.20	8-hour	7.654E-05
Chloroform	RACT		1.276E-02
Chlorophenols	RACT		5.100E-07
Chromium VI	RACT		1.276E-05
Cumene	980.00	8-hour	6.251E-02
Cyanides, as CN	20.00	8-hour	1.276E-03
Diacetone alcohol	960.00	8-hour	6.124E-02
Dimethylamine	72.00	8-hour	4.593E-03
Dioxin (2,3,7,8-tetrachlorodibenzo-p-dioxin)	RACT		5.100E-07

APPENDIX B TO 401 KAR 63:021
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Ethyl benzene	1740.00	8-hour	1.110E-01
Ethylene dibromide	RACT		5.100E-07
Ethylene dichloride (EDC) [(1,2-Dichloroehtane)]	RACT		1.021E-02
Ethylene oxide	RACT		5.103E-04
Formaldehyde	RACT		3.827E-04
Formic acid	36.00	8-hour	2.296E-03
Hexylene glycol	500.00	1-hour	2.240E-02
Hydrogen bromide	40.00	8-hour	2.551E-03
Hydrogen chloride	28.00	1-hour	1.254E-03
Maleic anhydride	4.00	8-hour	2.551E-04
Manganese dust and compounds as Mn	20.00	1-hour	8.959E-04
Manganese fume, as Mn	4.00	8-hour	2.551E-04
Mercury, alkyl compounds, as Hg	0.04	8-hour	2.551E-06
Mercury, as Hg, All forms except alkyl vapor	0.20	8-hour	1.276E-05
Mercury, as Hg, Aryl and inorganic compounds	0.40	8-hour	2.551E-05
Methanol	1040.00	8-hour	6.634E-02
Methyl bromide	80.00	8-hour	5.103E-03
Methyl chloride	420.00	8-hour	2.679E-02
Methyl ethyl ketone	2360.00	8-hour	1.505E-01
Methylamine	48.00	8-hour	3.062E-03
Methylene bisphenyl isocyanate (MDI)	0.80	1-hour	3.583E-05
Methylene chloride (Dichloromethane)	1400.00	8-hour	8.930E-02
Nickel carbonate	RACT		2.551E-05
Nickel carbonyl	RACT		8.930E-05
Nickel metal	RACT		2.551E-04
Nickel oxide	RACT		2.551E-05
Nickel subsulfide	RACT		2.551E-04
Nickel, soluble compounds, as Ni	RACT		2.551E-05
Nitric acid	20.00	8-hour	1.276E-03
Nonane	4200.00	8-hour	2.679E-01
n-Butanol	600.00	1-hour	2.688E-02
n-Hexane	720.00	8-hour	4.593E-02

APPENDIX B TO 401 KAR 63:021
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Pentachlorophenol	2.00	8-hour	1.276E-04
Perchloroethylene	1340.00	8-hour	8.548E-02
Phenol	76.00	8-hour	4.848E-03
Phosphoric acid	4.00	8-hour	2.551E-04
Potassium hydroxide	8.00	1-hour	3.583E-04
Propargyl alcohol	8.00	8-hour	5.103E-04
Propylene dichloride	1400.00	8-hour	8.930E-02
Propylene oxide	200.00	8-hour	1.276E-02
Selenium compounds, as Se	0.80	8-hour	5.103E-05
Silver, metal	0.40	8-hour	2.551E-05
Silver, soluble compounds, as Ag	0.04	8-hour	2.551E-06
Sodium hydroxide	8.00	1-hour	3.583E-04
Styrene, monomer	860.00	8-hour	5.486E-02
Sulfuric acid	4.00	8-hour	2.551E-04
Tetrahydrofuran	2360.00	8-hour	1.505E-01
Tetrasodium pyrophosphate	20.00	8-hour	1.276E-03
Tin, organic compound, as Sn	0.40	8-hour	2.551E-05
Tin, oxide, metal and inorganic compounds except SnH4, as Sn	8.00	8-hour	5.103E-04
Titanium dioxide	20.00	8-hour	1.276E-03
Toluene	1500.00	8-hour	9.568E-02
Toluene 2,4-Diisocyanate (TDI)	0.16	8-hour	1.021E-05
Trichloroethylene	1080.00	8-hour	6.889E-02
Trimethylamine	96.00	8-hour	6.124E-03
Vinyl acetate	120.00	8-hour	7.654E-03
Xylene (o-, m-, p-isomers)	1740.00	8-hour	1.110E-01
Zinc chloride fume	4.00	8-hour	2.551E-04
Zinc oxide fume	20.00	8-hour	1.276E-03

* Threshold [Acceptable] Ambient Limit, T[A] AL, $mg/m^3 = \frac{Y}{T}$

where T = Hours of emission of the substance per week from the source, except that T = 40 if the hours per week of emission are less than 40.

**The Significant Levels (M) may be adjusted for the height of release, H, and hours of emission, T, using the procedures in Appendix C.

APPENDIX C TO 401 KAR 63:021

Correction Factors for Height of Release
and Hours of Emission

Minimum Height of Release (H)		Height of Release Correction Factor (K)
(meters)	(feet)	
1	3.3	1
2	6.6	4
3	9.9	12
4	13.1	24
5	16.4	41
6	19.7	62
7	23.0	89
8	26.2	121
9	29.5	159
10	32.8	204
15	49.2	489
20	65.6	901
25	82.0	1429
30	98.4	2037
35	114.8	2738
40	131.2	3535
45	147.6	4418
50	164.0	5394
55	180.4	6405
60	196.9	7494
65	213.3	8622

The Significant Level (L) in Section 1 (2) (e) shall be calculated from the formula:

$$L = M \times K \times \frac{168}{T}$$

Where:

L = Adjusted significant level (lbs/hr).

M = Significant level (lbs/hr) for the substance as listed in Appendix B.

K = Height of release correction factor from the table above. H is the minimum height of release of the substance from the source. When H is between two (2) values, the lower number shall be used.

T = Hours of emission of the substance per week from the source, except that T = 40 if the hours per week of emission are less than 40.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Air Pollution
(Amended After Hearing)

401 KAR 63:022. New or modified sources emitting toxic air pollutants.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033, 224.877
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions of toxic air pollutants.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility commenced on or after the effective date of this regulation which emits toxic air pollutants as defined in Section 2 of this regulation.

(2) The provisions of this regulation shall not apply to the following [facilities]:

(a) Emissions [Facilities] which are regulated under [subject to the regulations of] Title 401, Chapter 57, or 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants).

(b) Laboratory equipment used for chemical or physical analysis or experimentation.

(c) Dry cleaning facilities that use petroleum distillates.

(d) Dry cleaning facilities that use perchloroethylene at a make-up rate of less than seventy (70) gallons per year or are subject to 401 KAR 59:240.

(e) Sources which emit less than the significant levels specified in Appendix B, adjusted for height of release and hours of operation per week pursuant to Appendix C to this regulation.

(f) Indirect heat exchangers using fossil fuel, except for indirect heat exchangers which burn waste material containing toxic substances.

(g) Gasoline dispensing facilities other than gasoline bulk plants and terminals.

(h) Agricultural operations.

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

(1) "Toxic air pollutant" means a substance which is listed in Appendix B of this regulation.

(2) "Affected facility" means an apparatus, building, operation, or other entity or series of entities which emits or may emit any toxic air pollutant into the outdoor atmosphere.

(3) "Threshold [Acceptable] ambient limit (I[A]AL)" means the [maximum] concentration level in the ambient air of a toxic air pollutant calculated pursuant to [listed in] Appendix B to this regulation.

(4) "Best available control technology" means emissions limitation based on the maximum degree of reduction for each pollutant listed in Appendix B to this regulation which would be emitted from any proposed affected facility which the cabinet, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determined to be achievable for such facility through application of production processes or available methods, systems, and techniques for control of such pollutant. In no event shall application of best available control technology result in the emission of an air pollutant which would exceed the emissions allowed by any applicable standard under Title 401, Chapters 57 and 59, or 40 CFR Parts 60 and 61.

(5) "Modification" means any physical change in or change in the method of operation of a source that would result in a net emission increase of any toxic air pollutant in excess of the significant emission level specified in this regulation.

Section 3. Control of Toxic Air Pollutants. (1) Except as provided in subsection (2) of this section, no owner or operator shall allow any source to exceed the allowable emission limit determined by the formula specified in Appendix A to this regulation.

(2) Where a threshold [acceptable] ambient limit for a toxic air pollutant is not specified in Appendix B to this regulation, or where the owner or operator can demonstrate to the satisfaction of the cabinet that the allowable emission limit referenced in subsection (1) of this section cannot be met even after the application of best available control technology, then best available control technology shall be required.

(3) As used in this regulation, allowable emission limit is applicable to each toxic air pollutant and applied to the source as a whole. The provisions of 401 KAR 50:042 shall not apply when determining an allowable emission limit of a toxic air pollutant.

(4) The maximum ground level concentration as applied in Appendix A is determined for the affected facility, or a series of affected facilities within the source, through the application of an approved dispersion model specified in "Guideline for Air Quality Modeling," filed by reference in 401 KAR 50:015. For the purpose of this regulation, no additive effect or interaction among sources is presumed in determining maximum ground level concentration.

(5) Demonstration of compliance with emission limits may be made through calculations. Continued compliance shall be demonstrated through production and throughput records, maintenance schedules and operating practices, and/or as specified as a permit condition.

(6) The cabinet may upon request assist the owner or operator in determining the applicable emission limits for the source. The cabinet shall charge no fee for this service, except as required in 401 KAR 50:036.

Section 4. Public Participation. (1) Except as provided in subsection (2) of this section, the cabinet shall notify the public through prominent advertisement in a newspaper of general circulation in the region in which the source is located, of the cabinet's intention to accept best available control technology as a means for compliance with this regulation. The cabinet shall afford the public the opportunity to submit written comments on the cabinet's intended action within thirty (30) days following the publication of said advertisement. The cabinet shall consider these comments in its decision to issue the construction permit.

(2) The following affected facilities are not subject to this section:
(a) Dry cleaning facilities.
(b) Fertilizer dispensing facilities.

Section 5. Failure of the owner or operator to comply with the provisions of this regulation may result in the denial or revocation of an operating permit for the non-complying affected facility.

(See Appendices below and on following pages)

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at noon

APPENDIX A TO 401 KAR 63:022
Allowable Emission Limit

The following equation shall be used to determine the allowable emission limit for a toxic air pollutant.

$$E_{Allowable} = E_{Actual} \times \frac{\underline{I[A]AL}}{C}$$

Where:

$E_{Allowable}$ = Allowable emission limit in pounds per hour, expressed as an average for a time averaging period corresponding to the I[A]AL time average.

E_{Actual} = Actual emission rate in pounds per hour.

I[A]AL = **Threshold** [Acceptable] ambient limit determined using the formula in Appendix B to this regulation.

C = Maximum ground level concentration in the ambient air estimated through the use of a dispersion model specified in the "Guideline on Air Quality Models."

APPENDIX B TO 401 KAR 63:022

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
1,1,2,2-Tetrachloroethane	28.00	8-hour	1.786E-03
1,1,1-Trichloroethane (Methyl chloroform)	7600.00	8-hour	4.848E-01
1,1,2-Trichloroethane	180.00	8-hour	1.148E-02
1,1-Dichloroethane	3240.00	8-hour	2.067E-01
1,1-Dichloro-1-nitroethane	40.00	8-hour	2.551E-03
1,1-Dimethylhydrazine	BACT		2.551E-04
1,2,3-Trichloropropane	1200.00	8-hour	7.654E-02
1,2,4-Trichlorobenzene	160.00	1-hour	7.167E-03
1,2-Dibromo-3-chloropropane (DBCP)	BACT		5.100E-07
[1,2-Dichloroethane (EDC)]	[BACT]		[1.021E-02]
1,2-Dichloroethylene	3160.00	8-hour	2.016E-01
1,2-Diethylhydrazine	BACT		2.551E-05
1,2-Dimethylhydrazine	BACT		2.551E-04
1,3-Butadiene	88.00	8-hour	5.613E-03
1,3-Dichloro-5,5-dimethylhydantoin	0.80	8-hour	5.103E-05
1,3-Propane sultone	BACT		5.100E-07
1,4-Butanediol dimethanesulphonate (Myleran)	BACT		5.100E-07
1,4-Dioxane	BACT		2.296E-02
1-Amino-2-Methylanthraquinone	BACT		1.021E-04
1-Chloro-1-nitropropane	40.00	8-hour	2.551E-03
1-Nitropropane	360.00	8-hour	2.296E-02
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU)	BACT		5.100E-07
1-[(5-Nitrofurfurylidene)amino]-2-imidazolidinone	BACT		5.100E-07
2,2-Dichloropropionic acid	24.00	8-hour	1.531E-03
2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)	40.00	8-hour	2.551E-03
2,4,6-Trichlorophenol	BACT		5.100E-07
2,4,6-Trinitrotoluene (TNT)	2.00	8-hour	1.276E-04
2,4-D	40.00	8-hour	2.551E-03
2,4-Diaminoanisole sulfate	BACT		5.100E-07
2,4-Dinitrotoluene	BACT		3.827E-04
2,6-Ditert. butyl-p-cresol	40.00	8-hour	2.551E-03
2-Acetylaminofluorene	BACT		5.100E-07
2-Aminoanthraquinone	BACT		1.021E-04
2-Aminopyridine	8.00	8-hour	5.103E-04
2-Amino-5-(5-Nitro-2-furyl)-1,3,4-thiadiazole	BACT		5.100E-07

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
2-Butoxyethanol	480.00	8-hour	3.062E-02
2-Ethoxyethanol	76.00	8-hour	4.848E-03
2-Ethoxyethyl acetate	108.00	8-hour	6.889E-03
2-Hydroxypropyl acrylate	12.00	8-hour	7.654E-04
2-Methylaziridine	BACT		5.100E-07
2-Methyl-1-nitroanthraquinone	BACT		1.021E-04
2-Naphthylamine	BACT		5.100E-07
2-Nitropropane	BACT		1.613E-02
2-N-Dibutylaminoethanol	56.00	8-hour	3.572E-03
2-(2-Formylhydrazine)-4-(5-nitro-2-furyl)thiazole	BACT		5.100E-07
3,3'-Dichlorobenzidine	BACT		5.100E-07
3,3'-Dichloro-4,4'-diaminodiphenyl ether	BACT		5.100E-07
3,3'-Dimethoxybenzidine	BACT		5.100E-07
3,3'-Dimethylbenzidine	BACT		5.100E-07
4,4'-Diaminodiphenyl ether	BACT		5.100E-07
4,4'-Methylene bis (2-chloroaniline) (MOCA)	BACT		5.613E-05
4,4'-Methylene bis (2-methylaniline)	BACT		5.103E-04
4,4'-Methylene bis (N,N-dimethyl) benzenamine	BACT		5.100E-07
4,4'-Methylene dianiline	3.20	8-hour	2.041E-04
4,4'-Thiobis (6-tert, butyl-m-cresol)	40.00	8-hour	2.551E-03
4,4'-Thiodianiline	BACT		5.100E-07
4,4-Methylene dianiline	3.20	8-hour	2.041E-04
4-Aminobiphenyl	BACT		5.100E-07
4-Chloro-ortho-phenylenediamine	BACT		7.654E-04
4-Dimethylaminoazobenzene	BACT		5.100E-07
4-Methoxyphenol	20.00	8-hour	1.276E-03
5-Nitroacenaphthene	BACT		5.100E-07
5-Nitro-o-anisidine	BACT		5.100E-07
5-(Morpholinomethyl)-3[(5-nitrofurfurylidene)amino]-2-oxazolidinone	BACT		5.100E-07
Acetaldehyde	720.00	8-hour	4.593E-02
Acetic acid	100.00	8-hour	6.379E-03

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Acetic anhydride	80.00	1-hour	3.583E-03
Acetone	7120.00	8-hour	4.542E-01
Acetonitrile	BACT		1.786E-02
Acetylene tetrabromide	60.00	8-hour	3.827E-03
Acetylsalicylic acid	20.00	8-hour	1.276E-03
Acrolein	1.00	8-hour	6.379E-05
Acrylamide	1.20	8-hour	7.654E-05
Acrylic acid	120.00	8-hour	7.654E-03
Acrylonitrile	BACT		1.148E-03
Actymomycin D	BACT		5.100E-07
Adriamycin	BACT		5.100E-07
Aflatoxins	BACT		5.100E-07
Aldrin	10.00	8-hour	6.379E-04
Allyl alcohol	20.00	8-hour	1.276E-03
Allyl chloride	12.00	8-hour	7.654E-04
Allyl glycidyl ether	88.00	8-hour	5.613E-03
Allyl propyl disulfide	48.00	8-hour	3.062E-03
alpha-Chloroacetophenone	1.20	8-hour	7.654E-05
Aluminum Metal and oxide	40.00	8-hour	2.551E-03
Alkyls (NOC)	8.00	8-hour	5.103E-04
Pyro powders	20.00	8-hour	1.276E-03
Soluble salts	8.00	8-hour	5.103E-04
[Welding fumes]	[20.00]	[8-hour]	[1.276E-03]
Amitrole	BACT		5.103E-05
Ammonia	72.00	8-hour	4.593E-03
Ammonium chloride	40.00	8-hour	2.551E-03
Ammonium sulfamate	40.00	8-hour	2.551E-03
Aniline	40.00	8-hour	2.551E-03
Antimony Trioxide Production	2.00	8-hour	1.276E-04
Antimony and compounds, as Sb	2.00	8-hour	1.276E-04
ANTU	1.20	8-hour	7.654E-05
Aramite	BACT		5.100E-07
Arsenic and arsenic compounds	BACT		5.103E-05
Arsenic Trioxide Production	BACT		5.103E-05
Arsine	0.80	8-hour	5.103E-05
Atrazine	20.00	8-hour	1.276E-03
Auramine	BACT		5.100E-07
Azaserine	BACT		5.100E-07
Azathioprine	BACT		5.100E-07
Azinphos-methyl	0.80	8-hour	5.103E-05
a-Methyl styrene	960.00	8-hour	6.124E-02

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Barium soluble compounds, as Ba	2.00	8-hour	1.276E-04
Benomyl	40.00	8-hour	2.551E-03
Benzal chloride	1000.00	8-hour	6.379E-02
Benzene	BACT		7.654E-03
Benzidine	BACT		5.100E-07
Benzotrichloride	BACT		1.276E-03
Benzoyl chloride	20.00	8-hour	1.276E-03
Benzoyl peroxide	20.00	8-hour	1.276E-03
Benzo(a)pyrene	BACT		5.100E-07
Benzo(b)fluoranthene	BACT		5.100E-07
Benzyl chloride	BACT		1.276E-03
Benzyl violet 4B	BACT		5.100E-07
Benz(a)anthracene	BACT		5.100E-07
Beryl ore	BACT		5.103E-07
Beryllium	BACT		5.103E-07
Beryllium carbonate	BACT		5.103E-07
Beryllium chloride	BACT		5.103E-07
Beryllium fluoride	BACT		5.103E-07
Beryllium hydroxide	BACT		5.103E-07
Beryllium oxide	BACT		5.103E-07
Beryllium phosphate	BACT		5.103E-07
Beryllium silicate	BACT		5.103E-07
Beryllium sulfate	BACT		5.103E-07
Beryllium-aluminum alloy	BACT		5.103E-07
beta-Chloroprene	140.00	8-hour	8.930E-03
Biphenyl	6.00	8-hour	3.827E-04
bis Chloromethyl ether	0.02	8-hour	1.276E-06
Bischloroethyl nitrosourea (BCNU)	BACT		5.100E-07
Bismuth telluride	40.00	8-hour	2.551E-03
Bis(2-chloroethyl) ether	120.00	8-hour	7.654E-03
Bis(chloromethyl) ether (BCME)	BACT		1.276E-06
Borates, tetra, sodium salts, Anhydrous	4.00	8-hour	2.551E-04
Borates, tetra, sodium salts, Decahydrate	20.00	8-hour	1.276E-03
Borates, tetra, sodium salts, Pentahydrate	4.00	8-hour	2.551E-04
Boron oxide	40.00	8-hour	2.551E-03
Boron tribromide	40.00	1-hour	1.792E-03
Boron trifluoride	12.00	1-hour	5.375E-04
Bromacil	40.00	8-hour	2.551E-03

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Bromine pentafluoride	2.80	8-hour	1.786E-04
Bromine	2.80	8-hour	1.786E-04
Bromoform	20.00	8-hour	1.276E-03
Butyl acrylate	220.00	8-hour	1.403E-02
Butyl mercaptan	6.00	8-hour	3.827E-04
Butylamine	60.00	1-hour	2.688E-03
b-Butyrolactone	BACT		5.100E-07
b-Propiolactone	BACT		3.827E-04
Cadmium	BACT		1.276E-05
Cadmium oxide	BACT		8.959E-06
Cadmium sulfate	BACT		1.276E-05
Cadmium sulfide	BACT		1.276E-05
Calcium chromate	0.20	8-hour	1.276E-05
Calcium cyanamide	2.00	8-hour	1.276E-04
Calcium hydroxide	20.00	8-hour	1.276E-03
Calcium oxide	8.00	8-hour	5.103E-04
Camphor, synthetic	48.00	8-hour	3.062E-03
Caprolactam dust	4.00	8-hour	2.551E-04
Caprolactam vapor	80.00	8-hour	5.103E-03
Captafol	0.40	8-hour	2.551E-05
Captan	20.00	8-hour	1.276E-03
Carbaryl	20.00	8-hour	1.276E-03
Carbofuran	0.40	8-hour	2.551E-05
Carbon black	14.00	8-hour	8.930E-04
Carbon disulfide	120.00	8-hour	7.654E-03
Carbon tetrabromide	5.60	8-hour	3.572E-04
Carbon tetrachloride	BACT		7.654E-03
Carbonyl fluoride	20.00	8-hour	1.276E-03
Catechol	80.00	8-hour	5.103E-03
Cesium hydroxide	8.00	8-hour	5.103E-04
Chlorambucil	BACT		5.100E-07
Chloramphenicol	BACT		5.100E-07
Chlordane	2.00	8-hour	1.276E-04
Chlordecone (Kepone)	BACT		5.100E-07
Chlorinated camphene	2.00	8-hour	1.276E-04
Chlorinated diphenyl oxide	2.00	8-hour	1.276E-04
Chlorine	12.00	8-hour	7.654E-04
Chlorine dioxide	1.20	8-hour	7.654E-05
Chlorine trifluoride	1.60	1-hour	7.167E-05
Chloroacetaldehyde	12.00	1-hour	5.375E-04

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Chloroacetyl chloride	0.80	8-hour	5.103E-05
Chlorobenzene	1400.00	8-hour	8.930E-02
Chlorobromomethane	4200.00	8-hour	2.679E-01
Chlorodiphenyl	2.00	8-hour	1.276E-04
Chloroform	BACT		1.276E-02
Chloromethyl methyl ether (CMME)	BACT		5.100E-07
Chlorophenols	BACT		5.100E-07
Chloropicrin	2.80	8-hour	1.786E-04
Chloroprene	140.00	8-hour	8.930E-03
Chlorpyrifos	0.80	8-hour	5.103E-05
Chromium Metal	2.00	8-hour	1.276E-04
Chromium VI compounds [cmpds], certain water insoluble, as Cr	BACT		1.276E-05
Chromium (III) compounds as Cr	2.00	8-hour	1.276E-04
Chromium (II) compounds as Cr	2.00	8-hour	1.276E-04
Chromly chloride	0.60	8-hour	3.827E-05
Chrysene	0.80	8-hour	5.103E-05
Cisplatin	BACT		5.100E-07
Citrus Red No. 2	BACT		5.100E-07
Clopidol	40.00	8-hour	2.551E-03
Coal Tar Pitch Volatiles	0.80	8-hour	5.103E-05
Cobalt carbonyl as Co	0.40	8-hour	2.551E-05
Cobalt hydrocarbonyl as Co	0.40	8-hour	2.551E-05
Cobalt	0.40	8-hour	2.551E-05
Cobalt-chromium alloy	0.20	8-hour [0.05]	1.276E-05
Coke oven emissions	BACT		5.103E-05
Copper	0.80	8-hour	5.103E-05
Dusts and mists, as Cu	4.00	8-hour	2.551E-04
Cresol all isomers	88.00	8-hour	5.613E-03
Crotonaldehyde	24.00	8-hour	1.531E-03
Cruformate	20.00	8-hour	1.276E-03
Cumene	980.00	8-hour	6.251E-02
Cupferron	BACT		5.100E-07
Cyanamide	8.00	8-hour	5.103E-04
Cyanides, as CN	20.00	8-hour	1.276E-03
Cyanogen chloride	2.40	1-hour	1.075E-04
Cyanogen	80.00	8-hour	5.103E-03
Cycasin	BACT		5.100E-07
Cyclohexane	4200.00	8-hour	2.679E-01
Cyclohexanol	800.00	8-hour	5.103E-02
Cyclohexanone	400.00	8-hour	2.551E-02

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Cyclohexene	4060.00	8-hour	2.590E-01
Cyclohexylamine	160.00	8-hour	1.021E-02
Cyclonite	6.00	8-hour	3.827E-04
Cyclopentadiene	800.00	8-hour	5.103E-02
Cyclopentane	6880.00	8-hour	4.389E-01
Cyclophosphamide	BACT		5.100E-07
Cyhexatin	20.00	8-hour	1.276E-03
Dacarbazine	BACT		5.100E-07
Daunomycin	BACT		5.100E-07
DDT	BACT		2.551E-04
Decaborane	1.20	8-hour	7.654E-05
Demeton	0.40	8-hour	2.551E-05
Diacetone alcohol	960.00	8-hour	6.124E-02
2,4-Diaminotoluene	BACT		5.100E-07
Diazinon	0.40	8-hour	2.551E-05
Diazomethane	1.60	8-hour	1.021E-04
7H-Dibenzo(c,g)carbazole	BACT		5.100E-07
Dibenzo(a,h)pyrene	BACT		5.100E-07
Dibenzo(a,i)pyrene	BACT		5.100E-07
Dibenz(a,h)acridine	BACT		5.100E-07
Dibenz(a,h)anthracene	BACT		5.100E-07
Dibenz(a,j)acridine	BACT		5.100E-07
Diborane	0.40	8-hour	2.551E-05
1,2-Dibromoehtane (EDB)	BACT		5.100E-07
Dibutyl phosphate	20.00	8-hour	1.276E-03
Dibutyl phthalate	20.00	8-hour	1.276E-03
Dichloroacetylene	1.60	1-hour	7.167E-05
Dichlorobenzene - ortho	1200.00	1-hour	5.375E-02
Dichlorobenzene - para	1800.00	8-hour	1.148E-01
Dichloroethyl ether	120.00	8-hour	7.654E-03
Dichlorofluoromethane	160.00	8-hour	1.021E-02
[Dichloromethane] [(Methylene chloride)]	[1400.00]	[8-hour]	[8.930E-02]
Dichloropropene	20.00	8-hour	1.276E-03
Dichlorvos	4.00	8-hour	2.551E-04
Dicrotophos	1.00	8-hour	6.379E-05
Dicyclopentadiene	120.00	8-hour	7.654E-03
Dicyclopentadienyl iron	40.00	8-hour	2.551E-03
Dieldrin	1.00	8-hour	6.379E-05
Dienoestrol	BACT		5.100E-07

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Diepoxybutane	BACT		5.100E-07
Diethanolamine	60.00	8-hour	3.827E-03
Diethyl ketone	2820.00	8-hour	1.799E-01
Diethyl sulfate	BACT		5.100E-07
Diethylamine	120.00	8-hour	7.654E-03
Diethylaminoethanol	200.00	8-hour	1.276E-02
Diethylene triamine	16.00	8-hour	1.021E-03
Diethylstilbestrol (DES)	BACT		5.100E-07
Difluorodibromomethane	3440.00	8-hour	2.194E-01
Diglycidyl ether	2.00	8-hour	1.276E-04
Dihydrosafrole	BACT		5.100E-07
Diisobutyl ketone	1000.00	8-hour	6.379E-02
Diisopropylamine	80.00	8-hour	5.103E-03
Dimethyl acetamide	140.00	8-hour	8.930E-03
Dimethyl sulfate	BACT		1.276E-04
Dimethylamine	72.00	8-hour	4.593E-03
Dimethylaniline	100.00	8-hour	6.379E-03
Dimethylcarbamoyl chloride	BACT		5.100E-07
Dimethylformamide	120.00	8-hour	7.654E-03
Dimethylphthalate	20.00	8-hour	1.276E-03
Dinitolmide	20.00	8-hour	1.276E-03
Dinitrobenzene	4.00	8-hour	2.551E-04
Dinitrotoluene	6.00	8-hour	3.827E-04
Dinitro-o-cresol	0.80	8-hour	5.103E-05
Dioxane	360.00	8-hour	2.296E-02
Dioxathion	0.80	8-hour	5.103E-05
Dioxin (2,3,7,8-Tetrachlorodibenzo-p-dioxin)	BACT		5.100E-07
Diphenylamine	40.00	8-hour	2.551E-03
Diphenylhydrazine	0.40	8-hour	2.551E-05
Dipropyl ketone	940.00	8-hour	5.996E-02
Dipropylene glycol methyl ether	2400.00	8-hour	1.531E-01
Diquat	2.00	8-hour	1.276E-04
Direct Black 38	BACT		5.103E-05
Direct Blue 6	BACT		5.103E-05
Direct Brown 95	BACT		5.103E-05
Di-sec, octyl phthalate	20.00	8-hour	1.276E-03
Disulfiram	8.00	8-hour	5.103E-04
Disulfoton	0.40	8-hour	2.551E-05
Diuron	40.00	8-hour	2.551E-03
Divinyl benzene	200.00	8-hour	1.276E-02

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Di(2-ethlyhexyl)phthalate	BACT		1.276E-03
Endosulfan	0.40	8-hour	2.551E-05
Endrin	0.40	8-hour	2.551E-05
Epichlorohydrin	BACT		2.551E-03
EPN	2.00	8-hour	1.276E-04
Ethanolamine	32.00	8-hour	2.041E-03
Ethinyloestradiol	BACT		5.100E-07
Ethion	1.60	8-hour	1.021E-04
Ethyl acetate	5600.00	8-hour	3.572E-01
Ethyl acrylate	80.00	8-hour	5.103E-03
Ethyl amyl ketone	520.00	8-hour	3.317E-02
Ethyl benzene	1740.00	8-hour	1.110E-01
Ethyl bromide	3560.00	8-hour	2.271E-01
Ethyl butyl ketone	920.00	8-hour	5.868E-02
Ethyl chloride	10400.00	8-hour	6.634E-01
Ethyl ether	4800.00	8-hour	3.062E-01
Ethyl formate	1200.00	8-hour	7.654E-02
Ethyl mercaptan	4.00	8-hour	2.551E-04
Ethyl methanesulphonate	BACT		5.100E-07
Ethyl silicate	340.00	8-hour	2.169E-02
Ethylamine	72.00	8-hour	4.593E-03
Ethylene chlorohydrin	12.00	1-hour	5.375E-04
Ethylene dibromide (EDB)	BACT		5.100E-07
Ethylene dichloride (EDC)	BACT		1.021E-02
Ethylene glycol dinitrate	1.20	8-hour	7.654E-05
Ethylene glycol vapor	500.00	1-hour	2.240E-02
Ethylene oxide	BACT		5.103E-04
Ethylene thiourea	BACT		5.100E-07
Ethylenediamine	100.00	8-hour	6.379E-03
Ethylenimine	4.00	8-hour	2.551E-04
Ethylidene norbornene	100.00	1-hour	4.479E-03
Fenamiphos	0.40	8-hour	2.551E-05
Fensulfothion	0.40	8-hour	2.551E-05
Fenthion	0.80	8-hour	5.103E-05
Ferbam	40.00	8-hour	2.551E-03
Ferrovanadium dust	4.00	8-hour	2.551E-04
Fonofos	0.40	8-hour	2.551E-05
Formaldehyde	BACT		3.827E-04
Formamide	120.00	8-hour	7.654E-03

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Formic acid	36.00	8-hour	2.296E-03
Furfural	32.00	8-hour	2.041E-03
Furfuryl alcohol	160.00	8-hour	1.021E-02
Germanium tetrahydride	2.40	8-hour	1.531E-04
Glutaraldehyde	2.80	1-hour	1.254E-04
Glycidaldehyde	BACT		5.100E-07
Glycidol	300.00	8-hour	1.914E-02
Hafnium	2.00	8-hour	1.276E-04
Hematite underground mining	BACT		1.276E-03
Heptachlor	2.00	8-hour	1.276E-04
Hexachlorobenzene	BACT		7.654E-03
Hexachlorobutadiene	0.96	8-hour	6.124E-05
Hexachlorocyclohexane	2.00	8-hour	1.276E-04
Hexachlorocyclopentadiene	0.40	8-hour	2.551E-05
Hexachlorodibenzodioxin	BACT		5.100E-07
Hexachloroethane	BACT		2.551E-02
Hexachloronaphthalene	0.80	8-hour	5.103E-05
Hexafluoroacetone	2.80	8-hour	1.786E-04
Hexamethylphosphoramide	BACT		5.100E-07
Hexylene glycol	500.00	1-hour	2.240E-02
Hydrazine	BACT		2.551E-05
Hydrazine sulfate	BACT		2.551E-05
Hydrazobenzene (1,2-diphenylhydrazine)	BACT		2.551E-05
Hydrogen bromide	40.00	8-hour	2.551E-03
Hydrogen chloride	28.00	1-hour	1.254E-03
Hydrogen cyanide	40.00	1-hour	1.792E-03
Hydrogen peroxide	6.00	8-hour	3.827E-04
Hydrogen selenide as Se	0.80	8-hour	5.103E-05
Hydrogenated terphenyls	20.00	8-hour	1.276E-03
Hydroquinone	8.00	8-hour	5.103E-04
Indene	180.00	8-hour	1.148E-02
Indeno(1,2,3-cd)pyrene	BACT		5.100E-07
Indium and compounds, as In	0.40	8-hour	2.551E-05
Iodine	4.00	1-hour	1.792E-04
Iodoform	40.00	8-hour	2.551E-03
Iron dextran complex	BACT		2.551E-04
Iron pentacarbonyl, as Fe	3.20	8-hour	2.041E-04

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Iron salts, soluble, as Fe	4.00	8-hour	2.551E-04
Isoamyl acetate	2100.00	8-hour	1.340E-01
Isoamyl alcohol	1440.00	8-hour	9.185E-02
Isobutyl acetate	2800.00	8-hour	1.786E-01
Isobutyl alcohol	600.00	8-hour	3.827E-02
Isoocytl alcohol	1080.00	8-hour	6.889E-02
Isophorone diisocyanate	0.36	8-hour	2.296E-05
Isophorone	100.00	1-hour	4.479E-03
Isopropoxyethanol	420.00	8-hour	2.679E-02
Isopropyl acetate	3800.00	8-hour	2.424E-01
Isopropyl alcohol manufacturing (strong acid process)	BACT		5.100E-07
Isopropyl ether	4200.00	8-hour	2.679E-01
Isopropyl glycidyl ether	960.00	8-hour	6.124E-02
Isopropylamine	48.00	8-hour	3.062E-03
Isosafrole	BACT		5.100E-07
Ketene	3.60	8-hour	2.296E-04
Lasiocarpine	BACT		5.100E-07
Lead, inorg. dusts and fumes, as Pb	0.60	8-hour	3.827E-05
Lead acetate	BACT		3.827E-05
Lead arsenate, as Pb3(AsO4)2	0.60	8-hour	3.827E-05
Lead chromate, as Cr	BACT		1.276E-05
Lead chromate oxide	BACT		1.276E-05
Lead phosphate	BACT		3.827E-05
Lindane (all isomers)	BACT		1.276E-04
Lithium hydride	0.10	8-hour	6.379E-06
Magenta	BACT		5.100E-07
Magnesium oxide fume	40.00	8-hour	2.551E-03
Malathion	40.00	8-hour	2.551E-03
Maleic anhydride	4.00	8-hour	2.551E-04
Manganese cyclopentadienyl tricarbonyl, as Mn	0.40	8-hour	2.551E-05
Manganese tetroxide	4.00	8-hour	2.551E-04
Manganese, Dust and compounds as Mn	20.00	1-hour	8.959E-04
Manganese, Fume, as Mn	4.00	8-hour	2.551E-04
Melphalan	BACT		5.100E-07
Mercury, alkyl compounds, as Hg	0.04	8-hour	2.551E-06
Mercury, as Hg, All forms except [expect] alkyl vapor	0.20	8-hour	1.276E-05

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Mercury, as Hg, Aryl and inorganic compounds	0.40	8-hour	2.551E-05
Merphalan	BACT		5.100E-07
Mesityl oxide	240.00	8-hour	1.531E-02
Mestranol	BACT		5.100E-07
Methacrylic acid	280.00	8-hour	1.786E-02
Methomyl	10.00	8-hour	6.379E-04
Methoxychlor	40.00	8-hour	2.551E-03
2-Methoxyethanol	64.00	8-hour	4.082E-03
2-Methoxyethyl actetate	96.00	8-hour	6.124E-03
4-Methoxyphenol	20.00	8-hour	1.276E-03
Methyl 2-cyanoacrylate	32.00	8-hour	2.041E-03
Methyl acetate	2440.00	8-hour	1.556E-01
Methyl acetylene	6600.00	8-hour	4.210E-01
Methyl acetylene-propadiene mixture	7200.00	8-hour	4.593E-01
Methyl acrylate	140.00	8-hour	8.930E-03
Methyl alcohol	1040.00	8-hour	6.634E-02
Methyl bromide	80.00	8-hour	5.103E-03
Methyl chloride	420.00	8-hour	2.679E-02
Methyl chloroform	7600.00	8-hour	4.848E-01
Methyl demeton	2.00	8-hour	1.276E-04
Methyl ether	4800.00	8-hour	3.062E-01
Methyl ethyl ketone peroxide	6.00	1-hour	2.688E-04
Methyl ethyl ketone	2360.00	8-hour	1.505E-01
Methyl formate	1000.00	8-hour	6.379E-02
Methyl hydrazine	1.40	8-hour	6.271E-05
Methyl iodide	BACT		2.551E-03
Methyl isoamyl ketone	960.00	8-hour	6.124E-02
Methyl isobutyl carbinol	400.00	8-hour	2.551E-02
Methyl isobutyl ketone	820.00	8-hour	5.231E-02
Methyl isocyanate	0.20	8-hour	1.276E-05
Methyl isopropyl ketone	2820.00	8-hour	1.799E-01
Methyl mercaptan	4.00	8-hour	2.551E-04
Methyl methacrylate	1640.00	8-hour	1.046E-01
Methyl methanesulphonate	BACT		5.100E-07
Methyl n-amyl ketone	80.00	8-hour	5.103E-03
Methyl n-butyl ketone	80.00	8-hour	5.103E-03
Methyl parathion	0.80	8-hour	5.103E-05
Methyl propyl ketone	2800.00	8-hour	1.786E-01
Methyl silicate	24.00	8-hour	1.531E-03

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Methylacrylonitrile	12.00	8-hour	7.654E-04
Methylal	12400.00	8-hour	7.910E-01
Methylamine	48.00	8-hour	3.062E-03
Methylazoxymethanol and its acetate	BACT		5.100E-07
Methylcyclohexane	6400.00	8-hour	4.082E-01
Methylcyclohexanol	940.00	8-hour	5.996E-02
Methylcyclopentadienyl manganese tricarbonyl as Mn	0.80	8-hour	5.103E-05
Methylene bis (4-cyclohexylisocyanate)	0.44	1-hour	1.971E-05
Methylene bisphenyl isocyanate (MDI)	0.80	1-hour	3.583E-05
Methylene chloride (dichloromethane)	1400.00	8-hour	8.930E-02
Methylthiouracil	BACT		5.100E-07
Metribuzin	20.00	8-hour	1.276E-03
Metronidazole	BACT		5.100E-07
Mevinphos	0.40	8-hour	2.551E-05
Michler's ketone (Tetramethyl-diaminobenzophenone)	BACT		5.100E-07
Mirex	BACT		5.100E-07
Mitromycin C	BACT		5.100E-07
Molybdenum, as Mo, Insoluble compounds	40.00	8-hour	2.551E-03
Molybdenum, as Mo, Soluble compounds	20.00	8-hour	1.276E-03
Monocrotaline	BACT		5.100E-07
Monocrotophos	1.00	8-hour	6.379E-05
Morpholine	280.00	8-hour	1.786E-02
[Mustard gas (2,2-Dichlorodiethyl] sulfide)]	[BACT]		[5.100E-07]
m-Phthalodinitrile	20.00	8-hour	1.276E-03
m-Xylene alpha,alpha'-diamine	0.40	1-hour	1.792E-05
Nafenopin (perfluorosulfonic acid)	BACT		5.100E-07
Naled	12.00	8-hour	7.654E-04
Naphthalene	200.00	8-hour	1.276E-02
Nickel carbonate	BACT		2.551E-05
Nickel carbonyl	BACT		8.930E-05
Nickel oxide	BACT		2.551E-05
Nickel subsulfide	BACT		2.551E-04

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Nickel - metal	BACT		2.551E-04
Nickel - soluble compounds, as Ni	BACT		2.551E-05
Nickelocene (dicyclopentadienylnickel)	BACT		2.551E-05
Niridazole	BACT		5.100E-07
Nitrapyrin	40.00	8-hour	2.551E-03
Nitric acid	20.00	8-hour	1.276E-03
Nitriloacetic acid	BACT		5.100E-07
Nitrilotriacetic acid	BACT		5.100E-07
Nitrobenzene	20.00	8-hour	1.276E-03
Nitroethane	1240.00	8-hour	7.910E-02
Nitrofen (2,4-dichlorophenyl-p-nitrophenylether)	BACT		5.100E-07
Nitrogen mustard N-oxide	BACT		5.100E-07
Nitrogen mustard (Mechlorethamine hydrochloride)	BACT		5.100E-07
Nitrogen trifluoride	120.00	8-hour	7.654E-03
Nitroglycerin (NG)	2.00	8-hour	1.276E-04
Nitromethane	1000.00	8-hour	6.379E-02
Nitrotoluene	44.00	8-hour	2.807E-03
Nonane	4200.00	8-hour	2.679E-01
Norethisterone	BACT		5.100E-07
N,N-bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)	BACT		5.100E-07
N,N-Diacetylbenzidine	BACT		5.100E-07
n-Amyl acetate	2120.00	8-hour	1.352E-01
n-Butyl acetate	2840.00	8-hour	1.812E-01
n-Butyl alcohol	600.00	1-hour	2.688E-02
n-Butyl glycidyl ether	540.00	8-hour	3.444E-02
n-Butyl lactate	100.00	8-hour	6.379E-03
N-Ethylmorpholine	92.00	8-hour	5.868E-03
n-Hexane	720.00	8-hour	4.593E-02
N-Isopropylaniline	40.00	8-hour	2.551E-03
N-Methyl aniline	8.00	8-hour	5.103E-04
N-Methyl-N'-nitro-n-nitrosoguanidine	BACT		5.100E-07
N-Nitrosodiethanolamine	BACT		5.100E-07
N-Nitrosodiethylamine	BACT		5.100E-07
N-Nitrosodimethylamine	BACT		5.100E-07
N-Nitrosodi-n-butylamine	BACT		5.100E-07
N-Nitrosodi-n-propylamine	BACT		5.100E-07

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
N-Nitrosomethylethylamine	BACT		5.100E-07
N-Nitrosomethylvinylamine	BACT		5.100E-07
N-Nitrosomorpholine	BACT		1.786E-02
N-Nitrosonornicotine (Nicotine)	BACT		1.276E-04
N-Nitrosopiperidine	BACT		5.100E-07
N-Nitrosopyrrolidine	BACT		5.100E-07
N-Nitrososarcosine	BACT		5.100E-07
N-Nitroso-n-ethylurea	BACT		5.100E-07
N-Nitroso-n-methylurea	BACT		5.100E-07
N-Nitroso-n-methylurethane	BACT		5.100E-07
N-Nitroso-n-propylamine	BACT		5.100E-07
N-Phenyl-2-naphthylamine	BACT		5.100E-07
N-Phenyl-beta-naphthylamine	BACT		5.100E-07
n-Propyl acetate	3360.00	8-hour	2.143E-01
n-Propyl nitrate	420.00	8-hour	2.679E-02
N-[4-(5-Nitro-2-furyl)-2-thiazolyl] acetamide	BACT		5.100E-07
Octachloronaphthalene	0.40	8-hour	2.551E-05
Oestradiol-17 beta	BACT		5.100E-07
Oestrone	BACT		5.100E-07
Oil orange SS (phenylazo-2-naphthol)	BACT		5.100E-07
Osmium tetroxide, as Os	0.01	8-hour	5.103E-07
Oxalic acid	4.00	8-hour	2.551E-04
Oxymetholone	BACT		5.100E-07
o-Aminoazotoluene	BACT		5.100E-07
o-Anisidine	BACT		1.276E-04
o-Anisidine Hydrochloride	BACT		1.276E-04
o-Chlorobenzylidene malononitrile	1.60	1-hour	7.167E-05
o-Chlorostyrene	1140.00	8-hour	7.272E-02
o-Chlorotoluene	1000.00	8-hour	6.379E-02
o-Methylcyclohexanone	920.00	8-hour	5.868E-02
o-sec-Butylphenol	120.00	8-hour	7.654E-03
o-Tolidine	BACT		5.100E-07
o-Toluidine	BACT		2.296E-03
o-Toluidine hydrochloride	BACT		2.296E-03
Panfuran S (Dihydroxymethyl-furatrizine)	BACT		5.100E-07
Paraffin wax fume	8.00	8-hour	5.103E-04

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Paraquat	0.40	8-hour	2.551E-05
Parathion	0.40	8-hour	2.551E-05
Pentaborane	0.04	8-hour	2.551E-06
Pentachloronaphthalene	2.00	8-hour	1.276E-04
Pentachlorophenol	2.00	8-hour	1.276E-04
Perchloroethylene	1340.00	8-hour	8.548E-02
Perchloromethyl mercaptan	3.20	8-hour	2.041E-04
Perchloryl fluoride	56.00	8-hour	3.572E-03
Phenacetin	BACT		5.100E-07
Phenazopyridine	BACT		5.100E-07
Phenazopyridine hydrochloride	BACT		5.100E-07
Phenol	76.00	8-hour	4.848E-03
Phenothiazine	20.00	8-hour	1.276E-03
Phenoxyacetic acid Herbicides	BACT		5.100E-07
Phenoxybenzamine and its hydrochloride	BACT		5.100E-07
Phenyl ether	28.00	8-hour	1.786E-03
Phenyl glycidyl ether	24.00	8-hour	1.531E-03
Phenyl mercaptan	8.00	8-hour	5.103E-04
Phenylhydrazine	80.00	8-hour	5.103E-03
Phenylphosphine	1.00	1-hour	4.479E-05
Phenytoin and sodium salt of phenytoin	BACT		5.100E-07
Phorate	0.20	8-hour	1.276E-05
Phosgene	1.60	8-hour	1.021E-04
Phosphine	1.60	8-hour	1.021E-04
Phosphoric acid	4.00	8-hour	2.551E-04
Phosphorus oxychloride	2.40	8-hour	1.531E-04
Phosphorus pentachloride	4.00	8-hour	2.551E-04
Phosphorus pentasulfide	4.00	8-hour	2.551E-04
Phosphorus trichloride	6.00	8-hour	3.827E-04
Phosphorus	0.40	8-hour	2.551E-05
Phthalic anhydride	24.00	8-hour	1.531E-03
Picloram	40.00	8-hour	2.551E-03
Picric acid	0.40	8-hour	2.551E-05
Pindone	0.40	8-hour	2.551E-05
Piperazine dihydrochloride	20.00	8-hour	1.276E-03
Platinum Metal	4.00	8-hour	2.551E-04
Platinum Soluble salts, as Pt	0.01	8-hour	5.103E-07
Polybrominated biphenyls (PBBs)	BACT		1.276E-04
Polychlorinated biphenyls (PCBs)	BACT		1.276E-04

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Ponceau 3R	BACT		5.100E-07
Ponceau MX	BACT		5.100E-07
Potassium hydroxide	8.00	1-hour	3.583E-04
Procarbazine	BACT		5.100E-07
Procarbazine hydrochloride	BACT		5.100E-07
Progesterone	BACT		5.100E-07
Propargyl alcohol	8.00	8-hour	5.103E-04
Propionic acid	120.00	8-hour	7.654E-03
Propoxur	2.00	8-hour	1.276E-04
Propyl alcohol	2000.00	8-hour	1.276E-01
Propylene dichloride	1400.00	8-hour	8.930E-02
Propylene glycol dinitrate	1.20	8-hour	7.654E-05
Propylene glycol monomethyl ether	1440.00	8-hour	9.185E-02
Propylene imine	20.00	8-hour	1.276E-03
Propylene oxide	200.00	8-hour	1.276E-02
Propylthiouracil	BACT		5.100E-07
Pyrethrum	20.00	8-hour	1.276E-03
Pyridine	60.00	8-hour	3.827E-03
p-Cresidine	BACT		5.100E-07
p-Nitroaniline	12.00	8-hour	7.654E-04
p-Nitrochlorobenzene	12.00	8-hour	7.654E-04
p-Nitrosodiphenylamine	BACT		5.100E-07
p-Phenylene diamine	0.40	8-hour	2.551E-05
p-tert-Butyltoluene	240.00	8-hour	1.531E-02
p-Toluidine	36.00	8-hour	2.296E-03
Quinone	1.60	8-hour	1.021E-04
Reserpine	BACT		5.100E-07
Resorcinol	180.00	8-hour	1.148E-02
Rhodium Metal and Insoluble compounds, as Rh	4.00	8-hour	2.551E-04
Rhodium, Soluble compounds, as Rh	0.04	8-hour	2.551E-06
Ronnel	40.00	8-hour	2.551E-03
Rosin core solder pyrolysis products, as formaldehyde	0.40	8-hour	2.551E-05
Rotenone	20.00	8-hour	1.276E-03
Saccharin	BACT		5.100E-07
Safrole	BACT		5.100E-07
sec-Amyl acetate	2660.00	8-hour	1.697E-01

APPENDIX B TO 401 KAR 63:022
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Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
sec-Butyl acetate	3800.00	8-hour	2.424E-01
sec-Butyl alcohol	1220.00	8-hour	7.782E-02
sec-Hexyl acetate	1200.00	8-hour	7.654E-02
Selenium compounds, as Se	0.80	8-hour	5.103E-05
Selenium hexafluoride	0.80	8-hour	5.103E-05
Selenium sulfide	BACT		5.103E-05
Sesone	40.00	8-hour	2.551E-03
Silicon tetrahydride	28.00	8-hour	1.786E-03
Silver Metal	0.40	8-hour	2.551E-05
Silver Soluble compounds, as Ag	0.04	8-hour	2.551E-06
Sintered calcium chromate	BACT		1.276E-05
Sintered chromium trioxide	BACT		1.276E-05
Sodium arsenate	0.80	8-hour	5.103E-05
Sodium arsenite	0.80	8-hour	5.103E-05
Sodium azide	1.20	1-hour	5.375E-05
Sodium bisulfite	20.00	8-hour	1.276E-03
Sodium dichromate	BACT		1.276E-05
Sodium fluoroacetate	0.20	8-hour	1.276E-05
Sodium hydroxide	8.00	1-hour	3.583E-04
Sodium metabisulfite	20.00	8-hour	1.276E-03
Sodium saccharin	BACT		5.100E-07
Spironolactone	BACT		5.100E-07
Sterigmatocystin	BACT		5.100E-07
Stibine	2.00	8-hour	1.276E-04
Streptozotocin	BACT		5.100E-07
Strontium chromate	BACT		1.276E-05
Strychnine	0.60	8-hour	3.827E-05
Styrene, monomer	860.00	8-hour	5.486E-02
Styrene oxide	860.00	8-hour	5.486E-02
Subtilisins (Proteolytic enzymes as 100% pure crystalline enzyme)	2.40E-04	1-hour	1.075E-08
Sulfallate	BACT		5.100E-07
Sulfotep	0.80	8-hour	5.103E-05
Sulfur monochloride	24.00	8-hour	1.531E-03
Sulfur pentafluoride	1.00	8-hour	6.379E-05
Sulfur tetrafluoride	1.60	8-hour	1.021E-04
Sulfuric acid	4.00	8-hour	2.551E-04
Sulfuryl fluoride	80.00	8-hour	5.103E-03
Sulprofos	4.00	8-hour	2.551E-04

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Tantalum	20.00	8-hour	1.276E-03
Tellurium hexafluoride, as Te	0.80	8-hour	5.103E-05
Tellurium and compounds, as Te	0.40	8-hour	2.551E-05
Temephos	40.00	8-hour	2.551E-03
TEPP	0.20	8-hour	1.276E-05
Terphenyls	20.00	1-hour	8.959E-04
tert-Butyl acetate	3800.00	8-hour	2.424E-01
tert-Butyl alcohol	1200.00	8-hour	7.654E-02
tert-Butyl chromate as Cr	0.40	1-hour	1.792E-05
Testosterone and its esters	BACT		5.100E-07
Tetrachloronaphthalene	8.00	8-hour	5.103E-04
Tetraethyl lead, as Pb	0.40	8-hour	2.551E-05
Tetrahydrofuran	2360.00	8-hour	1.505E-01
Tetramethyl lead, as Pb	0.60	8-hour	3.827E-05
Tetramethyl succinonitrile	12.00	8-hour	7.654E-04
Tetranitromethane	32.00	8-hour	2.041E-03
Tetrasodium pyrophosphate	20.00	8-hour	1.276E-03
Tetryl	6.00	8-hour	3.827E-04
Thallium Soluble compounds, as Tl	0.40	8-hour	2.551E-05
Thioacetamide	BACT		5.100E-07
Thioglycolic acid	16.00	8-hour	1.021E-03
Thiourea	BACT		5.100E-07
Thiram	20.00	8-hour	1.276E-03
Thorium dioxide	BACT		5.100E-07
Tin, organic compounds, as Sn	0.40	8-hour	2.551E-05
Tin, oxide, metal and inorganic cmpds. except SnH4, as Sn	8.00	8-hour	5.103E-04
Titanium dioxide	20.00	8-hour	1.276E-03
Toluene 2,4-Diisocyanate (TDI)	0.16	8-hour	1.021E-05
Toluene	1500.00	8-hour	9.568E-02
Toxaphene (Polychlorinated camphenes)	BACT		1.276E-04
Trans-2[(Dimethylamino)-methyliminol]-5-[2-(5-nitro-2furyl)vinyl]-1,3,4-oxadiazole	BACT		5.100E-07
Treosulphan	BACT		5.100E-07
Tributyl phosphate	10.00	8-hour	6.379E-04
Trichloroacetic acid	28.00	8-hour	1.786E-03
Trichloroethylene	1080.00	8-hour	6.889E-02
Trichloronaphthalene	20.00	8-hour	1.276E-03
Triethylamine	160.00	8-hour	1.021E-02

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Trimellitic anhydride	0.16	8-hour	1.021E-05
Trimethyl benzene	500.00	8-hour	3.189E-02
Trimethyl phosphite	40.00	8-hour	2.551E-03
Trimethylamine	96.00	8-hour	6.124E-03
Triorthocresyl phosphate	0.40	8-hour	2.551E-05
Triphenyl amine	20.00	8-hour	1.276E-03
Triphenyl phosphate	12.00	8-hour	7.654E-04
Tris (2,3-dibromopropyl) phosphite	BACT		5.100E-07
Tris (2,3-dibromopropyl)phosphate	BACT		5.100E-07
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	BACT		5.100E-07
Tris(aziridinyl)-para-benzoquinone (Triaziquone)	BACT		5.100E-07
Trypan blue (commercial grade)	20.00	8-hour	1.276E-03
Tungsten, as W, Insoluble compounds	4.00	8-hour	2.551E-04
Tungsten, as W, Soluble compounds	BACT		5.100E-07
Uracil mustard	0.80	8-hour	5.103E-05
Uranium Compounds, as U	BACT		5.100E-07
Urethane	700.00	8-hour	4.465E-02
Valeraldehyde	0.20	8-hour	1.276E-05
Vanadium, as V2O5, Respirable dust and fume	120.00	8-hour	7.654E-03
Vinyl acetate	80.00	8-hour	5.103E-03
Vinyl bromide	240.00	8-hour	1.531E-02
Vinyl cyclohene dioxide	960.00	8-hour	6.124E-02
Vinyl toluene	80.00	8-hour	5.103E-03
Vinylidene chloride	0.40	8-hour	2.551E-05
Warfarin	[20.00]	[8-hour]	[1.276E-03]
[Welding fumes]	1740.00	8-hour	1.110E-01
Xylene (o-, m-, p-isomers)	40.00	8-hour	2.551E-03
Xylidine	4.00	8-hour	2.551E-04
Yttrium	BACT		5.103E-07
Zinc beryllium silicate	4.00	8-hour	2.551E-04
Zinc chloride fume			

APPENDIX B TO 401 KAR 63:022
(Continued)

Threshold [Acceptable] Ambient Limits and Significant Emission Levels of Toxic Air Pollutants

Substance	Y*	Average Time	Significant Levels (M)** Pounds Per Hour
Zinc chromate	BACT		1.276E-05
Zinc oxide Fume	20.00	8-hour	1.276E-03
Zirconium compounds, as Zr	20.00	8-hour	1.276E-03

*Threshold [Acceptable] Ambient Limit, T[A] AL, (mg/m^3) $= \frac{Y}{T}$

Where T = Hours of emission of the substance per week from the source, except that T = 40 if the hours per week of emission are less than 40.

**The Significant Levels (M) may be adjusted for the height of release (H) and hours of emission (T), using the procedures in Appendix C.

APPENDIX C TO 401 KAR 63:022

Correction Factors for Height of Release and Hours of Emission

Minimum Height of Release (H)		Height of Release Correction Factor (K)
(meters)	(feet)	
1	3.3	1
2	6.6	4
3	9.9	12
4	13.1	24
5	16.4	41
6	19.7	62
7	23.0	89
8	26.2	121
9	29.5	159
10	32.8	204
15	49.2	489
20	65.6	901
25	82.0	1429
30	98.4	2037
35	114.8	2738
40	131.2	3535
45	147.6	4418
50	164.0	5394
55	180.4	6405
60	196.9	7494
65	213.3	8622

The Significant Level (L) in Section 1 (2) (e) shall be calculated from the formula:

$$L = M \times K \times \frac{168}{T}$$

Where:

L = Adjusted significant level (lbs/hr).

M = Significant level (lbs/hr) for the substance as listed in Appendix B.

K = Height of release correction factor from the table above. H is the minimum height of release of the substance from the source. When H is between two (2) values, the lower number shall be used.

T = Hours of emission of the substance per week from the source, except that T = 40 if the hours per week of emission are less than 40.

TRANSPORTATION CABINET
Office of Personnel Management
(Amended After Hearing)

600 KAR 1:045. Disciplinary and separation procedures.

RELATES TO: KRS Chapters 13A and 18A, 174.080
PURSUANT TO: KRS 12.080, 13A.100, 174.080
NECESSITY AND FUNCTION: KRS 174.080 allows the Secretary of the Transportation Cabinet to promulgate administrative regulations. KRS 13A.100 requires any administrative body which is empowered to promulgate administrative regulations to prescribe the disciplinary procedures within the jurisdiction of the administrative body. This regulation is necessary to define and prescribe such disciplinary procedures within the Transportation Cabinet.

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

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

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

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

[Section 4. Disciplinary Procedures. (1) Employee incident reports. If an employee commits an act which involves delinquency, misconduct, incompetency or other unacceptable behavior, or violates the policies and procedures of the Transportation Cabinet or the provisions of the personnel laws and regulations, the employee's supervisor shall complete an employee incident report. The supervisor shall, if possible, obtain the employee's signature on the employee incident report indicating that the employee has seen the report and has received a copy. The supervisor shall then given copies of the report to the employee, to the Office of Personnel Management and to the chief district engineer, division director or office head.]

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

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

Section 4. [5.] Layoffs. The Transportation Cabinet must prepare and submit a layoff plan in accordance with applicable personnel laws and regulations to the Commissioner of Personnel for approval prior to separation by layoff. The Office of Personnel Management is responsible for coordinating the preparation of the layoff plan and will submit the plan to the Department of Personnel for approval. The Executive Director of the Office of Personnel Management shall notify the employee of his layoff in accordance with personnel laws and regulations [101 KAR 1:120, Section 2].

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

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

Cabinet.]

Section 5. [6.] [7.] Resignation. [An employee who desires to terminate his service with the state by resignation shall be governed by 101 KAR 1:120, Section 5.] A Transportation Cabinet employee's written resignation shall be submitted to the employee's chief district engineer, office head or division director. A written notice of resignation signed by the employee or the party accepting his resignation is required. If no written notice of resignation is submitted, but resignation is indicated by the employee through absenteeism or other such acts, disciplinary action will be taken against the employee.

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

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

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

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

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

Section 6. [7.] Suspensions, Fines, Demotions, Transfers and Dismissals. Any disciplinary action taken against an employee of the Transportation Cabinet shall be taken in accordance with applicable personnel laws and regulations.

Section 7. [8.] [10.] Non-Merit Employees. The signatory authority for disciplinary and personnel actions concerning non-merit Transportation Cabinet employees shall be the same as for the corresponding disciplinary and personnel actions concerning merit Transportation Cabinet employees outlined in this regulation. Disciplinary and personnel actions concerning non-merit Transportation Cabinet employees shall be undertaken in accordance with personnel laws and regulations.

Section 8. Suspensions Pending Investigation. All suspensions pending investigation shall be in accordance with 101 KAR 2:100, Section 7(4).

(1) Central office. In the case of a proposed suspension pending investigation of an employee in the central office, the employee's division or office will prepare the letter of suspension pending investigation for the signature of the Executive Director of the Office of Personnel Management. After the signature of the executive director has been obtained, the letter will be returned to the division or office for delivery to the employee.

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

C. LESLIE DAWSON, Secretary/Commissioner
APPROVED BY AGENCY: October 9, 1986
FILED WITH LRC: October 9, 1986 at 1 p.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amended After Hearing)

601 KAR 1:005. Safety regulations.

RELATES TO: KRS Chapter 281
PURSUANT TO: KRS 281.600, 281.726, 281.730
NECESSITY AND FUNCTION: This regulation sets out safety procedures to be followed by motor carriers operating in the Commonwealth of Kentucky.

Section 1. (1) Motor Carrier Safety Regulations [as of October 1, 1974, and future amendments and revisions thereto,] adopted and issued by the United States Department of Transportation relating to the following subjects: Title 49, Code of Federal Regulations, Part 391, dated October 1, 1983 as amended through June 12, 1986, Qualifications of Drivers; Title 49, Code of Federal Regulations, Part 392, dated October 1, 1983 as amended through December 5, 1984, Driving of Motor Vehicles; Title 49 Code of Federal Regulations, Part 393, dated October 1, 1983 as amended through September 28, 1984, Parts and Accessories Necessary for Safe Operation; Title 49, Code of Federal Regulations, Part 394, dated October 1, 1983 as amended through January 1, 1986, Notification, Recording and Reporting of Accidents; Title 49, Code of Federal Regulations, Part 395, dated October 1, 1983 as amended through November 23, 1984, Hours of Service of Drivers; Title 49, Code of Federal Regulations, Part 396, dated October 1, 1983 as amended through September 28, 1984, Inspection, Repair and Maintenance; Title 49, Code of Federal Regulations, Part 397, dated October 1, 1983 as amended through September 28, 1984, Transportation of Hazardous Materials; Driving and Parking Rules; [Title 49, Code of Federal Regulations, Part 392, dated October 1, 1984, Driving of Motor Vehicles; Title 49, Code of Federal Regulations, Part 393, dated October 1, 1984, Parts and Accessories Necessary for Safe Operation; Title 49, Code of Federal Regulations, Part 394, dated October 1, 1984, Notification, Reporting of and Recording Accidents; Title 49, Code of Federal Regulations, Part 396, dated October 1, 1984, Inspection and Maintenance; Title 49, Code of Federal Regulations, and Part 397, dated October 1, 1984, Transportation of Hazardous Materials; Driving and Parking Rules] are hereby adopted and incorporated [filed] herein by reference,

insofar as they do not conflict with the laws of Kentucky, and all commercial motor vehicles operated for-hire or in private carriage shall comply therewith. These regulations are not applicable to motor vehicles primarily designed for carrying passengers and having provisions for not more than eight (8) passengers and the driver [nine (9) passengers (including the driver)], motorcycles, side car attachments and motor vehicles owned by the federal government, a state, a county, a city, or a board of education.

(2) Subject to the following exemptions and exceptions:

(a) City buses, suburban buses, taxicabs, and motor vehicles (except those motor vehicles transporting hazardous materials, Part 397) operated exclusively in a residential or business district of a city are not required to comply with the aforesaid safety regulations.

(b) Private carriers engaged exclusively in farm-to-market agricultural operation when operated during daylight hours are not required to comply with the above safety regulations relative to light fixture requirements. They are, however, required to have two (2) brake lights and mechanical turn signals as set forth in 49 CFR 393. The term "farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private carrier is using the vehicle to transport agricultural products from his farm or to transport farm machinery, farm supplies, or both to his farm. However, the term "farm-to-market agricultural transportation" does not include the operation of a motor vehicle transporting hazardous materials of a type or quanitity that requires the vehicle to be marked or placarded in accordance with 49 CFR 177. The term "daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset. [Farm trucks, dump trucks, log trucks, and trucks used exclusively to haul coal, gravel, asphalt, or like materials when operated during daylight hours are not required to comply with the above safety regulations relative to light fixture requirements.]

[(c) Driver logs and maintenance and repair reports are not required to be kept or maintained on a vehicle when operated in intrastate commerce.]

Section 2. Title 49, Code of Federal Regulations, Part 390 dated October 1, 1983 as amended through April 14, 1986 is hereby adopted for the purposes of application to 49 Code Federal Regulations Section 391-397. [Motor Carrier Safety Regulations adopted and issued by the United States Department of Transportation relating to the following subjects: Title 49, Code of Federal Regulations, Part 391, dated May 7, 1986, Qualifications of Drivers; Title 49, Code of Federal Regulations, Part 395 dated October 1, 1984, Hours of Service of Drivers are hereby adopted and incorporated herein by reference, and all commercial motor vehicles operated for-hire or in private carriage shall comply therewith. These regulations are not applicable to motor vehicles primarily designed for carrying passengers and having provisions for not more than eight (8) passengers and the driver, motorcycles, side car attachments and motor vehicles owned by the federal government, a state government agency, a county or city government agency or a board of education.] [No owner or operator of a commercial motor vehicle, whether operating as a for-hire carrier or as a private carrier, shall require or permit any driver or chauffeur to remain continuously on duty for a longer period than twelve (12) hours, and when any such driver or chauffeur has been continuously on duty for twelve (12) hours he shall have at least eight (8) consecutive hours off duty. No such owner or operator shall require or permit any such driver or chauffeur to remain on duty for a longer period than sixteen (16) hours in the aggregate in any twenty-four (24) hour period, and when a driver or chauffeur has been on duty sixteen (16) hours in the aggregate of any twenty-four (24) hour period he shall have at least ten (10) consecutive hours off duty. The period of release from duty required by this regulation shall be given at such places and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. No period off duty shall be deemed to break the continuity of service unless it be for at least three (3) consecutive hours and is given at such a place and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. In case of an unforeseen emergency not resulting from the negligence of the owner or operator or his agents, servants or employees, the driver or chauffeur may complete his run or tour of duty, if the run or tour of duty but for the delay caused by the emergency could reasonably have been completed without a violation of this regulation. The cabinet may require such reports as it deems necessary for the enforcement of this regulation.]

Section 3. Buses. Buses must be maintained in a clean and sanitary condition so that the health of passengers will not be impaired. Seats must be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare. Employees in charge of buses shall be courteous and helpful to passengers, properly caring for baggage so that it will not be damaged, and should be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays. All operators must take into consideration the health and welfare of their passengers and control their operations in the public interest. Express and freight, mail bags, newspapers and baggage must be so placed as not to interfere with the driver or with the safety and comfort of passengers. Such items must be protected from the weather but shall not be carried in the aisles or in such position as to block exits or doorways on the bus. No aisle seat shall be permitted in any bus and the driver's seat must be separated from every other seat.

Section 4. Overcrowding of Passenger Vehicles. No bus operated by an authorized carrier, except city or suburban buses, shall transport passengers in excess of the load limit hereinafter set forth. The load limit shall be the rated seating capacity for which the vehicle is licensed plus twenty-five (25) percent of said rated seating capacity. This load limit is

subject to the provision that in no event shall any authorized carrier, including city or suburban bus operators, permit standees to occupy that space forward of a plane drawn through the rear of the driver's seat perpendicular to the longitudinal axis of the bus. This forward space shall be plainly marked with a line, or otherwise equipped with identification, so as to indicate to standees that they are prohibited from occupying it. No passenger shall be permitted to occupy the rear door-well of any bus vehicle that is equipped with such a rear door-well. Taxicabs shall not carry a number of passengers greater than the rated seating capacity of the vehicle, and in no event more than **fifteen (15)** [six (6)] passengers exclusive of the driver.

Section 5. Identification. All authorized carriers must at all times display on each side of every vehicle employed by them in their operations the name of the person conducting the said operation as it appears upon the certificate or permit authorizing the operation. An assumed or trade name may be used providing the appropriate statues and regulations are complied with and the assumed or trade name also appears upon the certificate or permit. The letters shall be of sufficient size so as to be readily legible. The company number of the vehicle must be prominently displayed on each side of the vehicle and the cab card issued for the vehicle must at all times be prominently displayed on the inside thereof. The name of the driver operating a vehicle engaged in transportation of persons for hire shall be prominently displayed in the vehicle.

Section 6. Rest Stops. Every regular rest stop maintained by an authorized carrier of persons must possess sufficient restaurant and rest room facilities to accommodate the driver and the number and types of passengers which may reasonably be expected to use such facilities. Rest stop establishments must have a high standard of sanitation and possess efficient equipment comparable to other restaurants or similar establishment in the area, and shall provide janitorial services necessary to assure the maximum cleanliness at all times. Adequate, efficient, economical and courteous service must be provided, together with the quality and quantity of goods and refreshments necessary to meet the reasonable requirements of the traveling public, conforming to the standard of practices and prices customarily charged in the area. Authorized carriers of persons in selecting regular rest stops must take these factors into consideration. Each authorized carrier of persons shall have on file with the cabinet a list of all its regular rest stops.

[Section 7. Flares and Warning Signals. (1) All motor trucks, as defined in KRS 189.010(3), when being operated outside of a business or residential district, shall carry flares and warning signals and shall display same so as to give notice to other vehicles being operated on the highway if the motor truck is disabled.

(2) Such flares and signals shall be the same as is required by, and shall be displayed, in accordance with the Revised Safety Regulations of the United States Department of Transportation and amendments as identified in Section 1 of this regulation [of October 1, 1974].]

Section 7. [8.] Out of Service Sticker. In the event a commercial vehicle is determined to be operating **either** improperly registered **or without registration** or in violation of any safety regulation or requirement, **officers of the Division of Vehicle Enforcement** [employees of the Transportation Cabinet] are authorized to affix thereto a notice indicating the nature of the violation, requiring its correction before the motor vehicle is further operated. Operation of such a vehicle in violation of the notice affixed thereto shall constitute a separate violation of these regulations.

Section 8. [9.] Copies of all incorporated material may be viewed in the Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Vehicle Enforcement, State Office Building, Frankfort, Kentucky 40601, or obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JOHN K. PENROD, Deputy Secretary/Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: October 9, 1986
FILED WITH LRC: October 9, 1986 at 1 p.m.

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

601 KAR 13:050. Alcohol Driver Education Program.

RELATES TO: KRS 189A.070, 186.560
PURSUANT TO: KRS 186.400, 186.560
NECESSITY AND FUNCTION: KRS Chapter 189A allows a person convicted the first time of driving under the influence of alcohol or any substance which may impair his driving ability (DUI) to have the driver license revocation period shortened from six (6) months to thirty (30) days by successfully completing an alcohol driver education program. KRS 189A.070 allows the Transportation Cabinet to set standards for the course and curriculum of the alcohol driver education program pursuant to KRS 186.560. This regulation is necessary to establish standards, needs, and criteria for such alcohol driver education programs. However, this regulation does not apply to any services provided under KRS Chapters 210, 216B, or 222.

Section 1. Definitions. (1) "Course - alcohol driver education program" means a course, that meets those requirements of Sections 6 and 7 of this regulation and that is [as defined in 601 KAR 13:030, a regulation promulgated pursuant to KRS 186.560 and 189A.070 by the Transportation Cabinet that shall be] open to any licensed driver of this state who has been convicted of a first offense of DUI, but does not include services under KRS Chapters 210, 216B, or 222.

(2) "Geographical area" is defined as that area which the applicant proposes to serve and so sets forth in his application.

(3) "Affected party" means an applicant who has applied to offer an approved driver

education program; any person or legal entity operating an approved driver education program within any portion of the geographical area proposed to be served by the applicant; or any person or legal entity which prior to an evidentiary hearing on the application files a separate application to operate an approved driver education program within any portion of the geographical area proposed to be served by the applicant.

Section 2. No person shall offer, conduct or engage in the business of offering or conducting an alcohol driver education program pursuant to KRS 186.560 and 189A.070, which purports to be an alcohol driver education program, without obtaining the prior written approval of the Transportation Cabinet, Division of Driver Licensing, pursuant to the provisions of this administrative regulation. A person shall file an application for approval of a course with the Transportation Cabinet; the application shall be on the form furnished by the Transportation Cabinet and shall contain the information required by the Transportation Cabinet. Said application forms can be obtained from the Transportation Cabinet, Division of Driver Licensing, State Office Building, 2nd Floor, Frankfort, Kentucky 40622.

Section 3. The completed application shall be accompanied by the following:

(1) A copy of the proposed course materials, curriculum, and promotional documents;

(2) A copy of the procedures and instruments used in making an assessment of the defendant's problem;

(3) The name, address, and social security number of the instructors who shall conduct the course;

(4) A copy of the manual and course materials for the instructor's preparation course; [and]

(5) A statement certifying that the fee schedule submitted with the application reflects the actual costs; and

(6) Documentation sufficient to determine whether the program is needed in the geographical area.

Section 4. In determining whether an applicant has provided documentation that the proposed driver education program is needed in a geographical area, the division shall utilize the following criteria:

(1) The extent to which the driver education program services are utilized in a geographical area in relation to the population in that geographical area.

(2) The extent to which the population in a geographical area will utilize the applicant's services if approved.

(3) The extent to which the population of the geographical area has reasonable access to driver education program services.

(4) The extent to which the proposed driver education program services adversely impact affected parties.

(5) The extent to which the applicant is able to perform the services proposed and to conform to the rules and regulations of the division.

Section 5. (1) Within fifteen (15) days of receipt of the application, the division shall notify the applicant in writing whether or not the application is completed as required by Section 3 of this regulation.

(2) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting additional documentation or of notifying the division that he elects for the application to be processed as originally submitted.

(3) An application shall be deemed filed upon a determination of completeness by the division, upon receipt of the requested additional documentation by the division, or upon receipt of a letter from the applicant stating that he elects for the application to be processed as originally submitted. An application not completed within six (6) months from he date the application was received by the division shall be returned to the applicant.

(4) The division shall give written notice to affected persons that a completed application has been filed. The notice shall set the date for a public hearing not less than ten (10) days nor more than thirty (30) days after the application is determined completed.

(5) The division shall determine whether the applicant has shown sufficient documentation to establish that the proposed drivers education program is needed in the geographical area to be served within sixty (60) days after the public hearing is adjourned.

(6) The decision of the division to approve or disapprove the application shall include:

(a) Written findings based upon the criteria set out in Section 3 of this regulation;

(b) Notice of appeal rights.

Section 6. [4.] In the event the course application is approved, the course approval shall be valid until cancelled. Any person who has obtained approval for a course shall comply with the following requirements:

(1) Apply to the Transportation Cabinet for approval if there are any proposed additions or deletions to a previously approved course or its curriculum;

(2) Perform all necessary administrative functions in connection with the course;

(3) Obtain approval from the Transportation Cabinet of the form of the certificate to be issued upon course completion as specified in subsection (4) of this section;

(4) Provide each participant, satisfactorily completing the course, with an approved certificate of course completion;

(5) Maintain records which indicate the name, address, and social security number and the date of the course and if the course was satisfactorily completed for those individuals who have attended the course within the previous five (5) years;

(6) Provide and train instructors to conduct courses;

(7) Conduct the course in accordance with the description and curriculum approved by the Transportation Cabinet;

(8) Provide the Transportation Cabinet with a schedule of class dates, times, and locations; and

(9) Authorize and permit the Transportation Cabinet to audit the records of the approved course and to monitor and evaluate any and all portions of the course including but not limited to the classroom facility, the use of the instructional materials, and the actual

presentation of the course, and qualification of instructors.

Section 7. [5.] No course shall be approved unless the course shall have a minimum of nine (9) hours of classroom instruction. The course may be completed in one (1) or more than one (1) day. The [; and the] curriculum of the course shall at least include but shall not be limited to the following subject matters:

(1) The alcohol driving offender in the Commonwealth of Kentucky;

(2) Recognizing the alcohol problem related to traffic safety;

(3) Assuming the responsibility of dealing with the problem;

(4) Alternative approaches and support to resolving the problem;

(5) Personal strategy for sustaining commitment to the alcohol driver education program;

(6) Maximizing personal influence by working with DUI offenders; and

(7) Determining risk factors created by a variety of psychological, social, and physical factors that can facilitate or inhibit the functions required in driving, including but not limited to:

(a) The effects and compensatory measures concerning the relationships between alcohol, drugs, or medication and driving performances;

(b) The negative stresses and compensatory measures associated with physical, mental, and social conditions as they relate to driver performances.

Section 8. [6.] Upon written notice the Transportation Cabinet may rescind and cancel the certification of approval of any person or agency conducting the course for good cause, including but not limited to any of the following reasons:

(1) Deletions or additions have been made to the curriculum which have not been specifically approved by the Transportation Cabinet;

(2) The agency or any instructor has failed to comply with any of the provisions of this administrative regulation.

Section 9. Any person aggrieved by a decision of the division under the authority of this regulation may appeal within fifteen (15) days to the Commissioner of Vehicle Regulation. The decision of the commissioner shall be the final decision of the cabinet.

Section 10. [7.] Any agency or person submitting information to the Transportation Cabinet certifying that an individual has enrolled, completed, or failed to complete a program which is to be given credit as provided for in KRS 186.560(7), shall submit such information on the forms as required by the Transportation Cabinet.

Section 11. A certificate issued prior to July 15, 1986, is effective only for the continuation of an alcohol driver education program as located and operated as of that date.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: October 9, 1986
FILED WITH LRC: October 9, 1986 at 1 p.m.

PROPOSED AMENDMENTS

PERSONNEL BOARD
(Proposed Amendment)

101 KAR 1:325. Initial probationary periods in excess of six (6) months.

RELATES TO: KRS 18A.0751, 18A.111
PURSUANT TO: KRS Chapter 13A, 18A.0751
NECESSITY AND FUNCTION: KRS 18A.111 provides that specified job classifications may require an initial probationary period in excess of six (6) months. KRS 18A.0751 provides that initial probationary periods in excess of six (6) months be established by administrative regulation. This regulation is to implement these statutory provisions.

Section 1. Initial Probationary Periods for Specific Job Classifications. The following job classifications shall require an initial probationary period in excess of six (6) months, as specified:

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
2001	Fish and Wildlife Law Enforcement Officer Trainee	12 months
2112	DES Duty Officer	12 months
2480	Water Patrol Officer Second Class	12 months
2481	Water Patrol Officer First Class	12 months
5105	Vocational Education Instructor	12 months
5108	Industrial and Trade Instructor	12 months
5110	MSHA Instructor	12 months
5126	Teacher of Blind and/or Visually Impaired Rank III	12 months
5127	Teacher of Blind and/or Visually Impaired Rank II	12 months
5128	Teacher of Blind and/or Visually Impaired Rank I	12 months
5131	Teacher of Deaf and/or Hearing Impaired Rank III	12 months
5132	Teacher of Deaf and/or Hearing Impaired Rank II	12 months

5133	Teacher of Deaf and/or Hearing Impaired Rank I	12 months
5141	Education Teacher Rank III	12 months
5142	Education Teacher Rank II	12 months
5143	Education Teacher Rank I	12 months
7203	Forest Guard	12 months
7205	Forest Ranger	12 months
7207	Forest Ranger Unit	12 months
7209	Forest Ranger District	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester	12 months
7222	Forester Senior	12 months
7224	Forester Chief	12 months
7226	Forester District	12 months
7228	Forester Regional	12 months
7231	Rural Fire Suppression Technical Advisor	12 months
7232	Forestry Program Specialist	12 months
7233	Forestry Program Coordinator	12 months
7235	Forestry Program Manager	12 months

Section 2. Other Provisions. (1) Except for the length of the initial probationary period, the provisions of 101 KAR 1:320 shall apply to an employee appointed to a job classification specified in Section 1 of this regulation.

(2) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall be required to serve the shorter of the initial probationary periods.

ARTHUR HATTERICK, JR., Secretary

APPROVED BY AGENCY: September 15, 1986

FILED WITH LRC: September 15, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation is scheduled for November 21, 1986, at 9:30 a.m. in Room 360 of the Capitol Annex Building. Those interested in attending please contact: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arthur Hatterick, Jr.

(1) Type and number of entities affected: All state agencies with classified employees.

(a) Direct and indirect costs or savings to those affected: No appreciable change.

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: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable change.

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: 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: 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. This regulation must apply equally to all classified employees and all state agencies with classified employees.

GENERAL GOVERNMENT CABINET
KENTUCKY BOARD OF OPHTHALMIC DISPENSERS
(Proposed Amendment)

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

RELATES TO: KRS 326.020

PURSUANT TO: KRS 326.020(3)

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

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

(2) The applicant must be eighteen (18) years of age, of good moral character, a citizen of the United States, must have passed all examinations required by the board prior to admission to the practical examination, and must have completed at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of a licensed ophthalmic dispenser, licensed physician, osteopath or optometrist, or be a graduate of an accepted school of ophthalmic dispensing. Such two (2) years of training and experience must be as a licensed apprentice as hereinafter mentioned unless it is clearly shown to the satisfaction of the board, in its sole discretion, that the training and experience of the applicant is otherwise satisfactory, provided, however, that any time spent in a recognized school for ophthalmic dispensing or in an optical laboratory as an ophthalmic technician may, at the discretion of the board, be considered as a part of the two (2) years of satisfactory training and experience.

(3) Applicants for the practical examination may be examined by the board upon matters pertaining to mathematics and physics,

ophthalmic materials and laboratory techniques, ophthalmic optics, ophthalmic dispensing and practical subjects. When any applicant passes the necessary examination and meets the qualifications as set forth, the board shall issue a license to such person to engage in the vocation of dispensing optician within the state of Kentucky. Such license shall be subject to renewal on December 31 of each year, upon renewal application Form No. 2, herein filed by reference, and upon the payment of the required fee of ten (10) dollars, wherein a renewal certificate will be issued. The renewal form and the required fee of ten (10) dollars must be received by January 2 of each year. There will be a penalty fee of five (5) dollars for any renewal form or fee received after January 2.

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

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

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

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

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

DAVID NICHOLAS, Director
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 25, 1986 at 10 a.m. EST at the offices of the Kentucky Board of Opthalmic Dispensers, 640 Fourth Avenue, Louisville, Kentucky 40201. Those interested in attending this hearing shall contact: Faye Fleming, Kentucky Board of Ophthalmic Dispensers, 640 Fourth Avenue, P.O. Box 1063, Louisville, Kentucky 40201.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Faye Fleming
(1) Type and number of entities affected: Approximately 600 licensees.
(a) Direct and indirect costs or savings to those affected: Maximum cost $5.00 for licensees violating this regulation.
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
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Possible slight increase in revenues and reduced administrative workload due to better compliance with this regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Minimal
(3) Assessment of anticipated effect on state and local revenues: Possible slight increase in state revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. N/A

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:010. Objectives of physical therapy.

RELATES TO: KRS 327.010
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The practice of physical therapy is rapidly evolving and changing in purpose and scope. The purpose of this regulation is to [clearly] define clearly

the desired goals of physical therapy and the permissible means of achieving these goals. In this manner, standards of physical therapy practice are clearly established and may be used to evaluate particular treatments which have been used or which may later evolve.

Section 1. Goals of the patient-physical therapy unit include, but are not limited to, maintaining health, preserving functional capacity, and in the presence of impairment, developing or re-establishing function through carefully planned, and implemented programs. In order to reach these objectives, the physical therapist provides consultation, evaluates patients, identifies problems, plans programs, and provides direct treatment.

Section 2. Patient Management. Adequate, effective, and efficient patient care is the ultimate goal of physical therapy. The physical therapist evaluates each patient, and determines those ways in which he can contribute to total health management. [With consent from referring physician, osteopath, podiatrist, dentist or chiropractor] He then plans and implements a treatment program, re-evaluating and making modifications as necessary, and as indicated, in consultation with the referring physician, podiatrist, dentist or chiropractor. A physical therapist shall refer to a licensed physician or dentist any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of a physical therapist.

DEBORAH BRYANT THARP, Chairman
APPROVED BY AGENCY: September 29, 1986
FILED WITH LRC: October 14, 1986 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986 at 10 a.m. in Room 110 of the Capitol Annex. Anyone interested in attending this hearing shall contact in writing by November 19, 1986: Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, 1614 Dunbarton Wynde, Louisville, Kentucky 40205-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary
(1) Type and number of entities affected: 850 physical therapists.
(a) Direct and indirect costs or savings to those affected:
1. First year: No cost factors.
2. Continuing costs or savings: No cost factors.
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: No cost factors.
2. Continuing costs or savings: No cost factors.
3. Additional factors increasing or decreasing costs: N/A
(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: No alternatives identified.
(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: Revision submitted which places restrictions on whom the physical therapist may accept for treatment when the therapist is the patient's entry point to the health care system.
TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:031. Therapist's licensing procedure.

RELATES TO: KRS 327.050, 327.060, 327.080
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The purpose of this regulation is to [clearly] define clearly the procedure for issuing licenses. This regulation standardizes the administrative procedures involved in granting a physical therapy license through the various means of qualifying.

Section 1. The fee for application for licensure by examination received by the executive secretary of the board during the first year of the biennial licensure term shall be $205. This application could result in a temporary permit and license which would be valid for more than one (1) year. The fee for application received by the executive secretary in the second year of a biennial licensure term shall be $165. This application could result in a temporary permit and license which would be valid for one (1) year or less. All application fees shall be paid by cashier's or certified check or money order payable to the Kentucky State Treasurer. Upon approval as a candidate by the board, the candidate for licensure by examination will be notified of the date, place and time of the examination by the board. Examinations will be held at a time and location set by the board. The board will administer the Professional Examination Service of the American Public Health Association examination and/or other examinations as determined by the board to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for licensure by examination after forty-five (45) days preceding the date that the next examination is to be held and credentials of the applicant are in order, fees submitted and the board is in receipt of a completed supervisory agreement statement, then a temporary permit shall be issued to be in force until sixty (60) days after the examination held six (6) months later, until the results of that examination are received and processed, or until the regularly

scheduled renewal date of all licenses to practice, March 31 of each uneven numbered year, whichever comes first.

Section 3. A temporary permit requires that the physical therpist applicant shall work only under the supervision of a physical therapist [fully] licensed and practicing in Kentucky. Supervision means that the responsible therapist be available and accessible by telecommunications at all times [to the person granted a temporary permit at all times] during the working hours of the person with a temporary permit. The supervising therapist shall [and] be responsible for the direction of the actions of the person supervised when services are performed by the person with a temporary permit including co-signing all evaluations and physical therapy recordings within fourteen (14) days. The date of the record review shall be noted. The board shall issue a temporary permit only to:

(1) Graduates who have applied for licensure by examination, have met all requirements and are sitting for the next examination or who have taken that examination and have not yet been notified of the results.

(2) Applicants for licensure by endorsement who have met all other requirements but must take one (1) or more parts of the examination again.

(3) Foreign-trained physical therapist applicants who have met all requirements for licensure application and paid all fees provided for in KRS 327.060(2), except that the applicant has not yet taken and successfully completed the PES examination and/or has not yet begun a one (1) year board approved employment as a physical therapist.

(4) Graduates who have applied for licensure by PES examination in another state and who have met all requirements for Kentucky application but who have not yet taken and/or been notified of successful completion of that examination.

Section 4. [3.] The applicant shall have three (3) attempts to pass the examination except that no applicant may work with a temporary permit longer than twenty-one (21) months. The original application fee covers the first attempt. The cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents must be assumed by the applicant for the second and third attempts. The temporary permit will be issued after request for re-examination on the second and third attempts and payment of the required fee at the discretion of the board. If the applicant fails on the third attempt, the temporary permit is revoked and the applicant may no longer be employed in Kentucky as a physical therapist. The applicant may reapply after one (1) year but must submit a new application fee and no temporary permit will be issued.

Section 5. [4.] Candidates examined by boards of other states and territories shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. The applicants' scores, calculated by the PES to meet Kentucky board requirements, shall be submitted by the Interstate Reporting Service to this board for consideration of licensure.

Section 6. [5.] The candidate for licensure by endorsement shall submit the regular license application form, shall arrange to have submitted proper evidence that he has been examined by the PES and pay an application fee proper for the period within the biennial licensure term in which he is applying. The fee submitted for application received by the executive secretary of the board in the first year of a biennial licensure term shall be $140. This application could result in a license valid for more than one (1) year. An application fee received by the executive secretary of the board in the second year of a biennial licensure term shall be $100. This application could result in a license valid for one (1) year or less. Application fees shall be paid by money order, cashier's or certified check payable to the Kentucky State Treasurer. The Kentucky State Board of Physical Therapy will endorse a candidate who has been examined by the Professional Examination Service, meets the board's requirements of national average raw score minus one and five tenths (1.5) standards deviation set equal to a converted score of seventy-five (75) on each part of the examination, and whose physical therapy license has never been revoked or suspended, and is currently not on probation or under disciplinary review in another state.

Section 7. [6.] The candidate for licensure through reinstatement may receive renewal of his license without further examination upon requesting renewal, furnishing his complete current home and physical therapy work addresses and telephone numbers, payment of the renewal fee of eighty (80) dollars plus reinstatement fee of twenty-five (25) dollars. The fee for reinstatement received which will grant licensure for a period of one (1) year or less shall be forty (40) dollars plus a reinstatement fee of twenty-five (25) dollars. Reinstatement fees shall be paid by money order, cashier's or certified check made payable to the Kentucky State Treasurer and should be sent to the executive secretary of the board. Therapists who have not been licensed for three (3) years may, in addition, be required to appear before the board and/or show evidence of professional competency. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence.

Section 8. [7.] A license, which shall be in effect until March 31st of the next uneven numbered year shall be issued by the board as soon as it receives notice from the Professional Examination Service that the candidate by examination has received a passing grade which shall be set based on the national raw average score minus one and five tenths (1.5) standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and when candidates by endorsement and foreign trained candidates have met all requirements.

Section 9. [8.] The executive secretary of the board may function admininstratively to review, process and interpret all applications received by the board and correspond with the applicants accordingly.

DEBORAH BRYANT THARP, Chairman
APPROVED BY AGENCY: September 29, 1986
FILED WITH LRC: October 14, 1986 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986 at 10 a.m. in Room 110 of the Capitol Annex. Anyone interested in attending this hearing shall contact in writing by November 19, 1986: Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, 1614 Dunbarton Wynde, Louisville, Kentucky 40205-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary
(1) Type and number of entities affected: 850 physical therapists, approximately 60 applicants/year working with a temporary permit.
(a) Direct and indirect costs or savings to those affected:
1. First year: If supervising therapist is not working on the premesis, facility or person employing the applicant with a temporary permit may be required to pay travel and time expense for supervisor every fourteen days.
2. Continuing costs or savings: No cost factors.
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: No cost factors.
2. Continuing costs or savings: No cost factors.
3. Additional factors increasing or decreasing costs: N/A
(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: No alternatives.
(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: Greater supervision requirements were deemed important when an applicant has not yet successfully completed the licensure examination or in the instance of a foreign educated applicant, to assure that the person being supervised is functioning adequately.
TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:052. Refusal, revocation, suspension or probation of license or certificate; administrative warning to licensee or certificant.

RELATES TO: KRS 327.070, 327.090
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: The board has the responsibility of enforcing the definitive procedures of refusal, revocation, suspension, or placing on probation, the license of any physical therapist and the certificate of any physical therapist's assistant or issuing an administrative warning to any licensee or certificant. Often questions concerning the law or possible violations can be resolved by mutual discussions; however, these guidelines are to be followed when the board receives, or initiates, a written and signed explicit complaint. All aspects of an investigation of a complaint shall be held strictly confidential until after enforcement action is completed or a decision is made to take no action.

Section 1. (1) Complaint. A complaint that a person (hereinafter called respondent) has failed to or refused to obey the requirements of KRS Chapter 327, the rules and regulations of the board or its "Standards of Practice Guidelines" shall be made in writing to or by the Kentucky State Board of Physical Therapy. The complaint must be a clear and concise statement of violation and it must be signed by the complainant. The complainant need not be a physical therapist or assistant. Within ten (10) days the chairman of the board shall acknowledge to the complainant receipt of the complaint by registered or certified mail.
(2) Notice to respondent. Within ten (10) days after receipt of the written complaint, the chairman of the board shall notify the respondent of the complaint by registered or certified mail, return receipt requested. This notice shall require the respondent to reply to the complaint by registered or certified mail to the board within ten (10) days after receipt of notice.
(3) Investigation of complaint. The investigation shall be a thorough, objective review of the circumstances under which the alleged violation took place. Two (2) members of the board or its official representative may wish to discuss the complaint with the respondent or complainant to collect and organize more information, but not make a decision. An investigative file shall be formed to include all information and documents acquired during the investigation.
(4) Arrangement for a hearing. After receiving respondent's written reply and after possible discussion between the board and respondent, the board shall determine if a hearing will be necessary to further investigate the complaint. If no hearing is necessary or all parties come to an agreement, the board shall advise all parties that the matter is determined to be settled or closed. If a hearing is necessary, the board shall give all involved parties thirty (30) days notice of the date, time and place the hearing will be held. The board shall call a

hearing if it may revoke, refuse, or suspend a license or certificate or place a licensee or certificant on probation or issue an administrative warning to a licensee or certificant so that the licensee or certificant can show evidence why his/her license or certificate should not be revoked, refused, or suspended or that the licensee or certificant should not be placed on probation or receive an administrative warning.

(5) Hearing. At the hearing the respondent has the right to be present and to be represented by counsel. The board may or may not wish to follow formal rules of evidence, but the board may exclude irrelevant or repetitious evidence. The hearing may be conducted to bring out pertinent facts, including the calling of witnesses and the production of pertinent documents. Testimony shall be under oath or affirmation. The hearing shall be recorded. All documents accepted by the board, including the investigative file, shall be made part of the record of the hearing.

(6) Findings and decisions. After the hearing the board shall make findings as to all questions of fact and all questions of interpretation of KRS Chapter 327, board rules and regulations and the "Standards of Practice Guideline." The board may close the matter or settle, and notify all persons involved, or it may take appropriate disciplinary action after conferring with the Attorney General to assure that all guidelines have been followed correctly.

Section 2. Any person aggrieved by an order of the board denying, suspending or revoking his/her license or certificate may appeal to the Franklin Circuit Court within thirty (30) days after entry of said order for appropriate relief. Examination of the record of the board's action will be done for the purpose of determining whether the board abused its discretion.

Section 3. The Kentucky State Board of Physical Therapy hereby adopts a "Standards of Practice Guidelines" for evaluating the performance of a physical therapist or physical therapist's assistant. These guidelines being one and the same as adopted by the Kentucky State Board of Physical Therapy at its meeting on <u>September 29, 1986</u> [June 7, 1985] and filed with the board minutes.

DEBORAH BRYANT THARP, Chairman

APPROVED BY AGENCY: September 29, 1986

FILED WITH LRC: October 14, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986 at 10 a.m. in Room 110 of the Capitol Annex. Anyone interested in attending this hearing shall contact in writing by November 19, 1986: Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, 1614 Dunbarton Wynde, Louisville, Kentucky 40205-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary

(1) Type and number of entities affected: 850 physical therapists, 210 assistants.

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

1. First year: No cost factors.

2. Continuing costs or savings: No cost factors.

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: No cost factors.

2. Continuing costs or savings: No cost factors.

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

(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: No alternatives.

(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: The board is charged with timely review and revision of the "Standards of Practice Guidelines." The section concerning supervisory relationships was expanded to include all physical therapists, not merely the director of the service regarding responsibility for and to many individuals within the health care network. Other revisions bring the standards into compliance with changes proposed in 201 KAR 22:010 in conjunction with a more recent interpretation of KRS 327.010(1).

TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission
(Proposed Amendment)

201 KAR 27:015. Prompt payment of fees, fines and forfeitures required.

RELATES TO: KRS 229.081, 229.091(1), 229.991

PURSUANT TO: KRS 229.180

NECESSITY AND FUNCTION: KRS 229.091(1) provides that every licensee shall be subject to such regulations as the commission prescribes. This regulation is intended to insure that licensees pay all fees, fines and forfeitures owed to the Commonwealth in a prompt manner.

Section 1. All compensation agreements shall be in writing and submitted to the commissioner for his approval not less than five (5) days prior to the date of the proposed show.

Section 2. Compensation shall not be paid to any contestant or official in advance unless by prior approval of the commissioner.

Section 3. No promoter shall pay any part of the compensation due to managers, contestants, or their agents, if such manager or contestant <u>or agent</u> owes the Commonwealth of Kentucky any fees, fines, forfeitures, or other funds

incurred in conducting, holding, giving, officiating at, or participating in, boxing or sparring matches, wrestling matches or exhibitions.

Section 4. The schedule for compensation to be paid in advance to officials participating in a professional match shall be as follows:
(1) Announcers - $75.
(2) Judges (minimum three (3)) - $100 each.
(3) Timekeeper - $35.
(4) Physician (less than nine (9) contestants - $125.
(5) Physician (nine (9) or more contestants) - $150.
(6) Seconds (minimum two (2)) - $10 each.
(7) Referees - $125 each. If there are more than four (4) bouts, a minimum of two (2) referees is required.
(8) Each official (except seconds) must be paid an additional fifty (50) dollars if the site of the show to which he must travel is located more than fifty (50) miles from the official's principal residence.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: September 24, 1986
FILED WITH LRC: October 13, 1986 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986, at 10 a.m. (EST) at the offices of the Kentucky Athletic Commission, Kentucky Towers, 430 W. Muhammad Ali Blvd., Louisville, Kentucky 40202. Those interested in attending this hearing shall contact: Kathy Harmon, Office of the Attorney General, Room 16, State Capitol, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 357 officials.
(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: N/A.
(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:
TIERING: Was tiering applied? N/A.

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

301 KAR 2:140. Seasons for wild turkey.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.176, 150.305, 150.320, 150.330, 150.360, 150.365, 150.390
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: This regulation pertains to seasons and limits for wild turkey. The commissioner with the concurrence of the commission finds this regulation necessary for the continued protection and conservation of wild turkey populations and to insure a permanent and continued supply for present and future residents of the state. The function of this regulation is to provide for the prudent taking of wild turkeys within reasonable limits based upon an adequate supply. This amendment is necessary to designate currently appropriate turkey hunting seasons for specific counties and wildlife management areas.

Section 1. Seasons and Counties Open to Wild Turkey Hunting. (1) [Seasons and counties.] April 15 [16] through April 28 [29] in Ballard, Bath, Pike, Letcher, Menifee north of Highway 460, Harlan, Butler east of the Green River Parkway, Boyle, Casey, Marion east of Highway 55, McCreary north of Highway 92, and Pulaski. April 15 [19] through April 21 [22] in Adair north of the Cumberland Parkway, Bell south of Highway 119 and east of Highway 25E, Breckinridge south of Highway 60, Bullitt, Caldwell south of West Kentucky Parkway, Carter north of I-64, Christian [east of Highway 41, Crittenden north of Highway 60], Franklin west of the Kentucky River, Greenup, Henry south of Highway 22, Hopkins south of West Kentucky Parkway, Lewis east of Highway 59, Logan west of Highway 431, Marshall southwest of Highway 68, Nelson north of the Bluegrass Parkway, Taylor south of Highway 70, Todd east of Highway 181, Webster east of Highway 41A, Hancock east of Highway 69, and Ohio east of Highway 231 [Counties].
(2) All other counties and portions of counties are closed to wild turkey hunting except as specified in Section 4 of this regulation.

Section 2. Bag and Possession Limits. (1) Only one (1) turkey with visible beard per hunter per spring season [calendar year] may be taken, except that two (2) turkeys may be taken if one (1) is taken on Fort Knox, Fort Campbell, or Land Between the Lakes. [A second Kentucky wild turkey permit must be obtained before hunting a second turkey.]
(2) Effective January 1, 1987, only one (1) turkey may be taken in the fall by archery on areas specified in regulations pertaining to deer and turkey on special areas.
(3) No more than three (3) turkeys may be taken in any calendar year.

Section 3. Requirements and Restrictions. (1) The use of dogs is prohibited.
(2) All turkey hunters must have in their possession a valid wild turkey permit and a valid annual Kentucky hunting license, unless exempted by KRS 150.170(3), (5), (6) or (7).

(3) Turkey may be taken from one-half (1/2) hour before sunrise until 12 noon.

(4) Turkey may be taken with the aid of hand or mouth operated calls. Electronic calls are prohibited.

(5) Permitted and prohibited weapons.

(a) Firearms: Turkey may be taken with shotguns only. Shotguns must be no larger than 10 gauge or no smaller than 20 gauge. Only Number 2 shot or smaller may be used. Buckshot and slugs may not be possessed while turkey hunting.

(b) Archery: Turkey may be taken with any longbows and compound bows which do not have devices to hold an arrow at full draw without human aid. Only barbless arrows without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide are permitted.

(6) Any hunter harvesting a wild turkey must have it checked at the nearest check station or by the nearest available conservation officer no later than 5:00 p.m. on the day the turkey is taken except as required on specified wildlife management areas. The hunter must complete the wild turkey permit and attach the tag portion to the turkey immediately after taking.

(7) Turkeys may be taken with the aid of decoys. Live turkeys may not be used as decoys.

(8) Turkeys may not be hunted on any baited area. A baited area means any area where feed, grains or any other substances capable of luring wild turkeys have been placed. Such areas shall be considered baited for ten (10) days following the complete removal of all bait. This does not prohibit hunting wild turkeys on any areas where grains, feed or other substances exist as the result of bona fide agricultural practices, or as the result of manipulating a crop for wildlife management purposes, provided that manipulation for wildlife management purposes does not include the placing or scattering of grain, feed or other substances once removed from or stored on the field where grown.

(9) Turkeys may not be hunted from boats.

Section 4. Seasons and Exceptions on Wildlife Management Areas. All provisions of this regulation apply unless otherwise specified in this section.

(1) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties.

(a) Season: All Saturdays and Sundays in March and April.

(b) Weapons: Muzzle-loading rifles .32 caliber or larger are permitted and 10 gauge shotguns are prohibited. Archery equipment may be used in designated areas only.

(c) Hunters must check turkeys at building 7334 by 2:00 p.m. on the day harvested.

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

(a) Season: April 15 [16] through May 3 [4].

(b) Wild turkey may be taken only in designated areas.

(c) All hunters must check in and out, must check any turkey before leaving Land Between the Lakes and affix an LBL tag to the carcass.

(d) Shooting hours: One-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(3) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Muzzle-loading rifles and muzzle-loading handguns are permitted. Breech-loading shotguns are prohibited. Crossbows of at least 100 pounds pull with a working safety are permitted. Bolts must be barbless with broadhead points at least seven-eighths (7/8) inch wide.

(4) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties.

(a) Season: April 11 [5] through May 3 [April 27] with no hunting permitted on Mondays and Tuesdays.

(b)Permit: A post combination hunting-fishing permit is required.

(c) Shooting hours: One-half (1/2) hour before sunrise to one-half (1/2) after sunset.

(5) Blue Grass Ordnance Depot Activity located in Madison County. April 15 [16] through April 28 [29].

(6) Ballard Wildlife Management Area in Ballard County is closed to turkey hunting, except that portion south of Terrell Landing Road.

(7) Swan Lake Wildlife Management Area in Ballard County is closed to turkey hunting.

G. WENDELL COMBS, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman

APPROVED BY AGENCY: September 26, 1986

FILED WITH LRC: September 26, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 25, 1986, at 9 a.m. in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Mr. Lauren E. Schaaf, Acting Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 4,000 persons will participate in the wild turkey hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license and a wild turkey permit. Indirect costs are determined by the individual hunter, depending upon his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($7.50 for residents) and wild turkey permit ($6.50) unless exempt by regulations.

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

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

(b) Reporting and paperwork requirements: None

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

(a) Direct and indirect costs or savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $80,000.

2. Continuing costs or savings: Same as first

year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 4,000 turkey hunters may be expected to expend money for equipment, transportation, food, and lodging. The annual expenditure for these items averages $25 per day of hunting according to the 1980 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that wild turkey populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process since it is specific to turkey hunters.

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

301 KAR 2:220. Hunting seasons for migratory birds.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.240, 150.305, 150.330, 150.340, 150.360, 150.600, 150.603, 150.630

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the seasons and limits for the taking of specified migratory birds, to the associated permitting and harvest reporting requirements, and to restrictions in the use of blinds and pits. It is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply. This amendment is necessary to change season dates, bag limits, and define terms.

Section 1. Seasons for Gun and Archery. (1) Ducks, coots and mergansers: November 27 [28] through November 30 [December 1] and December 14 [9] through January 18 [13].

(2) Geese:

(a) Eastern Zone: November 12 [28] through January 20, east of a boundary beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, East on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.

(b) Western Zone: This zone consists of the area to the west of the boundary described in paragraph (a) of this subsection. For the purpose of controlling the goose harvest, the Western Zone is subdivided into the Ballard Reporting Area [quota zone] and associated counties and the Henderson-Union Reporting Area [quota zone] and associated counties. Seasons within the Western Zone are specified as follows:

1. Canada Goose Seasons:

a. [1.] Ballard Reporting Area [quota zone]: December 13 [23] through January 31, or until such time as 9,500 [4,400] Canada geese are harvested, whichever occurs first. This reporting area [zone] is defined as the area within the following boundary: Starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the quota of 9,500 [4,400] Canada geese will be filled prior to January 31, the goose hunting season will close in the Ballard Reporting Area [quota zone and in those portions of Ballard, McCracken, Graves, Carlisle, Hickman, Fulton and Marshall Counties in the Western Zone]. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

b. Counties associated with the Ballard Reporting Area: December 13 through January 31, or seven (7) days after the closure of the Ballard Reporting Area, whichever occurs first. The counties associated with the Ballard Reporting Area include those portions of Ballard (excluding Ballard Reporting Area), McCracken, Graves, Carlisle, Hickman, Fulton and Marshall counties in the Western Zone.

c. [2.] Henderson-Union Reporting Area [quota zone]: December 13 [23] through January 31, or until such time as 3,000 [1,400] Canada geese are harvested, whichever occurs first. This reporting area [quota zone] includes those portions of Henderson and Union Counties within the Western Zone. Should it be determined that the quota of 3,000 [1,400] Canada geese will be filled prior to January 31, the goose hunting season will close in the Henderson-Union Reporting Area [in this zone and those portions of Lyon, Crittenden and Livingston Counties in the Western Zone will close]. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

d. Counties associated with the Henderson-Union Reporting Area: December 13

through January 31, or seven (7) days after the closure of the Henderson-Union Reporting Area, whichever occurs first. The counties associated with the Henderson-Union Reporting Area include those portions of Lyon, Crittenden and Livingston counties in the Western Zone.

2. Season for goose species other than Canada geese (snow (including blue) geese, white-fronted geese, and brant): November 27 through January 20, or whenever the Canada goose season closes, whichever occurs first.

(3) Sora Rails, [and] Virginia Rails, Common Moorhens, and Purple Gallinules: November 27 [28] through January 20.

Section 2. Limits for Gun and Archery. (1) Ducks and Mergansers: Point system bag and possession limits will be in effect. Point values for species and sexes are as follows:

100 points: mallard hen and black duck.

70 points: redhead, wood duck, and hooded merganser.

35 points: mallard drake, pintail and all species of ducks not listed in other categories.

20 points: all teal species, wigeon, gadwall, shoveler, scaup, and mergansers (except hooded merganser).

The season on canvasbacks is closed.

The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in two (2) days. [: The daily bag limit is four (4), and may include no more than two (2) mallards (no more than one (1) of which may be a female), one (1) black duck, two (2) wood ducks, two (2) pintails, one (1) canvasback and one (1) redhead. The possession limit is the maximum number of ducks which could have legally been taken in two (2) days.]

[(2) Mergansers: The daily bag limit is five (5), only one (1) of which may be a hooded merganser. The possession limit is ten (10), only two (2) of which may be hooded mergansers.]

(2) [(3)] Coots: Coots have a point value of zero, but the daily bag limit is fifteen (15) and the possession limit is thirty (30).

(3) [(4)] Geese:

(a) The bag limit is five (5) with no more than two (2) Canada and two (2) white-fronted geese.

(b) The possession limit is ten (10), not to include more than four (4) Canada and four (4) white-fronted geese.

(4) [(5)] Sora and Virginia Rails: The bag and possession limits are twenty-five (25) singly or in the aggregate.

(5) [(6)] Common Moorhens and Purple Gallinules: The bag and possession limits are fifteen (15) and thirty (30), respectively, singly or in the aggregate of the two (2) species.

Section 3. Shooting Hours. One-half (1/2) hour before sunrise to sunset for all species listed in this regulation except that shooting hours in the Ballard Reporting Area [quota zone] will be one-half (1/2) hour before sunrise to 2:00 p.m. for ducks, geese, coots and mergansers during the Canada goose season in the Ballard Reporting Area [quota zone].

Section 4. Shot Size Restrictions. No lead shot larger than BBs or steel shot larger than F [T] may be in possession while hunting the species listed in this regulation.

Section 5. Falconry Season. November 1 through Janaury 18 [20]. All legal species listed in this regulation may be taken by falconry.

(1) Falconry limits. The bag and possession limits are three (3) and six (6), respectively, of any legal species listed in this regulation, singly or in the aggregate.

(2) Hunting hours for falconry. The hunting hours will conform with the shooting hours stated in Sections 3 and 7 of this regulation.

Section 6. Wildlife Management Area Blind and Pit Regulations. The following restrictions apply to all wildlife management areas except those excluded in Section 7 of this regulation.

(1) Permanent blinds or pits are not permitted. Decoys and temporary blinds must be removed at the end of each hunting day.

(2) No blind may be established less than 200 yards from any other blind or waterfowl refuge areas. For the purposes of this section, an anchored, stationary, or drifting boat from which waterfowl are hunted is considered a blind.

(3) No more than four (4) persons shall occupy a blind or pit at any one time.

(4) Designated recreation areas and access points are closed to waterfowl hunting.

[Migratory Bird Shipping and Transporting Restrictions. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of any licensed waterfowl hunter, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese.]

Section 7. Exceptions for Specified Wildlife Management Areas and Counties. Unless otherwise specified in this section or other regulations, stipulations of the other sections of this regulation apply.

(1) Ballard Wildlife Management Area, except the Miller Tract, located in Ballard County.

(a) Species and seasons.

1. The season for ducks, coots and mergansers is December 18 [26] through January 18 [13].

2. The season for geese is December 18 [26] through January 31, or until such time as the Ballard Reporting Area [quota zone] is closed, whichever occurs first.

3. No hunting is permitted on Sundays.

4. No more than three (3) persons shall occupy a single blind or pit at the same time.

(b) General rules. There will be a ten (10) shell limit per hunter when hunting geese. [This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas.] Shooting ducks is permitted in goose hunting areas [but shooting geese in duck areas is prohibited]. Any hunter under the age of eighteen (18) years must be accompanied by an adult. Any person whose transportation to and from blinds and pits is furnished by the department must have his gun encased.

(c) Shooting hours. The shooting hours are one-half (1/2) hour before sunrise to 12:00 noon.

(2) Peal Wildlife Management Area located in

Ballard County. That portion of the Peal Wildlife Area as designated by signs is closed to the public from October 15 through March 15. No person, except agents of the department and the U.S. Fish and Wildlife Service, shall enter upon this portion of the Peal Wildlife Area during the closed period. Waterfowl hunting will be permitted in the area to the east of the gravel road running from the north boundary to the south boundary of Peal Wildlife Management Area. This open area includes Fish and Buck Lakes. Waterfowl hunting is also permitted on the Mitchell Tract. [Waterfowl hunting on Fish Lake will be permitted from designated locations only. No more than one (1) blind may be placed at each designated location and all blinds must be removed daily. No more than three (3) persons may occupy a blind at one time.]

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

(a) Closed area. Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. Duncan Bay is closed to all activity. The Environmental Education Center is closed to waterfowl hunting.

(b) LBL permit. An annual LBL hunting permit is required for waterfowl hunting on all shoreline and inland areas. Shoreline areas are defined as all LBL areas along Kentucky and Barkley Lakes from the water's edge to twenty-five (25) yards above elevation 359'. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to Lake Barkley Wildlife Management Area regulations. Inland areas are defined as all areas above shoreline areas. No waterfowl hunting is permitted on inland areas during quota gun deer hunt days. Permanent blinds and pits are not permitted on inland areas nor along the Kentucky Lake shoreline area. Decoys and temporary blinds must be removed at the end of each hunting day.

(4) Lake Barkley Wildlife Management Area located in Trigg, Lyon, and Livingston Counties.

(a) Closed areas. Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated in this subsection and on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15 within an area including a row of islands on the west side of the main channel as marked by buoys and signs between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, Fulton Bay will remain closed until March 15 and Honker Bay until March 1, or later if marked by buoys and signs. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15.

(b) Blinds and pits. Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, may be used but must remain within ten (10) yards of the assigned numbered blind marker within the area described as follows: Beginning at the mouth of Donaldson Creek and proceeding south along the east side of the old Cumberland River channel as marked by buoys, to a point due west of the boat ramp at Linton, then east to the Linton boat ramp, then north along the east shore of Barkley Lake to the mouth of Donaldson Creek. All other blinds within this described area must be temporary.

(5) Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit. Waterfowl hunting is permitted only from permanent blinds or pits registered by the department.

(b) Jenny Hole-Highland Creek Unit. Waterfowl hunting will be allowed from permanent blind or pit sites registered by the department and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties.

(c) Shooting hours. One-half (1/2) hour before sunrise to 2:00 p.m.

(d) When the Ohio River reaches a level that requires boat access to the units, hunting will be allowed from boats spaced 200 yards apart, without regard to the registered blinds or pits.

(e) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County, except the Crenshaw and Duncan Tracts, will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. The privately owned inholding totaling 468 acres and known as the Wood Tract, located between mile marker 4 and 6 on state road 268 and bounded by the Ohio River on the north and Tram Road on the east and the Sauerheber Unit of the Sloughs WMA, is closed to all hunting, fishing, boating and trespassing between October 15 and March 15.

[(6) Ohio River Islands Wildlife Management Area. This area consists of Twin Sisters, Pryor and Rondeau Islands and the mainland marsh area between Twin Sisters and Pryor Islands. Waterfowl blinds must be removed at the end of each day's hunting. All blinds must be 200 yards apart and only four (4) persons may occupy a blind at one time.]

(6) [(7)] Ohio River Waterfowl Refuge located in Livingston County will be closed to all hunting and molesting of waterfowl from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(7) [(8)] Ohio River in the vicinity of the Ballard Wildlife Management Area located in Ballard County. Waterfowl hunting is not permitted on the Ohio river from a point fifty (50) yards upstream from Dam 53, downstream to a point fifty (50) yards below the downstream boundary of the Ballard Wildlife Management Area.

(8) [(9)] That portion of the Grayson Lake Wildlife Management Area located in Carter and Elliott Counties, which lies east of the Little Sandy River and Bruin Creek portions of Grayson Lake, is closed to all waterfowl hunting.

(9) [(10)] Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(10) [(11)] Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties is closed to all waterfowl hunting.

(11) [(12)] Cane Creek Wildlife Management Area located in Laurel County is closed to all waterfowl hunting.

(12) [(13)] Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all waterfowl

hunting.

(13) [(14)] Redbird Wildlife Management Area located in Leslie and Clay Counties is closed to all waterfowl hunting.

(14) [(15)] Mill Creek Wildlife Management Area located in Jackson County is closed to all waterfowl hunting.

(15) [(16)] Ohio County south of Rough River, Muhlenberg County east of state route 181, and Butler County west of state route 79 are closed to goose hunting.

(16) [(17)] Yellowbank Wildlife Management Area in Breckinridge County. A twenty-five (25) acre wetland designated by signs and painted boundary markers is closed to the public from October 15 through March 15.

(17) [(18)] Blind and pit restrictions for Barkley Lake, Barren Lake, Green River Lake, Nolin River Lake, Rough River Lake, Buckhorn Lake and Taylorsville Lake Wildlife Management Areas, and the Grassy Pond-Powell's Lake and Jenny Hole-Highland Creek units of the Sloughs Wildlife management Area.

(a) Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, may be used but must be registered on a permit issued by the U.S. Army Corps of Engineers or the Department of Fish and Wildlife Resources. Permittees will be selected by drawing. Applicants for blind or pit permits must present a current Kentucky hunting license to the registration clerk at the time of the drawing. Applicants may designate one (1) other person as a partner for registration. No more than two (2) nontransferable permits may be issued for each permanent blind or pit. Only one (1) permit will be issued per hunter per area. Permittees who have not constructed a pit or blind at the designated location by November 20 will forfeit their permit. Sites which become available by forfeiture may be assigned to another applicant according to the following procedure: twenty (20) additional names will be drawn at each area (or the number of remaining names if less than twenty (20) are present) and any forfeited blinds will be assigned to those people in the order they were drawn.

(b) Blinds or pits not occupied by permittees by the opening of shooting hours of any day are available for use by other hunters on a first come-first served basis for the remainder of that day.

(c) Permittees shall not lock blinds or pits so as to prevent use by other hunters in the absence of the permittee.

[(d) No blind or pit may be established less than 200 yards from any other blind or pit or waterfowl refuge.]

[(e) No more than four (4) persons shall occupy a blind or pit at any one time.]

[(f) Designated recreation areas and access points are closed to waterfowl hunting.]

(d) [(g)] Permanent pits or blinds must be removed within thirty (30) days of the close of waterfowl season unless extension of that period is approved.

(18) White City Wildlife Management Area located in Hopkins County.

(a) Existing blinds or pits not occupied by hunters by the opening of shooting hours of any day are available for use by other hunters on a first come-first serve basis for the remainder of that day.

(b) Hunters shall not lock blinds or pits, or otherwise prevent use by others in their absence.

(c) Existing permanent pits or blinds may be used, but must be removed within thirty (30) days of the close of waterfowl season unless extension of that period is approved by the commissioner.

(d) Waterfowl shooting hours on White City Wildlife Management Area are from one-half (1/2) hour before sunrise to 2:00 p.m.

Section 8. Ballard and Henderson-Union Reporting Area [quota zone] Waterfowl Hunting Permit Requirements. It is unlawful for any person to hunt waterfowl within the Ballard or Henderson-Union Reporting Areas [quota zones] without first obtaining the appropriate waterfowl hunting permit or waterfowl harvest register forms as specified in subsections (1), (2) and (3) of this section.

(1) Commercial waterfowl hunting areas.

(a) A commercial waterfowl hunting area is any area of land or water, used in whole or in part for the taking of migratory waterfowl, where a monetary charge is made.

(b) A commercial waterfowl hunting permit issued by the department must be obtained by any person operating a commercial waterfowl hunting area. An annual fee will be charged for each commercial waterfowl hunting permit. Persons operating more than one (1) commercial waterfowl hunting area must obtain a permit for each individual area.

(c) A land holding divided by a public road may be operated as a commercial waterfowl hunting area under one (1) permit. Whenever a farm unit is divided by land owned by others, a separate permit is required for each tract of land operated as a commercial waterfowl hunting area.

(2) Non-commercial waterfowl hunting areas.

(a) A non-commercial waterfowl hunting area is any area used in whole or in part for the taking of migratory waterfowl where no monetary charge is made.

(b) Any person controlling the waterfowl hunting rights and privileges on a non-commercial waterfowl hunting area must obtain a free migratory goose hunting area permit. [This permit shall expire annually on the day after the end of the waterfowl season.]

(c) The holder of a free migratory goose hunting area permit may be the landowner, his tenant or any person to whom these individuals have assigned exclusive control of goose hunting rights or privileges, in writing, on forms provided by the department.

(d) The permittee shall display the permit openly on the property for which it was issued and provide the permit for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Ohio and Mississippi River waterfowl hunters. Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas [quota zones] must carry on their person a waterfowl harvest register form provided by the department. When hunting in a party, it is permissible that only one (1) hunter of the party possess the goose harvest reporting form provided the names of all members of the party are written on the form.

(4) Obtaining permits and harvest reporting forms.

(a) Persons desiring commercial waterfowl hunting permits, migratory goose hunting area permits, or a season supply of waterfowl harvest register forms for the Ballard Reporting Area [quota zone] may apply by writing to the Ballard County Wildlife Management Area, Route 1, LaCenter, Kentucky 42056.

(b) Persons desiring commercial waterfowl hunting permits, migratory goose hunting area permits, or a season supply of goose harvest reporting forms for the Henderson-Union Reporting Area [quota zone] may apply by writing to the Sloughs Wildlife Management Area, RR 2, Box 183A, Corydon, Kentucky 42406.

(c) Waterfowl harvest register forms for either reporting area [quota zone] will also be available from conservation officers in each area [zone] and from the Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

Section 9. Ballard and Henderson-Union Reporting Area [Quota Zone] Recordkeeping and Reporting Requirements. (1) Commercial waterfowl hunting permit holders.

(a) The permittee shall maintain and keep an accurate and complete daily hunter register and waterfowl harvest record in duplicate on the hunting area on forms provided by the department.

(b) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Sunday and Wednesday and mail or take the original [copy] of the completed daily register and waterfowl harvest record form each subsequent Monday and Thursday to the address indicated on the form. The permittee must hold duplicate copies of these completed forms at the place of registration and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(c) A permittee is responsible for any violation of permit requirements or violations of other regulations committed on the premises under permit unless he immediately reports such violations to a conservation officer.

(2) Migratory goose hunting area permit holders.

(a) At all times during the waterfowl season, the permittee shall make available on the premises under permit the daily hunter registration forms as provided by the department.

(b) The permittee shall require all waterfowl hunters to enter their names and the date on the register and report form prior to each time they hunt on any permit area and to record, prior to leaving the permitted premises, the numbers and kinds of geese taken.

(c) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Sunday and Wednesday and mail or take the original [copy] of the completed daily register and waterfowl harvest record form each subsequent Monday and Thursday to the address indicated on the form. The permittee must hold duplicate copies of the forms for a period of two (2) months after the end of the waterfowl season and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Hunter requirements.

(a) Persons hunting waterfowl on commercial or non-commercial waterfowl hunting areas in the Ballard or Henderson-Union Reporting Areas [quota zones] must:

1. Prior to hunting, enter their name, address, and the date of the hunt on the daily register form made available by the waterfowl hunting area operator.

2. Before leaving the premises, enter on the waterfowl harvest register form the numbers and kinds of geese taken.

(b) Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas [quota zones] must:

1. Prior to hunting, enter on the waterfowl harvest register form their name and address, or the names and addresses of all hunting party members if only one (1) hunter is carrying the form for the party, and the date.

2. At the end of each day's hunting, enter on the waterfowl harvest register form the number and kinds of geese taken.

3. No later than Monday and Thursday of each week, mail or take the completed original [copy] of the waterfowl harvest register to the address indicated on the form.

Section 10. General Rules Concerning Waterfowl Hunting in the Ballard Reporting Area [Quota Zone]. (1) It is unlawful to hunt waterfowl except from a blind or a pit. For the purposes of this section, a blind or pit is defined as any form of concealing enclosure from which one may shoot game or observe wildlife including an anchored, stationary, or drifting boat from which waterfowl are hunted [is considered to be a blind].

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

(3) It is unlawful to establish or locate any blind or pit within fifty (50) yards of any property line.

(4) No more than five (5) persons may occupy a single blind or pit at the same time.

(5) A hunter may possess only one (1) shotgun while occupying a blind or pit.

Section 11. Kentucky Waterfowl Stamp Requirements. (1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).

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

G. WENDELL COMBS, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: September 26, 1986
FILED WITH LRC: September 26, 1986 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986, at 2 p.m. in the Commission Room of the Department of Fish and Wildlife Resources central offices at Frankfort, Kentucky. Those interested in attending this hearing shall contact: Mr. Lauren E. Schaaf, Acting Director, Wildlife Division, Department of Fish and

Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 14,000 persons will participate in the waterfowl hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license, a federal migratory bird hunting and conservation stamp, and a state duck stamp. Approximately 25 commercial waterfowl hunting area operators will be required to purchase a permit. Indirect costs are determined by the individual hunter, depending upon his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($7.50 for residents) unless exempted by statute, a $7.50 migratory bird hunting and conservation stamp, and a $5.25 state duck stamp. Commercial waterfowl hunting operators will be required to purchase a $40 permit each.

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

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

(b) Reporting and paperwork requirements: Approximately 7,500 waterfowl hunters within the Ballard and Henderson-Union reporting areas will be required to register prior to hunting waterfowl and to report their harvest on forms provided by the Department.

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

(a) Direct and indirect costs or savings: Primary costs are associated with enforcing the regulation and administering the harvest registration zones.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $275,000.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: A bi-weekly monitoring of harvest registration forms will involve tabulation of forms submitted in the Ballard and Henderson-Union reporting areas. Permits will be issued to approximately 500 individuals and landowners.

(3) Assessment of anticipated effect on state and local revenues: Approximately 14,000 waterfowl hunters may be expected to expend money for equipment, transportation, food, and lodging. The average annual expenditure for these items is $110 per migratory bird hunter according to the National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The U.S. Fish and Wildlife Service requires that any harvest of migratory birds occur through a regulated hunting season that is held within a specific time frame. Therefore, the only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that the involved species populations are at levels which can sustain a regulated harvest by Kentucky sportsmen. The regulated hunting alternative selected is that which will provide the most recreational opportunity to Kentucky waterfowl hunters while affording necessary protection to the waterfowl resource.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process since it is specific to migratory bird hunters.

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

401 KAR 47:070. Operator certification.

RELATES TO: KRS 224.842, 224.844

PURSUANT TO: KRS Chapter 13A[.210], 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.844 [224.882] requires the cabinet to promulgate regulations that establish standards and a certification program for operators of waste disposal sites or facilities. This chapter establishes standards for solid waste sites or facilities. This regulation establishes the program for education, testing, and certification of facility operators of sanitary landfills and landfarming facilities.

Section 1. Applicability. (1) The requirements in this regulation apply to all solid waste sites or facilities except as subsection (2) of this section provides otherwise. Each solid waste site or facility shall have at least one (1) operator certified in accordance with Section 3 (sanitary landfills) or Section 4 (landfarming facilities) of this regulation, as appropriate to the category of solid waste site or facility.

(2) Inert or residual landfills are excluded from the requirements of this regulation, unless the cabinet requires operator certification as a condition of the permit. In deciding whether to require operator certification at an inert or residual landfill, the cabinet may consider:

(a) The characteristics of the waste stream;

(b) The characteristics of the site, including geology and hydrology; and

(c) The experience and qualifications of the operator.

(3) It shall be the responsibility of the permittee to ensure that the solid waste site or facility complies with the requirements of this regulation.

Section 2. [1.] Definitions. The following are definitions as used in this regulation:

(1) "Category of solid waste site or facility [sanitary landfill]" means inert, residual, residential or contained landfill and [does not] includes landfarming facilities.

(2) "Certificate" means a written document [certificate of competency] issued by the cabinet stating that the operator has met all requirements for certification.

(3) "Certified operator" means a solid waste site or facility [landfill] operator who holds a valid certificate. The following are categories of certified operators:

(a) "Landfarming operator" means a certified operator who is the individual responsible for ensuring compliance with all permit conditions at a landfarming facility in accordance with 401 KAR 47:050 (landfarming), and who is reasonably available to the site.

(b) "Landfill operator" means a certified operator who is the individual responsible for the daily operating requirements identified in 401 KAR 47:040 (sanitary landfills).

(c) "Landfill manager" means a certified operator who is the individual with primary responsibility for management and operation of the sanitary landfill to assure compliance with all permit conditions including direct responsibility for providing guidance to the landfill operator and/or the permittee and the authority to commit financial resources allocated for proper operation.

(d) "Interim operator" means the individual identified by the permittee as the replacement landfarming operator, landfill operator, or landfill manager in accordance with Section 11 of this regulation.

[(4) "Landfill operator" means the individual or individuals having primary responsibility for the management and operational decisions about the daily operation of a sanitary landfill.]

Section 3. [2.] General Provisions for Landfills. (1) Each residential and contained landfill shall have a certified operator(s) who is a landfill operator and a landfill manager. [at least one (1) certified landfill operator.] The requirements of this subsection may be fulfilled by:

(a) One (1) individual who is certified in both categories (provided this individual meets the qualifications in Sections 2(3) and 10 of this regulation for both categories of operator); or

(b) Two (2) individuals who are certified in each category of operator such that one (1) individual is certified as a landfill operator and one (1) individual is certified as a landfill manager.

(2) As provided in Section 1 of this regulation, the cabinet may require that an inert or residual landfill shall have a certified operator who is a landfill operator or a landfill manager or both a landfill operator and a landfill manager. [landfill operator at inert or residual landfills as a permit condition. The decision to require this permit condition will be based on the characteristics of the waste stream, and the experience and qualifications of the landfill operator.]

(3) In the event the certified operator who is the landfill operator is not physically at the facility during operating hours, either the landfill manager or an interim operator shall be designated responsible for daily site operation and shall be physically located on-site. If an interim operator assumes responsibility for daily operation of the landfill, the requirements in Section 11 of this regulation shall be met. [the operator must leave adequate notice of how contact can be made and be reasonably available.]

(4) In carrying out its responsibilities the cabinet will examine the qualifications of applicants for certification and maintain records of certification and a register of certified operators.

(5)(a) Except as provided in Section 1 of this regulation, no landfill shall continue operation in the absence of a landfill operator on-site for more than ten (10) consecutive operating days without appointment of a qualified interim operator in accordance with Section 11 of this regulation or written approval from the cabinet.

(b) Except as provided in Section 1 of this regulation, no landfill shall continue operation in the absence of a landfill manager for a period longer than thirty (30) days without appointment of a qualified interim operator in accordance with Section 10 of this regulation or written approval from the cabinet.

Section 4. General Provisions for Landfarming Facilities. (1) Each landfarming facility shall have a landfarming operator certified in accordance with Section 6 of this regulation.

(2) No landfarming facility shall continue operation in the absence of a landfarming operator for a period longer than five (5) consecutive working days without appointment of a qualified interim operator in accordance with Section 11 of this regulation or written approval from the cabinet.

Section 5. [3.] Application for Certification. (1) An individual [operator] desiring to be certified shall file an application on a form provided by the cabinet at least thirty (30) days before beginning training for a scheduled examination.

(2) The applicant [cabinet] shall submit [assemble] all information needed to determine eligibility of the applicant for examination and certification.

(3) The cabinet shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify the applicant of the determination [notification].

(4) No person shall be eligible for examination for [or] certification unless that person completes the appropriate training class or classes provided by the cabinet, unless an alternative training program is accepted by the cabinet.

Section 6. [4.] Training Classes and Examinations. (1) The cabinet will provide training classes for the landfill operator.

(2) Training sessions will be held at least annually at places and times set by the cabinet. The last day of each training session will be set aside for the purpose of examinations to

determine the knowledge and ability of the applicant.

(3) Certification shall be conditioned on successful passage of a written examination, unless an alternative examination process is accepted by the cabinet.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities for the operation of each category of solid waste site or facility and each category of certified operator [sanitary landfill].

(5) Applicants who fail to pass an examination may reapply for the examination at a regularly scheduled examination or by appointment with the cabinet. The cabinet shall require the applicant to attend the training session again, if the applicant fails to pass the examination in three (3) attempts.

(6) In the event an applicant fails to meet the requirements for certification, he may petition the cabinet for a one (1) time only "temporary hardship certification." The cabinet will then conduct an informal hearing at which evidence shall be presented by the applicant to support his hardship request. Each temporary hardship certification request shall be considered on a case-by-case basis under the following guidelines:

(a) Failure of the applicant to receive certification would leave a significant area of the state without adequate waste disposal service.

(b) The applicant has shown a good faith effort by attending all required training sessions and met all requirements except the applicant has failed in three (3) attempts to pass the examination [requirement].

(c) The applicant has shown, through cabinet inspections, a capability for satisfactory operation of the solid waste site or facility.

Section 7. [5.] Issuance of Certificates. (1) Upon passage of the examination the cabinet will issue a certificate to the applicant which [designating competency. This certificate] will indicate the category of solid waste site or facility and the category of certified operator [sanitary landfill] for which the operator is certified [qualified].

(2) Certified [Landfill] operators shall be recertified every five (5) years.

(3) Certificates will be issued to holders of certificates of another state if the training requirements of the issuing state are deemed comparable and if the operator passes the cabinet's examination.

[(4) Certificates shall be valid only so long as the holder uses reasonable care and judgment in the performance of an operator's duties. No certificate will be valid if obtained through fraud, deceit, or the submission of inaccurate data on qualifications.]

(4) [(5)] The certificates of operators who terminate their employment at a solid waste site or facility [sanitary landfill] will remain valid until expiration or revocation of the certificate [if recertified].

(5) [(6)] Certificates [will be of such size and nature that they may be carried in a billfold and] shall be carried on the person of each certified operator during working hours at the facility or prominently displayed on-site.

[(7) Certification of all current operators shall be accomplished within twelve (12) months of the effective date of these regulations, and certification of operators who are hired after the effective date of this regulation shall be accomplished within one (1) year of assuming the responsibility of landfill operator.]

Section 8. Compliance Dates. (1) The regulatory requirement to have one (1) certified operator at each residential or contained landfill (and inert or residual landfills with the permit condition to have a certified operator) became effective on February 1, 1982. In accordance with the regulation 401 KAR 2:111 (recodified to 401 KAR 47:070 on March 1, 1983) which became effective on February 1, 1982, each residential and contained landfill in existence on that date was required to have one (1) certified operator by February 3, 1983.

(2) By January 1, 1988, each residential landfill and contained landfill shall have a certified landfill operator and a landfill manager or one (1) individual who is certified as both a landfill operator and landfill manager.

(3) By December 31, 1988, each landfarming facility shall have a certified landfarming operator.

(4) An operator who is not an appropriately certified operator and who assumes the responsibility of a certified operator shall:

(a) Immediately comply with the requirements in Section 11 of this regulation: and

(b) Comply with the requirements in Section 6 of this regulation within fifteen (15) months of assuming the responsibility.

Section 9. [6.] Revocation of Certificate. (1) The cabinet may revoke the certificate of an operator, following a cabinet hearing, when it determines that the operator has practiced fraud or deception, or that the operator has failed [is incompetent] to perform an operator's duties including, but not limited to, failure to comply with permit conditions.

(2) The cabinet may revoke a certificate whenever the holder fails to use reasonable care and judgement in the performance of an operator's duties. No certificate shall be valid if obtained through fraud, deceit, or the submission of inaccurate data on qualifications.

(3) Individuals who have had their certificate revoked by the cabinet shall be ineligible for future recertification.

Section 10. [7.] Operator Qualifications: Education and Equivalencies. (1) All applicants [Operators] shall be evaluated [examined] by the cabinet as to education, and experience [knowledge] as related to the appropriate category of solid waste site or facility [sanitary landfill].

(2)(a) Applicants for landfill operator [Landfill operators] shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have a minimum of one (1) year of experience at a landfill similar to the category of landfill for which certification is sought.

(b) [(3)] If an applicant for landfill operator does not meet the requirements of paragraph (a) of this subsection [(2) of this section] the cabinet may consider the number of years of experience in operating [managing] a [category of sanitary] landfill or experience in

a related field (i.e., heavy equipment operator, road construction, surface mining, etc.) in determining eligibility for examination on a year for year basis.

(3)(a) Applicants for landfill manager shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have:

1. A minimum of two (2) years administrative experience in a related field (i.e., waste management, wastewater treatment, etc.); or

2. A minimum of two (2) years of post-secondary education; or

3. A minimum of two (2) years of a combination of experience in a related field and post-secondary education.

(b) If an applicant for landfill manager does not meet the requirements of paragraph (a) of this subsection, the cabinet may consider the qualifications of the applicant on a case-by-case basis.

(4)(a) Applicants for landfarming operator shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have a minimum of one (1) year of experience at a landfarming facility.

(b) If an applicant for landfarming operator does not meet the requirements of paragraph (a) of this subsection, the cabinet may consider the number of years of experience in operating a landfarming facility in determining eligibility for examination on a year for year basis.

(5) Any applicant for recertification who holds a valid certificate shall not be required to resubmit information concerning qualifications. The qualifications of an existing certified operator shall not be considered in determining the applicant's eligibility for recertification for a specific category of certified operator provided, however, the applicant meets the criteria specified in Section 2(3) of this regulation for the specific category of certified operator.

Section 11. Interim Operators. (1) In accordance with the requirements in subsection (2) of this section, the permittee shall notify the cabinet in writing of the extended absence of a certified operator ten (10) days prior to an anticipated absence and immediately upon discovery of an extended absence due to an emergency or unanticipated circumstances. The notice from the permittee shall provide the cabinet with the following information:

(a) Name and qualifications of the individual intended to replace the certified operator; and

(b) The length of time for which the permittee seeks to have the interim operator fulfill the obligations of the certified operator.

(2) An "extended absence" shall mean:

(a) More than ten (10) consecutive operating days for a landfill operator;

(b) More than thirty (30) consecutive operating days for a landfill manager; and

(c) More than five (5) consecutive operating days for a landfarming operator.

(3) "Consecutive operating days" shall mean any days when:

(a) The solid waste site or facility accepts waste, operates equipment or otherwise performs the business of solid waste management; and

(b) Which days occur in sequence regardless of whether non-operating days such as weekends or holidays fall in between.

(4) The cabinet shall evaluate the qualifications of the designated interim operator and shall notify the permittee of the cabinet's determination in writing within thirty (30) days of receipt of the permittee's notice. The determination shall:

(a) Approve or deny the permittee's request for designation of the interim operator;

(b) Identify the length of time the interim operator may operate the solid waste site or facility; and

(c) Specify conditions as appropriate to the site and the interim operator's qualifications.

Section 12. [8.] Permit Condition. As specified in Section 1 of this regulation, every solid waste site or facility [residential and contained landfill] requiring a permit shall be operated by the [an] operator(s) certified pursuant to this regulation. Pursuant to Sections 1 and 3 [2] of this regulation, maintaining the certified operator(s) shall be considered a permit condition, and the landfill permit may be revoked, or penalties for permit violations sought as appropriate, upon violation of the requirements and duties established by this regulation.

Section 13. [9.] Fees. (1) Fees for application for certification shall be:

(a) Fifty (50) dollars for application for certification as a landfill operator;

(b) Fifty (50) dollars for application for certification as a landfill manager;

(c) Seventy-five (75) dollars for application for certification as both a landfill operator and a landfill manager when the application is made for certification for both categories at the same training session; and

(d) Fifty (50) dollars for application for certification as a landfarming operator.

(2) Fees shall accompany applications and will not be returned to those who do not qualify for a certificate.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 14, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed regulation will be conducted on December 1, 1986, at 10 a.m. (local time) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: Although there are 149 permitted sanitary landfills within Kentucky, only residential landfills (96) and contained landfills (1) are required to have certified operators. In addition, the amendments to this regulation will require all of the permitted landfarming facilities in Kentucky (44) to have certified landfarming operators.

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

1. First year: Direct costs to each landfill/landfarming operator will be $148 including the certification fee and per diem. Indirect costs for time away from job is estimated at $100 based on $13,000 annual salary. Direct costs to each landfill manager will be $214 including certification fee and per diem. Indirect costs for time away from job is $288 based on $25,000 annual salary. These figures represent the cost for two certified individuals at each of the 97 permitted landfills. However, where one individual qualifies for the landfill operator and landfill manager, the direct cost will be $239 which includes per diem and a certification fee of $75 for both categories.

2. Continuing costs or savings: Certification is valid for 5 years, thus the first year costs will be incurred every fifth year. The construction and operation of a sanitary landfill is a complex engineered operation that is capital intensive involving budgets that will range from hundreds of thousands to millions of dollars. Mismanagement of such an operation can ultimately lead to environmental damage resulting in costly remedial activities. For example, closure of a 20 acre site after 5 years of operation will cost about $20,000 when the site is prudently managed and operated according to regulatory requirements. Whereas, assuming compliance with the daily cover requirement only, closure of the same site when mismanaged and poorly operated can cost upwards of $300,000 for remedial activities. This figure is based on non-compliance with compaction and interim and final cover requirements. It does not, however, include correction of problems resulting from leachate migration which can have an even greater impact on closure costs. Through formal training and certification of both landfill operators and managers, a significant reduction in environmental problems resulting in costly clean up activities will be realized. When proper operating procedures are employed, the life of a landfill will be maximized for an addition savings. Records indicate the majority of landfills requiring enforcement activities are small publicly-owned and operated sites lacking managerial control. Recent data reflects an estimated rate of 41% of non-compliance for publicly owned sites which is double the non-compliance rate for privately owned sites (20%). Although a significant reduction in overall operational problems has been achieved since implementation of the operator certification program, it is estimated that the degree of efficiency will double when both managers and operators are trained and certified. Site operators will be more responsive to daily operating requirements and managers will realize the long and short term impact of proper management techniques. At both the City of Georgetown and Lexington landfills, operations are contracted with complete managerial control exercised. Both sites had numerous violations prior to contractual arrangements and now operate efficiently with good compliance records. Another example is the significant improvement at the Hopkins County Landfill after the city engineer was trained and certified. With the recent increase in the number of landfarming operations (44 are currently permitted) it is equally important for the operator to receive formal training for certification for proper operating procedures to enhance protection to the environment and save the cost for expensive remedial action.

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

(b) Reporting and paperwork requirements: Completion of a simple application detailing the applicant's qualifications is required prior to attending the training for certification. In addition, certificates must be carried on the person of each certified operator during working hours or prominently displayed on-site.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The direct cost to the promulgating agency is estimated at $1,805 for each landfill operator/manager training session. This includes facility rental, transportation for participants to on-site demonstration, printing charges, and salaries for instructors and program coordinator. Based on the number of participants eligible for recertification (151) and the number of managers coming into the system (approximately 50), it is estimated that 200 individuals will require certification during the first year. Six training sessions with 33 participants each will be necessary to adequately implement the program. This will bring the total implementation cost to $10,832 or $54 per trainee. The direct cost for each landfarming training session is estimated at $1,514. The total cost of two sessions for 60 participants will be $3,028, or $50.46 per trainee. Costs for training the 3 categories of operator are based on implementation and do not include salaries and costs incurred in development of the training program and materials. The cost of implementing the training sessions will be offset by the $50 fee charged to applicants. Thus the actual cost to the promulgating agency will be minimal.

2. Continuing costs or savings: Based on past program experience, at least one training session will be held annually for approximately 33 individuals. Again the session will cost $1,805 plus a 5% annual inflationary rate. Training and certification of appropriate individuals will result in a savings due to increased compliance with operating standards resulting in a decrease of staff time for monitoring and enforcement activities.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Landfarming facilities will be required to have certified operators.

More stringent: The cabinet could have chosen to be more stringent by requiring landfarming facilities to have operators certified for specific operational duties (i.e., landfarming operator and landfarming managers). However, the cabinet rejected this alternative in an effort to keep the requirements imposed on landfarming facilities minimal. The cabinet chose to use a conservative approach in requiring certification of landfarming operators to maximize environmental protection without imposing excessively burdensome requirements on landfarming facilities.

Less stringent: The cabinet could have chosen to be less stringent by not requiring landfarming facilities to have a certified operator. However, KRS 224.844 specifically requires certification of "operators of any waste site or facility or portion thereof." In addition, the cabinet has found that improper operation of landfarming facilities can pose serious threats to public health and the environment.

Present proposal: The cabinet chose to adopt the certification requirement for operators of landfarming facilities. In addition to fulfilling the mandate in KRS 224.844 which requires certification of operators, the present proposal will enhance environmental protection at landfarming facilities by providing training and by testing the competency of landfarming operators.

(b) Certified operators have been defined to include three categories of operator based on duties and responsibilities.

More stringent: The cabinet could have chosen to be more stringent by requiring separate individuals to be certified rather than allowing one individual to be certified n all categories. However, the cabinet rejected this alternative as burdensome for facilities at which one individual performed multiple duties. The cabinet also rejected alternatives to require certification of additional operators based upon the size of the facility; the cabinet believed it to be unnecessary to have several employees certified at the same facility.

Less stringent: The cabinet could have chosen to be less stringent by not identifying separate categories of certified operator based on duties and responsibilities. The cabinet rejected this alternative because it believed that the training and tests for proficiency should accurately reflect the duties of the operator. As an example, the cabinet asserts that it is confusing and unnecessary to train an individual in financial management of a landfill when the individual is primarily responsible for operating and maintaining equipment on-site. Conversely, training a local government official who is responsible for budgeting decisions in the proper operation of a bulldozer is similarly unnecessary. The current regulatory standards do not differentiate between duties and responsibilities, thus numerous operators have been certified who do not have responsibility for all aspects of facility operation. The cabinet, thus, rejected the alternative to maintain the current requirement that a landfill have a single "generic" certified operator.

Present proposal: The present proposal classifies certified operators into three logical categories (landfill operator, landfill manager, landfarming operator) to assure that the training sessions will meet the needs of the specific responsibilities of each operator. This decision will enhance environmental protection by ensuring the proper individuals are certified based upon duties and responsibilities.

(c) Whenever the certified operator is absent, an interim operator is required to be appointed. Approval of the interim operator is based upon the qualifications of the individual and restrictions of the site.

More stringent: The cabinet could have chosen to be more stringent by requiring the appointment of an interim operator whenever the certified operator is absent from the job. However, the cabinet believes that this would present an unreasonable burden on the facility because short term illnesses, vacations, etc. will cause the certified operator to be absent occasionally. The cabinet has experienced problems with operations at specific landfills during the absence of the certified operator. The requirements to notify the cabinet and obtain approval for an interim operator have been tailored to the specific duties of the individual category of certified operator. This will ensure adequate environmental protection without restricting certified operators who find it necessary to be absent for short periods of time.

Less stringent: The cabinet could have chosen to be less stringent by not requiring designation of an interim operator or by allowing any individual to be appointed as a substitute for the certified operator. However, the cabinet has observed operational problems at landfills where the certified operator was absent for an extended period. In one case, an individual with no experience operating a landfill was placed in charge during the certified operator's vacation. In the judgement of the cabinet's inspector, the facility has yet to correct all of the problems associated performance that occurred more than a year ago. In addition, the interim operator provisions also provide a mechanism whereby the cabinet is notified promptly when a certified operator leaves the employ of the facility. The cabinet believes the requirements for interim operators fulfill both the permit condition requirement and the statutory mandate to have a certified operator responsible for primary operation at each solid waste site or facility.

Present proposal: The present proposal establishes a reasonable timeframe for appointment of an interim operator to perform the duties of the certified operator in his absence. The timeframes for appointment of an interim operator are based on the specific responsibilities of each category of certified operator in an effort to maximize environmental protection without restricting the ability of the certified operator to take a leave of absence. For instance, the landfill operator is directly responsible for daily operation of the site and the cabinet believes that an absence of more than ten consecutive working days would jeopardize the quality of site operation. However, the landfill manager is responsible for financial administration and compliance with permit conditions and an absence of thirty days or more would, in the cabinet's opinion, create operational problems for the facility. Many landfarming operations in Kentucky often do not operate daily because wastewater treatment sludges (the waste stream most frequently landfarmed) are not generated in quantities large enough to support daily operations. For landfarming operators, the cabinet believes that an absence of five consecutive working days should require appointment of an interim operator. For small facilities, five consecutive working days might occur over a two month period. For larger facilities which do operate daily, the potential for environmental damage is proportionately higher than at a landfill since waste is applied in a liquid to semi-liquid form to the surface of the land. Improper practices

such as discharging an entire truck load in one spot, or discharging too close to a stream, etc. should be reduced by the requirement to appoint an interim operator when the certified operator is absent for more than five days.

(d) Compliance dates have been identified for solid waste sites or facilities to have certified operators in the three categories. Landfills required to have certified operators will be required to achieve compliance by January 1, 1988 and landfarming facilities will be required to comply by December 31, 1988.

More stringent: The cabinet could have chosen to be more stringent by requiring immediate compliance with the new requirements. However, this would have allowed inadequate time for operators to attend the training sessions and take the examinations. In addition, the cabinet is unable to provide the training course immediately since it requires further development of the course, scheduling of meeting rooms, reproduction of handouts and scheduling of instructors.

Less stringent: The cabinet could have chosen to be less stringent by allowing the certificates held by certified operators to expire before requiring the solid waste facility to have operators certified in the appropriate new categories. The cabinet intends to evaluate job duties of existing certified operators and recertify (at no cost) each individual for the appropriate category(ies) under the new regulations. The cabinet believes that the proposed categories will provide enhanced environmental protection and thus has set deadlines for all facilities to ensure that it does not take five years (the length of time for which an operator is certified) from the effective date of the new regulations for all facilities to achieve compliance. Because certification is for five years, the cabinet believes it would not be fair to require compliance at some facilities but not at others (i.e., those with an existing certified operator). In addition, because the cabinet will need to certify many individuals for landfill operators, an extra 12 months has been allowed for development and implementation of a program for landfarming operator certification.

Present proposal: The present proposal identifies compliance dates for all solid waste sites or facilities which reflect the need to protect public health and the environment from improper operation.

(e) Qualifications for applicants seeking certification have been identified based upon the duties and responsibilities of each category of certified operator.

More stringent: The cabinet could have chosen to be more stringent by requiring additional education requirements or by imposing additional experience requirements. However, the cabinet believes that by tiering the requirements to fit the specific categories of operator, the qualifications identified in the proposed regulations will provide minimum standards for individuals who will be responsible for facility operation.

Less stringent: The cabinet could have chosen to be less stringent by eliminating education or experience requirements. However, the cabinet asserts that the individuals responsible for compliance with permit conditions must be able to read and comprehend the regulatory requirements. Because education is a convenient and universal measure of an individuals ability to read and comprehend information, the cabinet believes that the education requirements imposed are necessary. In addition, because proper operation of a solid waste facility entails operation of sophisticated equipment and specialized administrative capabilities, the cabinet imposed minimum requirements for experience.

Present proposal: The operator qualifications specified in the present proposal are tailored to the specific responsibilities of each category of certified operator. They are applied to ensure that individuals are qualified and capable of performing duties related to the direct operational control of the solid waste management facility. The cabinet believes that the proposed qualification standards will enhance environmental protection by ensuring that an applicant for certification is appropriately qualified.

(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: 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:

TIERING: Was tiering applied? Yes. The proposed amendment requires certification of three categories of solid waste site or facility operator and bases applicant qualifications and certification requirements on the level of skill required in each category.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 47:070
SUBJECT/TITLE: Operator Certification
SPONSOR: Natural Resources & Environmental Protection Cabinet
NOTE SUMMARY:
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: This amendment to the regulation 401 KAR 47:070 will require all solid waste sites or facilities, including those owned or operated by a local government, to have a certified operator in two new categories: (1) landfarming operators; and (2) landfill managers. The existing regulation already requires all sanitary landfills to have a certified operator.
LEVEL(S) OF IMPACT: City, County, Urban County Government.
BUDGET UNIT(S) IMPACT: Sanitary engineering units; wastewater treatment plant operators responsible for permitted landfarming activities; landfill operators; waste management agencies.
FISCAL SUMMARY: Fiscal estimates: 1987-1988.
Revenues: None
Expenditures: Direct costs: For municipalities, the direct costs will be $148 for each landfill/landfarming operator ($14,208 for certification of 96 operators). The direct costs to each landfill manager will be $214 ($10,914 for certification of 51 managers). Certification is valid for five years, thus costs will be incurred every fifth year.
Net Effect: See Regulatory Impact Analysis for 401 KAR 47:070.

MEASURE'S PURPOSE: The amendments made to this regulation fulfill the statutory mandate in KRS 224.844 which requires "the cabinet shall promulgate regulations which establish standards for the operator of any waste site or facility or portion thereof, whether publicly or privately owned, requiring such operators to...attend a training session..., indicate ...competency for proper operation of a waste site...on an examination...," etc. Although the existing regulation provides for certification of landfill operators, the proposed amendments include the requirement that landfarming facilities have a certified operator; and provides separate certifications for landfill operators based upon two criteria: (1) responsibility for direct (daily) operation of the landfill; and (2) responsibility for financial management of the landfill and compliance with the permit conditions. Under the existing regulatory requirements, the Division of Waste Management found that the majority of landfills permitted in Kentucky had certified operators who were either responsible for daily operation or were responsible for fiscal management. Often the "site/equipment operator" could not control the budget and therefore could not be held accountable for failure to comply with permit conditions when expenditures were required. Conversely, those landfills with certified "managers" could not control the performance of the "site/equipment operator." Thus, the present proposal will reduce the rate of non-compliance by sanitary landfills by distinguishing between the two categories of landfill operator and providing training suited to the specific responsibilities.
PROVISION/MECHANICS: The amendments to this regulation establish the procedure for applying for certification as a solid waste site or facility operator; qualifications for applicants for three categories of certified operator; and provisions for issuance, denial, and revocation of certificates.
FISCAL EXPLANATION: None
DATA SOURCE(S): See Regulatory Impact Analysis for proposed amendment to 401 KAR 47:070.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate to certify operators of solid waste sites or facilities. Authority for the proposed amendment to 401 KAR 47:070 comes directly from KRS 224.844.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

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

401 KAR 50:010. Definitions and abbreviations.

RELATES TO: KRS [Chapter] 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the defining of terms to be used in Title 401, Chapters 50 to 65.

Section 1. Definitions. All terms not defined herein or in subsequent regulations, shall have the meaning given them in KRS 224.005 or by commonly accepted usage. As used in the regulations of the Division of Air Pollution unless the content clearly indicates otherwise, the following words shall have the following meaning:
(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit any air contaminant into the outdoor atmosphere.
(2) "Air contaminant or air pollutant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acid, fumes, gases, odor, vapor, or any combination thereof.
(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.
(4) "Air pollution control equipment" means any mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation.
(5) "Alteration" means:
(a) The installation or replacement of air pollution control equipment at a source;
(b) Any physical change in, or change in the method of operation of any affected facility which increases the potential to emit of any pollutant (to which a standard applies) emitted by such facility or which results in the emission of any air pollutant (to which a standard applies) not previously emitted.
(6) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to, in specific cases, produce results adequate for its determination of compliance.
(7) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
(8) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over

which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures.

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(10) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(11) "Compliance schedule" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard.

(12) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(13) "Continuous monitoring system" means the total equipment, required under the applicable regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(14) "Director" means Director of the Division of Air Pollution of the Natural Resources and Environmental Protection Cabinet.

(15) "District" means an air pollution control district as provided for in KRS Chapter 77.

(16) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere (open air) from any affected facility or from air pollution control equipment installed in any affected facility.

(17) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(18) "Existing source" means any source which is not a new source.

(19) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(20) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

(21) "Fugitive emissions," except where 401 KAR 51:017 and 401 KAR 51:052 are applicable, means the emissions of any air contaminant into the open air other than from a stack or air pollution control equipment exhaust.

(22) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(23) "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible wastes.

(24) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

(25) "Malfunction" means any failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner.

(26) "Major source" means any source of which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(27) "Modification" means any physical change in, or change in the method of operation of an affected facility which increases the potential to emit of any air pollutant (to which a standard applies) emitted by such facility, or which results in the emission of any air pollutant (to which a standard applies) not previously emitted, except that:

(a) Routine maintenance, repair, and replacement of component parts shall not be considered physical changes;

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility, or the maximum operating capacity specified as a condition to a permit issued by the cabinet;

2. An increase in hours of operation;

3. Use of an alternative fuel or raw material if, prior to the date any standard becomes applicable to such facility, the affected facility is designed to accommodate such alternative use.

(28) "Monitoring device" means the total equipment, required in applicable regulations, used to measure and record (if applicable) process parameters.

(29) "New source" means any source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable regulation. A source, upon reconstruction, becomes a new source, irrespective of any change in emission rate.

(30) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(31) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(32) "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(33) "Particulate matter" means any material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(34) "Person or persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or other entity whatsoever.

(35) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(36) "Reconstruction" means the replacement of components of an existing affected facility to such an extent that the fixed capital cost of

the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(37) "Reference method" means any method of sampling and analyzing for an air pollutant as prescribed by Appendices A through G to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61. This term may be more narrowly defined within a specific regulation or chapter.

(38) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(39) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(40) "Shutdown" means the cessation of an operation for any purpose.

(41) "Source" means one (1) or more affected facilities contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way.

(42) "Stack or chimney" means any flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(43) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the regulations of the Division of Air Pollution or the emission control requirements necessary to comply with the provisions of Title 401, Chapter 51, of the regulations of the Division of Air Pollution.

(44) "Standard conditions:"

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68)) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(45) "Startup" means the setting in operation of an affected facility for any purpose.

(46) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(47) "Urban county" means any county which is a part of an urbanized area with a population of greater than 200,000 based upon the 1970 census. If any portion of a county is a part of such an urbanized area, then the entire county shall be classified as urban with respect to the regulations of the Division of Air Pollution.

(48) "Urbanized area" means any area defined as such by the U.S. Department of Commerce, Bureau of Census.

(49) "Volatile organic compound (VOC)" means, except as used in 401 KAR 51:017 or 401 KAR 51:052, any organic compound which participates in atmospheric photochemical reactions; or which is measured under the applicable regulation by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified in the applicable regulation. Compounds which do not participate in atmospheric photochemical reactions or which are not considered to be organic compounds are: methane, ethane, methylene chloride, 1,1,1,-trichloroethane (methyl chloroform), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), [chemical compounds of carbon (excluding methane, ethane,] carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate[) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg].

Section 2. Abbreviations. The abbreviations used in the regulations of Title 401, Chapters 50 to 65, shall have the following meanings:

AOAC - Association of Official Analytical Chemists

ANSI - American National Standards Institute

ASTM - American Society for Testing and Materials

BOD - Biochemical oxidant demand

BTU - British Thermal Unit

°C - Degree Celsius (centigrade)

Cal - calorie

cfm - Cubic feet per minute

CFR - Code of Federal Regulations

CH_4 - methane

CO - Carbon monoxide

CO_2 - Carbon dioxide

COD - Chemical oxidant demand

dscf - dry cubic feet at standard conditions

dscm - dry cubic meter at standard conditions

°F - Degree Fahrenheit

ft - feet

g - gram(s)

gal - gallon(s)
gr - grain(s)
hr - hour(s)
HCl - Hydrochloric acid
Hg - mercury
HF - Hydrogen fluoride
H_2O - water
H_2S - Hydrogen sulfide
H_2SO_4 - Sulfuric acid
in - inch(es)
J - joule
KAR - Kentucky Administrative Regulations
kg - kilogram(s)
KRS - Kentucky Revised Statutes
l - liter(s)
lb - pound(s)
m - meter(s)
min - minute(s)
mg - milligram(s)
MJ - megajoules
MM - million
mm - millimeter(s)
mo - month
Ng - nanograms
N_2 - Nitrogen
NO - Nitric oxide
NO_2 - Nitrogen dioxide
NO_x - Nitrogen oxides
oz - ounce
O_2 - oxygen
O_3 - ozone
ppb - parts per billion
ppm - parts per million
ppm (w/w) - parts per million (weight by weight)
ug - microgram
psia - pounds per square inch absolute
psig - pounds per square inch gage
S - at standard conditions
sec - second
TAPPI - Technical Association of the Pulp and Paper Industry
SO_2 - Sulfur dioxide
sq - square
TSS - Total suspended solids
U.S. EPA - United States Environmental Protection Agency
yd - yard

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation is being amended to change the definition of volatile organic compound (VOC) which is currently in this present regulation, as recommended by the U.S. Environmental Protection Agency (EPA). This definition of VOC was found to be deficient for purposes of New Source Review (NSR) and Prevention of Significant Deterioration (PSD) and must be revised to satisfy those regulatory requirements. The division is proposing an approach that is similar to the approach used by the U.S. EPA. That is, upon changing this definition of VOC there will be no definition of VOC for the PSD and NSR regulations, just as there is no definition of VOC in the federal regulations for purposes of PSD and NSR. The definition that is being incorporated is similar to the definition that is used in the federal regulation 40 CFR 60, for New Source Performance Standards (NSPS). The term also remains defined in most regulations in Chapters 59 and 61 for new and existing sources, where it is applicable. The U.S. EPA has given the division a list of eleven volatile organic compounds which are not considered to be photochemically reactive, therefore, these compounds are exempt from any VOC regulatory action for the purpose of PSD and NSR. The division has incorporated this list into its policy document, which is incorporated by reference in 401 KAR 50:016. The division is also excluding from the definition of VOC five compounds that are not considered to be organic compounds. This list is from the previous definition. At the present time, no sources are affected. However, should any source subject to PSD and NSR construct, reconstruct, or modify, it would not be required to adhere to the existing definition of VOC.
(a) Direct and indirect costs or savings to those affected: None
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: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None due to the proposed amendment.
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 due to the proposed amendment.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered. Kentucky is amending this regulation so that the state's definition of VOC for purposes of PSD and NSR will be identical to the definition of VOC in the federal regulations for PSD and NSR.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The definition of VOC in some regulations in Chapters 59 and 61 may appear to conflict with this definition. However, it is the division's intent that the more specific definition shall apply.
(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. Tiering is

not applicable in this situation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation is being amended as recommended by the U.S. Environmental Protection Agency (EPA). The definition of volatile organic compound (VOC) used in this regulation was found to be deficient for the purposes of New Source Review (NSR) and Prevention of Significant Deterioration (PSD) and must be revised to satisfy those regulatory requirements. The division proposed an approach that is similar to the approach used by the U.S. EPA.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This definition is identical to the federal requirements for PSD and NSR.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 51:017. Prevention of significant deterioration of air quality.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the prevention of significant deterioration of ambient air quality.

Section 1. Applicability. The provisions of this regulation are applicable to any major stationary source or any major modification which:

(1) Commenced construction after September 22, 1982;

(2) Emits any pollutant regulated by the Clean Air Act; and

(3) Is constructed in areas designated as attainment or unclassifiable for any pollutant as defined pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act. Area designations are contained in 40 CFR 81.318.

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

(1) "Major stationary source" means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act: fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (a) of this subsection, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Clean Air Act; and

(c) Any physical change that would occur at a stationary source not otherwise qualifying under this subsection as a major stationary source, if the changes would constitute a major stationary source by themselves.

(d) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(2) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Clean Air Act.

(a) Any net emissions increase that is significant for volatile organic compounds shall be significant for ozone.

(b) A physical change or change in the method of operation shall not include:

1. Routine maintenance, repair and replacement;

2. Use of alternative fuel or raw material by reason of an order or by reason of a natural gas curtailment plan in effect under a federal act;

3. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

4. Use of an alternative fuel or raw material by a stationary source which:

a. The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any permit condition which was established after January 6, 1975; or

b. The source is approved to use under any permit issued under this regulation or under 40 CFR 52.21;

5. An increase in the hours of operation or in the production rate, unless such change would be prohibited after January 6, 1975 pursuant to 40 CFR 52.21, after June 6, 1979 pursuant to 401 KAR 51:015, after September 22, 1982 pursuant to this regulation; or under 401 KAR 50:035 and 401 KAR 51:016E; or

6. Any change in ownership at a stationary source.

(3) "Net emission increase" means the amount by which the sum of paragraphs (a) and (b) of this subsection exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(c) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date which is ten (10) years before construction on the particular change commences, but not before January 6, 1975, and the date that the increase from the particular change occurs.

(d) An increase or decrease in actual emissions is creditable only if the cabinet or the U.S. EPA has not relied on it in issuing a permit for the source under this regulation or 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

(e) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(f) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(g) A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

2. It is state and federally enforceable at and after the time that actual construction on the particular change begins; and

3. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(h) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(6) "Building, structure, facility, or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two (2) digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.

(7) "Emission unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

(8) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) "Necessary preconstruction approvals or permits" means those permits or approvals required under the regulations of Title 401, Chapters 50 to 63 and federal air quality control laws and regulations.

(11) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than the preparatory activities which mark the initiation of the change.

(12) "Best available control technology" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major stationary source or major modification which the cabinet, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Title 401, Chapters 57 and 59 or 40 CFR Parts 60 and 61. If the secretary determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational

standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (c) of this subsection; and

(b) The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(c) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

1. Actual emissions from any major stationary source on which construction commenced after January 6, 1975; and

2. Actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14) "Baseline date" means the earliest date after August 7, 1977, on which the first complete application is submitted by a major stationary source or major modification subject to the requirements of federal or state prevention of significant deterioration regulations. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(15) "Baseline area" means any area (and every part thereof) designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than one (1) ug/m^3 (annual average) of the pollutant for which the baseline date is established. Area redesignations under Section 107(d)(1)(D)or (E) of the Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a baseline date; or

(b) Is subject to this regulation and would be constructed in the Commonwealth of Kentucky.

(16) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in Title 401, Chapters 57 and 59, or 40 CFR 60 and 61;

(b) The applicable state and federally approved regulatory emissions limitation, including those with a future compliance date; or

(c) The emissions rate specified as a state and federally enforceable permit condition, including those with a future compliance date.

(17) "Federally enforceable" means all limitations and conditions which are enforceable by the U.S. EPA, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirement established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(18) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this regulation, secondary emissions shall be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(19) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(21) (a) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with paragraphs (b) to (d) of this subsection.

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two (2) year period which precedes the particular date and which is representative of normal source operation. The cabinet shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The cabinet may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(22) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(23) "Significant" means:

(a) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the rates given in Appendix A of this regulation.

(b) In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act that is not listed in Appendix A to this regulation, any emissions rate.

(c) Notwithstanding paragraph (b) of this subsection and Appendix A to this regulation, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten (10) kilometers of a Class I area, and have an impact on such area equal to or greater than one (1) ug/m^3 (twenty-four (24) hour average).

(24) "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(25) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(26) "Low terrain" means any area other than high terrain.

(27) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with the times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.

(28) "State Implementation Plan" means the most recently prepared plan or revision thereof required by Section 110 of the Clean Air Act which has been approved by the U.S. EPA.

(29) "Mandatory Class I federal area" means any area identified in 40 CFR 81, Subpart D, where the administrator of the U.S. EPA, in consultation with the Secretary of the United States Department of Interior, has determined visibility to be an important value.

(30) "Natural conditions" means those naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(31) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

Section 3. Ambient Air Increments. In areas designated as Class I or II, increases in pollutant concentration over the baseline concentration shall be limited to the levels specified in Appendix B of this regulation. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location.

Section 4. Ambient Air Ceilings. No concentration of a pollutant specified in Section 1 of this regulation shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard; or

(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lower for the pollutant for a period of exposure.

Section 5. Area Classifications. (1) The following areas shall be Class I areas and may not be redesignated:

(a) International parks;

(b) National wilderness areas and national memorial parks which exceed 5,000 acres in size; and

(c) National parks which exceed 6,000 acres in size.

(2) Any other area, unless otherwise specified in the legislation creating such an area, is designated Class II but may be redesignated as provided in 40 CFR 51.24(g).

(3) The provisions of this regulation relating to visibility protection shall apply only to sources which may impact a mandatory Class I federal area.

Section 6. Exclusions from Increment Consumption. (1) The cabinet may, after notice and opportunity for at least one (1) public hearing to be held in accordance with procedures established in 401 KAR 50:035, exclude the following concentrations in determining compliance with a maximum allowable increase:

(a) Concentrations attributable to the increase in emissions from stationary sources which have been converted from the use of petroleum products, natural gas, or both by reason of an order in effect under a federal statute or regulation over the emissions from such sources before the effective date of such an order;

(b) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the federal statute over the emissions from such sources before the effective date of such plan;

(c) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and

(d) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by plan revisions approved by the Administrator of the U.S. EPA.

(2) No exclusion of such concentrations shall apply more than five (5) years after the effective date of the order to which subsection (1)(a) of this section refers or the plan to which subsection (1)(b) of this section refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the later of such effective dates.

(3) No exclusion under this section shall

occur after May 7, 1981, unless a State Implementation Plan revision meeting the requirements of 40 CFR 51.24 has been approved by the U.S. EPA.

(4) The plan revision referred to in subsection (3) of this section shall specify the following provisions:

(a) The time over which the temporary emission increase of sulfur dioxide or particulate matter would occur. Such time shall not exceed two (2) years in duration unless a longer time is approved by the U.S. EPA;

(b) That the time period for excluding certain contributions in accordance with paragraph (a) of this subsection is not renewable;

(c) That no emissions increase will occur from a stationary source which would:

1. Impact a Class I area or an area where an applicable increment is known to be violated; or

2. Cause or contribute to the violation of a national ambient air quality standard; and

(d) Limitations will be in effect at the end of the time period specified in accordance with paragraph (a) of this subsection which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

Section 7. Stack Heights. (1) The degree of emission limitation required for control of any air pollutant under this regulation shall not be affected in any manner by:

(a) So much of the stack height of any source as exceeds good engineering practice; or

(b) Any other dispersion technique.

(2) Subsection (1) of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

Section 8. Review of Major Stationary Sources and Major Modifications; Source Applicability and Exemptions. (1) No major stationary source or major modifications to which the requirements of Sections 9 to 17 of this regulation apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements.

(2) The requirements of Sections 9 to 17 of this regulation shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulations under the Clean Air Act that it would emit, except as otherwise provided in Section 1 of this regulation.

(3) The requirements of Sections 9 to 17 of this regulation shall apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act. [Major volatile organic compound sources locating in an area unclassified for ozone may choose to accept the non-attainment area review requirement immediately pursuant to 401 KAR 51:052 and conduct post-approval monitoring for ozone.]

(4) The requirements of Sections 9 to 17 of this regulation shall not apply to a particular major stationary source or major modification if:

(a) The owner or operator:

1. Obtained a federal, state or local preconstruction approval effective before September 22, 1982;

2. Commenced construction before September 22, 1982; and

3. Did not discontinue construction for a period of eighteen (18) months or more; or

(b) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of the Commonwealth of Kentucky requests that it be exempt from those requirements;

(c) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process);
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTUs per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input; or
27. Any other stationary source category which, as of August 7, 1980, is being regulated under Title 401, Chapters 57 and 59 or 40 CFR Parts 60 and 61; or

(d) The source is a portable stationary source which has previously received a permit under this regulation; and:

1. The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;

2. The emissions from the source would not exceed its allowable emissions;

3. The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

4. Reasonable notice is given to the cabinet prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the cabinet not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the cabinet.

(5) The requirements of Sections 9 to 17 of this regulation shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, relative to that pollutant, the source or modification is located in an area designated as non-attainment pursuant to Section 107(d)(1)(A), (B), or (C) of the Clean Air Act.

(6) The requirements of Sections 10, 12 and 14 of this regulation shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modifications:

(a) Would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) Would be temporary.

(7) The requirements of Sections 10, 12 and 14 of this regulation as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulations under the Clean Air Act from the modification after the application of best available control technology would be less than fifty (50) tons per year.

(8) The cabinet may exempt a stationary source or modification from the requirements of Section 12 of this regulation with respect to monitoring for a particular pollutant if:

(a) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the amounts given in Appendix C to this regulation; or

(b) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Appendix C to this regulation, or the pollutant is not listed in Appendix C to this regulation.

Section 9. Control Technology Review. (1) A major stationary source or major modification shall meet each applicable emissions limitation under Title 401, Chapters 50 to 63 and each applicable emission standard and standard of performance pursuant to 40 CFR 60 and 61.

(2) A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the Clean Air Act that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under Clean Air Act for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

Section 10. Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

Section 11. Air Quality Models. (1) All estimates of ambient concentrations required under this regulation shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models," filed by reference in 401 KAR 50:015.

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change will be subject to notice and opportunity for public comment under Section 17 of this regulation. Written approval of the U.S. EPA must be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models," filed by reference in 401 KAR 50:015, should be used to determine the comparability of air quality models.

Section 12. Air Quality Analysis. (1) Preapplication analysis.

(a) Any application for a permit under this regulation shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

1. For the source, each pollutant that it would have the potential to emit in a significant amount as defined in Section 2(23) of this regulation;

2. For the modification, each pollutant for which it would result in a significant net emissions increase.

(b) With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the cabinet determines are necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d) In general, the continuous air quality monitoring data that are required shall have been gathered over a period of at least one (1) year and shall represent at least the year preceding receipt of the application, except

that, if the applicant demonstrates through historical data or dispersion models that the monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months) will be obtained during a time period when maximum air quality levels can be expected, the data that are required shall have been gathered over at least that shorter period.

(e) The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 401 KAR 51:052 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraphs (a) to (d) of this subsection.

(2) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the cabinet determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR 58, filed by reference in 401 KAR 50:015, during the operation of monitoring stations for purposes of satisfying subsections (1) and (2) of this section.

Section 13. Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this regulation.

(1) With respect to a major source or major modification to which Sections 9, 11, 13 and 15 of this regulation apply, such information shall include:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the source or modification;

(c) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the cabinet, the owner or operator shall also provide information on:

(a) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

Section 14. Additional Impact Analysis. (1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(3) Visibility monitoring. The cabinet may require monitoring of visibility in any Class I area impacted by the proposed new stationary source or major modification using human observations, teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or other appropriate methods as specified by the U.S. EPA. The method selected shall be determined on a case-by-case basis by the cabinet. Any visibility monitoring required by the cabinet in a Class I area will be approved by the federal land manager. Data obtained from any visibility monitoring shall be made available to the cabinet, U.S. EPA, and the federal land manager, upon request.

Section 15. Sources Impacting Class I Areas; Additional Requirements. (1) Notice to U.S. EPA and federal land managers. The cabinet shall provide written notice of any permit application for a proposed major stationary source or major modification the emissions from which may affect a Class I area to the U.S. EPA, the federal land manager, and the federal official charged with direct responsibility for management of any lands within any such area. The cabinet shall provide such notice promptly after receiving the application. Such notification shall include a copy of all information relevant to the permit application and shall be given within thirty (30) days of receipt and at least sixty (60) days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Class I area. The cabinet shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under Section 17 of this regulation, and shall make available to them any materials used in making that determination, promptly after the cabinet makes it. Finally, the cabinet shall also notify all affected federal land managers within thirty (30) days of receipt of any advanced notification of any such permit application.

(2) Federal land manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the cabinet, whether a proposed source or modification will have an adverse impact on such values.

(3) Visibility analysis. The cabinet shall consider any analysis performed by the federal land manager, provided within thirty (30) days of the notification and analysis required by subsection (1) of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Class I area. Where the cabinet finds that such analysis does not demonstrate to the satisfaction of the cabinet that an adverse impact on visibility will result in the Class I area, the cabinet shall, in the

public notice required in 401 KAR 50:035, Section 4, either explain that decision or give notice as to where the explanation can be explained.

(4) Denial; impact on air quality related values. The federal land manager of any such lands may demonstrate to the cabinet that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area as defined in Appendix B to this regulation. If the cabinet concurs with such demonstration then the cabinet shall not issue the permit.

(5) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the cabinet may, provided that the applicable requirements of this regulation are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the maximum allowable increases over baseline concentration for such pollutants specified in Appendix D to this regulation.

(6) Sulfur dioxide variance by governor with federal land manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under subsection (5) of this section may demonstrate to the Governor of the Commonwealth of Kentucky that the source cannot be constructed by reason of any maximum allowable increase in sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the cabinet shall issue a permit to such source or modification pursuant to the requirements of subsection (8) of this section, provided that the applicable requirements of this regulation are otherwise met.

(7) Variance by the governor with the president's concurrence. In any case where the Governor of the Commonwealth of Kentucky recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the President of the United States of America. If the variance is approved, the cabinet shall issue a permit pursuant to the requirements of subsection (8) of this section, provided that the applicable requirements of this regulation are otherwise met.

(8) Emission limitations for presidential or gubernatorial variance. In the case of a permit issued pursuant to subsections (6) or (7) of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the maximum allowable increases over the baseline concentration as specified in Appendix E of this regulation and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

Section 16. Public Participation. The cabinet shall follow the applicable procedures of 401 KAR 50:035 in processing applications under this regulation.

Section 17. Source Obligation. (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who begins actual construction after September 22, 1982 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The cabinet may extend the eighteen (18) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of Title 401, Chapters 50 to 63 and any other requirements under local, state, or federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 9 to 18 of this regulation shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 18. Environmental Impact Statements. Whenever any proposed source or modification is subject to action by a federal agency which might necessitate preparation of an

environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the cabinet conducted pursuant to this regulation shall be coordinated with the broad environmental reviews under that Act and under Section 309 of the Clean Air Act to the maximum extent feasible and reasonable.

Section 19. Innovative Control Technology. (1) An owner or operator of a proposed major stationary source or major modification may request the cabinet in writing to approve a system of innovative control technology.

(2) The cabinet shall, with the consent of the governor(s) of other affected state(s), determine that the source or modification may employ a system of innovative control technology if:

(a) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(b) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 9(2) of this regulation by a date specified by the cabinet. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance.

(c) The source or modification would meet the requirements of Sections 9 and 10 of this regulation based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the cabinet;

(d) The source or modification would not before the date specified by the cabinet:

1. Cause or contribute to a violation of an applicable national ambient air quality standard;

2. Impact any Class I area; or

3. Impact any area where an applicable increment is known to be violated; and

(e) All other applicable requirements including those for public participation have been met.

(3) The cabinet shall withdraw any approval to employ a system of innovative control technology made under this regulation if:

(a) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(b) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(c) The cabinet decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subsection (3) of this section, the cabinet may allow the source or modification up to an additional three (3) years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Section 20. Permit Condition Rescission. (1) Any owner or operator holding a permit for a stationary source or modification which contains conditions pursuant to 401 KAR 51:015 or 401 KAR 51:016E may request that the cabinet rescind the applicable conditions.

(2) The cabinet shall rescind a permit condition if so requested if the applicant can demonstrate to the satisfaction of the cabinet that this regulation would not apply to the source or modification or a portion thereof.

APPENDIX A TO 401 KAR 51:017
Significant Net Emissions Rates

POLLUTANT	EMISSIONS RATE
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Asbestos	0.007 tpy
Beryllium	0.0004 tpy
Mercury	0.1 tpy
Vinyl chloride	1 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy

APPENDIX B TO 401 KAR 51:017
Ambient Air Increments

Pollutant	Maximum Allowable Increase (Micrograms per cubic meter)
Class I	
Particulate Matter:	
Annual geometric mean	5
24-hour maximum	10
Sulfur Dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Class II	
Particulate Matter:	
Annual geometric mean	19
24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512

APPENDIX C TO 401 KAR 51:017
Significant Air Quality Impact

Pollutant	Air Quality Level	Averaging Time
Carbon monoxide	575 ug/m^3	8-hour average
Nitrogen dioxide	14 ug/m^3	annual average
Total suspended particulate	10 ug/m^3	24-hour average
Sulfur dioxide	13 ug/m^3	24-hour average

Ozone	No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to this regulation would be required to perform an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 ug/m^3	24-hour average
Mercury	0.25 ug/m^3	24-hour average
Beryllium	0.001 ug/m^3	24-hour average
Fluorides	0.25 ug/m^3	24-hour average
Vinyl chloride	15 ug/m^3	24-hour average
Hydrogen sulfide	0.04 ug/m^3	1-hour average

APPENDIX D TO 401 KAR 51:017
Ambient Air Increments
for Class I Variances

	Maximum Allowable Increase (micrograms per cubic meter)
Particulate Matter:	
Annual geometric mean	19
24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325

APPENDIX E TO 401 KAR 51:017
Ambient Air Increments for Presidential
or Gubernatorial SO_2 Variances

Maximum Allowable Increase
(Micrograms per cubic meter)

	Terrain areas	
Period of Exposure	Low	High
24-hour maximum	36	62
3-hour maximum	130	221

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation applies to major stationary sources and major modifications constructing in areas that are designated as attainment or unclassified. It is being amended to delete a sentence in Section 8(3) that refers to major sources of volatile organic compounds locating in unclassified areas which allows them to accept the non-attainment area review requirement contained in the regulation for new source review in non-attainment areas, 401 KAR 51:052. The U.S. Environmental Protection Agency (EPA) requested that this deletion be made, in order for the State Implementation Plan for the Prevention of Significant Deterioration to be fully approvable. Such an option is available to the source in the federal regulation under another section, and in Section 12 of this regulation, however, the U.S. EPA requested that this change be made for clarification purposes. The division does not anticipate any adverse effects on affected sources.
(a) Direct and indirect costs or savings to those affected: None
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: None
(2) Effects on the promulgating administrative body: None
(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: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered, since the U.S. EPA requested that this change be made.
(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. Tiering is not applicable in this amendment.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment is being made as requested by the U.S. Environmental Protection Agency so that Kentucky's State Implementation Plan for the Prevention of Significant Deterioration can be fully approved.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 57:011. Asbestos standards.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of asbestos emissions.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The national emission standard for asbestos contained in 40 CFR 61, Subpart M, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, and as amended by Federal Register 51 FR 8199, March 10, 1986, [made effective by Federal Register 49 FR 13661, April 5, 1984, and as amended by Federal Register 49 FR 25453 June 21, 1984,] is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 61, Subpart M are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 61, Subpart M, provides standards for sources that use commercial asbestos. Standards for demolition, renovation, fabricating and waste disposal are also included. The standards provide for a no visible emission limitation and equipment or work practice requirements.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation adopts by reference the amendment to the federal regulation on National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos, 40 CFR 61, Subpart M. The federal regulation applies to all sources discharging asbestos, using asbestos in road surfacing operations, demolishing or renovating using asbestos-containing materials, using commercial asbestos in fabricating operations, using insulating materials that contain commercial asbestos, and waste disposal for asbestos-containing material. The Division currently has a regulation similar to the federal NESHAP regulation for these sources; however, the federal regulation was recently amended to correct portions of the regulation that had been inadvertently deleted. The Cabinet is therefore adopting by reference the amendment to the federal regulation, so that Kentucky's regulation will be identical to the federal regulations.
(a) Direct and indirect costs or savings to those affected: The proposed amendment corrects typographical errors and adds portions of the regulation that were inadvertently deleted from the federal regulation. This amendment will not result in a cost increase.
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: There will be no additional requirements due to the proposed regulation. New plants will be required to apply for construction and operating permits.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.
1. First year: The Division will continue to review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.
2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.
3. Additional factors increasing or decreasing

costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will continue to have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(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: The federal regulation for asbestos as contained in 40 CFR 61, Subpart M, was promulgated April 5, 1984 (49 FR 13661), and the Cabinet subsequently adopted by reference the federal regulation, as amended, in 401 KAR 57:011. In the Federal Register of March 10, 1986 (51 FR 8199), the federal regulation was again amended to correct parts of the regulation that were inadvertently deleted. The Cabinet is amending this regulation to adopt by reference the amendment to the federal regulation, so that the state's regulation will be identical to the federal NESHAP regulation.

TIERING: Was tiering applied? No. Tiering was not applied because it is not applicable in this situation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 61, Subpart M. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on October 15, 1986 [September 9, 1986] and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution [(Amended 9/9/86)]
KSR 01-00-14	Extraordinary Occurrence Report
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 03-00-01	Shift Assignment/Reassignment
KSR 03-00-02	Employee Dress and Personal Appearance
KSR 03-00-05	Intra-Agency Promotional Opportunity Announcements
KSR 03-00-06	Employee Time and Attendance
KSR 03-00-07	Travel Expense Reimbursement
KSR 03-00-08	Employee Tuition Assistance Reimbursement
KSR 03-00-10	Workers' Compensation
KSR 03-00-11	Equal Employment Opportunity Complaints
KSR 03-00-12	Employee Greivance Procedure
KSR 03-00-14	Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
KSR 03-00-15	Affirmative Action Program
KSR 03-00-16	Confidentiality of Personnel Records
KSR 03-00-19	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
KSR 03-00-20	Personnel Selection, Retention and Promotion
KSR 03-00-21	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
KSR 03-00-23	Work Planning and Performance Review (WPPR)
KSR 03-00-24	Inclement Weather and Employee Work Attendance
KSR 03-00-25	Medical Examination Requirements for New Employees
KSR 04-00-02	Staff Training and Development
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File

KSR 06-00-02	Records Audit
KSR 06-00-03	Kentucky Open Records Law
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-03	Guidelines for Contractors
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08	Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery, or Death of an Inmate
KSR 08-00-09	Emergency Preparedness Training
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05	Gate I Entrance and Exit Procedure (Amended 10/15/86)
KSR 09-00-14	Use of Force
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing
KSR 09-00-25	Inmate Motor Vehicle Operator's License
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 10-00-02	Special Management Inmates - Operations, Rules and Regulations for Unit D [(Amended 9/9/86)]
KSR 10-00-03	Special Needs Unit
KRS 10-00-04	Unit D Admission/Release Ticket
KSR 11-00-01	Meal Planning for the General Population
KSR 11-00-02	Special Diets
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Dress Code for Inmates
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-02	Sanitation and General Living Conditions
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 13-00-01	Identification of Mentally Retarded Inmates
KSR 13-00-02	Regulations for Hospital Patients
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Dental Care for Inmates
KSR 13-00-05	Medical and Dental Sick Call
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 14-00-01	Inmate Rights
KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04	Inmate Grievance Procedure
KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, and C [(Amended 9/9/86)]
KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 15-00-04	Restoration of Forfeited Good Time
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures [(Amended 9/9/86)]
KSR 15-00-08	Firehouse Living Area
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations [(Amended 9/9/86)]
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment
KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting [(Amended 9/9/86)]
KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations [(Amended 9/9/86)]
KSR 17-00-05	Dormitory 10 Operations [(Amended 9/9/86)]
KSR 17-00-06	Identification Department Admission and Discharge Procedures [(Amended 9/9/86)]
KSR 17-00-07	Inmate Personal Property
KSR 18-00-01	Special Management Inmates - Unit D Classification
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 18-00-06	Classification
KSR 18-00-07	Special Notice Form
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-Job Training Program [(Amended 9/9/86)]
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Pre-Parole Progress Report

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 21, 1986 at 9 a.m. on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General

Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 503 employees of the Kentucky State Reformatory, 1,440 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

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

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on October 15, 1986 [September 9, 1986] and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-01-02	Fiscal Management: Accounting Procedures
NTC 02-01-03	Fiscal Management: Checks
NTC 02-01-04	Fiscal Management: Insurance
NTC 02-03-01	Fiscal Management: Audits
NTC 02-08-01	Inmate Canteen [(Amended 9/9/86)]
NTC 02-12-01	Inmate Personal Accounts
NTC 03-01-01	Employee Dress and Personal Appearance
NTC 03-02-01	Prohibited Employee Conduct
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants
NTC 03-04-01	Shift Assignments and Transfers (Amended 10/15/86)
NTC 03-05-01	Work Planning and Performance Review
NTC 03-06-01	Worker's Compensation
NTC 03-07-01	Merit System Registers and Placement of Advertisements
NTC 03-08-01	Procedures for New Employees Reporting for Employment
NTC 03-09-01	Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File
NTC 03-10-01	Employment of Ex-Offenders
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings
NTC 03-14-01	Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees
NTC 03-14-02	Promotional Opportunities
NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time
NTC 03-15-02	Sick Leave Abuse
NTC 03-15-03	Inclement Weather and Emergency Conditions
NTC 03-16-01	Affirmative Action Program and the Promotion of EEO
NTC 03-18-01	Educational Assistance Program
NTC 03-19-01	Holding of Second Jobs by Employees
NTC 04-01-01	Training and Staff Development (Amended 10/15/86)
NTC 04-04-01	Firearms and Chemical Agents Training
NTC 06-01-01	Offender Records
NTC 06-01-02	Records - Release of Information
NTC 06-01-03	Taking Offender Record Folders onto the Yard [(Amended 9/9/86)]
NTC 08-05-01	Duties of Fire and Safety Officer [(Amended 9/9/86)]
NTC 08-05-02	Fire Procedures
NTC 08-05-03	Fire Prevention
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-05-05	Control of Flammables, Toxic, Caustic, and Other Hazardous Chemicals and Janitorial Supplies
NTC 10-01-01	Special Management Inmates [(Amended 9/9/86)]
NTC 10-01-02	Legal Aide Visits for Special Management Inmates
NTC 11-03-01	Food Services: General Guidelines [(Amended 9/9/86)]

NTC 11-04-01	Food Service: Meals [(Amended 9/9/86)]
NTC 11-04-02	Menu, Nutrition and Special Diets [(Amended 9/9/86)]
NTC 11-05-02	Health Standards/Regulations for Food Service Employees
NTC 11-06-01	Inspections and Sanitation [(Amended 9/9/86)]
NTC 11-07-01	Purchasing, Storage and Farm Products [(Amended 9/9/86)]
NTC 12-01-01	Institutional Inspections
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens (Amended 10/15/86)
NTC 12-02-02	Issuance of Personal Hygiene Products [(Added 9/9/86)]
NTC 13-01-01	Emergency Medical Care Plan [(Amended 9/9/86)]
NTC 13-01-02	Emergency and Specialized Health Services
NTC 13-02-01	Administration and Authority for Health Services
NTC 13-03-01	Sick Call and Pill Call
NTC 13-04-01	Pharmacy
NTC 13-05-01	Dental Services
NTC 13-06-01	Licensure and Training Standards
NTC 13-07-01	Provisions for Health Care Delivery [(Amended 9/9/86)]
NTC 13-08-01	Medical and Dental Records
NTC 13-09-01	Special Diets
NTC 13-11-01	Inmate Health Screening and Evaluation [(Amended 9/9/86)]
NTC 13-12-01	Disabled and Infirm Inmates
NTC 13-13-01	Medical Alert System
NTC 13-14-01	Management of Chemically Dependent Inmates
NTC 13-15-01	Health Education for Inmates [(Amended 9/9/86)]
NTC 13-16-01	Continuity of Health Care
NTC 13-17-01	Inmates Assigned to Health Services
NTC 13-19-01	Psychological Services
NTC 13-19-02	Mentally Retarded Inmates
NTC 13-19-03	Suicide Prevention and Intervention Program
NTC 13-20-01	Infectious Disease [(Added 9/9/86)]
NTC 14-01-01	Legal Services Program [(Amended 9/9/86)]
NTC 14-02-01	Inmate Grievance Procedure
NTC 14-03-01	Inmate Rights and Responsibilities (Amended 10/15/86)
NTC 15-01-01	Restoration of Forfeited Good Time (Amended 10/15/86)
NTC 15-02-01	Due Process/Disciplinary Procedures (Amended 10/15/86)
NTC 15-02-02	Extra Duty Assignments
NTC 15-02-03	Hearing Officer (Added 10/15/86)
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail
NTC 15-03-02	Rules and Regulations for Dormitories (Amended 10/15/86)
NTC 15-04-01	Inmate Identification
NTC 16-01-01	Mail Regulations
NTC 16-02-01	Visiting
NTC 16-02-02	Extended and Special Visits
NTC 16-02-03	Honor Dorm Visiting [(Amended 9/9/86)]
NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control
NTC 17-01-01	Personal Property Control
NTC 17-01-02	Authorized Inmate Personal Property
NTC 17-01-03	Unauthorized Inmate Property [(Amended 9/9/86)]
NTC 17-01-04	Disposition of Unauthorized Property
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Pre-Parole Progress Report (Amended 10/15/86)
NTC 18-01-02	Parole Eligibility Dates
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification [(Added 9/9/86)]
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers to Other Institutions
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program
NTC 19-01-02	Restricted Outside Work Crew [(Added 9/9/86)]
NTC 19-01-03	Temporary Leave from Job Assignment [(Added 9/9/86)]
NTC 20-01-01	Academic School Program [(Amended 9/9/86)]
NTC 21-01-01	Library Services (Amended 10/15/86) [(Amended 9/9/86)]
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management [(Amended 9/9/86)]
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-02	Certification of Volunteers and Guests

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 21, 1986 at 9 a.m., on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 218 employees of the Northpoint Training Center, 651 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

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

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on October 15, 1986 [September 9, 1986] and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-07-01	Extraordinary Occurrence Reports
BCC 01-11-01	Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01	Relationships with Public, Media, and Other Agencies
BCC 01-15-01	Internal Affairs Office
BCC 01-16-01	Tours of Blackburn Correctional Complex
BCC 01-19-01	Inmate Access to BCC Staff
BCC 02-01-01	Inmate Canteen
BCC 02-02-01	Fiscal Responsibility
BCC 02-02-02	Fiscal Management: Accounting Procedures
BCC 02-02-03	Fiscal Management: Checks
BCC 02-02-04	Fiscal Management: Budget
BCC 02-02-05	Fiscal Management: Insurance
BCC 02-02-06	Fiscal Management: Audits
BCC 02-04-01	Billing Method for Health Services Staff Paid by Personal Service Contract
BCC 05-01-01	Inmate Participation in Authorized Research
BCC 06-01-01	Storage of Expunged Records
BCC 06-02-01	Records - Release of Information
BCC 06-03-01	Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 08-01-01	Simplified Fire Safety System (SFSS)
BCC 08-02-01	Natural Disaster Plan (Tornado)
BCC 08-03-01	Emergency Preparedness Plan Manual
BCC 09-02-01	Restricted Areas
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-03-01	Inmate Identification
BCC 09-04-02	Complex Entry & Exit
BCC 09-05-01	Key Control
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 11-01-01	Menu and Special Diets
BCC 11-03-01	Food Service: Meals (Added 10/15/86)
BCC 11-04-01	Dining Room Guidelines (Added 10/15/86)
BCC 11-05-01	Food Service Security: Knife & Other Sharp Instrument/Utensil Control (Added 10/15/86)
BCC 12-02-01	Personal Hygiene Items
BCC 12-02-02	Personal Hygiene for Inmates: Clothing and Linens
BCC 13-01-01	Sick Call and Pill Call
BCC 13-02-01	Administration and Authority for Health Services (Added 10/15/86)
BCC 14-01-01	Office of Public Advocacy Attorney Visits
BCC 14-02-01	Law Library
BCC 14-03-01	Inmate Grievance Procedure
BCC 14-04-01	Inmate Rights and Responsibilities
BCC 15-01-01	Authorized Inmate Personal Property
BCC 15-02-01	Meritorious Living Unit (B-1)
BCC 15-03-01	Rules and Regulation for Dormitories
BCC 15-04-01	Restoration of Forfeited Good Time
BCC 15-05-01	Extra Duty Assignments (Added 10/15/86)
BCC 16-01-01	Inmate Furloughs
BCC 16-02-01	Visiting
BCC 16-03-01	Mail Regulations - Packages
BCC 20-01-01	Academic School
BCC 20-02-01	College Programs (Added 10/15/86)
BCC 21-01-01	Library Services
BCC 22-01-01	Arts and Crafts/Production and Sale of Items
BCC 22-02-01	Privileged Trips
BCC 24-03-01	Social Services
BCC 25-01-01	Inmate Check Out Procedure

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: October 15, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 21, 1986 at 9 a.m. on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones
(1) Type and number of entities affected: 86 employees of the Blackburn Correctional Complex, 302 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

TRANSPORTATION CABINET
Department of Highways
Division of Traffic
(Proposed Amendment)

603 KAR 5:050. Uniform traffic control devices.

RELATES TO: KRS 189.337
PURSUANT TO: KRS 189.337
NECESSITY AND FUNCTION: KRS 189.337(2) authorizes the Transportation Cabinet, Department of Highways, to adopt a uniform system of traffic control devices. This regulation defines the system.

Section 1. The standards and specifications set forth in the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" (1978 Edition, and subsequent amendments thereto) shall apply to all traffic control devices installed on any road or street. Satisfactory operating traffic control devices in use on the effective date of this regulation may continue to be used; however, if such devices are replaced or revised, they must be made to conform with the standards and specifications of the manual.

Section 2. A copy of the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" (1978 Edition and Revisions No. 1, No. 2, [and] No. 3 and No. 4 dated December, 1979, December, 1983, [and] September, 1984, and March, 1986 respectively) is hereby incorporated by reference as part of this regulation.

Section 3. Copies of the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" may be viewed at the Transportation Cabinet, Department of Highways , Division of Traffic in Frankfort, Kentucky or at any highway district office.

C. LESLIE DAWSON, Secretary/Commissioner
APPROVED BY AGENCY: October 9, 1986
FILED WITH LRC: October 9, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed amended administrative regulation on November 26, 1986, at 9 a.m. local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by November 21, 1986 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: Transportation Cabinet and transportation agencies of all cities and counties in Kentucky.
(a) Direct and indirect costs or savings to those affected: None. Changes required only as new signs are placed.
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: Changes some signing requirements but effective only upon replacement.
(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: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal Highway Administration requires that these revisions be adopted for all roads receiving federal funds.
(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 highways and roads should be signed uniformly for ease of understanding by the travelling public.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services
(Proposed Amendment)

702 KAR 1:115. Annual in-service training of district board members.

RELATES TO: KRS 160.180
PURSUANT TO: KRS 156.070, 160.180
NECESSITY AND FUNCTION: Effective January 1, 1987, and thereafter, KRS 160.180 provides that

all local school board members must complete an established number of [at least fifteen (15)] hours of in-service training annually, based on the number of years of experience, and that the State Board of Education shall identify the criteria for fulfilling such requirements. This regulation establishes standards for the annual in-service training of district board members.

Section 1. Each affected member of a district board of education shall obtain at least fifteen (15) clock hours of in-service training in 1986 [each calendar year] in topics relating to the responsibilities of local district board members. Effective January 1, 1987, and thereafter, the annual in-service requirements for all district school board members shall be as follows:

(1) Twelve (12) hours training for school board members with zero to three (3) years of experience;

(2) Eight (8) hours training for school board members with four (4) to seven (7) years of experience; and

(3) Four (4) hours training for school board members with eight (8) or more years of experience.

Section 2. Except as specifically provided for in Section 3(2)(b) of this regulation, the topics relating to the responsibilities of board members may include but not be limited to the following subjects:

(1) The basic role and responsibility of the district board and its members;
(2) Instructional programs;
(3) District finance;
(4) Relations with superintendent and staff;
(5) School law; and
(6) Community relations.

Section 3. [2.] (1) For the 1986 calendar year, the Kentucky School Boards Association is recognized as the approved provider of a minimum of ten (10) hours of district board member in-service training, with the remaining five (5) hours being eligible to be obtained elsewhere.

(2)(a) Effective January 1, 1987, and thereafter, the KSBA is recognized as the provider of eight (8) hours of district board member in-service training for board members who are required to obtain twelve (12) hours annually. This arrangement equates to the KSBA being the provider of thirty-two (32) of the forty-eight (48) hours required during the four (4) year period for new board members.

(b) New, inexperienced board members should be exposed to basic information and basic skills that make them informed and effective board members. During the zero to three (3) year experience period, district board members initially elected in 1986, or initially elected thereafter, shall be required to acquire a minimum of two (2) hours training in each of the following areas through programs offered by the KSBA:

1. School law;
2. School finance;
3. Community relations;
4. Policy development;
5. Personal relations;
6. Instructional programs;
7. Superintendent/board relations;
8. Goal setting/decision making;
9. Employment and evaluation of the superintendent;
10. Educational services provided for the exceptional, gifted and other special population children; and
11. The increasing problems of drug and alcohol use among our young people.

(c) Board members in the zero to three (3) year experience period will be allowed a maximum of four (4) hours per year or sixteen (16) hours for the four (4) year period, as flexible hours of in-service. If board members in this category opt to get all of their hours through the KSBA, then they can have KSBA credit them for these hours. If they determine to acquire a portion or all of the sixteen (16) flexible hours through sources other than KSBA, then they must get credit through their own school board's action at a board meeting, and a copy of that record must be sent to KSBA so that proper credit can be given.

(3) Those district board members in the four (4) to seven (7) years experience category can acquire their hours anywhere, through any source they desire. If they obtain their hours through any source other than the KSBA, they must have local board approval and send a copy of the record (board minutes) to KSBA.

(4) Those board members in the eight (8) or more years experience category are subject to subsection (3) of this section.

(5) As the approved provider, the Kentucky School Boards Association shall, in cooperation with the Superintendent of Public Instruction, annually develop an in-service training plan for the review and approval of the State Board of Education. In-service training for district board members shall be provided at a minimum of five (5) geographic locations, on a variety of dates.

[(2) District board members may choose to obtain a maximum of five (5) hours in-service training annually in activities other than those conducted by the Kentucky School Boards Association.]

(6) The local district board of education shall by board action certify completion of [any or] all qualifying flexible [of these five (5)] hours of in-service training [meeting the requirements of Section 1 of this regulation] in writing to KSBA, which shall combine such hours with hours of in-service training received through its approved activities. The certification to KSBA shall include a description of the time, date, location, and description of the [five (5) hours of] in-service training. These records shall be submitted annually to the State Board of Education.

Section 4. [3.] The names of all district school board members who fail to complete the required [fifteen (15)] hours of in-service training shall be transmitted by the Department of Education to the Attorney General.

Section 5. [4.] The State Board of Education, in cases of emergency, may grant an extension of time within which a local board member may complete the required [fifteen (15)] hours of in-service training [requirement].

[Section 5. The annual fifteen (15) hours in-service training requirement shall become

effective January 1, 1985.]

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: October 1, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on November 21, 1986, at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its October meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, Acting Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before November 16, 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: Arnold Guess
(1) Type and number of entities affected: 178 public school districts.
(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: Minimal, but required.
(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: N/A
(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: Amendment needed to conform with statutory change.
TIERING: Was tiering applied? No. Not applied in the interest of uniformity. Tiering already mandated by statute, based upon years of experience.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Not applicable.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.160
PURSUANT TO: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to establish minimum courses of study and the scope of instruction that may be offered in the different classes of common schools, and to establish the minimum requirements for graduation from the courses offered. This regulation implements that duty.

Section 1. Pursuant to the authority vested in the State Board of Education by KRS 156.070 and 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as amended on October 1 [August 27], 1986, is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies may be obtained from the Office of Instruction, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: October 1, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on November 21, 1986, at 10 a.m., EDT, 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 October meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before November 16, 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: Dr. Steve Henderson
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: Not applicable.
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 change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Continuation of

existing procedure.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.
(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. Uniformity.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Not applicable.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky State Racing Commission
(Proposed Amendment)

810 KAR 1:013. Entries, subscriptions and declarations.

RELATES TO: KRS 230.210 to 230.360
PURSUANT TO: KRS 13A.350
NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline requirements for entry, subscription and declaration of horses in order to race.

Section 1. Entering Required. No horse shall be qualified to start in any race unless such horse has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the association without notice or reason given therefor.

Section 2. Procedure for Making Entries. (1) All entries, subscriptions, declarations, and scratches shall be lodged with the racing secretary and shall not be considered as having been made until received by the racing secretary who shall maintain a record of time of receipt of same for a period of one (1) year.
(2) Every entry must be in the name of such horse's licensed owner, as completely disclosed and registered with the racing secretary under these rules, and made by the owner, or trainer, or a licensed authorized agent of such owner or trainer.
(3) Every entry must be in writing, except that an entry may be made by telephone to the racing secretary, but must be confirmed in writing should the stewards, the racing secretary, or an assistant to the racing secretary so request.
(4) Every entry shall clearly designate the horse so entered. When entered for the first time during a meeting, every horse shall be designated by name, age, color, sex, sire, and dam, as reflected by such horse's registration certificate.
(a) No horse may race unless correctly identified to the satisfaction of the stewards as being a horse duly entered.
(b) In establishing identity of a horse, responsibility shall be borne by any person attempting to identify such horse as well as the owner of such horse, all such persons being subject to appropriate disciplinary action for incorrect identification.
(c) Every entry shall clearly state any and all medications, drug, or substances which the horse shall receive as pre-race treatment. Medications, drugs, or substances shall be categorized into two (2) sections and shall be designated as follows: NSAID (non-steroidal anti-inflammatory) shall be designated by (B); and any and all bleeder medications shall be designated by (L). Horses racing for the first time with either of the above categories shall be clearly designated with (1).
(5) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.
(6) No horse may be entered in two (2) races to be run on the same day.
(7) No horse which has not started in the past ninety (90) days shall be permitted to start unless it has at least one (1) published work-out within twenty (20) days of entry at a distance satisfactory to the stewards of the meeting. In the event that a horse has done the requisite work-out, but through no fault of the trainer, such work-out does not appear in the past performances, the horse shall be permitted to start and the correct work-out announced. No horse which has never started shall be entered until the trained has produced satisfactory evidence to indicate to the starter that it has been adequately schooled from the starting gate.

Section 3. Stabling Requirement. No entry shall be accepted for any horse not stabled on association grounds where such race is to be run, unless its stabling elsewhere has been approved by the commission in its approved <u>off-track stable</u> [farm] list. <u>For purposes of the "rules of racing," off-tract stables are considered those stabling horses used in thoroughbred racing in the Commonwealth of Kentucky and are considered extensions of racing association backsides and are subject to all applicable rules.</u>
<u>(1) The fee for an annual license for an off-tract stable shall be $100 for those with fifty (50) stalls or less and $250 for those with fifty-one (51) stalls or more. An annual inspection by the commission is required. The license must be displayed to the public.</u>
<u>(2) It shall be the responsibility of the off-track stable to ensure that all personnel on the grounds are licensed by the commission except for those making occasional deliveries of goods. It shall also be the responsibility of the off-track stable to adhere to the "rules of racing." Failure to do either of the aforementioned may result in a fine, a penalty, and/or loss of license.</u>
<u>(3) All off-track stables shall have a training track with an inner rail and a minimum length of one-half (1/2) of a mile.</u>

(4) Each off-track stable shall adhere to the applicable security provisions of Rule VI, Section 21 of the "rules of racing."

Section 4. Limitation as to Spouses. No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, then the stewards may waive this rule as to the duly licensed husband or wife or such suspended jockey.

Section 5. Mutuel Entries. (1) All horses entered in the same race and trained by the same trainer shall be joined as a mutuel entry and single betting interest. All horses entered in the same race and owned wholly, or in part by the same owner or spouse thereof, shall be joined as a mutuel entry and single betting interest.

(2) No more than two (2) horses having common ties through ownership or training as to be joined as a mutuel entry may be entered in a purse race. When making such double entry, a preference for one (1) of the horses must be made.

(3) In no case may two (2) horses having common ties through ownership start in a purse race to the exclusion of a single interest. In races in which the number of starters is limited to ten (10) or less, no two (2) horses having common ties through training may start to the exclusion of a single entry.

Section 6. Subscriptions. (1) Nominations to or entry of a horse in a stakes race is a subscription. Any subscriber to a stakes race may transfer or declare such subscription prior to closing.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due thereon.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the subscriber or transferee from liability for all stakes fees due thereon. No fees paid in connection with a subscription to a stakes race that is run shall be refunded, "except as otherwise stated in the conditions of a stakes race."

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry thereunder. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) When a horse is sold privately, or sold at public auction, or claimed, stakes engagements for such horse shall be transferred automatically with such horse to its new owner; except that, if such, horse is transferred to a person whose license is suspended or otherwise unqualified to race or enter such horse, then such subscription shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the condition for such stakes race. In the event a stakes race is not run for any reason, all such subscription fees paid shall be refunded.

Section 7. Closing. (1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for such races. If a race is not split, no entry, subscription, or declaration shall be accepted after such closing time; except that in event of an emergency, or if a purse race fails to fill them the racing secretary may, with the approval of a steward, extend such closing time.

(2) If the hour of closing is not specified for stakes races, then subscriptions and declarations therefor may be accepted until midnight of the day of closing; provided, they are received in time for compliance with every other condition of such race.

(3) Entries which have closed shall be complied without delay by the racing secretary and, along with declarations, be posted.

Section 8. Number of Starters in a Race. (1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and extensions thereof approved by the commission as can be positioned across the width of the track at the starting point for such race; and such maximum number of starters further shall be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, and the distance from the start to the first turn, can be afforded a fair and equal start.

(2) At tracks measuring less than a mile in circumference, no more then ten (10) horses may start in any race without consent of the stewards, and no more than twelve (12) horses may start under any circumstance.

(3) Any claiming race in the printed condition book for which eight (8) or more horses representing different betting interests are entered must be run. All other purse races in the printed condition book for which six (6) or more horses representing different betting interests are entered must be run.

(4) If any purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (3) of this section to be run, then the association may cancel or declare off such race. The names of all horses entered therein shall be publicly posted in the office of the racing secretary not later than 1:00 p.m. the same day.

Section 9. Split or Divided Races. (1) In the event a race is cancelled or declared off, the association may split any race programmed for the same day and which may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) When a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice thereof not less than fifteen (15) minutes before such races are closed so as to grant time for the making of additional entries to such split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions therefor were made, and in the absence of specific prohibition of such conditions:

(a) Horses originally joined as a mutuel entry may be place in different divisions of a split race unless the person making such multiple entry, at the time of such entry indicates such coupling of horses is not to be uncoupled when such race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided above by this rule, shall be divided by lot so as to provide a number of betting interests as near equal as possible for each division of such split race.

Section 10. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race included two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List. (1) If the number of entries for a race exceeded the number of horses permitted to start in such race as provided by Section 8 of this regulation, then the names of as many as eight (8) horses entered but not drawn into such race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After any horses have been excused from a race at scratch time, a new drawing shall be taken as to horses on the also-eligible list, and the starting and post position of such horses drawn from the also-eligible list shall be determined by the sequence drawn, unless otherwise stipulated in published conditions of the race.

(3) Any owner or trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

(4) Where entries are closed two (2) racing days prior to the running of a race, any horse on an also-eligible list, and which also has been drawn into a race as a starter for the succeeding day, shall not permitted to run in the race for which it had been listed as also-eligible.

Section 12. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. The racing secretary shall submit for approval of the commission at least thirty (30) days prior to the opening date of a race meeting a detailed description of the manner in which preference will be allocated.

(2) No preference shall be given a horse otherwise entitled thereto for a race if such horse also is entered for a race on the succeeding day.

Section 13. Arrears. No horse may be entered or raced if the owner thereof is in arrears as to any stakes fees due by such owner; except with the approval of the racing secretary.

Section 14. Declarations. Withdrawal of a horse from a race before closing thereof by the owner or trainer or person deputized by either, such being known as a "declaration," shall be made in the same manner as to form, time, and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any licensed association.

Section 15. Scratches. Withdrawal of a horse from a race after closing thereof by owner or trainer or person deputized by either, such being known as a "scratch," shall be permitted only under the following conditions:

(1) A horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the race preceding such stakes race by the filing in writing of such intention with the racing secretary, unless a list of also-eligibles has been drawn, in which case scratches must be filed at the regular scratch time as posted by the racing secretary, and no horse will be excused thereafter without a valid physical reason. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.

(2) No horse may be scratched from a purse race without approval of the stewards and unless such intention to scratch has been filed in writing with the racing secretary or his assistant at or before the time conspicuously posted as "scratch time." Scratch of one (1) horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten (10) betting interests in either of the two (2) daily double races, or horses representing more than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races, this privilege to be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after such horse was scratched or excused.

Section 16. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form and the monthly chart books, or corresponding official publications of any foreign county, shall be considered official, but may be corrected until forty-five (45)

minutes prior to post time of the race.

MARTHA H. BROADBENT, Chairman
APPROVED BY AGENCY: September 25, 1986
FILED WITH LRC: October 8, 1986 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986 at 10 a.m. at the offices of the Kentucky State Racing Commission at 535 West Second Street, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson
(1) Type and number of entities affected: Off-track stabling facilities.
(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): Under the new provisions, about ten percent of currently licensed facilities would no longer be licensed.
(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: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: A file with photograph will be maintained on each such stabling facility.
(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? Yes.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.040(7), 198B.050
NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1987 [1984] Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA National Basic Building Code/1984," Ninth Edition, published by and copies available from Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60477. That code, including all standards listed in Appendices A through D are hereby adopted by reference with the following additions, exceptions and deletions:
(1) Delete Article 1 in its entirety.
(2) Change subsection 201.0 to include the following additional definitions:
(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."
(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."
(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."
(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."
(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."
(f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."
(3) Change subsection 201.0 definitions to read as follows:
(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation." (See "Story Above Grade.")
(b) "Story: That part of the building

comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 309.5 to read as follows: "309.5 Use group R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One- and Two-Family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 22) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission. Nevertheless, any builder may use exception #3 of Section 809.4 to determine minimum size of egress windows."

(5) Change subsection 505.1 to read as follows: "505.1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Sections 106 and 505.2 provided an unlawful change of use is not involved."

(6) Delete Sections 512.1 through 512.4.1 and substitute the following: "512.1" Requirements for accessibility of the handicapped: Please see 815 KAR 7:060 for construction requirements providing accessibility to the handicapped, Article 25 of this Code.

(7) Delete Section 513.1 in its entirety.

(8) Change Section 603.0 by creating a new subsection which shall read as follows: "603.3 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire and health officials to insure maintenance of good housekeeping conditions."

(9) Change Section 608.1 to read as follows: "Private garages located beneath rooms in buildings of Use Groups R-1, R-2, R-3 or I-1 shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than one (1) hour fire-resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side. The sills of all door openings between the garage and adjacent interior spaces shall be raised not less than four (4) inches (102 mm) above the garage floor. The door opening protectives shall be one and three-fourths (1 3/4) inch solid core wood doors or approved equivalent. In lieu of the required one and three quarter (1 3/4) or twenty (20) minute door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 702 and Section 804 in their entirety.

(11) Change Section 900.0 by creating a new subsection which shall read as follows: "900.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 1404.4.2, 1404.4.3, 1404.4.4 in their entirety.

(13) Change subsection 1600.2 to read as follows: "1600.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two (2) new subsections to Section 1600.0 which shall read as follows:

(a) "1600.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1983 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1600.4 Mechanical Code: All mechanical equipment and systems not covered by 1600.2 or 1600.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix A, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1984 including all applicable standards listed within Appendix A."

(15) Delete Article Nineteen (19) in its entirety.

(16) Amend Article 20 by changing, creating or deleting certain portions thereof, as follows:

(a) Create a new subsection 2000.5 which shall read as follows: "2000.5 Electrical Inspections: Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010."

(b) Delete Subsections 2001.3, 2004.3, and 2004.4.

(c) In Subsections 2002.1, 2002.2, 2002.3 and 2003.1 change the words "Building Official" to "Certified Electrical Inspector."

(17) Delete subsections 2200.1 through 2206.3.1 in their entirety and substitute the following: "2200.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of Chapter 318 of the Kentucky Revised Statutes and the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

(18) Change subsection 809.4 to read as follows:

"809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R and I-1 shall have at least one (1) operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than forty-four (44) inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of five and seven-tenths (5.7) square feet (0.532). The minimum net clear opening height dimension shall be twenty-four (24) inches (610 mm). The minimum net clear opening width dimension shall be twenty (20) inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable

from the inside without the use of a key, tool or excessive force."

EXCEPTIONS

1. Grade floor windows may have a minimum net clear opening of five (5) square feet (0.47 m2).

2. In buildings of Use Group R-3, where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

3. Egress windows located on the first and second stories in multiple family dwellings (R-2 and R-3 use groups) and one (1) and two (2) family dwellings, may have a minimum net clear opening height dimension of twenty-two (22) inches and a minimum width dimension of twenty (20) inches; and the net clear opening area may be reduced to no less than four (4) square feet. The minimum total glazed area must be five (5) square feet in the case of a ground floor window and not less than five and seven-tenths (5.7) square feet in the case of a second story window. (This exception applies only if the sash frames can be readily broken or removed.)

Section 3. Elevator, Dumbwaiter and Conveyor Equipment, Installation and Maintenance. The following subsections of Article 21 of the BOCA Basic Building Code are deleted or changed to read as follows:

(1) Change Subsection 2103.4 of Article 21 to read as follows: "2103.4 Posting certificates of compliance: The owner or lessee shall post the last issued certificate of compliance in a conspicuous place on the elevator, available to the building official."

(2) Change Subsection 2102.4.1 of Article 21 to read as follows: "2102.4.1 Periodic Inspection Intervals: Periodic inspections shall hereafter be made at intervals of not more than twelve (12) months for all passenger elevators, manlifts and escalators."

(3) Change Subsection 2110.1 of Article 21 to read as follows: "2110.1 General: The construction of machine rooms and related construction for passenger and freight elevators and dumbwaiters shall be protected from the weather, and shall be enclosed with fire resistive enclosures. Enclosures and access doors thereto shall have a fire endurance at least equal to that required for the hoistway enclosure in Table 401."

Section 4. Elevators. Appendix A of the BOCA Basic Building Code under "Elevators, Escalators and Moving Walks," shall be changed to read as follows: Change all citations relating to the "Safety Code for" and substitute "ANSI 17.1-1984 [1981] and Supplement to Safety Code for Elevators and Escalators ANSI/ASME A17.1A-1985; A17.1B-1985; A17.1C-1986; with the exception of rules 102.2(c)(4) and 700.4b, 700.5, 700.7b, 700.10b, 707.4 [1983]."

Section 5. A new subsection of Article 3 of the Kentucky Building Code is hereby added to read as follows: "310.4 Tobacco auction warehouses: Warehouses, for the sale of tobacco only, of Type 1, Type 2, or Type 3 construction, may be constructed without a sprinkler system when all the following requirements have been met:

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of non-combustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1707.0 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained between the warehouse and the lot line and the warehouse and the nearest building."

Section 6. (1) Amend Article 5 as follows:

(a) In subsection 505.1, change the number, "103.0," to read "106.0."

(b) In subsection 511.1, change the number, "124.0," to read "123.0."

(2) Delete the reference to the BOCA Fire Prevention Code listed in Appendix A and install in its place the following: "The Kentucky Fire Safety Standards (815 KAR 10:020 - Fire Safety Standards) shall be used as the fire prevention code."

(3) In subsection 612.4, change the number, "107.4" to read "110.0."

(4) Change Table 816 to read as follows:

TABLE 816
TREAD AND RISER SIZE[a,c]

Use Group	Max. riser	Min. riser	Max. tread	Min. tread
R-3 and within dwelling units in Use Group R-2	8 1/4 in.	--	--	9 in.
All others[b]	7 in.	4 in.	--	11 in.

Note a. There shall be no variation exceeding 3/16" in the depth of adjacent treads or in the height of adjacent risers, and the tolerance between the largest and smallest riser shall not exceed 3/8" in any flight.

Note b. In balconies and galleries, risers and treads shall be as shown in above table, but one tread in each seat platform width may have a greater width to accommodate access to seats. Seating platforms shall be of a uniform width.

Note c. 1 inch = 25.4 mm.

(5) Amend Figure 916 of Article 9 by adding the following list of 120 Kentucky counties showing the assigned earthquake risk zone for each.

Earthquake Risk Zone #1			
Adair	Elliott	Laurel	Oldham
Allen	Estill	Lawrence	Owen
Anderson	Fayette	Lee	Owsley
Barren	Fleming	Leslie	Pendleton
Bath	Floyd	Letcher	Perry
Bell	Franklin	Lewis	Pike
Boone	Gallatin	Lincoln	Powell
Bourbon	Garrard	Logan	Pulaski
Boyd	Grant	Madison	Robertson
Boyle	Grayson	Magoffin	Rockcastle
Bracken	Greene	Marion	Rowan
Breathitt	Greenup	Martin	Russell
Breckinridge	Hancock	Mason	Scott

Bullitt	Hardin	Meade	Shelby
Butler	Harlan	Menifee	Simpson
Campbell	Harrison	Mercer	Spencer
Carroll	Hart	Metcalfe	Taylor
Carter	Henry	Monroe	Todd
Casey	Jackson	Montgomery	Trimble
Christian	Jefferson	Morgan	Warren
Clark	Jessamine	Muhlenberg	Washington
Clay	Johnson	McCreary	Wayne
Clinton	Kenton	McLean	Whitley
Cumberland	Knott	Nelson	Wolfe
Daviess	Knox	Nicholas	Woodford
Edmonson	Larue	Ohio	

Earthquake Risk Zone #2	Earthquake Risk Zone #3
Caldwell	Ballard
Calloway	Carlisle
Crittenden	Fulton
Henderson	Graves
Hopkins	Hickman
Lyon	Livingston
Trigg	Marshall
Union	McCracken
Webster	

(6) Change subsection 1301.5.6.1.7 to read as follows: "Glazing in fixed panels having a glazed area in excess of nine (9) square feet (0.84 m^2) with the lowest edge less than eighteen (18) inches (457 mm) above the finish floor level or walking surface within thirty-six (36) inches (914 mm) of such glazing, and the finish floor or walking surface are extended on both sides of said glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and one-half (1 1/2) inches (38 mm) in width when located between twenty-four (24) inches (610 mm) and thirty-six (36) inches (914 mm) above the walking surface."

(7) Change section 1301.0 by adding a new subsection 1301.5.6.3 which shall read as follows:

(a) "1301.5.6.3 Labeling requirements:

1. Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1 and Z-97.1a listed in Appendix A and such further requirements as may be adopted by the Department of Housing, Buildings and Construction. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials."

(8) Change subsection 1410.4 and the exceptions thereto to read as follows: "1410.4 Duct and pipe shafts: In all buildings other than buildings of Use Group R-2, vertical pipes arranged in groups of two (2) or more which penetrate two (2) or more floors and occupy an area of more than one (1) square foot (0.093 m^2), and vertical ducts which penetrate two (2) or more floors, shall be enclosed by construction of not less than one (1) hour fire-resistance rating to comply with this section. All combustible pipes and ducts connecting two (2) or more stories shall be enclosed as indicated herein.

Exceptions:

1. In all buildings of Use Group R-2, vertical noncombustible ducts shall not be required to have a one (1) hour enclosure provided:

(a) the cross sectional area does not exceed thirty-five (35) square inches;

(b) the duct does not penetrate more than three (3) floors;

(c) the duct serves no more than one (1) dwelling unit and shall not join other ducts except above the top level for the purpose of utilizing a single roof penetration; and

(d) these ducts are restricted for use as a bathroom or kitchen exhaust, and combustion air supply and relief.

2. Combustible pipe shall be permitted where approved by Article 22 of this code. Noncombustible fittings shall be required where branch lines enter into or exit from rated walls, with no requirement for one (1) hour enclosure."

(9) Add the following language and NFPA Standards to Appendix A:

"These NFPA Standards are to be used for fire suppression requirements and design only, where referenced in a specific code requirement in the body of the Code."

BOCA Guide for Suppression Requirements for Specific Occupations

Installation of Sprinkler System	NFPA 13-85
Standard for Installation for Private Fire Service Mains and their Appurtenances	NFPA 24-1984
Aircraft Hangars	NFPA 409
Cellulose Nitrate Film	NFPA 40
Pyroxylin Plastics	NFPA 40C
Flammable Liquids	NFPA 30,NFPA 36
Paint Spray	NFPA 33
Dipping and Coating	NFPA 34
Laboratories	NFPA 45
Fireworks	NFPA 44A
Gaseous Oxidizing Materials	NFPA 43C
Heliports	NFPA 418
L.P. Gas Storage	NFPA 58
High Piled Storage in Excess of 12 ft. in height	NFPA 231
Rack and Palletized Storage in Excess of 12 ft. in height	NFPA 231C
Rubber Tire Storage	NFPA 231D
Baled Cotton Storage	NFPA 231E
Rolled Paper Storage	NFPA 231F
Rangehoods	NFPA 96
Computer Rooms	NFPA 75
Archives and Record Centers	NFPA 232AM
L.P. Gas Storage and Handling	NFPA 59A
Explosion Prevention Systems	NFPA 69
Fur Storage	NFPA 81
Cooling Towers	NFPA 214
Marinas and Boatyards	NFPA 303
Library Stacks	NFPA 910
Wood Working Facilities	NFPA 664

(10) Amend Article 18 as follows:

(a) In subsection 1805.2, change the words, "Section 2205.4" to read "Article 22, 815 KAR 20:090."

(b) In subsection 1807.2.1 and 1807.2.2, insert the words "two (2) feet (610 mm)" in

spaces provided.

(11) Delete Article 22 in its entirety and substitute the following reference: "2200.1 General: See Kentucky State Plumbing Code for all the requirements for plumbing installations as set forth in Chapter 20, Title 815 of Kentucky Administrative Regulations. Informational copies are available from the Kentucky Division of Plumbing, U.S. 127 South, Frankfort, Kentucky 40601."

Section 7. Amend subsection 812.5.4 and add an exception to read as follows: "812.5.4 Panic hardware: All doors equipped with latching or locking devices in buildings of Use Groups A and E or portions of buildings used for assembly or educational purposes and serving rooms or spaces with an occupant load greater than 100 shall be equipped with approved panic hardware. Acceptable panic hardware will be a door latching assembly incorporating a device which causes any door latch and lock to release and the leaf to open when a force of 15 pounds (73.23 N) is applied in the direction of egress to a bar or panel, the activating portion of which extends not less than one-half the width of the door leaf, and applied at a height greater than 30 inches (762 mm) but less than 44 inches (1118 mm) above the floor. The force shall be applied at the lock side of the door or 30 inches (762 mm) from the hinged side, whichever is farther from the hinge."

"Exception: Panic hardware for Use Group A3 is not required for the principal entrance/exit doors if (1) they are free-swinging; and (2) the calculated occupant load does not exceed 150; and (3) the latch/lock device is a thumb latch/lock or a key operated lock device in which the key cannot be removed from the side from which egress is to be made when it is locked."

Section 8. Amend Section 1715.1 to read as follows: "1715.1 Fire hydrants: Fire hydrants installed on private property as a part of a private fire protection system shall be located so as to meet the requirements of NFPA 24. Yard hydrant installation shall be coordinated with the responsible fire officials who shall not make recommendations which exceed the requirements of NFPA 24. Hydrants not addressed by NFPA 24 shall conform to the standards of the administrative authority of the jurisdiction and the fire department. Hydrants shall not be installed on a water main less than six (6) inches in diameter."

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: October 13, 1986
FILED WITH LRC: October 13, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by November 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden
(1) Type and number of entities affected: N/A
(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: 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: N/A
(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:
TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:010. Definitions.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the definitions needed to interpret other sections of the subsequent regulations or comprising the State Plumbing Code.

Section 1. Definition of Terms. (1) Air break (drainage system). A piping arrangement in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(2) Air gap (drainage system). The unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(3) Air gap (water distribution system). The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

(4) Anchors. (See supports.)

(5) Apprentice plumber. (See plumber's apprentice.)

(6) Approved. Accepted or acceptable under an applicable specification state or cited in this

code.

(7) Area drain. A receptacle designed to collect surface or storm water from an open area.

(8) Aspirator. A fitting or device supplied with water or other fluid under positive pressure which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus, and are similar in operation to an ejector.

(9) Autopsy table. A fixture or table used for post-mortem examination of a body.

(10) Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back-siphonage is one type of backflow.

(11) Backflow connection. Any arrangement whereby backflow can occur.

(12) Backflow preventer. A device or means to prevent backflow.

(13) Backflow preventer, reduced pressure zone type. An assembly of differential valves and check valves including an automatically opened spillage port to the atmosphere.

(14) Back-siphonage. The flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in such pipe.

(15)(a) Basement. The basement is the lowest level of a dwelling unit which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and which may or may not have an entrance and exit at the basement floor level.

(b) Basement floor drains. A basement floor drain is a drain placed in the basement floor of a residence which may or may not receive sanitary waste water.

(16) Battery of fixtures. Any group of two (2) or more similar adjacent fixtures which discharge into a common horizontal waste or soil branch.

(17) Bedpan hopper. (See clinical sink.)

(18) Bedpan steamer or boiler. A fixture used for scalding bedpans or urinals by direct application of steam of boiling water.

(19) Bedpan unit. A small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purposes.

(20) Bedpan washer and sterilizer. A fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It may also provide for disinfecting utensils by scalding with steam or hot water.

(21) Bedpan washer hose. A device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(22) Boiler blow-off. An outlet on a boiler to permit emptying or discharge of sediment.

(23) Boiler blow-off tank. A vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature which permits its safe discharge to the drainage system.

(24) Branch. The branch of any system of piping is that part of the system which extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(25) Branch, fixture. (See fixture branch.)

(26) Branch interval. A distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(27) Branch vent. A vent connecting one (1) or more individual vents with a vent stack or stack vent.

(28) Building. A structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals or property.

(29) Building classification. The arrangement of buildings in classes according to occupancy.

(30) Building drain. That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(31) Building drain; combined. A building drain which conveys both sewage and storm water or other drainage.

(32) Building drain; sanitary. A building drain which conveys sewage only.

(33) Building drain; storm. A building drain which conveys storm water or other drainage but not sewage.

(34) Building gravity drainage system. A drainage system which drains by gravity into the building sewer.

(35) Building sewer. That part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(36) Building sewer; combined. A building sewer which conveys both sewage and storm water or other drainage.

(37) Building sewer; sanitary. A building sewer which conveys sewage only.

(38) Building sewer; storm. A building sewer which conveys storm water or other drainage but no sewage.

(39) Building subdrain. That portion of a drainage system which does not drain by gravity into the building sewer.

(40) Cesspools. A lined and covered excavation in the ground which receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(41) Circuit vent. A branch vent that serves two (2) or more traps and extends from the downstream side of the highest fixture connection of a horizontal branch to the vent stack.

(42) Clinical sink (bedpan hopper). A fixture for the rinsing of bedpans and soiled linens. Such fixture shall have a trap size on not less than three (3) inches.

(43) Code. Means the State Plumbing Code.

(44) Combination fixture. A fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(45) Combined building drain. (See building drain; combined.)

(46) Combined building sewer. (See building sewer; combined.)

(47) Combination waste and vent system. A specially designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.

(48) Common vent. A vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(49) Conductor. A pipe inside the building which conveys storm water from the roof to a storm or combined building drain.

(50) Continuous vent. A vertical vent that is a continuation of the drain to which it connects.

(51) Continuous waste. A drain from two (2) or more fixtures connected to a single trap.

(52) Cross connection. Any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there may be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See backflow and back-siphonage.)

(53) Dead end. A branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(54) Developed length. The length of a pipe line measured along the center line of the pipe and fittings.

(55) Diameter. The nominal diameter as designated commercially.

(56) Domestic sewage. The water-borne wastes derived from ordinary living processes.

(57) Double offset. Two (2) changes of direction installed in succession or series in a continuous pipe.

(58) Downspout. (See leader.)

(59) Drain. Any pipe which carries waste water or water-borne wastes in a building drainage system.

(60) Drainage pipe. (See drainage system.)

(61) Drainage system. Includes all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal. It does not include the mains of a public sewer system or private or public sewage-treatment or disposal plant. Neither does this apply to plumbing appliances.

(62) Drainage system (building gravity). A drainage system which drains by gravity into the building sewer.

(63) Drainage system (sub-building). (See building subdrain.)

(64) Dry well. (See leaching well.)

(65) Dual vent. (See common vent.)

(66) Durham system. A term used to describe soil or waste systems where all piping is of threaded pipe, tube, or other such rigid construction, using recessed drainage fittings to correspond to the types of piping.

(67) Dwelling unit. One (1) or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one (1) family or individual.

(68) Effective opening. The minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of (i) diameter of a circle, or (ii) if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(69) Ejector. (See aspirator.)

(70) Existing work. A plumbing system or any part thereof installed prior to the effective date of this code.

(71) Farmstead. As defined in KRS 318.010(8) is [and] determined by the following:

(a) The property shall consist of at least ten (10) contiguous acres; and [Must have ten (10) acres or more;]

(b) The property shall have a dwelling together with other buildings and structures incident to the operation and maintenance of the farm; and [Must have a barn and equipment incident to producing a crop;]

(c) The property shall have a bona fide farm use either agricultural or horticultural in nature as defined by KRS 132.010(9) and (10), qualified by and registered with the PVA in that county; and [Must have a crop basis registered with the ASC Office;]

(d) The property shall be outside the corporate limits of a municipality. [Must be outside the corporate limits of a municipality;]

[(e) Must not be connected to or utilize a municipal or water district water supply on any portion of the property;]

[(f) Farming must be agricultural in nature as defined in KRS 132.010(9) and registered with the PVA in that county; and the owner must earn a substantial portion of his/her income from his property, i.e., at least:]

[1. 10-30 acres--$1,000 plus $60 per acre or fraction thereof over 10 acres]

[2. 30-60 acres--$2,200 plus $40 per acre or fraction thereof over 30 acres]

[3. 60-100 acres--$3,400 plus $25 per acre or fraction thereof over 60 acres]

(72) Fire line. A system of pipes and equipment used exclusively to supply water for extinguishing fires.

(73) Fixture. (See plumbing fixture.)

(74) Fixture branch. A fixture branch is the piping distance between a soil, waste and vent stack and the fixture trap.

(75) Fixture drain. The drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(76) Fixture supply. The water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(77) Fixture unit, drainage (d.f.u.). A measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit valve for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(78) Fixture unit, supply (s.f.u.). A measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit value for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between successive operations.

(79) Flood level. (See flood level rim.)

(80) Flood level rim. The edge of the receptacle from which water overflows.

(81) Flooded. The condition which results when the liquid in a container or receptacle rises to the flood-level rim.

(82) Floor drain. A floor drain is a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(83) Floor pantry. A workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(84) Flow pressure. The pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(85) Flush valve. A device located at the bottom of a tank for slushing water closets and similar fixtures.

(86) Flushing type flood drain. A drain which is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(87) Flushometer valve. A device which discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(88) Frostproof closet. A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(89) Grade. The fall (slope) of a line of pipe in reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(90) Grease interceptor. (See interceptor.)

(91) Grease trap. (See interceptor.)

(92) Hangers. (See supports.)

(93) Horizontal branch drain. A drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(94) Horizontal pipe. Any pipe or fitting which makes an angle of less than forty-five (45) degrees with the horizontal.

(95) Hot water. Water at a temperature of not less than 120 degrees F.

(96) House drain. (See building drain.)

(97) House sewer. (See building sewer.)

(98) Individual sewage disposal system. A system for disposal of domestic sewage by means of a septic tank, cesspool or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(99) Indirect waste pipe. A waste pipe which does not connect directly with the drainage system, but which discharges into the drainage system through an air break or air gap into a trap, fixture, receptor or interceptor.

(100) Individual vent. A pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(101) Individual water supply. A supply other than an approved public water supply which serves one (1) or more families.

(102) Industrial floor drain. An industrial floor drain is a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(103) Industrial wastes. Liquid wastes resulting from the processes employed in industrial and commercial establishments.

(104) Insanitary. Contrary to sanitary principles; injurious to health.

(105) Interceptor. A device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity.

(106) Installed. Altered, changed or a new installation.

(107) Invert. The lowest portion of the inside of any horizontal pipe.

(108) Kitchen sink unit. A kitchen sink unit is defined as a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(109) Leaching well or pit. A pit or receptacle having porous walls which permit the contents to seep into the ground.

(110) Leader. An exterior drainage pipe for conveying storm water from roof or gutter drains.

(111) Liquid waste. The discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(112) Load factor. The percentage of the total connected fixture unit flow which is likely to occur at any point in the drainage system.

(113) Local vent stack. A vertical pipe to which connections are made from the fixture side of traps and through which vapor and/or foul air may be removed from the fixture or device used on bedpan washers.

(114) Local ventilating pipe. A local ventilating pipe is a pipe through which foul air is removed from a room or fixture.

(115) Loop vent. A circuit vent which loops back to connect with a stack vent instead of a vent stack.

(116) Main. The main of any plumbing system is that part of such system of horizontal, vertical or continuous piping which receives the waste, soil, main or individual vents from fixture outlets, or traps, directly or through branch pipes.

(117) Main sewer. (See public sewer.)

(118) Main vent. The principal artery of the venting system to which vent branches may be connected. (Manufacturer's Floor Drain. See industrial floor drain.)

(119) Multiple dwelling. Building containing more than two (2) dwelling units.

(120) Nominal pipe size. A standard expression in inches and fractions thereof to designate the approximate inside diameter of a pipe, conduit or tube.

(121) Non-potable water. Water not safe for drinking, personal or culinary use.

(122) Nuisance. Public nuisance is known in common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; whatever building, structure, or premise is not sufficiently ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

(123) Nurses' station. An area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to record and file each patient's history and progress, observation and control of corridor, preparation

of medicines and maintain contact with patients, the hospital and the outside by local and public means of communication.

(124) Offset. A combination of elbows or bends which bring one (1) section of the pipe out of line but into a line parallel with the other section.

(125) Oil interceptor. (See interceptor.)

(126) Person. A natural person, his heirs, executors, administrators or assigns; and includes a firm, partnership or corporation, its or their successors or assigns. Singular includes plural; male includes female.

(127) Pitch. (See grade.)

(128) Plumber's apprentice. A plumber's apprentice is any person other than a journeyman or master plumber, who, as his principal occupation, is engaged in working as an employee of a master plumber under the immediate and personal supervision of either a master or journeyman plumber in learning and assisting in the installation of plumbing.

(129) Plumbing. Plumbing means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated effluent.

(130) Plumbing appliance. Any one (1) of a special class of plumbing fixture which is intended to perform a special function. Its operation and/or control may be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. Such fixtures may operate automatically through one (1) or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight; or the fixture may be manually adjusted or controlled by the user or operator.

(131) Plumbing appurtenance. A manufactured device, or a prefabricated assembly of component parts, and which is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(132) Plumbing fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises. Plumbing appliances as a special class of fixture are further defined.

(133) Plumbing inspector. A duly authorized employee or agent of the Department of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the state plumbing laws and code.

(134) Plumbing repair. As used in the code to mean replacing a part or putting together that which is torn or broken.

(135) Plumbing system. The plumbing system of a building includes: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer; the storm water drainage within a building with their devices, appurtenances and connections all within and adjacent to the building.

(136) Pool. (See swimming pool.)

(137) Potable water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Public Health Service Drinking Water Standards or the regulations of the Department of Housing, Buildings and Construction.

(138) Private or private use. In the classification of plumbing fixtures, private applies to fixtures in residences and apartments and to fixtures in private bathrooms of hotels as well as similar installations in other buildings where the fixtures are intended for the use of a family or an individual.

(139) Private sewer. A sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(140) Public or public use. In the classification of plumbing fixtures, public applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that their use is similarly unrestricted.

(141) Public sewer. A common sewer directly controlled by public authority.

(142) Public water main. A water supply pipe for public use controlled by public authority.

(143) Receptor. A fixture or device which receives the discharge from indirect waste pipes.

(144) Relief vent. An auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(145) Replace. To put something new or rebuilt in the place of.

(146) Return offset. A double offset installed so as to return the pipe to its original alignment.

(147) Revent pipe. (See individual vent.)

(148) Rim. An unobstructed open edge of a fixture.

(149) Riser. A water supply pipe which extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(150) Roof drain. A drain installed to receive water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(151) Roughing-in. The installation of all

parts of the plumbing system which can be completed prior to the installation of fixtures. This includes drainage, water supply, and vent piping, and the necessary fixture supports.

(152) Safe waste. (See indirect waste.)

(153) Sand interceptor. (See interceptor.)

(154) Sand trap. (See interceptor.)

(155) Sanitary sewer. A sewer which carries sewage and excludes storm, surface, and ground water.

(156) Scrub sink. A device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(157) Seepage well or pit. A covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(158) Separator. (See interceptor.)

(159) Setic tank. A watertight receptacle which receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(160) Sewage. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(161) Sewage ejectors. A device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(162) Side vent. A vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(163) Size of pipe and tubing. (See diameter.)

(164) Slope. (See grade.)

(165) Soil pipe. A soil pipe is any pipe which conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(166) Soil vent. (See stack vent.)

(167) Special wastes. Wastes which require special treatment before entry into the normal plumbing system.

(168) Special waste pipe. Pipes which convey special wastes.

(169) Stack. A general term for any vertical line of soil, waste or vent piping.

(170) Stack group. A group of fixtures located adjacent to the stack so that by means of proper fittings, vents may be reduced to a minimum.

(171) Stack vent. The extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(172) Stack venting. A method of venting a fixture or fixtures through the soil or waste stack.

(173) Sterilizer, boiling type. A boiling type "sterilizer" is a fixture (nonpressure type), used for boiling instruments, utensils, and/or other equipment (used for disinfection). Some devices are portable, others are connected to the plumbing system.

(174) Sterilizer, instrument. A device for the sterilization of various instruments.

(175) Sterilizer, pressure instrument washer-sterilizer. A pressure instrument washer-sterilizer is a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

(176) Sterilizer, pressure (autoclave). A fixture (pressure vessel) designed to use steam under pressure for sterilizing. Also called an autoclave.

(177) Sterilizer, utensil. A device for the sterilization of utensils as used in hospital services.

(178) Sterilizer vent. A separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from nonpressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes called vapor, steam, atmospheric, or exhaust vent.

(179) Sterilizer, water. A water sterilizer is a device for sterilizing water and storing sterile water.

(180) Still. A device used in distilling liquids.

(181) Storm drain. (See building storm drain.)

(182) Storm sewer. A sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(183) Subsoil drain. A drain which collects subsurface water and conveys it to a place of disposal.

(184) Sump. A tank or pit, which receives sewage or liquid waste, located below the normal grade of the gravity system and which must be emptied by mechanical means.

(185) Sump pump. A mechanical device other than an ejector or bucket for removing sewage or liquid waste from a sump.

(186) Supports. Devices for supporting and securing pipe, fixtures, and equipment.

(187) Swimming pool. Any structure, basin, chamber, or tank containing any artificial body of water for swimming, diving, wading or recreational bathing.

(188) Trap. A fitting or device which provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage of waste water through it.

(189) Trap seal. The vertical distance between the crown weir and the top of the dip of the trap.

(190) Utility room. A workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning and incidental sterilizing of the various supplies, instruments, utensils, etc., involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

(191) Vacuum. Any pressure less than exerted by the atmosphere.

(192) Vacuum breaker. (See backflow preventer.)

(193) Vacuum breaker, non-pressure type (atmospheric). A vacuum breaker which is not designed to be subjected to static line pressure.

(194) Vacuum breaker, pressure type. A vacuum breaker designed to operate under conditions of static line pressure.

(195) Vent pipe. A vent pipe is any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

(196) Vent system. A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

(197) Vertical pipe. Any pipe or fitting which makes an angle of forty-five (45) degrees or less with the vertical.

(198) Wall hung water closet. A wall mounted water closet installed in such a way that no part of the water closet touches the floor.

(199) Waste pipe and special waste. A waste pipe is any pipe which receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil or waste stacks. When such pipe does not connect directly with a house drain, waste or soil stack, it is termed a special waste.

(200) Water distributing pipe. A pipe within the building or on the premises which conveys water from the water-service pipe or meter to the point of usage.

(201) Water lifts. (See sewage ejector.)

(202) Water outlet. A discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank which is part of the water supply), to a boiler or heating system, to any devices or equipment requiring water to operate but which are not part of the plumbing system.

(203) Water riser pipe. (See riser.)

(204) Water service pipe. The pipe from the water main or other source of potable water supply to the water distributing system of the building served.

(205) Water supply stub. A vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

(206) Water supply system. The water service pipe, the water-distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

(207) Well, bored. A well constructed by boring a hole in the ground with an auger and installing a casing.

(208) Well, drilled. A well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

(209) Well, driven. A well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

(210) Well, dug. A well constructed by excavating a large diameter shaft and installing a casing.

(211) Wet vent. A vent which receives the discharge of wastes other than from water closets.

(212) Yoke vent. A pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 13, 1986

FILED WITH LRC: October 13, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986, at 10 a.m., in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by November 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve

(1) Type and number of entities affected:

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

1. First year: Approximately $45,000 (savings).

2. Continuing costs or savings: Approximately $30,000 (savings).

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: Approximately $45,000 (costs).

2. Continuing costs or savings: Approximately $30,000 (costs).

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

(b) Reporting and paperwork requirements: Only that time required to complete impact analysis.

(3) Assessment of anticipated effect on state and local revenues: See (2)(a)1 and 2 above.

(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:

TIERING: Was tiering applied? No. Not applicable.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 318.010, 318.020, 318.040, 318.050, 318.054

NECESSITY AND FUNCTION: KRS 318.040 requires the department to conduct examinations for master and journeyman plumber applicants. This regulation relates to those requirements and the fees required. It also relates to the time, place and methods of examinations.

Section 1. Applications for Examination for Master or Journeyman Plumber's Licenses. Applications for examination for master or journeyman plumber's licenses shall be submitted to the Department of Housing, Buildings and Construction on forms furnished by the department. Each application shall be properly notarized and accompanied by a fee of $100 if for a master plumber's license or twenty-five (25) dollars if for a journeyman plumber's license. A signed photograph of the applicant not less than two (2) inches square nor larger

than four (4) inches square taken within two (2) years shall accompany each application. Application fees shall be submitted at least two (2) weeks prior to the date of examination and remitted by post office or express money order, bank draft or certified check payable to the Kentucky State Treasurer.

Section 2. Examinations for Master or Journeyman Plumber's Licenses. (1) Examination of applicants. Regular examination of applicants for master or journeyman plumber's licenses shall be conducted during the months of February, May, August and November of each year. Special examinations may be conducted at such times as the Department of Housing, Buildings and Construction may direct.

(2) Time and place of examination. Notice of the time and place of examination shall be given by the United States mail at least one (1) week prior to the date of examination to all persons having applications on file.

(3) Materials required for journeyman plumbers' examinations. Applicants for journeyman plumber's licenses shall furnish the materials required for the practical examination.

(4) The testing requirements shall be designed by the State Plumbing Examining Committee and shall be more complex for the master's examination.

Section 3. Renewals of Master and Journeyman Plumber's Licenses. (1) Renewal fees. The annual license renewal fee shall be $150 for master plumbers and thirty (30) dollars for journeyman plumbers.

(2) Remittance of renewal fees. Renewal fees shall be remitted by post office or express money order, bank draft, or certified check payable to the Kentucky State Treasurer.

Section 4. Expiration, Renewal or Reinstatement of License. All licenses issued under KRS 318.040 shall expire on June 30 as prescribed in KRS 318.054.

Section 5. Examination Requirements for Master Plumber Applicants. Examination for applicants desiring to become licensed as a master plumber shall consist of:

(1) Answering ten (10) oral questions pertaining to basic principles of plumbing and the State Plumbing Law, Regulation and Code.

(2) Answering <u>not more than fifty (50)</u> [twenty-five (25)] written questions giving essay type answers <u>as required</u> pertaining to basic principles of plumbing and the State Plumbing Law, Regulation and Code.

(3) Preparing a drawing from a sheet of instruction that describes the number and type of fixture on each floor. The applicant is to draw all stacks, wastes and vents and insert the proper pipe size required thereon. Oversized piping will be counted off the same as undersized.

(4) The passing grade for master plumbers shall be eighty (80) percent.

Section 6. Examination Requirements for Journeyman Plumber Applicants. Examination for applicants desiring to become licensed as a journeyman plumber shall consist of:

(1) Answering ten (10) oral questions pertaining to basic principles of plumbing and the State Plumbing Law, Regulation and Code.

(2) Answering <u>not more than fifty (50)</u> [twenty-five (25)] written questions giving essay type answers <u>as required</u> pertaining to basic principles of plumbing and the State Plumbing Law, Regulation and Code.

(3) Preparing a drawing from a sheet of instruction that describes the number and type of fixture on each floor. The applicant is to draw all stacks, wastes and vents and insert the proper pipe size required thereon. Oversized piping will be counted off the same as undersized.

(4) Completing a practical section in which the applicant will properly caulk a cast iron soil pipe spigot into a cast iron hub. Soldering six (6) one-half (1/2) inch copper solder connections and either making a quarter segment of a shower pan, from a detailed drawing, to dimension, that must fit into a template or wiping by hand a solder joint connecting three (3) inch lead to a brass caulking ferrule or a three (3) inch to two (2) inch lead wye branch.

(5) The passing grade for journeyman plumbers shall be seventy-five (75) percent.

Section 7. All Master Plumbers and Journeyman Plumbers shall notify the department of the name of their business and its address, their employer and his address and any time a change of employment is made.

ROBERT M. DAVIS, Secretary
CHARLES A. COTTON, Commissioner
APPROVED BY AGENCY: October 13, 1986
FILED WITH LRC: October 13, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986, at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by November 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve
(1) Type and number of entities affected:
(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):
(b) Reporting and 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:
(b) Reporting and paperwork requirements: Only that time required to complete impact analysis.
(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:
(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:
TIERING: Was tiering applied? No. N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:050. Installation permits.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.010, 318.134
NECESSITY AND FUNCTION: The department is directed by KRS 318.134 to adopt a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. This regulation is to assure uniformity of fees and charges for plumbing installation permits throughout the state.

Section 1. Issuance of Permits. (1) Except as otherwise provided by subsection (3) of this section, permits to construct, install or alter plumbing, sewerage or drainage shall be issued only to licensed master plumbers.
(2) Journeyman plumbers shall not construct, install or alter plumbing, sewerage or drainage except when the work is done under the supervision of a licensed master plumber.
(3) Permits to construct, install or alter plumbing, sewerage or drainage may be issued to homeowners who desire to install plumbing in homes actually occupied by them or in a home to be constructed by them for their own personal residential use, provided:
(a) Application is made for the permit prior to the beginning of the work; and
(b) The homeowner files with his application an affidavit stating that he will abide by the terms of this section; and
(c) All work is performed in compliance with the state plumbing law and code and the rules and regulations thereunder promulgated; and
(d) All the work is personally performed by the owner; and
(e) Only one (1) homeowner permit for construction of a new home shall be issued to an individual in a five (5) year period. This requirement may be waived by the department for good cause shown.
(4) No permit shall be required for the repairing of leaks, cocks, valves, or for cleaning out waste or sewer pipes.

Section 2. When a Permit is Required. A plumbing construction permit shall be required for the following: (1) For all new plumbing installations.
(2) For all existing plumbing installations where a fixture, [or a] soil <u>and/or</u> waste opening <u>or conductor</u> is to be moved or relocated.
(3) For each individual unit of a multi-story building where there is more than one (1) unit.
(4) For each individual building. (Buildings shall be deemed separate if the connection between them is not a necessary part of the structure of either building, or if they are not under a continuous roof.)
(5) For a new house sewer and for a house sewer that is to be replaced.
(6) For a new water service and for a water service that is to be replaced.
(7) For a new water heater installation and for a water heater installation that is to be replaced.
(8) For any other installation which constitutes "plumbing" within the meaning of KRS Chapter 318 and the state plumbing code.

Section 3. Plumbing Installation Permit Fees. (1) The fee for each plumbing installation permit for residential, one (1) and two (2) family units, shall be fifteen (15) dollars plus:
(a) Four (4) dollars for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances.
(b) Four (4) dollars for each domestic water heater.
(2) The fee for each plumbing installation permit for other than residential, one (1) and two (2) family units, shall be fifteen (15) dollars plus;
(a) Five (5) dollars for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances;
(b) Five (5) dollars for each domestic water heater.
<u>(c) Five (5) dollars for each conductor opening.</u>
(3) In the event only a new domestic water heater is installed or replaced, the fee for the plumbing installation permit shall be ten (10) dollars.
(4) In the event only a new water service is constructed or replaced the fee for the plumbing construction permit shall be fifteen (15) dollars.
(5) In the event only a new house sewer is constructed or replaced the fee for a plumbing construction permit shall be fifteen (15) dollars.
(6) All persons securing plumbing permits shall be entitled to plumbing inspections at no additional cost; provided, however, that all inspections in excess of three (3) shall be charged at the rate of three (3) dollars per inspection.
(7) All plumbing installation permits issued under this regulation shall expire one (1) year after date of issuance thereof; provided, however, if construction is begun within one (1) year after date of issuance the permit shall not expire until completion of the planned plumbing installation.
(8) Plumbing fixtures may be replaced without procuring a plumbing installation permit provided the county plumbing inspector is notified of the installation.

Section 4. Plumbing Inspection Fees for Public Buildings. The schedule of fees for inspection of the construction, installation or alteration of plumbing in public buildings shall be the same as specified in Section 3 of this

regulation.

ROBERT M. DAVIS, Secretary
CHARLES A. COTTON, Commissioner
APPROVED BY AGENCY: October 13, 1986
FILED WITH LRC: October 13, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986, at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by November 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Approximately $5,000
2. Continuing costs or savings: Approximately $5,000
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: Approximately $5,000
2. Continuing costs or savings: Approximately $5,000
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Only that required to complete impact analysis.
(3) Assessment of anticipated effect on state and local revenues: Increase state revenue by approximately $5,000.
(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:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

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

RELATES TO: KRS Chapter 318
PURSUANT TO: KAR 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to outlining the materials that may be used in the construction of house sewers, storm water piping as well as the methods of installation.

Section 1. Independent System. The drainage and plumbing system of each new building and of new work installed in an existing building shall be separate from, and independent of, that of any other building except as provided below, and every building shall have an independent connection with either a public or private sewer or sewer system.

Section 2. Exception. Where a building stands in the rear of another building or on an interior lot, and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it will be considered as one (1) sewer. This exception does not apply to corner lots where a sewer connection is available from the street or alley nor to a new or existing building which abuts a street or alley.

Section 3. Connection with Private Sewage Disposal System. When a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. All excavations made for the installations of a house sewer shall be open trench work. All such trenches shall be kept open until the piping has been inspected and/or tested and approved.

Section 5. Depth of Sewer at the Property Line. (1) Where possible the sewer at the property line shall be at a sufficient depth to properly serve any plumbing connection that may be installed in the basement of any building unless restricted by another's authority.
(2) House sewers shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot. All sewers must have at least an eighteen (18) inch cover. Sewer piping under a superimposed load condition shall have at least three (3) feet cover unless constructed of cast iron piping. Unless there is a three (3) foot cover provided, other piping shall be encased in a minimum of six (6) inches of concrete on all sides and the top. Sewers shall be backfilled by hand and tamped six (6) inches above the piping, or in lieu thereof may be filled with six (6) inches grillage above the piping. All joints in cast iron, vitrified clay pipe and cement asbestos pipe shall be made in a manner to conform to other sections of this code.
(3) For purposes of this section, "super-imposed load" means to lay over, put on, stack over or subject to vehicular traffic.

Section 6. New House Sewer Connections. House sewers installed where a private sewerage system has been discarded may connect to the house drain, provided in the opinion of the department the existing plumbing system meets this code or a previous one.

Section 7. Materials for House Sewers. House sewers or combined sewers, beginning two (2) feet outside the foundation wall of a building shall be made of either extra heavy cast iron

pipe, service weight cast iron, vitrified clay, concrete, cement asbestos, PVC or ABS plastic pipe schedules 40 and 80, truss pipe and extra heavy SDR 35 pipe and Type PS-46, Poly(Vinyl Chloride) (PVC) in sizes four (4) inches thru fifteen (15) inches conforming to ASTM F 789-82.

Section 8. Material for Storm Sewers Inside Buildings. Material for storm sewers inside of buildings to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe or Schedule 40 ABS or PVC DWV pipe. Storm sewers in sizes of ten (10) inches and larger may be either cast iron, vitrified clay or concrete conforming to appropriate commercial standards with approved joints.

Section 9. Change of Direction. Change in direction of a sewer shall be made with long curves, one-eighth (1/8) bends or Y's.

Section 10. Size of House Sewers and Horizontal Branches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. House sewers receiving branches shall be sized in the same manner as house drains. (See 815 KAR 20:090.)

Section 11. Size of Storm Systems. The required sizes of storm sewers shall be determined on the basis of the total drained areas in horizontal projection in accordance with the following table. No storm sewer shall be laid parallel to or within two (2) feet of any bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3	[865]	1,160 [1,230]
4	1,880 [1,860]	2,650 [2,610]
5	3,340 [3,325]	4,720 [4,715]
6	5,350 [5,315]	7,550 [7,515]
8	11,500 [11,115]	16,300 [15,745]
10	20,700 [19,530]	29,200 [27,575]
12	33,300 [31,200]	47,000 [44,115]
15 [13]	59,500 [42,600]	84,000 [60,000]

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. Whenever a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. No combined house drain or house sewer shall be less than five (5) inches in diameter, and no combined house drain or house sewer shall be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

(See conversion table on following page)

CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM

Number of fixture units on sanitary system

Drained roof area in square feet	Up to 6	7 to 18	19 to 36	37 to 60	61 to 96	97 to 144	145 to 216	217 to 324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

Number of fixture units on sanitary system

Drained roof area in square feet	325 to 486	487 to 732	733 to 1,098	1,099 to 1,644	1,645 to 2,466	2,467 to 3,702	3,703 to 5,556	Over 5,556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 to 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 to 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 to 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 to 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 to 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 to 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 to 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 to 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 to 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 to 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 to 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Section 13. House Sewer in Undisturbed or Made Ground. House sewers laid in undisturbed ground must be laid on at least four (4) inches of pea gravel, sand or other approved grillage. House sewers laid in made or filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock. House sewers constructed of flexible thermoplastic sewer piping must be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Made Ground. Storm sewers laid in undisturbed ground will not require grillage. Storm sewers laid in made or filled grounds shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level. In buildings, in which the whole or part of the house drain and plumbing system thereof lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). In homes where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump. The sump pit shall be constructed of either poured or precast concrete, approved fiberglass or polyethylene material with a tight fitting cover. The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray. The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade. The sump well shall be provided

with a tight-fitting concrete cover. On the outside of the building this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee which shall connect into a four (4) inch P trap and then into the sanitary sewer. The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade and shall be provided with a ventilated cap.

Section 17. Sumps and Receiving Tanks. All subsoil drains shall discharge into an air tight sump or receiving tank so located as to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or any equally efficient method. Such sumps shall automatically discharge.

Section 18. Ejectors, Vented. All ejectors shall be vented with a three (3) inch vent. Fixtures or appliances connected thereto shall be vented in accordance with other sections of this code.

Section 19. Ejector Power: Motors, Compressors, Etc. All motors, air compressors and air tanks shall be located where they are open for inspection and repair at all times. The air tanks shall be proportioned so as to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating. The end pressure in the tank shall be not less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Sub-Soil Drainage. When sub-soil catch basins are installed below the sewer level, automatic ejectors, or an approved type, may be used. Such ejectors or any device raising sub-soil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas and Roofs. All roofs, paved areas, courts, and courtyards shall be drained into a storm water system or a combined sewerage system, but not into sewers intended for sewage only. When drains are connected to a combined sewerage system, they shall be trapped. If roof leaders, conductors, or gutter openings are located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required. Traps shall be set below the frost line or on the inside of the building. Where there is a storm or combined sewer available, it may discharge into a drainage area unless otherwise prohibited by the proper authorities. When such drains are not connected to a combined sewer a trap is not required.

Section 22. Size of Rain Water Leader. No inside leader shall be less size than the following:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. When conductors and roof leaders are placed within the walls of any building, or in an interior court or ventilating pipe shaft, they shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe conforming to ASTM D-2996 (red and silver thread). The vertical distance of PVC or ABS conductors shall not exceed thirty (30) feet from the base through the terminus through the roof.

Section 24. Outside Conductors. When outside sheet metal conductors or downspouts are connected to a house drain, they shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line. Along public driveways, without side walks, they shall be placed in niches in the walls, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

Section 25. Defective Conductor Pipes. When an existing sheet metal conductor pipe within the walls of any building becomes defective, such a conductor shall be replaced by one which conforms to this code.

Section 26. Vent Connections with Conductors Prohibited. A conductor pipe shall not be used as a soil, waste or vent pipe, nor shall any soil, waste, or vent pipe be used as a conductor.

Section 27. Overflow Pipes. Overflow pipes from cisterns, supply tanks, expansion tanks, or drip pans shall connect only indirectly with any house sewer, house drain, soil or waste pipe.

Section 28. Subsoil Drains, Below Sewer Level. Subsoil drains shall discharge into a sump or receiving tank. It shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building that it serves.

ROBERT M. DAVIS, Secretary
CHARLES A. COTTON, Commissioner
APPROVED BY AGENCY: October 13, 1986
FILED WITH LRC: October 13, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 21, 1986, at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing

are received by November 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings: N/A
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:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Only that time required to complete impact analysis.
(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:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 6:040. Hospital district assignments.

RELATES TO: KRS Chapter 202A, 210.300
PURSUANT TO: KRS Chapter 202A, 210.300
NECESSITY AND FUNCTION: KRS 210.300 authorizes the Secretary for the Cabinet for Human Resources to designate hospital districts for the purpose of determining to which of the state institutions for the mentally ill the persons admitted from each county shall initially be sent. KRS Chapter 202A authorizes the transfer of a mentally defective or mentally ill inmate of any penal and correctional institution to the state hospital service designated by the secretary for that purpose.

Section 1. (1) The following state mental hospital districts are created. Except as otherwise provided herein, involuntarily and voluntarily hospitalized persons will be admitted to the state hospital serving the district in which they reside. In times of high patient count, state hospital directors may send patients to other state hospitals or to other hospitals in the district.

(2) District I: Western State Hospital, Hopkinsville, Kentucky, counties of: Allen, Ballard, Barren, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hancock, Hardin, Hart, Henderson, Hickman, Hopkins, Larue, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Meade, Metcalfe, Monroe, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren.

[(a) Provided, however, residents of the following counties may be admitted to Lourdes Hospital, Paducah, Kentucky: Ballard, Calloway, Fulton, Graves, Hickman, Livingston, McCracken, and Marshall.]

[(b) Provided, further, that residents of the following counties may be admitted to T. J. Sampson Community Hospital, Glasgow, Kentucky: Allen, Barren, Hart, Metcalfe, and Monroe.]

[(c) Provided, further, that residents of the following counties may be admitted to Our Lady of Mercy Hospital, Owensboro, Kentucky: Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster.]

(3) District II: Central State Hospital, Anchorage, [Our Lady of Peace Hospital, Louisville,] Kentucky, counties of: Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble.

(4) District III: Eastern State Hospital, Lexington, Kentucky, counties of: Adair, Anderson, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Campbell, Carroll, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Green, Greenup, Harlan, Harrison, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Mercer, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Taylor, Wayne, Whitley, Woodford, and Wolfe.

(5) District I or III: Residents of Marion, Nelson, and Washington Counties may be admitted to Western State Hospital, Hopkinsville, Kentucky, or Eastern State Hospital, Lexington, Kentucky.

Section 2. Inmates of state penal and correctional institutions transferred to the Cabinet for Human Resources shall be admitted to the Kentucky Correctional Psychiatric Center [Forensic Medicine Facility,] LaGrange, Kentucky.

Section 3. (1) Individuals charged with a felony and requiring psychiatric evaluation or treatment or both shall be admitted upon court order to the Kentucky Correctional Psychiatric Center, Lagrange, [Forensic Medicine Facility, Anchorage,] Kentucky.

(2) Individuals admitted upon court order to the Kentucky Correctional Psychiatric Center, Lagrange, [Forensic Medical Facility, Anchorage,] Kentucky, may be transferred to other state institutions for the mentally ill or to a psychiatric unit in a local general hospital.

(3) Prompt notification of the court is required by KRS Chapter 202A, and sending of appropriate papers to the hospital is required by KRS Chapter 202A.

Section 4. A person may be admitted to a hospital other than the one in the district of his residence upon verbal or written permission of the Commissioner of the Department for Mental Health and Mental Retardation Services or his authorized designee. If verbal, then written

confirmation shall follow within five (5) working days of the admission.

Section 5. A person may be admitted to a psychiatric unit in a local general hospital provided that unit has had prior approval of the Commissioner of the Department for Mental Health and Mental Retardation Services or his authorized designee.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 8, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: 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: Only state psychiatric hospitals will be the initial hospitals of placement for mentally ill persons unless otherwise designated by the state hospital directors.
(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: This change is in keeping with current practice. There is no funding for treating state patients in private hospitals.
(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 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 complete to October [set forth in the] July] 15, 1986, [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 July 15, 1986, 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 July, 1986, 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 July, 1986, 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 complete to October 15, 1986, [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, the manual is being revised effective October [July] 15, 1986 as follows:

[(a)] Local Health Policy 400-16 dated July 1, 1982, is being revised to clarify the Department for Health Services' Conflict of Interest Policy in Local Health Departments. [300-7 is being revised to provide for an exception to the limitation imposed on the phrase "until their successors are appointed" in those instances where a qualified successor is unavailable.]

[(b) LHP Manual 600-20 "Home Health Services Program" is being deleted. The policies and procedures contained in this LHP are either obsolete or duplicate information promulgated in the Home Health Standards Section of the "Standards Manual for Local Health Departments."]

(2) In relation to Section 10 relating to the Sudden Infant Death Syndrome (SIDS) Program Manual, strike pages 21 through 29 dated January 1, 1985. This revision will remove all reference to the APNEA Monitoring Program which is being discontinued. [2 relating to the Financial Management Manual, strike page 85 dated November 15, 1985 and substitute in lieu thereof a new page 85 dated July 15, 1986. This revision updates the Uniform Percentage Payment Schedule to correspond to federal poverty income guidelines.]

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 14, 1986
FILED WITH LRC: October 15, 1986 at noon
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip Spangler and Patricia Nicol

(1) Type and number of entities affected: Affects all local health departments.

(a) Direct and indirect costs or savings to those affected: No appreciable increase or decrease.

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: Deletion of application form for Apnea Monitors in the SIDS Program.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: -0- (Local Health Policy); $40,000 (SIDS Program).
2. Continuing costs or savings: $40,000
3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Elimination of processing of application forms for Apnea Monitoring funds.

(3) Assessment of anticipated effect on state and local revenues: N/A

(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:
TIERING: Was tiering applied? No. Tiering is not applicable to these programs.

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 October 15 [February 15], 1986, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the May 15, 1986, 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 October 15 [July 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 October 15 [August 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 October 15 [April 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 March 15, 1986, 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 April 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 I Oakwood
Section 1 is revised as follows: Oakwood policy manual:

OAKWOOD	A-1	VOLUME I
DST-0-1	3C	Reflects facility reorganization combining Residential and Program Services Branches into Resident Program Services Branch.
	4B	Reflects facility reorganization.
DST-0-1A	1 1 3 4 5 6 7	New section combines policies covering the Interdisciplinary Team process into one easily defined section. Policies updated to reflect current terminolgy, time frames, and reporting requirements.
DST-0-2	4C	Policy deleted. Covered in DST-0-1A, No.3.
	5D	Policy deleted. Covered in DST-0-1A, No.1.
	16A	Designates facility safety officer to conduct alcohol-related investigations rather than personnel officer.
	17D	Reflects facility reorganization.
	21	Policy deleted. Covered in DST-4-3, No.5.
	24A	Clarifies procedures for reporting incidents and medication errors.

	27	Describes coordination of services with other agencies in regard to AC MRDD standards.
	28	Describes procedures for handling abuse situations, etc., occurring outside the facility.
DST-0-3	3A	Policy deleted. Covered in DST-0-1A, No. 2.
	4	Policy deleted. Covered in DST-0-1A, No. 2.
	5B	Revised to identify Q.M.R.P. (Qualified Mental Retardation Professional) responsibilities.
	6C	Reflects current titles.
	10A	States procedure for Resident Affairs Office when receiving money for a resident's account.
	12B	Revises policy references.
	13A	Deletes reference to posey mitts, which are not considered body aligment.
	14B	Describes procedures for chair, wall restraint.
	15D	Policy deleted. Covered in DST-0-3, No. 20.
	16B	Policy deleted. Covered in DST-0-8B, No. 7.
	17B	Revises terminology. Reflects current Department titles.
	18C	Revises terminology to reflect current individual Program Plan language.
	20A	Updates Behavior Management program procedures.
DST-0-4	2B	Clarifies functions of Sanitation and Infection Control Committee.
	3B	Better facilitates Behavior Management Committee meetings and program review.
DST-0-5	3B	Refers to orientation manual for training specifics instead of denoting in policy.
	4B	Procedure change for approval of on-grounds training activities.
	6B	Omits references to former Competency Based Training and specifies training records to be maintained in Personnel office.
DST-0-6	5A	Policy deleted. No longer applicable.
OAKWOOD	A-2	VOLUME II
DST-0-8	1A	Policy deleted. Facility reorganization.
*DST-0-8A,B,C,D		*Section Titles changed from Liaison Services to Social Work Services to reflect current facility organization.
DST-0-8A	1A	Revises distribution of resident identification pictures.
	2C	Revises list of forms to be completed during admission process.
	3B	Reflects changes in admission procedures for Resident Affairs office.
	4B	Revised to reflect current terminology and titles.
	5C	Reflects current facility organization/title change.
	6B	Changes number of respite beds and reflects current titles and organization.
	7A	Reflects current titles and organization.
	8A	Designates members of Pre-Admission Team.
DST-0-8B	1C	Reflects shift in duties from Unit Social Worker to Placement Coordinator.
	2A	Reflects shift in duties from Unit Social Worker to Placement Coordinator.
	3A	Reflects shift in apartment duties from Residential Training Specialist to Social Worker.
	4C	Reflects revised KRS information.
	5A	Revised procedure for requesting discharge or transfer.
	6B	Corrects terminology and designated specific time for notice of discharge planning sessions to parents, etc.
	7	Specifies procedures for community placement.
DST-0-8C	1A	Section title change only.
	2A	Updates Resident Record Department functions.
	3B	Corrects terminology to reflect current organization.
	4A	Revises information to be included in the Residents Record.
	5B	Revises list of required reports and time limits.
	6C	Updates requirements for release of information.
	7	Policy deleted. Combined with DST 0-0, No. 8B.
	8B	More clearly identifies access and control of records.
	9C	Revised to indicate current policy reference.
	10B	Revised to indicate current policy reference.
	11B	Revises list of staff allowed access to residents' records.
	12	Policy deleted. Covered in DST-0-3, No. 14B.
	13C	Updates procedure for preparing records for admissions.
	14B	Deletes reference to obsolete equipment. Updates steno procedures.
	15B	Revises policy to reflect current statistical procedures.
	16A	Reflects current facility organization.
DST-0-8D	1C	Updates social work duties and terminology.
	2A	Revises time frames for family contacts.
	3A	Revises off-grounds visit procedures for social workers.
	4A	Corrects terminology and updates telephone call listing procedures.

	5B	Reflects current facility organization.
	6	Reflects social work responsibilities in parent grievances.
DST-0-8E	1A	Policy deleted. Q.M.R.P. responsibilities now included in Resident Program Services.
DST-0-9	1	States mission of Psychology Department under current organization.
DST-1-1	6A	Policy deleted. No longer applicable.
DST-1-2	7C	Policy deleted. Included in IDT Process Section.
DST-1-3	6A	Omits reference to lig no longer in use.
	8A	Updates furniture tagging procedure.
	10C	Updates purchasing procedures.
	13E	Updates receipt procedures for resident personal funds.
	22C	Updates replacement procedures for damaged personal property.
DST-1-3A	1C	Revises stipulations for maintaining sick call log.
DST-1-3B	3A	Policy deleted. Housekeeping services provided for canteen by contract.
	6B	Revises procedure for turning in cash receipts.
DST-1-4	6B	Revises responsibility for vehicle inspection prior to use.
OAKWOOD	A-3	VOLUME III
DST-2-2	3B	Attachment change only for symptoms of illness.
	24B	Policy deleted. Covered in IDT Process section.
	32D	Revises drug administration procedures for Living and Training Unit personnel.
	43	Specifies development of nursing care plans.
DST-2-5	12C	Revises schedule of automatic stop order drugs.
	24B	Updates procedures for drug reviews to conform to accreditation standards.
	28	Establishes Pharmacy and Therapeutics Committee as facility Formulary Committee and sets forth operating procedures.
DST-3-1	1A 2A 4B 6B 7	Policies in this section deleted. Under facility reorganization the Program Services Branch is no longer a separate entity, but has been incorporated within Resident Program Services.
DST-3-2	1D	Policy deleted. See DST-3-1 above.
	2	Policy deleted. Covered in DST-4-3, No. 2.
DST-3-4	1B	Policy deleted. See DST-3-1 above.
	2	Policy deleted. Covered in DST-4-3, No. 3.
DST-3-6	1B 2 5A	Policies in this section deleted. Under facility reorganization, these
	7 8A 9	policies covered in section DST-4-4 except No. 2 and No. 4 which were deleted because the pontoon program is no longer utilized.
DST-4-1	1E	Reflects facility reorganization combining Residential and Program Services Branches.
	2C	Reflects facility reorganization combining Residential and Program Services Branches.
	3B	Reflects facility reorganization combining Residential and Program Services Branches.
	4B	Updates requirements for reports and documentation and reflects new organization.
	6A	Policy deleted. Included in Resident Rights Section, DST-0-3.
	7A	Reflects new Branch organization.
	8	Reflects grant supervision as a function of the Director of Resident Program Services in Branch reorganization.
DST-4-2	3B	Changes sign-in procedure to clock-in.
	4B	Reflects Branch reorganization.
	5A	Revised to require advance approval for overtime. Omits provision for combining breaks.
	6B	Specifies shift changeover procedures to be conducted between shifts rather than specifying a time. Allows for shift adjustment.
	8B	Makes Branch Manager responsible for monitoring key control system.
	9D	Revises social worker notification procedures of pending off-grounds resident visits.
	11A	Refers to resident counts between shifts instead of specific times.
	12C	Updates procedure for garbage disposal.
	13B	Includes thermometer checks for food temperatures and addresses family style dining and eating programs.
	15B	Policy deleted. Covered in IDT Process section.
	16C	Changes reference to Infections Committee to Sanitation and Infection Control Committee.
DST-4-2	17B	Omits references to cottage staff as instructor/counselor.
	18B	Omits reference to classroom area in favor of training center. Revises kitchens sanitation procedures.
	19A	Revises terminology - "classroom" no longer applicable.
	20D	Policy deleted. Included in IDT Process section.

DST-4-3	1	Revised to reflect new facility organization.
	2	Revised to reflect new facility organization.
	3	Reflects new facility organization.
	4	Governs resident work training assignments.
	5	Revised to reflect new facility organization.
DST-4-4	1	Policies in this section
	2	revised to reflect new facility
	3	organization.
	4	
	5	
	6	

Section 4 - EASTERN STATE HOSPITAL POLICY MANUAL

D1, Sec 1, pg 16
(1) Mailroom - The changes in this policy involve time frames in which hospital mail is processed (See #1a, b & c). There are no other changes;

Sec 2, pg 36
(2) Allocation of Beds - There are two minor changes in this policy, both in Procedure #1. The hospital's total bed count is 274, rather than 276, and IT/5's capacity is now 22, instead of 24;

Sec 1, #1
(3) Departmental and Committee Policies and Procedures - The addition of #8 brings this policy in compliance with state law which stipulates that all governmental policies and procedures must be approved as Kentucky Administrative Regulations;

Sec 1, pg 22
(4) Employee Health Screening Program - Please note a minor change in #3-e. Our former policy states that blood pressure checks were performed automatically as part of the program.

Sec 2, pg 12
(5) Absent Without Leave - Procedure #9 has been changed. It is no longer necessary to notify the Hospital Director personally of all patients who go AWOL. The Director's Office should be notified immediately, however, in all cases of patients going AWOL who may be dangerous to themselves or others and/or who are restricted to the ward.
(6) Staff Support Following Hospital Death (Section 1, Pgs 4, 64-A, & 64-B) is to be deleted from your manual.

Section 5 is revised as follows:

Central State Hospital Policy Manual
E1, sec z, #1, pp 1-7.
Page 1 - The first paragraph will read: "The Quality Assurance Program was developed to assess, monitor and evaluate all patients' care. All units and departments will have a Quality Assurance Program.

Page 1 - Third paragraph, the words "inspire confidence" were added after "to provide motivation".

Page 1 - Under "Organization and Administration," Line 8, Clinical Executive Committee changed to the Hospital Director shall complete an annual evaluation of the Quality Assurance Program.

Page 1 - Section III - The work "functions" changed to "objectives."

Page 1 - Section III, No. 1, the words "reports and minutes" were added to the end of the sentence.

Page 1 - Section III - No. 4 was deleted.

Page 1 - Section III - No. 10 was deleted.

Page 1 - Section III - No. 12 was added, "To monitor Vocational Rehabilitation reports/minutes."

Page 2 - Section IV - Under Problem Identification and Description, first sentence will read, "The program will be focused on finding remedies to identify problems. Identified Problems should include a brief statement on each of the following points:"

Page 1 - Section IV, Vocational Rehabilitation Services has been added for the Quality Assurance Committee to monitor.

Page 3 - Section V, No. 4 (See Section Z, #3) has been added to k, Patient Care Monitoring.

Page 3 - Section V, the following have been added:
v. Vocational Rehabilitation Services
w. Chart Audit (See Sec.Z #1)

Page 5 - First Paragraph - Executive Committee or the Clinical Staff changed to "Hospital Director who forwards to Board of Governors"

E1 Sec V #4 - Watering trees
The grounds of the new hospital building at Central State Hospital have been extensively planted with new trees and shrubbery and a policy is needed concerning proper watering to maintain the plantings.

Section 6 is revised as follows:

Western State Hospital Policy Manual

Volume F-2 - Cover sheet is revised to reflect review date.

Volume F-3 - Sec II, #4 - a new checklist used to track patients' personal property.

Volume F-3 - Sec II, #11 - New admissions - discharge checklist to track patients' personal property.

Volume F-3 - Sec II, #15 - New checklist in nursing policy to track patients' personal property.

Volume F-3 - Sec III - Revised Section
Replace existing Section III with the attached Section III. Three former policies (#4, 5, and 7) have been dropped, since these policies are included elsewhere, and the remaining policies

are renumbered. Replace former Section III with this attached section.

F4 - Cover Page
New page to reflect revision.

F4 - VII - a revision to reflect new Communicable Disease Center and guidelines (Federal).

F18 - Cover Sheet
To reflect revision date.

F19 - Cover page - to reflect revision date.

F19 - EEG
Policy revised to reflect new Communicable Disease Center guidelines (Federal).

F19 - EKG
Policy revised to reflect new Communicable Disease Center guidelines (Federal).

F19 - Respiratory
Policy revised to reflect new Communicable Disease Center guidelines (Federal).

F19 - Physical, Restorative and Maintenance Therapy - Cover page changed to show revision date.

F11 - X-Ray
Cover page to show revision date.

F9 - Nursing Service Employee Handbook Cover page to show revision date.

F26 - Pharmaceutical Service
Introductory pages revised to show revision dates.

F26 - Pharmaceutical Service - Job Description - Revised for New Personnel.

F26 - Pharmaceutical Service - Physician's Drug Order.
Section V, #1
revised list of prescribers.

F26 - Pharmaceutical Services
Sec VI, #1 Drug Security - Policy update.

F26 - Pharmaceutical Services
Sec VII - #5
Current inventory control drug listing.

F12 - Western State Hospital Diet Manual

PAGE #	TITLE	REASON FOR AMENDMENT
2,3	Procedure for ordering	New Tray line System and Tray Card Special Diets system did away with diet labels for trays. Daily diet report sheets are done for each ward and turned into Dietary.
4	Patient Meal Hours	Dining Room Service for the Dinner meal changed from 5:30-6:30; serving no later than 6:30. Dinner from 5:30-6:15.
21a	Liberal Bland Diet	Added ham to meat or substitute and deleted cured pork under foods to avoid.
91	Test Diet for Colon-scopy	Diet is ordered for patients prior to tests and certain foods if included may cause the tests to be invalid.
107-109	Diet Labels	Deleted diet labels from tray service. Each patient has an individual diet care identification system.

F16 - Disaster Manual
The reason for this addition is to better clarify Western's Evacuation Plan.

[Section 5 is revised as follows:

CENTRAL STATE HOSPITAL POLICY MANUAL

E1, sec. FF, #1 Utilization Review and Medical Care Plan of Central State Hospital.

This policy was revised to comply with new Federal guidelines.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 8, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankort, 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:
TIERING: Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 16:010. Disability determinations program.

RELATES TO: KRS 194.030(6), 205.200, 205.245, 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility, under KRS Chapter 205, to administer programs of public assistance in accordance with Titles IV-A and XIX of the Social Security Act, and KRS 205.245. The cabinet is also responsible, under Section 404.1503 of Chapter III of Title 20 of the Code of Federal Regulations, for determinations of disability under the provisions of Titles II and XVI of the Social Security Act. This regulation incorporates into regulatory form, by reference, materials used in determinations of disability under Titles II, IV-A, XVI and XIX of the Social Security Act, and KRS 205.245. The program for making disability determinations shall be referred to herein as the disability determinations program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the disability determinations program.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:
(1) Social Security Disability Rulings, effective September [May] 1, 1986;
(2) Social Security Disability Program Operations Manual, Part 04, Chapters 200 through 295, and 305 through 342, effective September [May] 1, 1986; and
(3) Social Security Administration instructional messages, effective May 1, 1986.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Disability Determinations, Department for Health Services, 275 East Main Street, Frankfort, Kentucky.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 7, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person:Ben Fannin
(1) Type and number of entities affected: No assistance program 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: 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: These materials update the instructional materials on the Social Security disability program. There are no measurable costs on programs administered by the cabinet.
TIERING: Was tiering applied? No. Not applicable to the disability determinations program.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Job Services & Special Programs
(Proposed Amendment)

903 KAR 6:010. Work Incentive Program.

RELATES TO: KRS 194.030(9)
PURSUANT TO: KRS 13A.100, 194.050(1)
NECESSITY AND FUNCTION: Title IV of the Social Security Act and 29 CFR Part 56 authorizes the states to implement the Work Incentive Program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of

federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Work Incentive Program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Work Incentive Program as authorized by Title IV of the Social Security Act and as regulated in 29 CFR Part 56, the following CFR and operating manuals are adopted by reference:

(1) Title 29 Code of Federal Regulatons (CFR) Part 56, as last revised November 30, 1981. This regulation provides implementation procedures for the administration of the Work Incentive Program (WIN), for Aid to Families with Dependent Children (AFDC) recipients, including procedures for: registration, appraisal and certification; supportive and manpower services and protective provisions for WIN recipients; WIN training components and other activities for WIN registrants; and deregistration, sanctions and the WIN adjudication system.

(2) United States Department of Labor, United States Department of Health, and Human Services, Joint Handbook No. 318, the WIN Handbook, issued October, 1979, which describes the roles and responsbilities at the local, state, regional and national level for the Department of Labor and Department of Health and Human Services as well as implementation procedures for: WIN planning and development of a state WIN plan; case and caseload management; exemption determination, registration and appraisal; appraisal, employability planning and certification; providing employment-related social services for WIN registrants, such as child care, medical services, counseling, family planning and other social services; WIN status determinations and appropriate work criteria such as skill training, on-the-job training, work experience, and critiera for assignment to work; processing WIN Employment and Training payments regarding authority to pay, eligibility for payment, payment periods, retention of payment records, recurring payments and non-recurring payments; the WIN adjudication system; and transitions to employment, follow-up, deregistration, tax credits and the WIN reporting system.

(3) The Kentucky Joint WIN Handbook, issued June, 1978 and last revised <u>and reissued October, 1986</u> [January, 1984], which is the state manual which describes program roles and responsibilities from the state to national level and includes procedures for: the exemption, determination, registration and appraisal of an AFDC recipient; certification and providing information for social services available to WIN registrants; WIN status determinations and training components as well as appropriate work and training criteria; the WIN adjudication system, Income Maintenance hearings and deregistrations, including processing complaints and grievances, refusal with or without good cause and appellate procedure; processing WIN training payments and allowances, policy, method of payment, incentive allowances, training-related allowances, overpayments and petty cash procedures; and reporting program activities, welfare grant reductions, records retention and Targeted Jobs Tax Credit for WIN registrants.

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 employment services offices located throughout the state.

<u>Section 3. Summary of Amendment. Kentucky Joint WIN Handbook. Strike entire handbook issued June 1978, and substitute in lieu thereof revised handbook dated October 1986, which reduces the reimbursement a WIN participant may receive for mileage and meals in accordance with federal reductions.</u>

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 5, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 interesed persons notify the following office in writing by November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels
(1) Type and number of entities affected: 214 WIN participants.
(a) Direct and indirect costs or savings to those affected:
1. First year: $499 per individual in reduced potential reimbursement, but no actual out-of-pocket costs.
2. Continuing costs or savings: N/A, reimbursements set each year.
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: $106,776 savings.
2. Continuing costs or savings: N/A
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:
(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: This change is being made to accommodate a reduction in federal reimbursement.
TIERING: Was tiering applied? No. All WIN participants treated equally.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:016. Standards for need and amount; AFDC.

RELATES TO: KRS 205.200(2), 205.210(1)
PURSUANT TO: KRS 205.200(2)
NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his/her eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

(2) "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(3) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(4) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(5) "Full-time school attendance" means a workload of at least:

(a) Twenty-five (25) clock hours per week in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time.

(6) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(7) "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 8 of this regulation, and any educational allowance as set forth in Section 9 of this regulation.

(8) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(9) "Recoupment" means recovery of overpayments of assistance payments.

(10) "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

(11) "Lump sum income" means income that is not earned, does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of $1,000 equity value excluding those items specifically listed in subsection (1) as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed $1,500 equity value;

(e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;

(f) Items valued at less than fifty (50) dollars each;

(g) One (1) burial plot/space per family member;

(h) Funeral agreements not to exceed maximum equity of $1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items/benefits mandated by federal regulations.

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed $500, the period of ineligibility shall be one (1) month;

the period of ineligibility shall be increased one (1) month for every $500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of parent(s), sanctioned individuals and/or amount deemed available from the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group, and/or amount deemed available from a stepparent(s) living in the home, and/or amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard. Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test. If the gross income is below the gross income limitation standard and the assistance group has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4, subsections (1) and (2), shall be compared to the assistance standard set forth in Section 8. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4, subsections (1), (2), and (3). If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.

(4) A period of ineligibility shall be established in accordance with 45 CFR 233.20(a)(3)(ii)(F), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income. The ineligibility period shall be recalculated if any of the following circumstances occur:

(a) The standard of need increases and the amount of grant the assistance group would have received also changes.

(b) The income received has become unavailable to the assistance group for reasons beyond their control.

(c) The assistance group incurs and pays medical expenses in accordance with 42 CFR 435.831(C).

Section 4. Excluded/Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, natural parent(s) and/or parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group and/or stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded/disregarded:

(a) Disregards applicable to stepparent income and/or income of the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v)(B) and 45 CFR 233.20(a)(11)(i)(b)(1)(i);

(d) Work Incentive Program (WIN) incentive payments;

(e) Earnings received by a dependent child from participation in the Summer Youth Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given year;

(f) Unearned income received by a dependent child from participation in a JTPA program;

(g) Reimbursement for training-related expenses made by a manpower agency to applicants or recipients in institutional and work experience training programs under the WIN program;

(h) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(i) Non-emergency medical transportation payments;

(j) Principal of loans;

(k) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

(p) Housing subsidies received from federal, state or local governments;

(q) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(r) Funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

(s) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(t) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active

Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Public Law 93-113;

(u) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(v) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(w) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption;

(x) Payments made under the Low Income Home Energy Assistance Act (LIHEAP) and other energy assistance payments which are permitted to be excluded pursuant to 45 CFR 233.53 (c)(5)(i);

(y) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group; [and]

(z) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance; and

(aa) The first thirty (30) dollars of small non-recurring gifts received per calendar quarter for each individual included in the assistance group.

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of seventy-five (75) dollars for full-time and part-time employment; and

(d) Child care, for a child(ren) or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed $160 per month per individual for full-time employment or $110 per month per individual for part-time employment.

(3) Benefit calculation. After eligibility is established, exclude/disregard all incomes listed in subsections (1) and (2), as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his/her earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall be applied in accordance with 45 CFR 233.20(a)(11)(i)(D) and 45 CFR 233.20(a)(11)(ii)(B) and shall not be available to the individual until he/she has not been a recipient for twelve (12) consecutive monhs; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsection (2)(c) and (d) and subsection (3)(b) shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (i.e., fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

(5) Sanction exception. The earned income of sanctioned individuals shall be counted without providing the exclusion/disregards in either subsections (2) and (3) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and/or parent(s)/legal guardian(s) living in the home with a minor parent/legal guardian but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first seventy-five (75) dollars of the gross earned income for full-time employment and/or the first seventy-four (74) dollars of the gross earned income for part-time employment;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or could be claimed by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian as dependents for purposes

of determining his/her federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian to individuals not living in the home who are or could be claimed by him/her as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian receiving Supplemental Security Income (SSI) under Title XVI.

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusion(s) listed in this section.

(3) Resources. Resources which belong solely to the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. The gross non-AFDC income and resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) hereinafter referred to as sponsor shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. A sponsored alien is ineligible for any month in which adequate information on the sponsor/sponsor's spouse is not provided. If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs. The provisions of this section shall not apply to those aliens identified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

(a) Twenty (20) percent of the total monthly gross earned income, not to exceed $175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or could be claimed by the sponsor as dependents in determining his/her federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to non-household members who are or could be claimed as dependents in determining his/her federal personal tax liability;

(d) Actual payments of alimony or child support paid to non-household members; and

(e) Income of a sponsor receiving SSI or AFDC.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he/she were an AFDC applicant in this state, less $1,500.

Section 7. Earned Income Tax Credit (EITC). In the case of an applicant or recipient of AFDC, EITC payments shall be considered as earned income when received.

Section 8. Assistance Standard. The AFDC assistance standard, including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

Number of Eligible Persons	Monthly Standard
1 Child	$140
2 Persons	$170
3 Persons	$197
4 Persons	$246
5 Persons	$288
6 Persons	$325
7 or more Persons	$362

Section 9. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

(1) Technical requirements. The following requirements must be met during any month for which an education allowance is paid.

(a) The caretaker relative must be included in the assistance grant;

(b) The caretaker relative must be enrolled full time, as defined in Section 1, in high school (including primary and secondary), vocational school, or a General Educational Development (GED) program for which no wage or child care allowance is received. If attending college, the caretaker relative must be enrolled either full or part-time, as defined in Section 1;

(c) A cost must have been incurred for the care of a child(ren) who is/are under the age of thirteen (13) or a child(ren) who is/are under the age of eighteen (18), if a physician determines said child is unable to attend school due to a physical or mental disability, and is/are included in the assistance grant; and

(d) The payment for child care is made to a provider who is not a household member.

(2) Educational allowance payment standards. The amount of monthly educational allowance payment shall be based on the number of eligible children for whom care is being provided and whether or not enrollment is full or part-time. The payment standards are as follows:

Number of Children	Full-time Enrollment	Part-time Enrollment
1	$120	$70
2 or more	$150	$90

(3) Limitations. The number of months an

educational allowance payment is made shall be limited according to the type of program in which the student enrolls and shall not be provided beyond completion of one (1) program at each level.

(a) High school level.

1. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
General Educational Development (GED)	12 months
High School (includes primary and secondary)	24 months

2. A student wishing to continue his/her education past the high school level may be eligible for additional payments not to exceed the maximums for the post-high school level.

(b) Post-high school level. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
Vocational School	24 months
College/University	50 months

Section 10. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The overpaid assistance unit;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; and/or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

(c) Civil action in the court of appropriate jurisdiction.

(4) Overpayments may be waived for inactive non-fraud cases involving less than thirty-five (35) dollars in overpayment.

(5) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(6) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

Section 11. Provisions contained in this regulation shall become effective <u>December</u> [May] 16, 1986.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 17, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 interesed persons notify the following office in writing by November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie Miller

(1) Type and number of entities affected: A small number of individuals that receive cash gifts will have the first $30 disregarded in a calendar quarter.

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

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: Minor

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: N/A

(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 regulation is being amended as an option contained in the "Least Costly" regulations contained in SSA-AT-86-5.

TIERING: Was tiering applied? No. Tiering is not applicable to this program.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:020. Child support.

RELATES TO: KRS 205.795
PURSUANT TO: KRS 205.795
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with

Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. The cabinet is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving public assistance as a result of desertion or abandonment or due to birth out-of-wedlock and for other children on application. KRS 205.795 empowers the secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

Section 1. Compliance with Federal Regulations. The cabinet shall administer the Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 CFR Sections 301, 302, 303, 304, 305, 306 and 307.

Section 2. Relation to Title IV-A Program. The cabinet shall administer the Kentucky Child Support Program, as the program relates to Title IV-A recipients, in accordance with regulations cited in Section 1 above and Title 45 CFR Sections 205, 232, 233, 234, and 235.

Section 3. Relation to Title IV-E Program. The cabinet shall administer the Kentucky Child Support Program, as it relates to Title IV-E recipients, in accordance with regulations cited in Section 1 of this regulation and Title 45 CFR Section 1356.

Section 4. Definitions. (1) "Cabinet" shall mean the Cabinet for Human Resources.

(2) "Secretary" shall mean Secretary of the Cabinet for Human Resources or his designee.

(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.

(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services in accordance with Title IV-D of the Social Security Act.

(5) "Duty of support" shall mean any obligation of support imposed or imposable by law or by court order, decree, or judgment whether interlocutory or final, and includes the duty to pay arrearages of support past due in addition to medical support whenever health care coverage is available at a reasonable cost.

(6) "Parent" shall mean the natural or adoptive parent of a child and includes the father of a child born out-of-wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state.

(7) "AFDC recipient" shall mean a child or caretaker relative who is receiving AFDC as prescribed by Title IV-A of the Social Security Act.

(8) "Cooperation" shall mean the act of providing to the IV-D agency or the responsible local official any verbal or written information or documentation needed by the IV-D agency or local official for child support activities, and otherwise complying with the requirements of the Child Support Program.

(9) "Good cause" shall mean that the public assistance recipient has a valid and acceptable reason (as determined by the cabinet) for failing to cooperate in activities related to the Child Support Program.

(10) "Non-public assistance recipient" shall mean any child or family who does not receive public assistance, but does receive child support services based on an application filed with the IV-D agency or with a responsible local official who has entered into a written agreement with the IV-D agency.

(11) "Responsible local official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities and has entered into a written agreement with the IV-D agency.

(12) "Title IV-D agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-D (Child Support) Program.

(13) "Title IV-A agency" shall mean the organizational unit in the state that has responsiblity for administering the Title IV-A (AFDC) program.

(14) "Title IV-E agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-E (foster care maintenance and adoption assistance) program.

(15) "Paternity blood tests" shall mean those tests used in contested paternity actions including, but not limited to, ABO and Human Leucocyte Antigen (HLA) tests administered by qualified laboratories or medical personnel.

(16) "Public assistance" shall mean money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives, or a family containing a combination of these categories.

(17) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative non-profit basis, regularly engages in whole or in part in the practice of assemblying or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Section 5. Initiation of Support Action. Support activity shall be initiated upon referral of forms from the Title IV-A or Title IV-E agency or upon application of a non-public assistance recipient to the IV-D agency or its authorized representative.

Section 6. Safeguarding Information. Pursuant to 45 CFR 303.21 and consistent with KRS 205.175 and 205.990, the cabinet will disclose information regarding recipients of child support services only to public officials or the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the Child Support Program or other federally assisted programs which provide cash benefits or services to needy individuals.

(1) Pursuant to 45 CFR 303.21(b), the IV-D agency may not disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient.

(2) Pursuant to 45 CFR 303.105 and consistent with KRS Chapter 205, the cabinet shall disclose arrearage information to consumer reporting agencies in cases where the overdue support is greater than $1,000. The cabinet may release arrearage information when the amount owed is less than $1,000.

(a) The consumer reporting agency must submit a written request for such information to the cabinet.

(b) The cabinet may charge the consumer reporting agency a fee which may not exceed the cabinet's cost of providing the information.

(c) [(b)] Within twenty (20) [ten (10)] calendar days of receipt of such request, the cabinet shall notify the parent owing the support of the proposed release of information. The notification must inform the parent of the methods available to contest the accuracy of the information.

(d) [(c)] The parent shall contact the cabinet within twenty (20) days of the date of the above notice to contest the accuracy of the information.

Section 7. Establishing Paternity. In establishing paternity for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to paternity.

Section 8. Securing and Enforcing Support. In securing or enforcing support for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to support.

Section 9. Assignment of Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, a public assistance recipient assigns to the cabinet the right to all past due and future child support including any voluntary contributions made by the absent parent. Any support income received by AFDC recipients must be forwarded to the cabinet no later than the tenth (10th) day of the month following receipt.

(2) Non-public assistance recipients may assign their support rights to the cabinet, but these recipients are not required to make such an assignment.

Section 10. Agency Receipt of Support Payments. (1) When the support payment is made payable to the cabinet, money received is credited to the account of the non-custodial or absent parent.

(2) If the amount of the current month's support collection or the court ordered amount, whichever is lower, exceeds the AFDC grant by fifty (50) dollars or more, the IV-D agency will notify the IV-A agency, as required by 45 CFR 302.32.

Section 11. Non-Public Assistance Recipients. The IV-D agency will provide all services to individuals who are not recipients of public assistance benefits as provided in 45 CFR 302.33(a). Pursuant to KRS 205.721, the cabinet shall continue to provide IV-D services for the period of not less than five (5) months after the family's AFDC benefits have been discontinued. These services shall be continued indefinitely unless the client requests discontinuance of IV-D services.

(1) An application fee for these services must be paid in accordance with 45 CFR 302.33 and KRS 205.721.

(2) In addition to the fees provided for in 42 U.S.C. 453(e)(2) and 463 regarding the federal parent locator service, the state may charge a fee for federal income tax refund intercept services in accordance with 45 CFR 303.72. Additionally, any other fee which must be paid to the federal government for services will be collected by the IV-D agency from the applicant.

Section 12. Cooperative Agreements. Pursuant to 45 CFR 302.34, 42 USC 654(7) and KRS 205.800, all eligible local officials may enter into a written agreement with the cabinet to cooperate in activities relative to the Child Support Program when approved by the cabinet. When officials enter into an agreement with the cabinet, federal financial participation (FFP) for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the cabinet. The officials shall provide the cabinet in timely fashion such statistical information concerning IV-D activities as prescribed by the cabinet in the manner and form prescribed by the cabinet. If no agreement is executed, referrals for child support activities may be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 13. Distribution of Support Payments. Distribution of support payments received by the cabinet are made in accordance with 45 CFR 302.32, 302.38, 302.51, and 302.52. The first fifty (50) dollars, up to the obligation amount, of all child support collected in a month by the cabinet for an AFDC assistance unit which represents the current month's support obligation shall be returned to the assistance unit. Rights related to hearings as written in 904 KAR 2:055 do not apply to payment of the pass-through of support collected by the IV-D agency.

Section 14. Good Cause for Refusal to Cooperate. (1) The IV-D agency or its authorized representative must immediately notify the IV-A or IV-E agency at such time as the recipient refuses to cooperate in support enforcement efforts. If the IV-A or IV-E agency should determine, pursuant to laws and regulations, that the recipient has a good cause for failing to cooperate and that pursuit of support action would be detrimental to the best interests of the child, the IV-D agency will not pursue any action in the child's behalf.

(2) If the agency determines that the recipient has good cause for not cooperating but that additional support action would not harm the child, the IV-D agency may proceed in the name of the cabinet for the use of and in behalf of the minor dependent child pursuant to federal

laws and regulations.

Section 15. Parent Locator Service. The cabinet shall use available resources to locate absent parents for children in the Child Support Program in accordance with Kentucky Revised Statutes and applicable federal laws and regulations.

Section 16. Paternity Blood Testing. Pursuant to 45 CFR 303.5(c) the IV-D agency shall identify laboratories within the state which perform legally and medically acceptable blood tests, including ABO and HLA tests, which tend to include or exclude an alleged father in paternity proceedings under KRS Chapter 406. The IV-D agency shall make a list of such laboratories available upon request. In addition, the cabinet shall provide a list of all such laboratories to the Kentucky Bar Association and to the Administrative Office of the Courts for distribution to appropriate agencies and individuals on an annual basis.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 10, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 interesed persons notify the following office in writing by November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie A. Miller
(1) Type and number of entities affected: Responsible parents in the IV-D caseload.
(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: Minimal
(a) Direct and indirect costs or savings: None - Cabinet permitted to recover costs.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable to IV-D Program.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:116. Low income home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 as amended) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of two (2) components of energy assistance, subsidy and crisis under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household or authorized representative of the household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet. An "authorized representative" is that person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf. An application shall not be considered completed until all information necessary to determine eligibility and benefit amount is received.

Section 2. Definitions. Terms used in HEAP are defined as follows:
(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.
(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.
(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
(4) "Economic unit" is one (1) or more persons sharing common living arrangements.
(5) "Subsidy component" is that portion of benefits reserved as energy assistance for heating.
(6) "Crisis component" is that component administered by local organizations under

contract with the cabinet to provide fuel, heaters, blankets and/or sleeping bags, vouchers to purchase these items, or minor repair of the heating system to eligible households who are without heat, or will be without fuel within five (5) days, or receive a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(7) "Life threatening situation" is defined as without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.

Section 3. Eligibility Criteria. (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:

(a) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(b) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and JTPA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$ 491 [481]	$ 5,896 [5,775]
2	664 [646]	7,964 [7,755]
3	836 [811]	10,032 [9,735]
4	1,008 [976]	12,100 [11,715]
5	1,180 [1,141]	14,168 [13,695]
6	1,353 [1,306]	16,236 [15,675]

(c) For each household member more than six (6), the above income eligibility limitation for six (6) will be increased by $172 [$165] monthly or $2,068 [$1,980] yearly for each additional household member.

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, prepaid burial policies, real property, and cash on hand or in a bank account if said cash is income considered under paragraph (a) of this subsection.

(e) Applicants for the crisis component must be without heat, or will be without fuel within five (5) days, or have received a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits.

Section 4. Benefit Levels. Payment amounts for the subsidy and crisis components are set at a level to serve a maximum number of households while providing a reasonably adequate benefit relative to energy costs. In the subsidy component, the highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(1) Payments to eligible households under the subsidy component will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or More
$ 0 - $400	$123	$135
$401 - $800	$105	$117
Over $800	=	$101

Scale B.
Energy Sources: LP Gas (Propane), Fuel Oil, Kerosene, Natural Gas

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or More
$ 0 - $400	$113	$125
$401 - $800	$ 95	$107
Over $800	=	$ 88

Scale C.
Energy Sources: Coal, Wood

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or More
$ 0 - $400	$100	$112
$401 - $800	$ 82	$ 94
Over $800	=	$ 75

[Scale A.
Energy Sources: LP Gas (Propane), Fuel Oil, Electricity, Kerosene

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or more
$ 0 - 400	$138	$150
$401 - 800	$120	$132
over $800	---	$113

Scale B.
Energy Sources: Natural Gas, Coal, Wood

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or more
$ 0 - 400	$125	$137
$401 - 800	$107	$119
over $800	---	$100]

(2) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the subsidy component may be reduced proportionately.

(3) Benefits to eligible households under the crisis component shall be in the form of fuel or other energy for heating, heaters, blankets, and/or sleeping bags, vouchers to purchase these item, or repair to a heating system to obtain adequate heat. The contracting agency will determine the type and value of assistance necessary to alleviate the crisis, not to exceed a maximum of $300 total benefit value per eligible household.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Whenever feasible, payment under the subsidy component is authorized by a two (2) party check made payable to the recipient and the provider or landlord if the heating is included as an undesignated portion of rent.

(2) When a two (2) party check is not issued under the subsidy component, the recipient shall sign a statement as part of the application prior to receipt of funds affirming that benefits received under HEAP shall be utilized solely for home energy.

(3) Under the subsidy component, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For the crisis component, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency in the amount and value determined by the contracting agency necessary to alleviate the crisis, not to exceed the maximum allowable payment. Payments under the crisis component will be authorized to the energy provider by one (1) party checks upon delivery of fuel, heaters, blankets, and/or sleeping bags, restoration or continuation of service, or upon repair of the heating system.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, Hearings and appeals.

Section 7. Time Standards. Under the subsidy component, the cabinet [or its representative] shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications will be processed such that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component will have no more than ten (10) working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the subsidy component shall be accepted as follows:

(a) Households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability may apply beginning October 20, 1986 [21, 1985] and ending no later than October 31, 1986 [1985].

(b) Applications shall be accepted from all households beginning November 17, 1986 [18, 1985] and ending no later than December 30, 1986 [31, 1985].

(2) Applications for the crisis component shall be accepted beginning January 5, 1987 [6, 1986] and ending no later than April 30, 1987 [1986].

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy [and crisis] component shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or December 30, 1987 [April 30, 1986], whichever comes first.

(4) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance. Up to $47,177 [500,000] of this allocation shall be reserved for the Department for Social Insurance weatherization and related conservation initiatives [Gas Furnace Retrofit Pilot Project].

(2) Up to $6,000,000 shall be reserved for the crisis component. Eighty-five (85) percent of the funds reserved for the crisis component shall be allocated, by local administering agency, based upon the poverty levels of the counties served by the local administering agency [county, based upon the poverty level of the counties] in accordance with the 1980 Census. Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component shall be held by the contracting agency as a contingency fund to be allocated to [in] any local administering agency [county] of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 9, 1987 [14, 1986], all unobligated allocations may be reallocated as necessary by the contracting agency with the concurrence of the Department for Social Insurance [shall revert to the contingency fund for low income home energy assistance to be distributed at the discretion of the contracting agency].

(3) Remaining benefit funds available under Public Law 97-35 shall be reserved for the

subsidy component. Fifty (50) percent of the funds available under the subsidy component shall be reserved for households eligible to apply beginning October 20, 1986 [21, 1985] and ending no later than October 31, 1986 [1985]. The remaining fifty (50) percent plus any funds remaining available after October 31, 1986 [1985] shall be reserved for households applying beginning November 17, 1986 [18, 1985] and ending no later than December 30, 1986 [31, 1985]. The funds available for the households applying beginning November 17, 1986 shall be allocated by area development district based upon the level of poverty in accordance with the 1980 Census. Any funds remaining available under the subsidy component after December 30, 1986 [31, 1985] shall be made available under the crisis component contingency fund held by the contracting agency.

(4) Up to $500,000 of the contingency fund under subsection (2) of this section shall be reserved to assure component availability until March 15, 1987 for emergency crisis assistance for households who are without heat. [any subsidy component funds remaining unobligated may, at the discretion of the Department for Social Insurance, be reserved for households who are without heat under the contracting agency administered crisis component, if all funds allocated and otherwise made available to the crisis component are obligated prior to March 15, 1986.]

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated adversely than households not receiving benefits;

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

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

APPROVED BY AGENCY: October 10, 1986

FILED WITH LRC: October 15, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie A. Miller

(1) Type and number of entities affected: Approximately 140,000 low income households.

(a) Direct and indirect costs or savings to those affected: Approximately $24.9 million benefit funds will be provided to eligible households.

1. First year: Approximately 100,000 households in the subsidy component will receive an average benefit of $110, and approximately 40,000 households in the crisis component will receive an average benefit of $150.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: All households must apply for benefits under this program.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Up to 10% of LIHEAP block grant funds will be reserved for administrative costs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Administrative requirements for grants under appropriate state and federal law and regulation.

(3) Assessment of anticipated effect on state and local revenues: All benefits apply to energy costs of low income households.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable; program implementation governed by federal law and 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: The Low Income Home Energy Assistance Program (LIHEAP) is 100% federally funded and this regulation is promulgated in accordance with the LIHEAP block grant application and plan narrative.

TIERING: Was tiering applied? No. Not applicable to Low Income Home Energy Assistance Program regulations.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 3:020. Eligibility requirements.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This

regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and non-financial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this regulation, including but not limited to:

(1) Wages earned by a household member, including all wages received by a striker the month prior to the month of the strike, or the month of application, in accordance with 7 CFR Part 273.1(g).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Payments under Title I (Volunteers in Service to America, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 shall be considered earned income unless specifically excluded in 7 CFR Part 273.9(c)(10)(iii).

(5) The earned or unearned income of excluded household members as set forth in 904 KAR 3:035, Section 5(3).

(6) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(8) Wages earned by a household member which are garnisheed or diverted by an employer and paid to a third party for a household expense.

(9) Support or alimony payments made directly to the household from nonhousehold members and/or any portion of such payments returned to the household by the cabinet.

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

(11) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(12) Monies withdrawn or dividends which are or could be received from a trust fund considered to be excludable under 7 CFR Part 273.8(e)(8) by a household, unless otherwise exempt under the provisions set forth in 7 CFR Part 273.9(c).

(13) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien in accordance with 7 CFR Part 273.11(h).

(14) Assistance monies from another program, as specified in 7 CFR 273.11(j), which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements. These withheld monies shall be considered as income in accordance with 7 CFR 273.11(j).

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided the overpayment was not excludable in accordance with 7 CFR Part 273.9(c). However, monies withheld, as specified in Section 2, subsection (14) of this regulation shall not be excluded.

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility. However, any portion of such monies returned to the household by the cabinet shall not be excluded.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment as defined in 7 CFR 273.9(c).

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty (30) dollars in a quarter.

(6) Effective November 1, 1986, as defined in 7 CFR 273.9(c), educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of post secondary education [higher education], including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. Benefits may be restored back to August 22, 1986.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses

to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household as defined in 7 CFR 273.9(c).

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not attained their eighteenth birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming as defined in CFR Part 273.11(a), such losses shall be offset against any other countable income in the household.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program.

(14) Any energy assistance payments made under federal laws or certified as excludable energy payments by FNS.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below:

(1) Households which contain a member who is elderly or disabled as defined in 904 KAR 3:010, Section 1(10) shall have their net income compared to 100 percent of the federal income poverty guidelines.

(2) Households which are categorically eligible as defined in CFR 273.2 do not have to meet either the gross or net income eligibility standards.

(3) [(2)] All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be periodically adjusted by FNS to reflect changes in the cost of living for a prior period of time as determined by FNS.

(2) Twenty (20) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment. This deduction for non-elderly/non-disabled households shall not exceed the child care maximum established by FNS. Elderly/disabled households with a child care deduction shall not exceed the excess shelter maximum established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction shall not exceed the excess shelter maximum established by FNS, except that households containing an elderly or disabled member shall not be subject to said maximum in regards to the shelter deduction. The excess shelter maximum shall be adjusted periodically by FNS to reflect changes in the cost of living for a prior period of time. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d)(5). The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which incur heating/cooling (by air conditioning units only) costs separate and apart from their rent or mortgage payments in accordance with 7 CFR Part 273.9(d)(6). If the household is not entitled to the utility standard or does not choose to use the utility standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of elderly or disabled, as set forth in 7 CFR Part 271.2, are those meeting the criteria set forth in 7 CFR Part 273.9(d)(3) including, but not limited to:

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

(e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. Resources. Uniform national resource standards of eligibility shall be utilized. Eligibility shall be denied or terminated if the total value of a household's liquid and non-liquid resources, not exempt under Section 7 of this regulation and in accordance with 7 CFR Part 273.8, exceed:

(1) $3000: for all households with one (1) or more members, when at least one (1) member is sixty (60) years or older; or

(2) $2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 [in which all members receive AFDC benefits and whose gross income does not exceed 130 percent of the federal income poverty guidelines] shall be considered as having met the food stamp resource requirement.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods, personal effects including one (1) burial plot per household member, the cash value of life insurance policies and pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt), and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.

(3) Licensed/unlicensed vehicles as specified in 7 CFR Part 273.8.

(4) Property which annually produces income consistent with its fair market value, even if

only used on a seasonal basis.

(5) Property which is essential to the employment or self-employment of a household member, in accordance with 7 CFR Part 273.8(e)(5).

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

Section 8. Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer in accordance with 7 CFR 273.8(i).

Section 9. Non-financial Criteria. Non-financial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective October [May] 1, 1986 unless otherwise specified.

E. AUSTIN, JR., Secretary
MIKE ROBINSON, Commissioner
APPROVED BY AGENCY: September 18, 1986
FILED WITH LRC: October 1, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Janie A. Miller

(1) Type and number of entities affected:

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

1. First year: Minimal
2. Continuing costs or savings: None
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. This change merely incorporates federal material.

(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: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal requirements do not allow for alternatives, so none considered.

(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. Federal requirements must be applied uniformly statewide.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:004. Resource and income standard of medically needy.

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 requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:
(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at $1,700 and $3,400 respectively, effective January 1, 1986; at $1,800 and $3,600 respectively, effective January 1, 1987; at $1,900 and $3,800 respectively, effective January 1, 1988; and at $2,000 and $4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.
(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.
(3) Equity of $6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.
(4) Equity of $4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, of if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.
(5) Burial reserves of up to $1,500 per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), life insurance policies, or other [separate and] identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify [un-commingle] the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.
(6) Burial spaces, plots, [or] vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.
(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.
(8) The following exclusions are also applicable as stated:
(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.
(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.
(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.
(d) Disaster relief assistance is excluded from consideration.
(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	$2,300	$192
2	2,700	225
3	3,200	267
4	3,900	325
5	4,600	383
6	5,200	433

For each additional member, $600 annually or fifty (50) dollars monthly is added to the scale.

Section 4. Additional Income Considerations. In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(1) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(2) In cases of adults and children, dependent care as a work expense is allowed not to exceed $160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or $110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-Down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses

and parents are considered responsible for dependent minor children. Stepparents are responsible for their stepchildren as shown in Section 10(7) and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, but not including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their eligible spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind or disabled applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) [(3)] In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation and the six (6) months following that month.

(5) [(4)] In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) [(5)] For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(7) [(6)] Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(8) [(7)] In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(9) [(8)] Income and resources of parent(s) are not considered available to a child living apart from the parents' for a period in excess of thirty (30) days, but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(10) [(9)] When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the forty (40) [twenty-five (25)] dollars maintenance standard is not applicable since his/her needs are considered with that of other family members. When a child in a family case is in the long term care facility, eligiblity of the child is determined in the same manner for up to a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart

from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

(a) The first seventy-five (75) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(b) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(d) Payments by the stepparent or grandparent for alimony or child support with respect to individuals not living in the household.

(e) Income of a stepparent or grandparent receiving Supplemental Security Income.

(f) Verified medical expenses for the stepparent or grandparent and his/her dependents in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income. the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligiblity of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-Sum Income. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

Section 14. Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual

presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by $500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the $500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. Special Provisions for AIS/MR Recipients. Effective April 1, 1983, medical assistance eligibilty for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.

(2) Income protected for basic maintenance of the AIS/MR participant shall be the standard for the federal supplemental security income program.

(3) The attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all particpants divided by twelve (12) and rounded to the nearest dollar.

(4) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.

Section 16. Special Provisions for Hospice Recipients. Effective October 1, 1986, medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant shall be the standard for the federal supplemental security income program.

(2) The attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized case when the cost of care is greater than the recipient's monthly income.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

Section 17. Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 18. [16.] Implementation. The amendments to [provisions of] this regulation[, as amended,] will be effective on November [August] 1, 1986, applicable at the time of the

next determination of eligibility for each applicant or recipient, except as otherwise specified herein.

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: September 26, 1986
FILED WITH LRC: October 1, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker
(1) Type and number of entities affected: 150 to 200 Medicaid 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:
1. First year: $200,000 (costs)*
2. Continuing costs or savings: $200,000
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: *Assumes about 100 additional eligible individuals from application of these policy changes and negligible impact on other affected individuals.
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:010. Payment for physicians' services.

RELATES TO: KRS 205.550, 205.560
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

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

Section 2. Definitions. For purposes of determination of payment: (1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.
(2) Prevailing charge refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each medical procedure are derived from the overall pattern existing within the state.

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1981, the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1980.
(2) Effective October 1, 1981, the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.
(3) Effective October 1, 1981, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program.
(4) Effective October 1, 1981, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program.
(5) Percentile:
(a) The Title XIX prevailing charges were established by utilizing the statistical computation of the 75th percentile.
(b) The Title XVIII, Part B, prevailing charges were established by utilizing the statistical computation of the 75th percentile.

Section 4. Maximum Reimbursement for Covered Procedures. (1) Reimbursement for covered procedures is limited to the lowest of the following:
(a) Actual charge for service rendered as submitted on billing statement;
(b) The physician's median charge for a given service derived from claims processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made.
(2) In no case may payment exceed the prevailing charge established under Part B, Title XVIII for similar service on a statewide basis.
(3) In instances where a prevailing charge has not been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.
(4) The upper limit for new physicians shall not exceed the 50th percentile.

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

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows:

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

(2) Payments for specified obstetrical services provided on or after October 1, 1986, shall be at the following flat rates: normal delivery, $250; classic cesarean section, $300; low cervical cesarean section, $320; cesarean and hysterectomy, $350; and extraperitoneal cesarean section, $200.

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

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: September 29, 1986
FILED WITH LRC: October 1, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: Approximately 1,000 physicians participating in the Medicaid Program.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $1,500,000 (costs)
2. Continuing costs or savings: $1,500,000 (costs)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:049. Payments for family planning 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 family planning services.

Section 1. Family Planning Clinics. The cabinet shall reimburse family planning clinics or agencies for covered services on the basis of a flat fee schedule.

Section 2. Amount of Payment. Reimbursement in accordance with the flat fee schedule shall be at the following rates:

(1) For services provided by a physician: initial clinic visit, fifty (50) [thirty (30)] dollars; annual clinic visit, sixty (60) [twenty-five (25)] dollars; follow-up visit with pelvic examination, twenty-five (25) [fifteen (15)] dollars; and follow-up visit without pelvic examination, twenty (20) [ten (10)] dollars.

(2) For services provided by an advanced registered nurse practitioner with appropriate training as specified by the cabinet: initial clinic visit, thirty-seven (37) [twenty-two (22)] dollars seventy-five (75) and [fifty (50)] cents; annual clinic visit, forty-five (45) [eighteen (18)] dollars [and seventy-five (75) cents]; follow-up visit with pelvic examination, eighteen (18) [twelve (12)] dollars and seventy-five (75) [twenty-five (25)] cents; and follow-up visit without pelvic examination, fifteen (15) [seven (7)] dollars [and fifty (50) cents].

(3) The fee for the counseling visit shall be thirteen (13) [seven (7)] dollars; for a counseling visit with three (3) months

contraceptive supply the fee shall be seventeen (17) dollars; for a counseling visit with six (6) months contraceptive supply the fee shall be twenty (20) dollars; for a supply only visit, the fee shall be the actual acquisition cost of contraceptive supplies dispensed. The supply only visit fee may not be paid as an addition to a fee for another type of visit, since the fee for other types of visits includes an amount for contraceptives.

Section 3. The amendments to this regulation shall be effective with regard to payments for family planning services provided on or after October 1, 1986.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 8, 1986
FILED WITH LRC: October 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 interesed persons notify the following office in writing by November 16, 1986 of their desire to appear and testify at the hearing: Ryan M. Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: Approximately 131 participating family planning clinics serving 8000 - 10,000 Medicaid 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:
1. First year: $270,000 - $300,000 (costs).
2. Continuing costs or savings: $270,000 - $300,000 (costs).
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:
(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 for Medicaid regulations.

PROPOSED REGULATIONS RECEIVED THROUGH OCTOBER 15

FINANCE AND ADMINISTRATION CABINET
Kentucky Board of Dentistry

201 KAR 8:005. Advertising of dental services.

RELATES TO: KRS 313.400, 313.410
PURSUANT TO: KRS 313.220
NECESSITY AND FUNCTION: This regulation sets forth the manner in which dentists licensed in Kentucky may advertise dental services.

Section 1. No licensed dentist shall hold himself out to the public as being especially qualified in any branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that he is so qualified, without first securing a specialist's license for same as provided in KRS Chapter 313 and these regulations.

Section 2. A general dentist may advertise as such and list areas of interest or services rendered in lay terms (e.g., "John Doe, D.M.D., General Dentist, Examinations, Extractions, Braces" or "Dr. John Doe, General Dentist, Extractions, Braces, Crowns."

Section 3. Any dentist licensed in Kentucky may submit proposed advertising to the Kentucky Board of Dentistry for prior written approval.

R. B. THOMPSON, Executive Director
APPROVED BY AGENCY: October 14, 1986
FILED WITH LRC: October 15, 1986, at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986 at 1:30 p.m. EST at the offices of the Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205. Those interested in attending this hearing shall contact: Deborah L. Cameron, Kentucky Board of Dentistry, 2106 Bardstown Road, Louisville, Kentucky 40205.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Deborah L. Cameron
(1) Type and number of entities affected: Approximately 2800 dentists.
(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: Minimal
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Possible minimal increase in costs due to submission of advertising for prior approval.
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: Minimal increase if licensees elect to submit advertising for prior approval.
(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: None
TIERING: Was tiering applied? No. N/A

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission

201 KAR 27:044. Appointment of officials.

RELATES TO: KRS 229.081, 229.091(1), 229.991
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: KRS 229.081 provides for the licensing of officials for professional boxing and wrestling matches and exhibitions. KRS 229.091(1) provides that every licensee shall be subject to such regulations as the commission prescribes.

Section 1. Judges, physicians, referees, doormen, and timekeepers shall be selected, licensed, and assigned by the commission.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: September 24, 1986
FILED WITH LRC: October 13, 1986 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on November 24, 1986, at 10 a.m. (EST) at the offices of the Kentucky Athletic Commission, Kentucky Towers, 430 W. Muhammad Ali Blvd., Louisville, Kentucky 40202. Those interested in attending this hearing shall contact: Kathy Harmon, Office of the Attorney General, Room 16, State Capitol, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 357 officials.
(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: N/A.
(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:
TIERING: Was tiering applied? N/A.

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

401 KAR 57:021. Mercury standards.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of mercury emissions from stationary sources which process mercury ore to recover mercury, incinerate or dry wastewater treatment plant sludge, or use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for mercury contained in 40 CFR 61, Subpart E, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, and as amended by Federal Register 50 FR 46294, November 7, 1985, is hereby adopted and filed herein by reference, except that "61.31" in 40 CFR 61.53 shall be read as "61.13." The methods for determining compliance as required in 40 CFR 61, Subpart E are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 61, Subpart E, as amended, limits emissions of mercury from stationary sources which process mercury ore to recover mercury, incinerate or dry wastewater treatment plant sludge, or use mercury chlor-alkali cells to produce chlorine gas and

alkali metal hydroxide, that commenced construction, modification, or reconstruction after October 14, 1975. The standards in the federal regulation represent the best demonstrated technology for the industry.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

Section 5. 401 KAR 57:020, Mercury emissions, is hereby repealed.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 14, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the revised federal regulation on National Emission Standards for Hazardous Air Pollutants (NESHAP) for mercury, 40 CFR 61, Subpart E, and repeals the outdated corresponding state regulation, 401 KAR 57:020. The federal regulation applies to all stationary sources which process mercury ore to recover mercury, incinerate or dry wastewater treatment plant sludge, or use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxides that commenced construction, modification, or reconstruction after October 14, 1975. The Division currently has a regulation similar to the federal NESHAP regulation for these sources; however, the federal regulation was recently amended to require the use of the revised test method which is used in determining compliance with the mercury standard, to delete or change specific sampling and analytical procedures, and to correct other portions of the federal regulation. The test methods were also revised to correct procedures and equations which are used. The federal regulation was amended again to codify procedures and criteria used in implementing the emission standards. The Cabinet is therefore adopting by reference the federal regulation, as amended, and is repealing the regulation which is currently in effect, so that Kentucky's regulation will be identical to the federal regulation. There are four sources in Kentucky which have been subject to the present regulation which will now be affected by this new regulation. However, two of these sources are not in operation at the present time. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: The proposed regulation would require sources to use a revised test method, Method 105, to determine mercury in wastewater treatment plant sewage sludge. As determined by the U.S. Environmental Protection Agency (EPA), this revision will improve the precision and accuracy of the method while not resulting in a major cost increase.

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: There will be no additional requirements due to the proposed regulation. New plants will be required to apply for construction and operating permits.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will continue to review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will continue to have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work

with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulation on the prevention of significant deterioration (PSD), 401 KAR 51:017, may be overlapping if a source subject to PSD has mercury emissions greater than 0.1 tons per year.

(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: In the Federal Register of April 6, 1973 (38 FR 8826), the U.S. EPA promulgated a national emission standard for hazardous air pollutants (NESHAP) limiting emissions of mercury from stationary sources which process mercury ore to recover mercury, incinerate or dry wastewater treatment plant sludge, or use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxides. The U.S. EPA granted Kentucky the delegation of authority to enforce the provisions of the federal regulation based on the state's regulation, 401 KAR 57:020. In the Federal Register of June 8, 1982 (47 FR 24704), the U.S. EPA amended the regulation to allow a new test method, Method 101A, to be used for determining mercury emissions. The federal regulation was again amended on September 12, 1984 (49 FR 35770), to allow for a change in Test Method 105, and on November 7, 1985 (50 FR 46294), to codify procedures and criteria used in implementing the emission standards. The Cabinet is promulgating this regulation to adopt by reference the federal regulation, as amended, so that the state's regulation will be identical to the federal NESHAP regulation. In addition, this regulation repeals the present regulation (401 KAR 57:020) so that there would not be a duplication or conflict of requirements for these sources.

TIERING: Was tiering applied? No. Tiering was not applied because this regulation is identical to the federal regulation where tiering is not allowed. Tiering is not applicable in this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 61, Subpart E. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 57:045. Inorganic arsenic emissions from glass manufacturing plants.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of inorganic arsenic emissions from glass manufacturing plants.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for the control of inorganic arsenic emissions from glass manufacturing plants contained in 40 CFR 61, Subpart N, made effective by Federal Register 51 FR 28025, August 4, 1986, is hereby adopted and filed herein by reference.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 61, Subpart N, limits emissions of inorganic arsenic from glass manufacturing plants. The affected facility in a glass manufacturing plant is each glass melting furnace which uses commercial arsenic as a raw material. Pot furnaces, however, are exempt from the provisions of this regulation.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 14, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to

receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the federal regulation on National Emission Standards for Hazardous Air Pollutants (NESHAP) for inorganic arsenic emissions from glass manufacturing plants, 40 CFR 61, Subpart N. The federal regulation applies to each glass melting furnace that uses commercial arsenic as a raw material. This regulation does not apply to pot furnaces. The Cabinet is adopting by reference the federal regulation, 40 CFR 61, Subpart N, so that Kentucky's regulation will be identical to the federal regulation. Available information indicates that there is one source, North American Philips Electric (102-0360-0001), which uses commercial arsenic in its glass manufacturing process, therefore it is subject to this regulation. However, the source is already in compliance with the federal standards, therefore, it will not be required to install additional controls for arsenic emissions. There are some other glass manufacturing plants in Kentucky; however, none of those sources are currently using commercial arsenic in their glass manufacturing processes. These sources would be subject to the requirements in this federal regulation, if they were to start using commercial arsenic as a raw material in their glass manufacturing processes. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: Since there are no sources presently affected by this regulation, no costs or savings are incurred. Future sources in Kentucky will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation.

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: None on present sources. New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 61.165.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(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: 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: In the Federal Register of August 4, 1986 (51 FR 28025), the United States Environmental Protection Agency (U.S. EPA) promulgated a national emission standard for hazardous air pollutants (NESHAP) limiting emissions of inorganic arsenic from glass manufacturing plants. Each glass melting furnace which uses commercial arsenic as a raw material is an affected facility and would be subject to the requirements in the federal regulation. The federal regulation applies to all new and existing glass manufacturing plants; however, emission standards for new sources are more stringent than the standards for existing sources. The Cabinet is promulgating this regulation to adopt by reference the federal regulation so that the Cabinet may be granted authority to implement the provisions of the NESHAP and issue permits to new sources.

TIERING: Was tiering applied? Yes. Emission standards for existing sources are less stringent than those for new sources.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that state's regulation will be identical to the federal regulation, 40 CFR 61, Subpart N. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 59:066. Primary emissions from new basic oxygen process furnaces.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of primary emissions from steel plants using new basic oxygen process furnaces.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for steel plants using new basic oxygen process furnaces (BOPFs) contained in 40 CFR 60, Subpart N, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, and as amended by Federal Register 51 FR 160, Janaury 2, 1986, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart N are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart N, limits primary emissions of particulate matter from affected facilities that commenced construction, modification or reconstruction after June 11, 1973, at steel plants using basic oxygen process furnaces (BOPFs). The affected facility in a steel plant using basic oxygen process furnaces is each basic oxygen process furnace.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

Section 5. 401 KAR 59:065, Steel plants using new basic oxygen process furnaces, is hereby repealed.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 14, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the revised federal regulation on New Source Performance Standards (NSPS) National Emission Standards for steel plants using new basic oxygen process furnaces, 40 CFR 60, Subpart N. The federal regulation applies to affected facilities that commenced construction, modification, or reconstruction after June 11, 1973, in steel plants using new basic oxygen process furnaces (BOPFs). The Division currently has a regulation similar to the federal NSPS regulation for these sources, however, the federal regulation was recently amended to revise the standard for particulate matter and monitoring requirements for sources which commenced on or after January 20, 1983, and the test methods and procedures for all sources to be used to determine compliance with the federal standards. The Cabinet is therefore adopting by reference the federal regulation, as amended, and is repealing the regulation which is currently in effect, so that Kentucky's regulation will be identical to the federal regulation. Available information indicates that there are presently no sources in the Commonwealth which would be subject to the provisions of this regulation. However, there is one source, Armco Steel Corporation (103-0340-0005), which if it were to undergo modification or reconstruction, would be subject to the requirements in the federal regulation. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: Since there are no sources presently affected by this regulation, no costs or savings are incurred. The U.S. EPA does not indicate any increase in costs associated with the amendments to this federal regulation, however, there are increased capital and annualized costs associated with the promulgation of the new regulation, 40 CFR 60, Subpart Na, for the control of secondary emissions from steel plants using new basic

oxygen process furnaces, which were constructed or modified after January 20, 1983. Future sources in Kentucky will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation.

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: None on present sources. New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 60.143 and 40 CFR 60.144.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will maintain the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in non-attainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a new or modified source has emissions of greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary, however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in non-attainment areas.

(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: In the Federal Register of March 8, 1974 (39 FR 9318), the U.S. EPA promulgated a regulation to control particulate emissions from steel plants using new basic oxygen process furnaces. The U.S. EPA granted Kentucky the delegation of authority to enforce the provisions of the federal regulation based on the state's regulation 401 KAR 59:065, which was made effective by Kentucky on June 6, 1979. In the Federal Register of January 2, 1986 (51 FR 160), EPA amended the federal regulation, 40 CFR 60, Subpart N, and also promulgated a new regulation, Subpart Na, to control secondary emissions of particulate matter from steel plants using basic oxygen process furnaces. Subpart N of 40 CFR 60 was amended so that different requirements apply to affected facilities which were constructed, reconstructed, or modified after June 11, 1973, but on or before January 20, 1983, than apply for affected facilities which were constructed, reconstructed, or modified after January 20, 1983. Sources which commenced after January 20, 1983, will be required to comply with the provisions of 40 CFR 60, Subparts N and Na. The Cabinet is also promulgating 401 KAR 59:068 to adopt by reference 40 CFR 60, Subpart Na. The Cabinet is promulgating this regulation to adopt by reference the federal regulation so that Kentucky's regulation will be identical to the federal NSPS regulation and so that the previously granted delegation of authority to implement the provisions of this regulation will continue and the Cabinet will be able to continue to issue permits to new sources. In addition, this regulation repeals the present regulation on steel plants using new basic oxygen process furnaces (401 KAR 59:065) so that there would not be a duplication or conflict of requirements for these resources.

TIERING: Was tiering applied? Yes. The federal regulation has been amended so that different standards apply to sources built after June 11, 1973, but before January 20, 1983, than apply to sources built on or after January 20, 1983, and different standards apply to different types of control devices.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart N. This regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 59:068. Secondary emissions from new basic oxygen process steelmaking facilities.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of secondary emissions from steel plants using new basic oxygen process furnaces.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for secondary emissions from steel plants using new basic oxygen process furnaces contained in 40 CFR 60, Subpart Na, made effective by Federal Register 51 FR 161, Janaury 2, 1986, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart Na are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart Na, limits secondary emissions of particulate matter from affected facilities that commenced construction, modification or reconstruction after January 20, 1983, at steel plants using new basic oxygen process furnaces. The affected facilities in steel plants that use basic oxygen process furnaces are: top-blown basic oxygen process furnaces, hot metal transfer stations, and skimming stations used with bottom-blown or top-blown basic oxygen process furnaces.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: October 14, 1986
FILED WITH LRC: October 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the federal regulation on New Source Performance Standards (NSPS) for secondary emissions from steel plants using new basic oxygen process furnaces (BOPFs), 40 CFR 60, Subpart Na. The federal regulation applies to affected facilities that commenced construction, modification, or reconstruction after January 20, 1983, in steel plants using basic oxygen process furnaces (BOPFs). In the Federal Register of January 2, 1986 (51 FR 161), the United States Environmental Protection Agency (U.S. EPA), promulgated a new federal NSPS regulation, 40 CFR 60, Subpart Na, limiting secondary emissions of particulate matter from steel facilities which use new basic oxygen process furnaces. The Cabinet is therefore adopting by reference the federal regulation, 40 CFR 60, Subpart Na, so that Kentucky's regulation will be identical to the federal regulation. Available information indicates that there are no sources in Kentucky which are presently affected by this regulation. However, there is one existing source in Kentucky, Armco Steel Corporation (103-0340-0005), which if it were to undergo modification or reconstruction, would be subject to the requirements in the federal regulation. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: Since there are no sources presently affected by this regulation, no costs or savings are incurred. However, cost estimates provided by the U.S. EPA for the federal regulation indicate increased capital and annualized costs associated with the promulgated standards, throughout the nation. These costs depend upon the types of control technologies used to meet the federal standards. It is estimated that the cumulative costs associated with the use of open hood controls to meet the federal standards would be about $18.2 million through the first five years following the promulgation of the federal standards; whereas closed hood controls would cost about $29.4 million. The maximum increase in the price of finished steel would increase by about 0.2 percent by the end of the fifth year following the promulgation of the federal regulation. Future sources in Kentucky will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating

this regulation.
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: None on present sources. New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 60.143a, 40 CFR 60.144a, and 40 CFR 60.145a.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.
1. First year: The Division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.
2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in non-attainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a new or modified source has emissions of greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary, however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in non-attainment areas.
(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: In the Federal Register of January 2, 1986 (51 FR 161), the U.S. EPA promulgated a new source performance standard (NSPS) limiting secondary emissions of particulate matter from steel plants which use new basic oxygen process furnaces. The federal regulation provides the types of equipment and facilities in steel plants which would be affected by this regulation. The affected facilities are: top-blown basic oxygen process furnaces, hot metal transfer stations, and skimming stations used with bottom-blown or top-blown basic oxygen process furnaces. The Cabinet is promulgating this regulation to adopt by reference the federal regulation so that the Cabinet may be granted authority to implement the provisions of the NSPS and issue permits to new sources.
TIERING: Was tiering applied? No. Tiering was not applied since this regulation is to be identical to the federal regulation where no tiering is allowed.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart Na. Therefore, this regulation has the same requirements as the federal regulation.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 59:166. Steel plants using new electric arc furnaces.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from steel plants using electric arc furnaces.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for steel plants using new electric arc furnaces contained in 40 CFR 60, Subpart AA, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart AA are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart AA, limits emissions of particulate matter from affected facilities that commenced construction, modification or reconstruction after October 21, 1974, and on or before August 17, 1983, at steel plants using electric arc furnaces. The affected facilities in steel plants that produce carbon, alloy, or specialty steels are: electric arc furnaces and dust-handling systems.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

Section 5. 401 KAR 59:165, Steel plants and foundries using new electric arc furnaces, is hereby repealed.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 14, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the revised federal regulation on New Source Performance Standards (NSPS) for steel plants using new electric arc furnaces, 40 CFR 60, Subpart AA, and repeals the outdated corresponding state regulation, 401 KAR 59:165. The federal regulation applies to affected facilities that commenced construction, modification, or reconstruction after October 21, 1974, and on or before August 17, 1983, in steel plants using electric arc furnaces. The Division currently has a regulation similar to the federal NSPS regulation for these sources, however, the federal regulation was recently amended to revise the standards for particulate emissions, test methods and procedures, and recordkeeping and reporting requirements for affected facilities in steel plants which use electric arc furnaces. The Cabinet is therefore adopting by reference the federal regulation, as amended, and is repealing the regulation which is currently in effect, so that Kentucky's regulation will be identical to the federal regulation. Available information indicates that the only source in the Commonwealth which would have been subject to the provisions of this regulation, Kentucky Electric Steel Corporation (103-0340-0020), has been shut down and is no longer in operation. This source, however, would be subject to the requirements in the federal regulation, if it resumes production. There are two other sources, Green River Steel Corporation (077-0920-0008), and Newport Steel Corporation (079-0520-0006), which if they were to undergo modification or reconstruction, would be subject to the requirements in the federal regulation. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: Since there are no sources presently affected by this regulation, no costs or savings are incurred. Cost estimates provided by the U.S. EPA for the federal regulation are not specific to Kentucky's sources, but will be given as an estimate. The total capital cost of compliance with the requirements in this federal regulation and the federal regulation for electric arc furnaces and argon-oxygen decarburization vessels, would increase by $3,150,000 throughout the nation through the first five years following promulgation of the federal standards. Total annualized costs in the fifth year would increase by no more than $479,000. Future sources in Kentucky will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation.

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: None on present sources. New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 60.275 and 40 CFR 60.276.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in non-attainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a new or modified source has emissions of greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary, however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the sources for the purposes of PSD and new source review in non-attainment areas.

(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: In the Federal Register of September 23, 1975 (40 FR 43850), the U.S. EPA promulgated a new source performance standard (NSPS) limiting emissions of particulate matter from steel plants using electric arc furnaces. The U.S. EPA granted Kentucky the delegation of authority to enforce the provisions of the federal regulation based on the state's regulation 401 KAR 59:165, which was made effective by Kentucky on June 6, 1979. In the Federal Register of October 31, 1984 (49 FR 43843), EPA amended the federal regulation, 40 CFR 60, Subpart AA, and also promulgated a new regulation, Subpart AAa, to control emissions from steel plants using electric arc furnaces and argon-oxygen decarburization vessels. Subpart AA, as amended, specifies the affected facilities in steel plants, and also specifies the particulate emission standards and monitoring, recordkeeping, and reporting requirements for the affected sources. The affected facilities in steel plants that produce carbon, alloy, or specialty steels are: electric arc furnaces and dust-handling systems. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not affected facilities. The Cabinet is promulgating this regulation to adopt by reference the federal regulation so that Kentucky's regulation will be identical to the federal regulation and so that the previously granted delegation of authority to implement the provisions of this regulation will continue and the Cabinet will be able to continue to issue permits to new sources. In addition, this regulation repeals the present regulation on steel plants and foundries using new electric arc furnaces (401 KAR 59:165) so that there will not be a duplication or conflict of requirements for these sources.

TIERING: Was tiering applied? Yes. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not subject to the provisions of this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart AA. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 59:168. Steel plants using new electric arc furnaces and argon-oxygen decarburization vessels.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from steel plants using new electric arc furnaces and argon-oxygen decarburization vessels.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. The federal regulation for steel plants using new electric arc furnaces and argon-oxygen decarburization vessels contained in 40 CFR 60, Subpart AAa, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart AAa are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart AAa, limits emissions of particulate matter from

affected facilities that commenced construction, modification or reconstruction after August 17, 1983, at steel plants using new electric arc furnaces and argon-oxygen decarburization vessels. The affected facilities in steel plants that produce carbon, alloy, or specialty steels are: electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 15, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference the federal regulation on New Source Performance Standards (NSPS) for steel plants using new electric arc furnaces and argon-oxygen decarburization vessels, 40 CFR 60, Subpart AAa. The federal regulation applies to affected facilities that commenced construction, modification, or reconstruction after August 17, 1983, in steel plants using new electric arc furnaces and argon-oxygen decarburization vessels. The Cabinet is adopting by reference the federal regulation, so that Kentucky's regulation will be identical to the federal regulation. Available information indicates that there are presently no sources in Kentucky to which this regulation applies. However, there are some existing sources in Kentucky, which if they were to undergo modification or reconstruction, would be subject to the requirements in the federal regulation. Any new source would be subject to the requirements in the federal regulation, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: Since there are no sources presently affected by this regulation, no costs or savings are incurred. However, cost estimates provided by the U.S. EPA for the federal regulation indicate increased capital and annualized costs associated with the promulgated standards. The total capital cost of compliance with the requirements in this federal regulation and the federal regulation for steel plants which use electric arc furnaces would increase by $3,150,000 throughout the nation through the first five years following the promulgation of the federal standards. Total annualized costs in the fifth year would increase by no more than $479,000. Future sources in Kentucky will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation.

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: None on present sources. New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 60.275a and 40 CFR 60.276a.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in

conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in non-attainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a new or modified source has emissions of greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary, however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in non-attainment areas.

(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: In the Federal Register of October 31, 1984 (49 FR 43845), the U.S. EPA promulgated a new source performance standard (NSPS) limiting emissions of particulate matter from steel plants which use electric arc furnaces and argon-oxygen decarburization vessels to produce carbon, alloy, or specialty steels. The federal regulation provides the types of equipment and facilities in steel plants which would be subject to the requirements in the federal regulation. The affected facilities are: electric-arc furnaces, argon-oxygen dicarburization vessels, and dust-handling systems. The Cabinet is promulgating this regulation to adopt by reference the federal regulation so that the Cabinet may be granted authority to implement the provisions of the NSPS and issue permits to new sources.

TIERING: Was tiering applied? Yes. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not subject to the provisions of this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulation so that state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart AAa. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 59:295. New onshore natural gas processing plants.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new onshore natural gas processing plants.

Section 1. General References. In the federal regulation adopted by reference in this regulation, "Regional Administrator" shall be read as "secretary," "EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

Section 2. Standard for Sulfur Dioxide. The federal regulation for sulfur dioxide (SO_2) emissions from new onshore natural gas processing plants contained in 40 CFR 60, Subpart LLL, made effective by Federal Register 50 FR 40160, October 1, 1985, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart LLL, are filed by reference in 401 KAR 50:015.

Section 3. Standard for Volatile Organic Compounds. The federal regulation for volatile organic compound (VOC) emissions from new onshore natural gas processing plants contained in 40 CFR 60, Subpart KKK, as published in the Code of Federal Regulations, Title 40, Parts 53 to 80, July 1, 1985, and as amended by Federal Register 51 FR 2702, January 21, 1986, is hereby adopted and filed herein by reference.

Section 4. Summary. (1) Sulfur dioxide (SO_2). The federal regulation adopted by reference in Section 2 of this regulation, 40 CFR 60, Subpart LLL, promulgates standards of performance for emissions of SO_2 from sweetening and sulfur recovery units in new onshore natural gas processing plants that commenced construction, modification or reconstruction after January 20, 1984. Facilities that have a design capacity less than two (2) long tons per day (LT/D) of hydrogen sulfide (H_2S) in the acid gas are not required to comply with 40 CFR 60.642 through 60.646. However, these facilities are still required to comply with 40 CFR 60.647. The standards in the federal regulation represent the best demonstrated technology for the industry.

(2) Volatile organic compounds (VOCs). The federal regulation adopted by reference in Section 3 of this regulation, 40 CFR 60, Subpart KKK, promulgates standards of performance for equipment leaks of VOCs in new onshore natural gas processing plants that commenced construction, modification, or reconstruction after January 20, 1984. The affected facilities in new onshore natural gas processing plants are: each gas plant compressor in VOC service or in wet gas service, and the group of all

equipment, except compressors, within each process unit. The standards in the federal regulation represent the best demonstrated technology for the industry.

Section 5. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division of Air Pollution Control:

(a) Director's Office, Division of Air Pollution Control, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 842-8131;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042 (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 14, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation adopts by reference two federal regulations which relate to new onshore natural gas processing plants. The first regulation is the federal regulation on New Source Performance Standards (NSPS) for sulfur dioxide (SO_2) emissions from new onshore natural gas processing plants, 40 CFR 60, Subpart LLL. The second regulation is the federal regulation on New Source Performance Standards (NSPS) for volatile organic compound (VOC) emissions from new onshore natural gas processing plants, 40 CFR 60, Subpart KKK. Both federal regulations apply to all new onshore natural gas processing plants that have commenced construction, modification, or reconstruction after January 20, 1984. The Cabinet is therefore adopting by reference the federal regulations so that Kentucky's regulation will be identical to the federal regulations. There are three sources in Kentucky which are presently affected by the VOC emission regulation. These sources will be required to comply with the monitoring and recordkeeping requirements. However, there are no sources in Kentucky which are presently affected by the SO_2 emissions regulation. Available information indicates that the SO_2 emissions regulation would not impose any additional requirements on any source in Kentucky. Any new source would be subject to the requirements in these federal regulations, irrespective of its location.

(a) Direct and indirect costs or savings to those affected: The proposed SO_2 regulation would not affect any sources in Kentucky at the present time. However, the proposed VOC regulation has routine monitoring and recordkeeping requirements which apply to the affected facilities. Information provided with the federal regulation indicates that this regulation would result in no adverse impact on profitability, would have a potential to increase slightly the consumer price of natural gas or natural gas products (0.1 percent or less), and would have no adverse impact on capital availability for construction of gas plants.

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: New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements for affected facilities with SO_2 emissions appear in 40 CFR 60.647. The reporting and recordkeeping requirements for affected facilities with VOC emissions appear in 40 CFR 60.487. Some additional amount of reporting and paperwork will be required due to the proposed VOC regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None presently; the following applies for sources which construct in the future.

1. First year: The Division will continue to review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The Division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the Division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulations. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulations, thereby

allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in non-attainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a source subject has emissions of greater than 250 tons per year or has emissions greater than 100 tons per year with a sulfur recovery unit present, or if the source is subject to new source is subject to new source review in non-attainment area and has emissions greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary, however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in non-attainment areas.

(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: In the Federal Register of October 1, 1985 (50 FR 40160), the U.S. EPA promulgated a new source performance standard (NSPS) limiting sulfur dioxide (SO_2) emissions from all new onshore natural gas processing plants. In the Federal Register of June 24, 1985 (50 FR 26124), the U.S. EPA promulgated a new source performance standard (NSPS) limiting VOC emissions due to equipment leaks from all new onshore natural gas processing plants. In the Federal Register of January 21, 1986 (51 FR 2702), this regulation was amended to revise Subpart KKK to reference the flare requirements in the general provisions portion of 40 CFR 61. The Cabinet is promulgating this regulation to adopt by reference the federal regulations so that the state's regulation will be identical to the federal NSPS regulations.

TIERING: Was tiering applied? Yes. In the SO_2 emissions regulation, facilities that have a design capacity less than 2 long tons per day (LT/D) of hydrogen sulfide (H_2S) are not required to comply with 40 CFR 60.642 through 60.646. These facilities are still required to comply with 40 CFR 60.647. In the VOC regulation, gas plants that do not fractionate natural gas liquids and that also process less than 283,000 standard cubic meters per day (scmd) of field gas are exempt from the routine leak detection and repair requirements for valves, pumps, and pressure relief devices.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts by reference the federal regulations so that state's regulation will be identical to the federal regulations, 40 CFR 60, Subparts LLL and KKK. Therefore, this regulation has the same requirements as the federal regulations.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

401 KAR 61:175. Leaks from existing synthetic organic chemical and polymer manufacturing equipment.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the control of volatile organic compound emissions from leaks from existing synthetic organic chemical and polymer manufacturing equipment.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility commenced on or before the classification date defined below which is located in any county designated non-attainment for ozone under 401 KAR 51:010. The provisions of this regulation shall continue to apply to those affected facilities if the area is redesignated to attainment or unclassified status in 401 KAR 51:010 or 40 CFR 81.318, unless a state implementation plan which provides for other controls is approved by the U.S. EPA.

(2) The provisions of this regulation shall not apply to components within a petroleum refinery complex. Leaks from new and existing petroleum refinery equipment shall be regulated by 401 KAR 59:049 and 401 KAR 61:137, respectively.

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

(1) "Affected facility" means each individual component which contacts a process fluid that contains greater than ten (10) percent volatile organic compounds by weight within a synthetic organic chemical manufacturing plant or polymer manufacturing plant.

(2) "Component" means a piece of equipment, including but not limited to pumps, valves, compressors, and pressure relief valves, which has the potential to leak volatile organic compounds.

(3) "Synthetic organic chemical manufacturing plant" means facilities which operate equipment in process units to manufacture methyl tert-butyl ether or one (1) or more of the synthetic organic chemicals listed in 40 CFR 60, Subpart VV, filed by reference in 401 KAR 59:305.

(4) "Polymer manufacturing plant" means facilities which operate equipment in process units to manufacture polyethylene, or

polypropylene, or polystyrene.

(5) "Leak" means the presence of a volatile organic compound concentration exceeding 10,000 ppm by volume when tested in the manner referenced in Section 5 of this regulation.

(6) "Gas service" means that the volatile organic compound is gaseous at conditions that prevail in the component during normal operations.

(7) "In light liquid service" means that the component contacts a liquid with a concentration greater than twenty (20) percent by weight of volatile organic compounds having a vapor pressure greater than three-tenths (0.3) kilopascals at twenty (20) degrees Celsius.

(8) "Light liquid" means a liquid with a concentration greater than twenty (20) percent by weight of volatile organic compounds having a vapor pressure greater than three-tenths (0.3) kilopascals at twenty (20) degrees Celsius.

(9) "Heavy liquid" means a fluid which is not in the gaseous state at operating conditions or which is not a light liquid.

(10) "Process unit" means components assembled to manufacture, as intermediate or final products, one (1) or more of the chemicals referenced in subsections (3) and (4) of this section. A process unit can operate independently if it is supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

(11) "Volatile organic compounds (VOC)" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(12) "Classification date" means January 5, 1981.

Section 3. Standard for Volatile Organic Compounds. (1) When any affected facility within the manufacturing plant is found to be leaking, the owner or operator shall repair the leak within fifteen (15) days. A component recheck shall be made within five (5) days after repair. If the leak is still present or a new leak is created by the repair, further maintenance shall be performed until the volatile organic compound emission drops below the screening value (10,000 ppm by volume).

(2) Any time a valve is located at the end of a pipe or line containing volatile organic compounds, the owner or operator shall seal the end of the line with a second valve, a blind flange, a plug, or a cap. This sealing device may be removed only when a sample is being taken or during maintenance operations. This requirement does not apply to safety pressure relief valves.

Section 4. Monitoring and Reporting Requirements. The owner or operator shall conduct such monitoring of affected facilities and submit records as specified below:

(1) The operator shall perform component monitoring using the method referenced in Section 5 of this regulation as follows:

(a) Monitor with a portable volatile organic compound detection device four (4) times per year (quarterly): pumps in light liquid service, compressors, valves in light liquid service, valves in gas service, and pressure relief valves in gas service.

(b) Monitor visually fifty-two (52) times per year (weekly): pumps in light liquid service. Each pump shall be repaired within fifteen (15) days after visual inspection indicates it is leaking.

(c) Monitor with a portable volatile organic compound detection device a pressure relief valve within five (5) days after it has vented to the atmosphere. Pressure relief devices which are tied in to either a flare header or vapor recovery device shall be exempt from the monitoring requirements.

(d) Monitor with a portable volatile organic compound detection device within five (5) days of discovery, any component whose sight, smell, or sound indicates that it might be leaking.

(e) Difficult or unsafe-to-monitor components shall be exempt from the provisions of this subsection, however such components shall meet the requirements for difficult or unsafe-to-monitor valves as specified in 40 CFR 60, Subpart VV.

(2) Pipeline valves and pressure relief valves for gas service shall be marked or noted so that their location is readily obvious to both the operator performing the monitoring and the cabinet.

(3) When a leak is located, a weatherproof and readily visible tag bearing an identification number and the date the leak is located shall be affixed to the leaking component. The location, tag number, date, and stream composition of the leak shall also be noted on a survey log. When the leak is repaired, the date of repair and date and detector reading of component recheck after maintenance shall be entered in the survey log and the tag discarded. The operator shall retain the survey log for two (2) years after the inspection is completed. The survey log shall be made available to the cabinet upon request.

(4) After quarterly monitoring has been performed the operator shall submit a report to the cabinet listing all leaks that were located but not repaired within the fifteen (15) day limit and a signed statement attesting to the fact that all monitoring has been performed as stipulated in the control plan. Leaks that cannot be repaired within fifteen (15) days as determined by the cabinet shall be repaired during the next scheduled turnaround, or if unable to be brought into compliance, a variance shall be requested which the cabinet may grant on an individual basis, based upon a showing which is satisfactory to the cabinet.

Section 5. Test Methods and Procedures. (1) Except as provided for in 401 KAR 50:045, Reference Method 21, filed by reference in 401 KAR 50:015, shall be used to determine compliance with the standard prescribed in Section 3 of this regulation and the monitoring requirements in Section 4 of this regulation.

(2) The owner or operator may elect to use alternate monitoring methods if it can be demonstrated to the cabinet's satisfaction that the alternate methods will achieve equivalent control efficiency.

Section 6. Compliance Timetable. The owner or operator of an affected facility shall complete the following:

(1) Submit a final control plan for achieving

compliance with this regulation no later than April 1, 1987.

(2) Final compliance shall be achieved no later than January 1, 1988.

Section 7. Exemptions. (1) Any process units which process only heavy liquid VOC shall be exempt from the provisions of Section 4 of this regulation.

(2) Equipment operating under a vaccum shall be exempt from the provisions of this regulation.

(3) Any group of all affected facilities within a process unit that has the design capacity to manufacture less than 1,000 megagrams per year of polyetheylene, polypropylene, polystyrene, methyl tert-butyl ether, or one (1) or more of the synthetic organic chemicals listed in 40 CFR 60, Subpart VV, shall be exempt from the provisions of this regulation.

(4) Any group of all affected facilities within a process unit that manufactures beverage alcohol shall be exempt from the provisions of this regulation.

Section 8. Variances and Modifications. (1) If, after at least one (1) complete annual check, the operator determines that modifications of the monitoring requirements are in order, he may request in writing to the cabinet that a revision to the monitoring requirements be made. The submittal shall include data that have been developed to justify any modifications in the monitoring schedule. The cabinet may grant such a revision to the monitoring requirements based upon a showing which is satisfactory to the cabinet.

(2) An owner or operator may elect to comply with the alternative standards for valves contained in 40 CFR 60, Subpart VV. In the skip period leak detection and repair alternative for valves contained in 40 CFR 60.483-2, "60.482-7" shall be read as "Section 4 of this regulation."

(3) Variation with the standards and limitations contained in this regulation, when supported by adequate technical information will be considered by the cabinet on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 14, 1986

FILED WITH LRC: October 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed regulation will be conducted on November 21, 1986, at 10 a.m. (EST) in Room G-2 of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. William S. Coakley, Manager, Program Development Branch, Division of Air Pollution Control, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann

(1) Type and number of entities affected: This regulation provides for the control of volatile organic compound emissions from leaks from existing synthetic organic chemical and polymer manufacturing equipment. Four sources are currently under review as being potentially affected by the provisions of this regulation.

(a) Direct and indirect costs or savings to those affected: The United States Environmental Protection Agency (U.S. EPA) has examined sources throughout the country, and has issued a control technique guidance document which discusses the methods of controls that are available and typical costs associated with the different plants. In the document "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment," EPA-450/3-83-006, the U.S. EPA defined model units for different levels of process complexity, ranging from the least complex (model unit A) to the most complex (model unit C).

1. First year: Typical initial costs on a national basis, as given in the guidance document, are $15,900 for model unit A, $35,800 for model unit B, and $91,200 for model unit C.

2. Continuing costs or savings: Typical annualized costs on a national basis, as given the in guidance document, are $5,600 for model unit A, $4,300 for model unit B, and $2,300 for model unit C.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Some process units have so few components to be monitored that the cost effectiveness of a quarterly leak detection and repair program for those process units would be high. Sections 7 and 8 of this regulation provide for an exemption or a variance for these units.

(b) Reporting and paperwork requirements: The reporting and recordkeeping requirements appear in Section 4 of this regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division will review reports required to be submitted by the sources.

2. Continuing costs or savings: The division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the division's normal day-to-day operations and are budgeted accordingly.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The division will review reports required to be submitted by the sources and issue reports of inspections.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is part of Kentucky's State Implementation Plan (SIP) and follows the guidelines issued by the U.S. EPA. This regulation is thus required by the SIP, but within the regulation, Sections 5 and 8 allow for alternate monitoring methods and modifications of the monitoring 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: The U.S. EPA requires states to promulgate

regulations for existing sources of volatile organic compounds (VOCs) for which the U.S. EPA has issued a control technique guidance document. In 1984, the U.S. EPA issued "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment," EPA-450/3-83-006. Kentucky is therefore proposing this regulation to control existing sources of VOCs in ozone non-attainment areas. This regulation closely follows the federal guidelines. Basically, this regulation requires owners or operators to periodically inspect sources for the detection of any leaks, and to repair those leaks within the specified time limit. Sources are also required to maintain their inspection and repair records.

TIERING: Was tiering applied? Yes. Any group of all affected facilities within a process unit that has the design capacity to manufacture less than 1000 megagrams per year of polyethylene, polypropylene, polystyrene, methyl tert-butyl ether or one or more of the synthetic organic chemicals listed in 40 CFR 60, Subpart VV, is exempt from the provisions of this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation is part of Kentucky's State Implementation Plan which is required by the Clean Air Act. Kentucky is therefore required to promulgate regulations for existing sources of volatile organic compounds for which the U.S. Environmental Protection Agency (U.S. EPA) has issued a control techniques guidance document. In 1984, the U.S. EPA issued "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment," EPA-450/3-83-006. The standards in this regulation follow these guidelines.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation follows the federal guidelines referenced above.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

TRANSPORTATION CABINET
Department of Highways

603 KAR 5:071. Bus dimension limits.

RELATES TO: KRS 189.221, 189.222, 189.265, 281.735

PURSUANT TO: KRS 189.221, 189.222, 189.265, 281.735

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to increase the dimension limits prescribed in KRS 189.221 for vehicles operated on designated state maintained highways or portions thereof up to specified limits if the increase is justified by the safety of the designated highways. KRS 189.222(6)(b) authorizes the Secretary of Transportation to increase the width limit for vehicles on the Federal Aid Highway System and the State Parkway System when authorized by federal law or laws or regulations up to a specified limit. KRS 189.265 establishes length and width limits for buses and authorizes the Secretary of Transportation to increase the width limits of motor buses, except for those operated by transit authorities created pursuant to KRS Chapter 96A, on state maintained highways if the increase is justified by the width of the designated highways. KRS 281.735(3) establishes a width limit for city and suburban buses and authorizes the Secretary of Transportation to increase the width limit on state maintained highways for all other buses only as provided by law. This regulation is adopted to fix the maximum dimension limits for buses.

Section 1. Except as provided in Sections 2 through 4 of this regulation the maximum dimensions for buses having a seating capacity of ten (10) or more, including the driver, operated on any state maintained highway shall be as follows:

(1) Height: Not to exceed eleven (11) feet and six (6) inches.

(2) Length: Not to exceed forty (40) feet.

(3) Width: Not to exceed ninety-six (96) inches exclusive of any required safety equipment. The width of a city or suburban bus shall not exceed 102 inches.

Section 2. Buses operated by a transit authority created pursuant to KRS Chapter 96A are exempt from the length provision of Section 1 of this regulation.

Section 3. Buses which do not exceed a width of 102 inches, exclusive of any required safety equipment and tire bulge due to load, may be operated on those highways designated for the operation of trucks with increased dimensions by Section 2 of 603 KAR 5:070.

Section 4. Buses which are allowed the increased width under the authority of Section 3 of this regulation shall be allowed to operate within five (5) driving miles on state maintained highways from the designated routes for the purpose of attaining reasonable access to terminals; facilities for food, lodging, and rest; facilities for fuel and repairs; and points of loading and unloading of passengers and freight.

C. LESLIE DAWSON, Secretary/Commissioner
APPROVED BY AGENCY: October 9, 1986
FILED WITH LRC: October 9, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed administrative regulation on November 26, 1986 at 10 a.m. local prevailing time in the fourth floor hearing room of the State Office Building. The State Office Building is located on the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must, in writing, by November 21, 1986 so notify: Sandra Pullen, Executive's Staff Advisor, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: Passenger carrying vehicle - limited number of

entities affected.

(a) Direct and indirect costs or savings to those affected: Bus companies could utilize wider vehicles in Kentucky.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): Allow bus companies to utilize wider vehicle.

(b) Reporting and paperwork requirements: Does not affect reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Does not affect direct or indirect costs or savings.

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: Some added revenue from tourism could be expected.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(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 regulation would provide interstate and Kentucky passenger carrying vehicle with added room and comport to travelling person.

TIERING: Was tiering applied? No. Not applicable.

LABOR CABINET
Department of Workplace Standards
Division of Employment Standards and Mediation

803 KAR 3:050. Arbitration.

RELATES TO: KRS 336.1661, 336.1662, 336.1663

PURSUANT TO: KRS 336.1664

NECESSITY AND FUNCTION: KRS 336.1664 requires the secretary to promulgate regulations to effectuate the purposes of the statutes relating to arbitration of labor disputes. The function of this regulation is to set forth criteria for the appointment of arbitrators, maintaining a roster of arbitrators, procedure for obtaining arbitration services, fee schedule and reporting requirements, and any other matter relating to the arbitration of labor disputes.

Section 1. Scope. This regulation applies to all arbitrators listed on the roster of arbitrators maintained by the secretary, to all applicants for listing on the roster, and to all persons or parties seeking to obtain from the secretary either names or panels of names of abitrators listed on the roster in connection with labor disputes which are to be submitted to arbitration or fact-finding.

Section 2. Listing on the Roster. Criteria for listing and retention.

(1) Persons seeking to be listed on the roster shall complete and submit an application form which may be obtained from the Kentucky Labor Cabinet, Division of Employment Standards and Mediation. Upon receipt of an executed form, the secretary or his representative shall review the application, assure that it is complete, make such inquiries as are necessary. The secretary may appoint two (2) members representing management and two (2) members representing labor of the Kentucky Labor-Management Advisory Council to assist in determining whether an applicant shall be listed on the roster. The secretary or his representative shall make all final decisions as to whether an applicant will be listed. Each applicant shall be notified in writing of the secretary's decision and the reasons therefor.

(2) Applicants for the roster will be listed on the roster upon a determination that they:

(a) Are competent and acceptable in decision-making roles in the resolution of labor relations issues, or have extensive experience in relevant positions in collective bargaining; and

(b) Are capable of conducting an orderly hearing, can analyze testimony and exhibits and can prepare clear and concise findings and awards within reasonable time limits; and

(c) Possess the factors of background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties, or a combination thereof, which demonstrate that inclusion on the roster will lead to a useful role in resolving disputes.

(3) No person shall serve as an arbitrator in any arbitration in which he has any financial or personal interest in the result of the arbitration. No person shall serve as an arbitrator to disputes which involves a labor organization or employer for which he performs services or receives income. Any individual who has personal or financial relationships which may result in a conflict of interest in any future arbitration shall disclose such relationships to the secretary or his representative and biographical data furnished to the parties shall disclose such information. The secretary or his representative may restrict the panels on which a person may serve to avoid conflicts of interest or the appearance of impropriety, however the parties after full disclosure, may waive the disqualification in writing.

(4) The secretary or his representative is authorized to give written notice or cancellation to a member on the roster whenever the member:

(a) No longer meets the criteria for admission;

(b) Has been repeatedly and/or flagrantly delinquent in submitting awards;

(c) Has refused to make reasonable and periodic reports to the secretary of his representative concerning activities pertaining to arbitration;

(d) Has been the subject of complaints by parties who use the service, and the secretary or his representative, after appropriate inquiry, concludes that just cause for cancellation has been shown;

(e) Is determined by the secretary or his representative to be unacceptable to a substantial number of parties who use the service. The secretary or his representative may base a determination of unacceptability on the

agency's records showing the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected.

(5) A member of the arbitration roster may request review of the notification or cancellation by submitting his response in writing to the secretary or his representative within ten (10) days after receipt of the notice of cancellation. The secretary or his representative may conduct an inquiry of the circumstances of the proposed cancellation and shall then submit written findings and a conclusion to the interested party. This decision shall be the final decision of the secretary.

Section 3. Procedures for Requesting Arbitration Services. (1) The parties are urged to use the request for arbitration form which has been prepared by the secretary or his representative and is available from the Kentucky Labor Cabinet, Division of Employment Standards and Mediation. A brief statement of the issues in dispute should accompany the request to enable the secretary or his representative to submit the names of arbitrators qualified for the issues involved. The request should also include a current copy of the arbitration section of the collective bargaining agreement or stipulation to arbitrate. The request for arbitration form and supporting documents shall be submitted to the Kentucky Labor Cabinet, Division of Employment Standards and Mediation, Frankfort, Kentucky 40601. The parties are encouraged to submit joint requests for arbitration.

(2) If the request for arbitration form is not utilized, the parties may request a panel or designation by letter. The letter shall include the names, addresses, and phone numbers of the parties, the location of the contemplated hearing, the issue in dispute, the number of names desired on the panel or that it is requested that the secretary or his representative designate an arbitrator, and any special qualifications of the panel or designee desired. The request should also include a copy of the arbitration section of the collective bargaining agreement or stipulation to arbitrate.

(3) In the event that the request is made by only one (1) party, the secretary or his representative will submit a panel; however, any submission of a panel shall merely be a compliance with a request and shall not reflect any contractual requirements of the parties.

Section 4. Nomination of Arbitrators. (1) The secretary or his representative shall designate an arbitrator to a labor dispute upon request by the parties or a request pursuant to an agreement which does not require the secretary or his representative to provide a panel.

(2) The secretary or his representative shall refer a panel of arbitrators to the parties upon request or a request pursuant to an agreement that calls for the secretary to provide a panel.

(a) The secretary or his representative shall submit to the parties the names of five (5) arbitrators unless the applicable collective bargaining agreement requires a different number on a panel, or unless the parties themselves request a different number, or unless the agreement or stipulation calls for the secretary or his representative to designate the arbitrator.

(b) Together with a submission of a panel, the secretary or his representative shall provide a biographical sketch for each member of the panel which provides a summary of the background, qualifications, and experience of the arbitrator.

(3) The secretary or his representative considers many factors when selecting names for inclusion on a panel or for designation to a dispute, but the agreed-upon wishes of the parties are paramount. Special qualifications of arbitrators experienced in certain issues or industries, or possessing certain backgrounds, may be identified for purposes of submitting panels or designating an arbitrator to accommodate the parties. The secretary or his representative may also consider such things as general acceptability, geographical location, general experience, availability, and the need to expose new arbitrators to the selection process in preparing panels or designating arbitrators. The secretary or his representative has no obligation to put an individual on any given panel or to designate an individual or place him on a minimum number of panels in any fixed period.

(a) If at any time all parties request for valid reasons, that a name or names be omitted from panels or from designation, such name or names shall be omitted.

(b) If at any time all parties request that a name or names be included on a panel or be designated, such name or names shall be included.

(c) If only one (1) party requests that a name or names be omitted from a panel, or that a name or names be added to the panel, or that an individual be designated or not be designated to a dispute, such request will not be honored.

Section 5. Selection and Appointment of Arbitrators. (1) The parties should notify the secretary or his representative of the agreed selection of an arbitrator. The arbitrator, if notified by the parties, shall notify the secretary or his representative of his selection and willingness to serve. Upon notification of the parties' selection of an arbitrator, the secretary or his representative shall make a formal appointment of the arbitrator.

(2) Where the contract is silent on the method of selecting an arbitrator, the parties may choose one (1) of the following methods for selection of an arbitrator from a panel:

(a) Each party alternately strikes a name from the submitted panel until one (1) remains.

(b) Each party advises the secretary or his representative of its order of preference by numbering each name on the panel and submitting the numbered list in writing to the secretary or his representative. The name on the panel that has the lowest accumulated numerical number will be appointed.

(c) Informal agreement of the parties by whatever method they choose.

(3) The secretary or his representative shall, on joint or unilateral request of the parties, submit a panel or, when the applicable collective bargaining agreement authorizes, shall make a direct appointment of an arbitrator. Submission of a panel or name signifies nothing more than compliance with a request and it shall not constitute a determination by the secretary or his

representative that the parties are obligated to arbitrate the dispute in question. Resolution as to the propriety of such a submission or appointment rests solely with the parties.

(4) The arbitrator, upon notification of appointment, shall communicate with the parties immediately to arrange for preliminary matters, such as date and place of hearing. Hearings shall be held within ten (10) days of the date of appointment, unless otherwise agreed by the parties.

Section 6. Conduct of Hearing. All proceedings conducted by the arbitrator shall be in conformity with the contractual obligations of the parties, unless otherwise agreed. Unless the contract or the parties require otherwise, the proceedings shall be conducted pursuant to the following rules:

(1) Time and place of hearing. The arbitrator shall fix the time and place for each hearing. At least five (5) days prior thereto the arbitrator shall mail notice of the time and place of hearing to each party, unless the parties otherwise agree.

(2) Representation by counsel. Any party may be represented at the hearing by counsel or by other authorized representative.

(3) Stenographic record. Any party may request a stenographic record by making arrangements for same through the arbitrator. If such transcript is agreed by the parties to be, or in appropriate cases determined by the arbitrator to be the official record of the proceedings, it must be made available to the arbitrator, and to the other party for inspection, at a time and place determined by the arbitrator. The total cost of such a record shall be shared equally by those parties ordering copies.

(4) Attendance at hearing. Persons having a direct interest in the arbitration are entitled to attend hearings. The arbitrator shall have the power to require the retirement of any witness or witnesses during the testimony of other witnesses. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other persons.

(5) Adjournments. The arbitrator for good cause shown may adjourn the hearing upon the request of a party or upon his own initiative, and shall adjourn when all the parties agree thereto.

(6) Oaths. The arbitrator may, in his discretion, require witnesses to testify under oath administered by any duly qualified person, and if required by law or requested by either party, shall do so.

(7) Majority decision. Whenever there is more than one (1) arbitrator, all decisions of the arbitrators shall be by majority vote. The award shall also be made by majority vote unless the concurrence of all is expressly required.

(8) Order of proceeding. A hearing shall be opened by the recording of the place, time and date of hearing, the presence of the arbitrator and parties, and counsel if any, and the receipt by the arbitrator of any pleadings. Exhibits, when offered by either party, may be received in evidence by the arbitrator. The names and addresses of all witnesses and exhibits in order received shall be made a part of the record. The arbitrator may, in his discretion, vary the normal procedure under which the initiating party first presents his claim, but in any case shall afford full and equal opportunity to all parties for presentation of relevant proofs.

(9) Arbitration in the absence of a party. The arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The arbitrator shall require the other party to submit such evidence as he may require for the making of an award.

(10) Evidence. The parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. Upon agreement of the parties, the arbitrator may issue subpoenas to compel the attendance of witnesses and parties and the production of books, papers, and records which may be deemed material as evidence in the case. The arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of the arbitrator and all the parties except where any of the parties is absent, in default, or has waived his right to be present.

(11) Evidence by affidavit and filing of document. The arbitrator may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as he deems proper after consideration of any objections made to its admission. All documents not filed with the arbitrator at the hearing but which are arranged at the hearing or subsequently by agreement of the parties to be submitted, shall be filed with the arbitrator. All parties shall be afforded the opportunity to examine such documents.

(12) Inspection. Whenever the arbitrator deems it necessary, he may make an inspection in connection with the subject matter of the dispute after written notice to the parties who may, if they so desire, be present at such inspection.

(13) Closing of hearing. The arbitrator shall inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs or other documents are to be filed, the hearings shall be declared closed as of the final date set by the arbitrator.

(14) Opinions and awards. The opinion and decision on each case submitted to an arbitrator under this regulation shall be issued within ten (10) days of the closing of record, unless otherwise agreed by the parties.

(15) Reopening of hearings. The hearings may be reopened by the arbitrator on his own motion, or on the motion of either party, for good cause shown, at any time before the award is made, but if the reopening of the hearing would prevent the making of the award within the specific time agreed upon by the parties in the contract of which the controversy has arisen, the matter may not be reopened, unless both parties agree upon the extension of such time limit.

(16) Waiver of rules. Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing, shall be deemed to

have waived his right to object.

(17) Waiver of oral hearings. The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the arbitrator shall specify a fair and equitable procedure.

(18) Extension of time. The parties may modify any period of time by mutual agreement. The arbitrator for good cause may extend any period of time established by these rules, except the time for making the award. The arbitrator shall notify the parties of any such extension of time and its reason therefor.

(19) Form of award. The award shall be in writing and shall be signed either by the neutral arbitrator or by a concurring majority if there is more than one (1) arbitrator, unless otherwise agreed by the parties. The parties shall advise the arbitrator whenever they do not require the arbitrator to accompany the award with an opinion.

(20) Award upon settlement. If the parties settle their dispute during the course of the arbitration, the arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

(21) Delivery of award to parties. Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the arbitrator addressed to such party at his last known address or to his attorney, or personal service of the award.

(22) Release of documents for judicial proceedings. The arbitrator shall, upon the written request of a party, furnish to such party at his expense certified copies of any papers in the arbitrator's possession that may be required in judicial proceedings relating to the arbitration.

(23) Judicial proceedings. The arbitrator is not a necessary party in judicial proceedings relating to the arbitration.

(24) Fees and charges of arbitrators. An arbitrator shall not be permitted to charge in excess of $200 a day, not to exceed $1,000 per arbitration case.

(25) Expenses. The expense of witnesses for either side shall be paid by the party producing such witnesses. Expenses of the arbitration, other than the cost of the stenographic record, including required traveling and other expenses of the arbitrator, and the expenses of any witnesses or the cost of any proofs produced at the direct request of the arbitrator, shall be borne equally by the parties unless they agree otherwise, or unless the arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

(26) Interpretation and application of rules. The arbitrator shall interpret and apply these rules insofar as they relate to his powers and duties. When there is more than one (1) arbitrator and a difference arises among them concerning the meaning or application of any such rules, it shall be decided by majority vote. If that is unobtainable, either arbitrator or party may refer the question to the secretary for final decision.

Section 7. Hearings and Records Confidentiality. Hearings conducted under this regulation remain private hearings of the parties and are not subject to any open meeting act provisions contained in any statute. Records obtained by an arbitrator remain private records of the parties and are not subject to any open records act provisions contained in any statute. The secretary or his representative does not require or request that an arbitrator report to the state, or the cabinet violations of any state statutes revealed or that agreements be interpreted to conform to the state or cabinet position on any matter of law.

Section 8. Reports. (1) Arbitrators listed on the roster shall execute and return all documents, forms and reports required by the secretary or his representative. They shall also keep the secretary or his representative informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations, or which creates or gives the appearance of advocacy.

(2) The secretary or his representative shall require each arbitrator listed on the roster to prepare biographical information at the time of the initial listing and to periodically update and revise the biographical sketches to replace changes in relevant data. The secretary or his representative shall decide and approve the format and content of the biographical sketches.

JOHN CALHOUN WELLS, Secretary

APPROVED BY AGENCY: September 17, 1986

FILED WITH LRC: September 18, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning this regulation has been scheduled for November 21, 1986 at 10 a.m., EST, to be held at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide within five (5) days prior to the hearing written notice to: Mr. Charles E. McCoy, Kentucky Labor Cabinet, Division of Employment Standards and Mediation, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles McCoy

(1) Type and number of entities affected: Any party involved in labor dispute voluntarily seeking services offered through the Kentucky Labor Cabinet.

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

1. First year: Arbitrator's fees of up to $200 per day not to exceed $1,000 per arbitration case; indirect savings through settled labor disputes.

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: Labor Cabinet must prepare and maintain arbitrator's roster.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal cost of preparing and maintaining arbitrator's list.

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

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: None in conflict.
(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. The proposed regulation is a voluntary service offered to parties in labor disputes; it should provide an option to such parties pursuant to the requirements of KRS 336.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:330. Hospice 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 terms and conditions under which the cabinet will provide hospice care to both the categorically and medically needy.

Section 1. Definition of Hospice Care. Hospice care means the care described in Section 1905(o) of the Social Security Act. Summarized, hospice care may be described as a package of palliative and supportive services provided by a hospice program to a terminally ill Medicaid recipient and his/her family to alleviate the patient's pain and suffering and assist the patient and his/her family to cope with dying and the circumstances surrounding terminal illness. The hospice package of services is provided in lieu of certain benefits described in Section 1812(d)(2)(A) of the Social Security Act and intermediate care facility services. The patient must voluntarily elect the hospice care. Hospice care may be provided an individual in a skilled nursing or intermediate care facility but in that circumstance coverage does not exist under the program for skilled nursing and intermediate care facility services, i.e., a payment may be made for only the hospice care. Hospice care must be provided by an appropriately licensed, accredited and/or certified hospice program (as defined in Section 1861(dd)(2) of the Social Security Act) participating in both Medicare and Medicaid.

Section 2. Voluntary Election. Any terminally ill Medicaid recipient may elect hospice coverage (where hospice care is provided by a participating hospice program in his/her county of residence) in accordance with procedures and using such forms as may be prescribed by the cabinet. Each recipient will be required to make his/her voluntary selection in writing, and must present a statement from a physician (or such statement must be available) to show that the recipient's illness is terminal and that death is expected to occur within six (6) months.

Section 3. Benefit Periods. Each voluntary election is made for a specified period of time, and disenrollment from hospice care (which may be made at any time at the recipient's option) will result in forfeiture of the balance of the period. The benefit periods are as follows:
(1) First period, ninety (90) days;
(2) Second period, ninety (90) days;
(3) Third period, thirty (30) days; and
(4) Extension period, sixty (60) days. The extension period is available only when a physician states that the recipient continues to suffer from a terminal illness and that death is expected within the sixty (60) day extension period.

Section 4. Concurrent Medicare Coverage. When a Medicaid eligible individual with concurrent eligibility for hospice services under Medicare wishes to enroll in a hospice program under Medicaid he/she shall be required as a prerequisite for Medicaid hospice enrollment to enroll in the Medicare hospice program, i.e., concurrent enrollment is required to the extent there is concurrent eligibility for hospice services in both programs.

Section 5. Disenrollment, Re-enrollment, and Transfers. A recipient may disenroll from a hospice program at any time, with the sole penalty being that the balance of that enrollment period is lost to him/her so far as hospice care is concerned. If the recipient has an additional period(s) remaining, he/she may re-enroll at such time as he/she may desire (subject only to the usual participation requirements). If a county is served by two (2) or more hospice programs, or if the recipient moves his/her county of residence to a county serviced by a different hospice(s), the recipient may transfer between hospice programs with no loss of time in his/her benefit period.

Section 6. Effective Date. Coverage of hospice services in the Medicaid program shall begin on October 1, 1986.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 30, 1986
FILED WITH LRC: October 2, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, 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: Four

to six participating hospice programs and an estimated 125 to 150 recipients who will use the hospice service.

(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: $800,000 (costs)

2. Continuing costs or savings: $1,400,000 (costs)*

3. Additional factors increasing or decreasing costs: Additional recipients using hospice benefits.

(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 200 to 250 recipients using hospice care in the second year.

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:340. Payments for hospice 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 policies of the cabinet with regard to payments for hospice services.

Section 1. Conditions for Participation. A hospice program must meet the Medicare conditions for participation and such other standards as may be set by the cabinet in order to participate in the Medicaid program.

Section 2. Provision of Service. Payment for services shall be limited to those hospice program services as defined in 907 KAR 1:330, provided to eligible individuals meeting the criteria for receipt of hospice care as set forth in 907 KAR 1:330.

Section 3. Payment Rates. The payment rates shall be the same as those used in the Medicare program. If for some reason a Medicare payment rate is unavailable, the payment rate that will be used by Medicaid will be determined in the same manner as Medicare rates.

Section 4. Copayments. (1) The Medicaid program will pay the Medicare copayments if the Medicaid recipient qualifies for and has elected Medicaid hospice benefits as specified in 907 KAR 1:330.

(2) No copayments will be applied to Medicaid payment rates for hospice services.

Section 5. Coverage of Drugs. When the hospice provides to a participating recipient a medically necessary drug which is for a condition not relating to the terminal illness, the Medicaid program will reimburse the hospice separately for such drug taking into consideration usual program constraints on drug coverage and payments. (Drugs relating to the terminal illness are reimbursed as a part of the usual hospice payment rate.)

Section 6. Effective Date. Payments for hospice services shall be effective for hospice services provided on or after October 1, 1986.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 30, 1986

FILED WITH LRC: October 2, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for November 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 November 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, 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: Four to six participating hospice programs and an estimated 125 to 150 recipients who will use the hospice service.

(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: $800,000 (costs)

2. Continuing costs or savings: $1,400,000 (costs)*

3. Additional factors increasing or decreasing costs: Additional recipients using hospice benefits.

(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 200 to 250 recipients using hospice care in the second year.

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the October 1-2, 1986 Meeting

The October meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, October 1, 1986 at 2 p.m. and on Thursday, October 2, 1986 10 a.m. in Room 110. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Meyer, seconded by Senator Quinlan, the minutes of the September 3-4, 1986 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senators Harold Haering, Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ed Holloway, and Joe Meyer.

Guests: Steve Dooley, Linda Pittenger, Information Systems Commission; Charlotte Mullins, Ann Z. Stewart, State Board of Elections; Arthur Hatterick, Jr., James Way, Personnel Board; Jim Terry, Personnel Board Member; Joseph Humphrey, Jr., Lynette D. Taylor, Department of Personnel; Jim Thompson; George Parsons, KY. Association of State Employees; Greg Holmes, Dave Nicholas, Board of Speech Language Pathology & Audiology; Jeff Lawrence, Don R. McCormick, Pete Pfeiffer, Lauren Schaaf, Jeffery Sole, Tom Young, Department of Fish and Wildlife Resources; Louis F. Mathias, Jr., Christopher W. Johnson, KY State Police; Dave Sexton, Corrections Cabinet; Gary Bale, N. C. Comer, II, Carole Kruse, Michael L. Luscher, Anne A. Thompson, Gene Wright, Department of Education; Richard Belding, Department for Libraries and Archives; Patrick Watts, Department of Insurance; J. Rick Jones, Department of Financial Institutions; Betty Beshoar, Roy Butler, Lonnie Carpenter, Barbara Coleman, Don Dixon, Ked Fitzpatrick, Eric Friedlander, N. Clifton Howard, Eugenia Jump, Delano Miller, Janie A. Miller, Ishmael Preston, Mike Robinson, Angie Scott, Stanley A. Stratford, Ann Tarter, Leon Townsend, R. Hughes Walker, Peggy M. Wallace, Mark Yancey, Cabinet for Human Resources; Marie Alagia Cull, Jim Judy, Mary Kousley, KAHCF; Nancy Lipinski, KY Hospital Association; John C. Marks, Medical Center at Bowling Green; Tara Clark, KY Coal Journal; John D. Hinkle, KY Retail Federation/KY Restaurant Association; Ron Scott, KY Municipal League; Judith Taylor, KY Chapter of Physical Therapists; Penny Gold, KY Academy of Trial Attorneys; Richard Seckel, Office of Kentucky Legal Services Programs; Mona Logsdon, State Auditor of Public Accounts

PRESS: Fran Ellers, State Journal

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, June Mabry, Donna Valencia, Chris Lilly, James M. Monsour and Carla Arnold.

The Administrative Regulation Review Subcommittee met on October 1 and 2, 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:

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.) The Subcommittee and agency agreed to amend this regulation as follows: If a visitor refuses to be searched, he is detained and the State Police are notified. He is to be detained until the State Police arrive "with a search warrant obtained from a court of law." "Upon arrival of" the State Police, a search will be performed by reformatory employees of the same sex as the visitor. If contraband is found, the individual will be "turned over to the Kentucky State Police for criminal prosecution." If the State Police do not obtain a search warrant, the visitor will be allowed to leave the institution and will not be permitted to visit the inmate.

501 KAR 6:060 (Northpoint Training Center.) An objection had been raised on the ground that authority for the promulgation of regulations relating to personnel matters was granted by KRS Chapter 18A to the Personnel Department or to the Personnel Board: dress code policies; grievance procedures; temporary leave from job assignment. The agency amended this regulation to delete Policy 03-17-01: Employee Grievance Procedure. The Personnel Department will request information from all agencies as to which agencies want dress code and appearance policies. It will then promulgate an administrative regulation requiring such. Such policies will be promulgated if they meet the requirements of federal case law relating to them. Until such time, this regulation will remain in effect and will be repealed or amended, as appropriate, when the Department's regulation is effective.

501 KAR 6:110 (Roederer Farm Center.) Objections raised: that inmate drivers should be required to be insured, and that the Department of Fish and Wildlife requires inmates under 65 to have a fishing license, as any member of the public not specifically exempt. Agency personnel

amended this regulation to delete RFC 09-08-01, relating to inmate drivers, until it determines whether the state is self-insured. They also amended this regulation to delete RFC 09-10-01, relating to inmate fishing, stating that they were now aware that inmates were required to have fishing licenses.

Justice Cabinet: Department of State Police: General Traffic

502 KAR 15:020 (Abandoned vehicles; definitions.) This regulation was amended to correct a typographical error.

Education and Humanities Cabinet: Department of Education: Office of Local Services: General Administration

702 KAR 1:010 (Facilities surveys and plans.) This regulation was amended to correct material adopted by reference. The Subcommittee voted to refer this regulation to the Interim Joint Committees on Education and State Government with a strong recommendation that they review the addition of student population to the criteria for determining necessity of new construction.

Public Protection and Regulation Cabinet: Department of Insurance: General Provisions

806 KAR 1:010 (Liability self-insurance groups.) The Subcommittee and agency agreed to delete the paragraph of the regulation relating to House Bill 310 of the 1986 General Assembly. The information contained in this section should not be included in the regulation but should be transmitted to the Legislative Research Commission in memorandum form.

Casualty Insurance Contracts

806 KAR 20:010 (Declination, cancellation and nonrenewal of property and casualty insurance.) The Subcommittee and agency agreed to delete the paragraph of the regulation relating to House Bill 310 of the 1986 General Assembly. The information contained in this section should not be included in the regulation but should be transmitted to the Legislative Research Commission in memorandum form.

Cabinet for Human Resources: Department for Medicaid Services

907 KAR 1:250 (Incorporation by reference of materials relating to the Medical Assistance Program.) This regulation was amended by the inclusion of IC/SNF Reimbursement Letter #37.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Kentucky Information Systems Commission: Information Systems

14 KAR 1:010 (Statewide strategic plan for information processing.)

State Board of Elections: Statewide Voter Registration

31 KAR 3:010 (Current address of Kentucky registered voters.)

Personnel Board: Personnel Rules

101 KAR 1:330 (Employee actions.) Board personnel stated that, after extensive review, the Board determined not to amend the regulation. The major objection related to promotions and the continuation of the policy followed since 1960: an agency can choose to promote competitively, or choose to promote without use of a competitive promotional register. The Board disagreed that competitive promotions were mandated by KRS Chapter 18A. Goerge Parsons, representing the Kentucky Association of State Employees, and Jim Thompson objected to the regulation. They stated that the amendments to KRS Chapter 18A enacted during the 1986 Regular Session did not amend KRS 18A.010(1), 18A.0751, and 18A.120 which required promotions to be made on a competitive basis. They added that KRS Chapter 18A did not authorize noncompetitive promotions or filling of vacancies, regardless of the tradition followed by the Board and Department for a number of years. Responding to a question by Chairman Brinkley concerning the provision in KRS 18A.0751 that promotions are to be utilized to fill vacancies when practicable and in the best interest of the classified service, Mr. Thompson stated that the criteria for so determining must be stated. In response to a question by Representative Meyer, Mr. Thompson stated that KRS Chapter 18A required promotions to be competitive on an inter-agency basis, and that promotions could not be limited to employees of an agency. The Subcommittee approved a motion to refer this issue and other issues raised by the review and members of the Subcommittee to the Personnel Subcommittee of the Interim Joint Committee on State Government.

Finance and Administration Cabinet: Board of Examiners for Speech Pathology & Audiology

201 KAR 17:010 (Application for licensure.)
201 KAR 17:011 (Requirements for interim licensure.)
201 KAR 17:012 (Requirements for licensure.)
201 KAR 17:015 (Board members; expenses.)
201 KAR 17:041 (Professional code of ethics.)
201 KAR 17:061 (Repealer.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:145 (Gear allowed for commercial fishing.)

Game

301 KAR 2:044 (Taking of migratory wildlife.)
301 KAR 2:047 (Specified areas; seasons, limits for birds and small game.)

Hunting and Fishing

301 KAR 3:021 (Hunting and fishing license fees.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:040 (Kentucky State Penitentiary.)
501 KAR 6:090 (Frankfort Career Development Center.)

Justice Cabinet: Department of State Police: Trial Board Proceedings

502 KAR 50:010 (Admissibility of evidence.) An objection to this administrative regulation had been raised on the following grounds: (1) KRS 16.140(8) contemplates that the Commissioner will not preside over the trial board or panel designated by the Commissioner for the trial of an individual; (2) If the Commissioner was challenged at a hearing, the regulation should provide that another person be appointed in his place. Agency personnel stated that, in practice, the Commissioner presides over the

hearing but does not vote. If he is challenged, a procedure is in place for a replacement. Members of the Subcommittee stated that the statute is unclear. It refers to both the full board and the smaller hearing panel by the same words, "board" and "panel"; it does not specify whether the Commissioner is to preside or even be a member of the hearing panel. They felt that legislation to amend the statute to state the specific procedures or requirements, and to correct the confusing terminology, should be enacted. The Subcommittee approved a motion referring this matter to the Interim Joint Committee on State Government for recommended legislation.

Education and Humanities Cabinet: Department of Education: Office of Local Services: General Administration

702 KAR 1:005 (Textbook program plan.)

Office of Instruction: Instructional Services

704 KAR 3:005 (Educational improvement act.)

Teacher Education

704 KAR 15:080 (Paraprofessional employees and volunteer personnel.)

Department of Libraries and Archives: Archives

725 KAR 1:050 (Records management program.)

Public Protection and Regulation Cabinet: Department of Financial Institutions: Credit Unions

808 KAR 3:060 (Investment authority of state-chartered credit unions.)

Cabinet for Human Resources: Department for Health Services: Maternal and Child Health

902 KAR 4:050 (Kentucky Family Planning Program.)

Sanitation

902 KAR 10:110 (Onsite sewage disposal system installation permits and certification of installers.)

Hospitalization of Mentally Ill and Mentally Retarded

902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)

Certificate of Need and Licensure

902 KAR 20:016 (Hospitals, operation and services.)

902 KAR 20:220 (Dual licensure hospitals.) Members of the Subcommittee asked whether a hospital periodically would have to determine whether an intermediate care facility or skilled nursing facility within the county of residence of the patient or the hospital was available, and what the cost of placement of patients as provided by this regulation would be. Agency personnel stated that the neither the statute nor the regulation provided for such review of available facilities. On motion of Representative Bruce and Senator Haering, the Subcommittee requested the agency to file six- and twelve-months reports with the Subcommittee with regard to the implementation of the program, to include costs.

Milk and Milk Products

902 KAR 50:010 (Definitions for milk and milk products.)

902 KAR 50:070 (Standards of identity for milk and milk products.)

Department for Social Insurance: Public Assistance

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

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

Food Stamp Program

904 KAR 3:010 (Definitions.)

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

Department for Social Services: Child Welfare

905 KAR 1:180 (DSS policy and procedure manual.)

Department for Medicaid Services: Medicaid Services

907 KAR 1:036 (Amounts payable for skilled nursing and intermediate care facility services.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:30 a.m. until November 10, 1986.

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  Fish; 301 KAR Chapter 1
  Game; 301 KAR Chapter 2
  Hunting, fishing; 301 KAR Chapter 3

TRANSPORTATION
Administration
  Disciplinary, separation procedures; 600 KAR 1:045 and E
  Repeal; 600 KAR 1:080
Aeronautics
  Airport zoning; 602 KAR Chapter 50
Highways
  Traffic; 603 KAR Chapter 5
Motor Vehicle Commission; 605 KAR Chapter 1
Property Acquisition & Uniform Relocation
  Payments; 600 KAR 3:010
Vehicle Regulation
  Driver improvement; 601 KAR Chapter 13
  Driver's licensing; 601 KAR Chapter 12
  Motor carriers; 601 KAR Chapter 1
  Motor vehicle tax; 601 KAR Chapter 9

VEHICLE REGULATION
Driver Improvement
  Alcohol driver education; 601 KAR 13:050
Driver's Licensing
  Fee schedule; 601 KAR 12:050
Motor Carriers
  Safety regulations; 601 KAR 1:005
Motor Vehicle Tax
  Highway use license, taxes, records; 601 KAR 9:074 and E
  Reciprocity; 601 KAR 9:040
  Seat taxes; 601 KAR 9:055
  Supplemental highway user's tax; 601 KAR 9:110

WASTE MANAGEMENT
Solid Waste Facilities
  Operator certification; 401 KAR 47:070

WATER
Water Quality
  KPDES, permit conditions; 401 KAR 5:065
  KPDES; scope, applicability; 401 KAR 5:055
  Oil, gas facilities; 401 KAR 5:090